LEGISLATIVE COUNCIL

Tuesday 21 September 2010

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

The President read the Prayers.

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

NEW MEMBERS OF THE LEGISLATIVE COUNCIL

The PRESIDENT: I report to the House that on Friday 10 September 2010 the following members presented themselves to Her Excellency the Governor, took the pledge of loyalty and signed the roll of the House: Ms Cate Faehrmann, the Hon. Sophie Cotsis, the Hon. Robert Borsak and Mr David Shoebridge. I also report that the Governor has forwarded to the Clerk a message transmitting the pledges of loyalty for each member. I welcome the new members to the House.

ASSENT TO BILLS

Assent to the following bills reported:

Crimes Amendment (Terrorism) Bill 2010
Criminal Assets Recovery Amendment (Unexplained Wealth) Bill 2010
Adoption Amendment (Same Sex Couples) Bill 2010
Children and Young Persons (Care and Protection) Amendment (Children's Services) Bill 2010

PAKISTAN FLOODS

The PRESIDENT: I report the receipt of the following communication from Mr Hamid Asghar Khan, Acting Consul General of Pakistan, Sydney:

Consulate General of Pakistan
Sydney

6 September 2010

Dear Madam President,

I am writing to thank you for your letter of 13 August in which you expressed such kind concern for the innocent people of Pakistan who have been caught up in the horrific floods.

As a Pakistani I have been touched by the immense outpouring of sympathy and the generous donations that millions of Australians have given for those who are suffering so terribly in my homeland due to this immense natural calamity.

As you are no doubt aware, Madam Premier, Ms Kristina Keneally has donated $500,000 on behalf of the NSW Government to UNICEF and the Red Cross for the flood relief effort. Showing compassion and leadership, she has also agreed to host a fundraising dinner at the NSW Parliament.

I shall be personally grateful if you, Madam President, would be able to make it convenient to join us for that event. Your presence shall be a source of support and comfort for us, and shall be a further display of the solidarity that the great Australian people have shown for the people of Pakistan at this most distressing of times.

Assuring you of the sentiments of my highest esteem, I remain,

Yours sincerely,
Hamid Asghar Khan
Acting Consul General

OMBUDSMAN

Report

The President tabled, pursuant to the Ombudsman Act 1974, a special report entitled "Improving Service Delivery to Aboriginal People with a Disability: A review of the Implementation of ADHC's Aboriginal Policy Framework and Aboriginal Consultation Strategy", dated September 2010, received out of session and authorised to be made public this day.

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

SOLOMON ISLANDS AND BOUGAINVILLE PARLIAMENTARY INSTITUTIONS PROJECT

The PRESIDENT: Members will be aware of the twinning arrangements between the New South Wales Parliament and the National Parliament of the Solomon Islands and the House of Representatives of the Autonomous Region of Bougainville under the auspices of the Commonwealth Parliamentary Association. In November 2009 the arrangements were formalised when the New South Wales Parliament entered into a funding agreement with AusAID for a three-year project entitled "Strengthening parliamentary institutions in the Solomon Islands and Bougainville". The project will focus on strengthening parliamentary democracy by building the capacity of the parliamentary administrations.

I have the pleasure of informing the House that on 16 July this year, together with the Speaker of the Legislative Assembly, the Hon. Richard Torbay, MP, I participated in a ceremony to formally mark the partnership between our Parliament and the House of Representatives of the Autonomous Region of Bougainville, held at the Bougainville House of Representatives in Buka. During sittings of the Bougainville House of Representatives this week the ceremony will be noted.

The first secondment of a Bougainville House of Representatives staff member has commenced with Mr Edwin Kenehata having been seconded to the Legislative Assembly Procedure Office and the Department of Parliamentary Services education section until November this year. I take this opportunity to welcome Mr Kenehata and urge members to lend their support to our twinned parliaments in Bougainville and the Solomon Islands.

PRIVILEGES COMMITTEE

Report

The Hon. Kayee Griffin, as Chair, tabled report No. 52, entitled "Citizen's Right of Reply (Councillors James Hawkins, Jeff Maybury, Graham Smith and Bob Pynsent)", dated September 2010.

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

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 "Protecting the Environment: Pollution Incidents—Department of Environment, Climate Change and Water", dated September 2010, received out of session and authorised to be printed on 15 September 2010.

GENERAL PURPOSE STANDING COMMITTEE NO. 2

Report: The Building the Education Revolution Program

The Clerk announced the receipt, pursuant to standing orders, of report No. 35, entitled "The Building the Education Revolution Program", dated September 2010, together with transcripts of evidence, submissions, tabled documents, correspondence and answers to questions taken on notice, received out of session and authorised to be printed on 20 September 2010.

The Hon. ROBYN PARKER [2.36 p.m.]: I move:

That the House take note of the report.

This is another excellent report from General Purpose Standing Committee No. 2. I thank the committee staff, and in particular the secretariat, for their work on this report. I look forward to the debate.

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

LEGISLATION REVIEW COMMITTEE

Report

The Clerk tabled a report entitled "Legislation Review Digest No. 12 of 2010", dated 20 September 2010, received out of session and authorised to be printed on 20 September 2010.

BARANGAROO DEVELOPMENT

Production of Documents: Return to Order

The Clerk tabled, pursuant to resolution of 1 September 2010, documents relating to an order for papers regarding Barangaroo received on 15 September 2010 and 16 September 2010 from the Director General of the Department of Premier and Cabinet, together with an indexed list of the documents.

Production of Documents: Claim of Privilege

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

TILLEGRA DAM

Production of Documents: Further Return to Order

The Clerk tabled, pursuant to resolution of 2 September 2010, documents, including privileged documents, relating to an order for papers regarding Tillegra Dam received on 16 September 2010 from the Director General of the Department of Premier and Cabinet, together with an indexed list of the documents.

Production of Documents: Claim of Privilege

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

ILLAWARRA ADVANTAGE FUND

Production of Documents: Return to Order

The Clerk tabled, pursuant to resolution of 2 September 2010, documents, including privileged documents, relating to an order for papers regarding Illawarra Advantage Fund received on 16 September 2010 from the Director General of the Department of Premier and Cabinet, together with an indexed list of the documents.

Production of Documents: Claim of Privilege

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

QUEANBEYAN ROADWORKS AND ASBESTOS EXPOSURE

Production of Documents: Return to Order

The Clerk tabled, pursuant to resolution of 2 September 2010, documents, including privileged documents, relating to an order for papers regarding Kings Highway Realignment received on 16 September 2010 from the Director General of the Department of Premier and Cabinet, together with an indexed list of the documents.

Production of Documents: Claim of Privilege

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

PETITIONS

Identity Concealment

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

Religious Education and School Ethics Classes

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

Adoption Laws

Petition 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**.

COMMITTEE MEMBERSHIP

The PRESIDENT: I inform the House that the Clerk has received the following nominations for membership of committees from the Leader of the Government:

General Purpose Standing Committee No. 2

Ms Cotsis be appointed as a member in place of Mr Catanzariti.

Standing Committee on State Development

Ms Cotsis be appointed as a member in place of Ms Robertson.

LAW ENFORCEMENT AND NATIONAL SECURITY (ASSUMED IDENTITIES) BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [2.48 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

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

Leave granted.

The bill will facilitate cross-border recognition for the acquisition and use of assumed identities by officers of certain law enforcement and national security agencies.

An assumed identity is a false identity that is used for investigating an offence or gathering intelligence and performing support related activities, such as the renting of covert premises under a false name.

Assumed identities are also used to safely administer the witness protection programs.

The main benefit of cross-border recognition of assumed identities would be the resultant reduction in red tape.

In New South Wales, the NSW Police Force, NSW Crime Commission, Police Integrity Commission, Independent Commission against Corruption and Corrective Services NSW are the only agencies that are authorised to grant approval to acquire and use an assumed identity.

Apart from a few minor departures, the bill has adopted the national model laws to enable cross-border recognition of assumed identities.

I would now like to discuss the bill in more detail starting with amendments that fully replicate the national model.

Clauses 5, 6 and 7 of the bill will introduce a formal application procedure to acquire and use an assumed identity and will require separate authorities for each assumed identity.

These amendments also require that a law enforcement officer be appointed to supervise an authorised civilian, and specify a maximum time allocation of three months for authorised civilians using an assumed identity.

Clauses 11 and 14 of the bill will require applications for making or cancelling entries of an assumed identity in the Births, Deaths and Marriages Register to be heard in a closed court.

Details regarding assumed identities need to be highly confidential for the safety of undercover officers and their families and for the success of the operation.

The requirement that applications be made in a closed court reflects this.

Clause 13 of the bill will require the Chief Officer to apply for an order to cancel entries in the Births, Deaths and Marriages Register within 28 days after the assumed identity authority is cancelled.

Clause 32 of the bill will introduce sanctions for the misuse of an assumed identity.

Under this amendment, an authorised person is guilty of an offence, punishable by a maximum penalty of 2 years, if the person's acquisition or use of an assumed identity is not in the course of duty or is not in accordance with an authorisation condition.

Examples of misuse of an assumed identity include obtaining a financial advantage by deception, evasion of fines and credit card fraud.

Clause 33 of the bill introduces sanctions for the disclosure of information which endangers the health and safety of a person or prejudices the effective conduct of an operation.

Assumed identities are typically used in sensitive operations against organised crime and undercover officers who rely on assumed identities are placed at grave risk if there is a breach of security.

A maximum penalty of 10 years imprisonment is therefore appropriate.

Achieving cross-border recognition is the fundamental purpose of this bill. Therefore the bill has adopted all model law provisions that allow for cross-border recognition of assumed identities.

Clauses 27 and 28 of the bill allow for requests to and from a participating jurisdiction for evidence of an assumed identity.

This enables, for instance, the NSW Police Force to request a driver's licence registry in another jurisdiction to issue a driver's licence in the assumed name of an undercover officer from the NSW Police Force.

This is a key feature of the cross-border regime.

Clause 30 of the bill requires a law enforcement agency to indemnify the issuing agency of a participating jurisdiction for any liability incurred by the agency or officer.

Clause 31 of the bill allows for an assumed identity authority granted by a law enforcement agency in a participating jurisdiction to be recognised as if it had been granted in the enacting jurisdiction.

For example, an authority validly granted by the NSW Police Force would be a corresponding authority for Queensland purposes and recognised in Queensland.

I would now like to outline some amendments that replicate the national model with minor modifications. These modifications will not affect cross-border benefits.

Clause 10 of the bill refers to the yearly review of assumed identities.

The NSW Police Force's current review process more than adequately meets the model law provision for a yearly review.

However, so other jurisdictions will adopt this model law provision, clause 10 will introduce the requirement for a yearly review of assumed identities that are used in a participating jurisdiction other than NSW.

Similarly, clause 37 of the bill refers to an audit of records, of which other jurisdictions have adopted the model law provision.

In NSW there is currently an annual auditing requirement for assumed identities. This is considered sufficient.

However the bill will introduce the requirement for assumed identities that are used in a participating jurisdiction other than New South Wales to be audited at least once every 6 months while the authority is in force and once in the 6 months after the cancellation or expiry of the authority.

In summary, these new laws will reduce red tape for undercover investigations operating across State borders.

This means that law enforcement agencies in New South Wales will no longer require additional paperwork filling out applications under the laws of other states.

And police will be able to obtain assumed identities more quickly from other jurisdictions.

These changes will improve the investigative capability of police operations.

The new laws will also protect our police, raising the maximum sentence for endangering undercover officers from 5 to 10 years penalty.

These laws are about our States and territories working together to help each other pursue criminals—no matter where they try to hide.

I commend this bill to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [2.48 p.m.]: The Law Enforcement and National Security (Assumed Identities) Bill repeals and re-enacts the Law Enforcement and National Security (Assumed Identities) Act 1998 to allow for the acquiring and issuing of false identity documents for use in cross-border criminal investigations and in the exercise of functions in implementing witness protection programs. The bill is largely based on Australia-wide model legislation stemming from the 2003 Cross-Border Investigative Powers for Law Enforcement report undertaken by all Australian Attorneys General and police Ministers. Assumed identities are an integral part of modern-day investigations. If law enforcement agencies are to identify, investigate, arrest and then prosecute high-level criminals we must put in place the tools that will allow this to happen.

Law enforcement agencies that use false identities include the Police Force, the Independent Commission Against Corruption, the Police Integrity Commission, the New South Wales Crime Commission, Corrective Services, the Australian Crime Commission, the Australian Federal Police, the Australian Security Intelligence Organisation, the Australian Secret Intelligence Service, Customs and the Taxation Office.

Criminal networks are sophisticated. Increasingly they rely on layers of protection against competing criminal networks and law enforcement agencies. No longer can one get away with a dodgy paper drivers licence or birth certificate. For one to credibly maintain a false identity it has to stack up to close scrutiny. Criminal networks also work across State borders and law enforcement agencies have to be able to work across those same borders with minimal impediment. This bill allows for mutual recognition across borders of assumed identities. New South Wales can request another State or Territory to issue a false identification document such as a drivers licence or birth certificate to support an assumed identity.

Whilst the number of assumed identities in operation at one time is not large their importance cannot be underestimated. In 2008-09 the Police Force issued 89 assumed identities and revoked 83, the Police Integrity Commission issued two identities and the Independent Commission Against Corruption had five in place. The bill provides for civil indemnity for persons bearing assumed identities and persons issuing false identity documents. Strict conditions are in place for the issuing and using of false documents, and it is important that we do not leave public officials open to prosecution where they are lawfully issued and used. Whilst false documents as such will be official documents, the legislation provides that if a person does something that requires a particular qualification but they do not have that qualification they will not be protected from liability. For example, if a false identity scenario requires someone to have a fictional qualification such as that of an electrician, having a trade certificate that states they are an electrician, it does not entitle them to actually perform work as an electrician.

I add a cautionary note that I ask the Government to consider because that provision can turn a little pear shaped. I will call on my experience when I used a false identity. Some years ago I was required to go into

a person's business premises using an assumed identity to take photographs in preparation for the installation of listening devices and other devices. I borrowed the uniform, car and associated tools of a friend who worked in the telecommunications industry in order to get to the front counter and distract staff so that I could take photographs. I introduced myself as being employed by the telecommunications provider and said I wanted the staff to check with the boss so that I could check the telephones. The boss of the business then screamed out from the backroom, "We've been waiting for you for the past two weeks" and in somewhat stronger language asked, "Would you mind bringing your tools to my office and fixing my phone?"

I then went to the office with my tool bag and the covert camera. I activated a further device that recorded the event. The person watched me dissemble the phone, although I had absolutely no idea what to do as I am not a tradesman by any stretch of the imagination. I connected the alligator clips on to wires—I hoped that it was safe—and looked at meters that I did not understand. Had strict adherence to this legislation been in place at the time and something adverse occurred, I may well have been liable and not covered. There needs to be flexibility when an assumed occupation is issued to an officer under this legislation. Officers should be protected if they feel bound to present as having the occupation in order to fulfil certain tasks while under some level of supervision by the person the subject of the investigation or another person associated with the investigation.

In my circumstance I dialled the telephone number of the exchange, but it was really a dial tone, and said the problem was there and I would come back to rectify the problem. I collected my tools and left the premises as quickly as I could. Once again the useless telecommunications provider did not do what it promised: I was yet another useless technician who left without fixing the problem. This was a serious investigation that involved a major commercial drug operation.

The Hon. Michael Veitch: Did you put the phone back together?

The Hon. MICHAEL GALLACHER: I did but I cannot guarantee that it worked. It was probably worse, but I did not electrocute myself and, more importantly, the investigation was not ruined. The bill contains a number of sanctions to protect against the misuse of assumed identities, disclosing the real identity of those using such identities. I would hope and assume that therefore they are covered. There are sanctions for misusing an identity or disclosing information about an assumed identity and certain aggravating circumstances. The penalty for disclosure can be a maximum of two years in jail for a first instance and ten years—up from five years—for a second offence. The bill also re-enacts provisions in the current Act not covered under the model bill, including provisions relating to eligible judges and provisions imposing restrictions on the disclosure in legal proceedings of the identity of officers, and now civilians, in respect of whom an authority is in force.

Under the changes civilians will only be able to use an assumed identity for three months and must be supervised throughout this time by a law enforcement officer. The bill continues the practice of auditing each year assumed identities, and assumed identities used in other jurisdictions will be audited every six months. The Opposition does not oppose this bill.

Reverend the Hon. FRED NILE [2.58 p.m.]: The Christian Democratic Party supports the Law Enforcement National Security (Assumed Identities) Bill 2010. This bill will facilitate cross-border recognition for the acquisition and use of assumed identities by officers of certain law enforcement and national security agencies. This bill will help to make it a more efficient, transparent and accountable legislative regime for acquiring and issuing false identity documents for use in cross-border criminal investigations. It is important and necessary operationally to allow undercover police officers to penetrate where necessary criminal gangs, bikie gangs and various levels of organised crime involving drugs, prostitution, illegal gambling et cetera.

This bill provides that an assumed identity is a false identity that is used by an officer or other person for a period for the purpose of investigating an offence or gathering intelligence, performing support-related activity such as the renting of covert premises under a false name, and safely administering witness protection programs. Of all New South Wales government agencies only the Police Force, the Crime Commission, the Police Integrity Commission, the Independent Commission Against Corruption and the Department of Corrective Services are authorised to grant approval to acquire and use an assumed identity. The main benefit for New South Wales agencies with this initiative will occur when the New South Wales bill is recognised by other jurisdictions after the bill is passed by the Parliament.

This will allow New South Wales-issued false identities to operate lawfully outside New South Wales and New South Wales agencies to direct non-New South Wales agencies to issue documents in assumed names.

The Hon. Michael Gallacher reminded us of the penalties for disclosing information, and those penalties have been retained from the 1998 Act, which is very important. Obviously the lives of undercover officers are very much at risk if their identities are in any way revealed, which is why there needs to be great security of documents and approval for undercover officers within the police force or agencies that approve it to ensure that there are no leaks—deliberately or accidentally—by any staff involved in the institutions, organisations or agencies. I support the bill.

The Hon. IAN COHEN [3.00 p.m.]: The Law Enforcement and National Security (Assumed Identities) Bill 2010 largely re-enacts existing law and adopts a few new provisions that allow for cross-border recognition of assumed identities sanctioned by certain law enforcement and national security agencies. The bill substantially adopts the provisions of a model law for such a scheme. The model law formed part of the Cross-Border Investigative Powers for Law Enforcement report published in 2003 by the Standing Committee of Attorneys-General and the Australasian Police Ministers Council Joint Working Group on National Investigation Powers. Only police and crimes agencies can sanction the use of an assumed identity, for example, in relation to undercover police work or for the purposes of witness protection. Safeguards are provided for in section 6 (2) limiting the use of assumed identity where the assumed identity is necessary for the purposes of:

(i) an investigation or intelligence-gathering in relation to criminal activity

(ii) implementing measures to facilitate the conduct of such investigations or intelligence-gathering that may take place in the future

In relation to witness protection, an identity can be assumed to allow:

(iii) employees of the NSW Police Force to exercise their functions in administering witness protection programs and ensuring their safety while doing so.

In order for an assumed identity to be sanctioned there is an application process for authorisation. All authorities granted will have to be reviewed yearly. The bill introduces sanctions for the misuse of an assumed identity. Penalties range from two to 10 years. The 10-year maximum penalty is for situations where a person intends to endanger the health or safety of any person, or knows that, or is reckless as to whether, the disclosure of the information endangers or will endanger the health or safety of any person, or prejudices or will prejudice the effective conduct of an investigation or intelligence-gathering in relation to criminal activity or implementation of a witness protection program. The Greens appreciate the need for such a process to occur regarding enforcement agencies and, as such, do not oppose the bill.

The Hon. TONY CATANZARITI [3.03 p.m.]: I speak in support of the Law Enforcement and National Security (Assumed Identities) Bill 2010. Prior to the drafting of the bill all jurisdictions had agreed on a basic common model for assumed identities legislation. This model was published in a 2003 report by the Standing Committee of Attorneys-General and the then Australasian Police Ministers Council Joint Working Group entitled Cross-Border Investigative Powers for Law Enforcement. The report noted the importance of assumed identities in providing protection for undercover operatives engaged in investigating crimes and infiltrating organised crime groups.

The model laws were endorsed by the Standing Committee of Attorneys-General in 2004 and provision was made to enable individual jurisdictions to make non-critical variations. Achieving cross-border recognition of assumed identities is the fundamental purpose of amending the New South Wales Act. In order for the national cross-border scheme to be fully workable, each jurisdiction must adopt the model laws, recognise other States' legislation as corresponding laws and likewise have its own provisions accepted as corresponding laws. This bill has been drafted in consultation with, and to the satisfaction of, all other Australian jurisdictions. This involved the drafting of a preliminary bill in consultation with the New South Wales Police Force, the New South Wales Crime Commission, the Police Integrity Commission, the Independent Commission Against Corruption and Corrective Services NSW. The preliminary bill was circulated to other jurisdictions for comment.

The final bill incorporates the suggestions made by other jurisdictions. At present Queensland, Victoria, Tasmania, South Australia, the Australian Capital Territory and the Commonwealth have implemented cross-border provisions for assumed identities. This means that the cross-border provisions outlined in the bill will be effective in these jurisdictions once the bill is passed. It is expected that the cross-border provisions would have an immediate impact on operations that spill across State boundaries. For example, a police officer based at Tweed-Byron Local Area Command would encounter less disruption under a false name when following a suspect a few kilometres away to, say, Coolangatta. Another example could be the need for officers

working in a joint Victorian and New South Wales police investigation to quickly obtain evidence under false names. The bill enables New South Wales law enforcement and national security agencies to work more efficiently with other jurisdictions to fight crime. I commend the bill to the House.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.06 p.m.], in reply: I thank honourable members for their contributions to this debate. The bill repeals the Law Enforcement and National Security (Assumed Identities) Act 1998. The bill provides cross-border recognition of assumed identities to support the duties of certain law enforcement and national security agencies. The main benefit for New South Wales agencies with this initiative will occur when the New South Wales bill is recognised by other jurisdictions. This will enable New South Wales-issued false identities to operate lawfully outside New South Wales, and New South Wales agencies to direct non-New South Wales agencies to issue documents in assumed names. The initiative creates a more efficient, transparent and accountable legislative regime for acquiring and issuing false identity documents for use in cross-border criminal investigations. During debate the Hon. Michael Gallacher detailed a scenario as an example of a matter that may arise. I take on board his comments and I have undertaken to have advisers from the Minister's office discuss this further with the honourable member. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Michael Veitch agreed to:

That this bill be now read a third time.

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

ELECTRONIC TRANSACTIONS AMENDMENT BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.07 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of the Electronic Transactions Amendment Bill 2010 is to update the *Electronic Transactions Act 2000* and make consequential amendments to related legislation, to reflect internationally recognised legal standards.

This bill aims to increase certainty for international and domestic transactions conducted via an electronic medium, and also encourage the growth of electronic commerce, such as online retailing.

The bill strengthens our existing regime by recognising the use of automated message systems in contract formation and clarifying the rules in relation to:

- invitations to treat,
- the determination of a party's location in an electronic environment,
- the time and place of dispatch and receipt of electronic communications, and
- electronic signatures.

The basis of New South Wales current electronic transactions regime is the 1996 Model Law on Electronic Commerce, which was developed by the UN Commission on International Trade Law.

The Commonwealth, and all other States and Territories, have Electronic Transactions Acts based on this Model Law.

The United Nations Convention on the Use of Electronic Communication in International Contracts, which was adopted by the UN in 2005, updates many of the concepts in the 1996 model law.

These updates are primarily as a result of a better understanding of the use of the internet in electronic transactions in the intervening decade. It is the first United Nations Convention addressing legal issues arising from the digital economy.

As with the 1996 model law, the United Nations Convention's primary aim is to facilitate international trade by enhancing legal certainty and commercial predictability where electronic communications are used in relation to international contracts.

Its purpose is to facilitate international trade by removing possible legal obstacles or uncertainty in the use of electronic communications in the formation or performance of contracts between parties located in different countries.

In 2008, the Standing Committee of Attorneys-General agreed to the development of a public consultation paper on the Australian Government's proposal to accede to the Convention.

The paper discussed the differences between Australia's domestic electronic transactions laws and the United Nations Convention and the amendments that would be required to update Australia's laws to bring them into line with the Convention.

The paper specifically sought comments on whether the Convention rules should also apply to domestic contracts to avoid having different regimes for domestic and international contracts. Nine submissions were received. All submissions were generally supportive of Australia's accession to the United Nations Convention and none addressed the issue of applying the Convention rules to domestic contracts.

Subsequently, in 2009 the Standing Committee Ministers agreed to the drafting of a model bill to implement obligations under the United Nations Convention and, at the May 2010 meeting, Ministers agreed to update their uniform electronic transactions legislation to adopt the model bill within 12 months.

It is proposed that Australia will accede to the Convention when legislation based on the model bill is enacted in each jurisdiction.

I am delighted to inform the House that New South Wales is the first jurisdiction to introduce such legislation.

The amendments contained in this bill do not significantly change New South Wales electronic transactions regime. However, they will ensure that our laws keep pace with developments in this rapidly evolving area of law.

These amendments will enhance cross-border online commerce and increase certainty for international trade by electronic means and thereby encourage further growth of electronic contracting.

Where the bill overlaps with our current regime, the amendments are of an updating or refining nature. The additional rules proposed in the bill clarify traditional rules on contract formation to address the needs of electronic commerce and will provide legal certainty on those matters.

The main changes proposed are:

- new rules that recognise the use of automated message systems,
- a new rule about what is an 'invitation to treat' in the electronic context,
- minor amendments to the electronic signature provisions and other form requirements,
- clarification of the location of parties rules, and
- minor amendments to the default rules for time and place of dispatch and receipt.

A careful assessment has been undertaken to ensure that the effects of the proposed amendments do not unduly disturb settled contract law or domestic practice since the enactment of the Electronic Transactions Act in 2000.

The bill does not purport to vary or create contract law. Rather it includes a range of measures directed at improving the general operation of the current electronic transactions regime.

The United Nations Convention reflects the view that party autonomy is vital in contractual negotiations and nothing in this bill affects the principle that contracting parties should be free to agree on matters affecting the formation and performance of a contract between them.

Although the United Nations Convention is only concerned with international business contracts, the proposed amendments in this bill will also apply to contracts concluded for personal, family or household purposes.

This will ensure commonality of rules between domestic and international contracts using electronic communications, and therefore avoid problems that may arise if there were two different regimes. In the domestic sphere, these proposed provisions will supplement existing law offering protection to consumers who are parties to contracts.

I will now turn to some key elements of the bill.

The bill introduces a new Part 2A into the current Electronics Transactions Act and moves the existing Part 2A to schedule 1. This will ensure that the numbering of our legislation is consistent with other jurisdictions' equivalent legislation once updated in accordance with the national agreement.

Proposed section 14A provides that the new Part 2A is applicable to electronic contracts, where New South Wales contract law applies and where some or all of the parties reside in Australia. The contract may be for business, personal or other purposes.

Today it has become commonplace for consumers to order goods via websites, email messages, online order forms and virtual shopping carts. The bill transposes the accepted notion of 'offer' into an electronic environment.

Therefore, a vendor that advertises its goods or services on the internet or through other open networks should be considered merely to be inviting those who access the site to make offers. Thus, an offer of goods or services through the internet would not *prima facie* constitute a binding offer. This means that a vendor has not relinquished the right to refuse to sell to a customer including, for example, where the trader has already sold all goods.

Proposed section 14B confirms that a proposal to enter into a contract, made by electronic means to the world at large, is to be treated as an invitation to make an offer, unless there is a clear indication by the trader of an intention to be bound.

The purchase of goods through a website is often automated and therefore handled by a computer program, rather than the vendor themselves. This bill recognises this growing practice and inserts a definition of 'automated message system'. The critical element of the definition is that it covers transactions that lack human intervention on either one or both sides of the transaction. Proposed section 14C confirms that the absence of human intervention does not preclude contract formation.

Unlike in face to face transactions, the opportunity to detect or correct a mistake made during an online transaction is limited because of the automated nature of the transaction. A customer making an online purchase may enter the wrong quantity of goods or incorrectly select an item; however, if no confirmation screen exists the customer does not have an opportunity to detect and rectify the mistake.

Proposed section 14D introduces a certain level of protection for consumers if a website does not provide an opportunity for correction, as it enables a person who makes an input error, which has been dealt with by an automated message system, to withdraw the portion of the electronic communication in certain circumstances.

However, the person must notify the other party of the error as soon as possible, and must not have received any material benefit or value from any goods or services received from the other party.

Section 14D also clearly sets out that the right of withdrawal of a portion of an electronic communication under this section does not, in itself, confer a right to rescind or otherwise terminate a contract.

The bill also amends the current default rules of time and place of dispatch and receipt of electronic communications.

The amendments reflect the Convention's formula, and provide that the time of dispatch of an electronic communication is the time when the electronic communication leaves an information system, and the time of receipt of an electronic communication is the time when the electronic communication becomes capable of being retrieved by the addressee at an electronic address designated by the addressee.

The bill also updates the definition of both 'place of business' and 'transaction', so as to clarify the use of these terms in the context of contract formation and execution across an electronic medium.

The bill proposes minor amendments to the electronic signature provisions and other form requirements. The current regime provides that an electronic signature must be capable of identifying the signatory and indicating the signatory's 'approval' of the information contained in the electronic communication.

However, there are instances where the law requires a signature, but that signature does not have the function of indicating the signing party's 'approval' of the information contained in the electronic communication; for example, notarisation, attestation by commissioner of oaths and witnessing of documents.

Proposed section 9 therefore provides that an electronic signature must be capable of identifying the signatory and indicating the signatory's intention in respect of the information contained in the electronic communication. However, it removes the notion that a 'signature' implies a party's approval of the entire content of the communication to which the signature is attached. The bill also provides legal recognition of electronic signatures irrespective of the technology used.

The Government recognises the need to support business operations in the global economy and the importance of maximising technology to promote international legal and business engagement.

This bill will remove possible legal obstacles and uncertainty, and ensure that New South Wales's e-commerce laws reflect up-to-date internationally recognised legal standards.

This Government is committed to ensuring that New South Wales's laws meet the challenges of existing, new and emerging technology.

I commend the bill to the House.

The Hon. DAVID CLARKE [3.08 p.m.]: The Opposition does not oppose the Electronic Transactions Amendment Bill 2010, the purpose of which is to amend the Electronic Transactions Act 2000 so as to enact

model provisions agreed to by the Standing Committee of Attorneys-General to update the law on electronic transactions and thereby reflect international standards under the United Nations Convention on the Use of Electronic Communications in International Contracts. The bill provides that its provisions apply to those contracts that involve electronic communications where the proper law of the contract is the law of New South Wales, whether or not some or all of the parties are located in Australia or elsewhere and whether the contracts are for business, personal or other purposes. The definition of "transaction" is amended to include any statement, declaration, demand, notice or request that the parties are required to make or choose to make in connection with the formation or performance of the contract or agreement.

The provisions of the Electronic Transactions Act relating to signatures are amended. These will provide that if under the law of a jurisdiction the signature of a person is required, then rather than indicating a person's approval of the information it is sufficient that the signature in the electronic communication indicates the person's intention in respect of the information communicated, whether or not a signature in an electronic communication is reliable is to be decided in light of all the circumstances, including any relevant agreement. The bill introduces default rules relating to the time and place of dispatch and receipt of electronic communications. Unless otherwise agreed, the time of dispatch of an electronic communication is the time when it leaves an information system and the time of receipt is the time when the electronic communication becomes capable of being retrieved by the addressee at an electronic address designated by the addressee. An electronic communication is taken to have been dispatched at the place where the originator has its place of business and is taken to have been received at the place where the addressee has its place of business.

The definition of "place of business" is updated to include a place where a person maintains a non-transitory establishment to pursue an economic activity other than the temporary provision of goods or services out of a specific location. The new provisions provide that a party's place of business is assumed to be the location indicated by the party unless another party demonstrates that the party making the indication does not have a place of business at that location. If a party has multiple places of business but has not indicated a particular one, then it is taken to be that place which has the closest relationship to the underlying transaction. A location is not a place of business merely because that is where the equipment and technology supporting an information system used by a party are located.

The bill provides that a proposal to enter a contract made through an electronic communication that is not addressed to a specific party but to the world at large is to be considered as an invitation to make offers, or as it is known, an invitation to treat, unless it clearly indicates the intention of the party making the proposal to be bound in case of acceptance. The Government advises that the effect of this will be to ensure that an offer of goods made over the Internet will be considered an invitation to treat and acceptance will thereby enable the vendor to accept or reject the customer's offer to purchase.

The amendments in the bill will clarify that a contract formed by the interaction of an automated message system and a natural person or by the interaction of automated message systems is not invalid, void or unenforceable merely because automated message systems were used. An automated message system is defined as a computer program or an electronic or other automated means used to initiate an action or respond to data messages in whole or in part without review or intervention by a natural person each time an action is initiated or a response is generated by the system. The bill enables a natural person who makes an input error in an electronic communication exchanged with the automated message system of another party to withdraw the portion of the electronic communication in which the input error was made if the person notifies the other party of the error as soon as possible after having learned of the error and if the person has not received any material benefit or value from any goods or services received from the other party and the system does not otherwise provide a means to correct the error.

The bill also includes amendments that ensure that the new provisions for contracts involving electronic communications can be numbered consistently with the equivalent legislation of the Commonwealth and other States and Territories. The bill aims to increase certainty for international and domestic transactions conducted by electronic means. It clarifies the rules in relation to invitations to treat, the determination of a party's location in an electronic environment, the time and place of dispatch and receipt of electronic communications and electronic signatures, and does not seek to vary existing contract law. As I indicated earlier, the Opposition does not oppose this bill.

The Hon. IAN COHEN [3.14 p.m.]: On behalf of the Greens I speak in debate on the Electronic Transactions Amendment Bill 2010. The bill comes out of a recommendation by the Standing Committee of Attorneys-General to accept the model bill that is based on the United Nations Convention on the Use of

Electronic Communication in International Contracts 2005. The basis for New South Wales current electronic transactions regimes is the 1996 United Nations Commission on International Trade Law Model Law on Electronic Commerce. The Electronic Transactions Amendment Bill 2010 updates this legislation.

The Minister has outlined the changes to New South Wales law, which are of a minor nature. These include rules that recognise the use of automated message systems, a new rule about what is an invitation to treat in the electronic context, minor amendments to the electronic signature provisions and other form requirements, clarification of the location of party rules, and minor amendments to the default rules for time and place of dispatch and receipt. The Greens support the bill

Reverend the Hon. FRED NILE [3.16 p.m.]: The Christian Democratic Party supports the Electronic Transactions Amendment Bill 2010. The bill will update New South Wales electronic transactions regime to reflect internationally recognised legal standards. It originated with the meeting in 2008 of the Standing Committee of Attorneys-General, which agreed to undertake public consultation on the Australian Government's proposal to accede to the United Nations Convention on the Use of Electronic Communication in International Contracts. The bill will amend the Electronic Transactions Act 2000 and make consequential amendments to related legislation. However, it does not significantly change New South Wales electronic transactions regime. Rather, the proposed amendments clarify traditional rules on contract formation to address the needs of electronic commerce.

The main changes proposed are new rules that recognise the use of automated message systems, a new rule about what is an invitation to treat in the electronic context, minor amendments to the electronic signature provisions and other form requirements, clarification of the location of party rules, and minor amendments to the default rules for time and place of dispatch and receipt. This legislation is certainly needed. I am sure that, like me, all members receive on a daily basis electronic communications informing them that they have won a prize of some millions of dollars and they have only to send $200 to facilitate the transfer of the money. Other communications advise that you are the beneficiary of a will in some foreign country and that if you send a couple of hundred dollars it will assist the solicitors to process the will. Sadly, modern electronic communications are now being widely abused.

There was a case in the media only this week of people who sought to sell their car through the Internet. People had made an offer to buy it but asked the car owner to send a couple of hundred dollars to help transfer the money to the vendor's account. The money was sent and the person selling the car never heard another word. It is simply a rort using electronic communications to make a great deal of money, so we certainly need tight control over this method of communication.

The Hon. LYNDA VOLTZ [3.19 p.m.]: This Government recognises the need to support New South Wales businesses that are increasingly operating in the global economy. To do this it is important that our legislation reflects internationally recognised legal standards and that there is national and international uniformity. Certainty and stability are crucial for business confidence. One of the purposes of the Electronic Transactions Amendment Bill 2010 is to enhance the legal certainty and commercial predictability of contracts where electronic forms of communication are used. This bill builds upon the existing electronic transactions regime in New South Wales. The current regime, which was introduced in 2000, received bipartisan support, which is what this bill is receiving.

The bill is modelled on the United Nations Convention on the Use of Electronic Communications in International Contracts, which was finalised and formally adopted by the United Nations on 23 November 2005. It is the first United Nations convention addressing legal issues arising from the digital economy. At the July 2008 meeting of the Standing Committee of Attorneys-General, Ministers agreed that the Commonwealth, in consultation with the States and Territories, would develop a public consultation paper on the proposed accession to the convention and the required amendments to the Commonwealth, State and Territory electronic transactions regimes. A consultation paper was developed by the Commonwealth and was made available for public comment between November 2008 and 30 January 2009.

The paper was available on the website of the standing committee and on the website of the Commonwealth Attorney-General, and was also provided to peak business and industry bodies for their comment. All submissions revealed general support for Australia's accession to the convention. Subsequently, in 2009, Ministers agreed to the drafting of a model bill to implement obligations under the United Nations convention and, at the May 2010 meeting, Ministers agreed to update their uniform electronic transactions legislation to adopt the model within 12 months. Within that time all Australian jurisdictions will have a

nationally consistent electronic transactions regime that reflects international standards. It is proposed that the Commonwealth will accede to the convention once the model bill is enacted in each jurisdiction. New South Wales is the first jurisdiction to introduce such legislation.

This bill does not purport to vary or to create contract law and it does not significantly change the New South Wales electronic transactions regime. Rather, it updates and strengthens the existing law with which business is familiar. These updates are primarily as a result of a better understanding of the use of the Internet and the growth in electronic transactions generally since 2000. The new provisions introduced in this bill include new rules recognising the use of automated message systems for contract formation, a new rule about what is an invitation to treat in the electronic context, and a right of withdrawal when a person makes an input error in an electronic communication exchange with an automated message system. This bill will ensure that the New South Wales electronic transactions regime continues to reflect internationally recognised legal standards, and provide legal certainty and commercial predictability for individuals and businesses undertaking electronic transactions. I commend the bill to the House.

The Hon. KAYEE GRIFFIN [3.23 p.m.]: The Electronic Transactions Amendment Bill 2010 will ensure that New South Wales has an electronic transactions regime that is consistent with international standards. It will increase certainty for international and domestic transactions conducted via an electronic medium, and will also increase the growth of electronic commerce, such as online retailing. This is great news for both New South Wales businesses and consumers. As has previously been noted, this bill does not significantly change the New South Wales electronic transactions regime. However, the purpose of the majority of the amendments is to clarify and update the existing regime.

This bill deals with a number of new concepts, including introducing new rules that recognise the use of automated message systems. The current regime in New South Wales does not specifically recognise the use of automated message systems. With the increase of online shopping by consumers, the purchase of goods through a website is often automated and, therefore, handled by a computer program rather than by vendors themselves. Proposed section 14C provides that a contract formed by the interaction of an automated message system and a natural person, or by the interaction of two automated message systems is not invalid or unenforceable simply because automated systems were used. The bill inserts a definition of "automated message system", which is:

- A computer program or an electronic or other automated means used to initiate an action or respond to data messages in whole or part, without review or intervention by a natural person each time an action is initiated or a response is generated by the system.

Proposed section 14C confirms that the absence of human intervention on one or both sides of a transaction does not preclude contract formation. If a consumer orders goods through a website the transaction would be an automated transaction because the vendor took and confirmed the order via an online transaction facility. One issue that can arise when purchasing via an automated system is that there is limited opportunity to detect or to correct a mistake. A common way to overcome this issue is for a website to have a confirmation screen—a screen that might show what is in one's shopping cart, and that might ask one to confirm that those are the items or services one wishes to purchase before the transaction is completed.

This bill introduces a certain level of protection for consumers in situations where a website does not have a confirmation screen or provide any other opportunity to correct a mistake made during the purchase. Proposed section 14D enables a customer who makes an input error that has been dealt with by an automated system to withdraw that portion of the transaction in certain circumstances. Those circumstances are when the customer notifies the other party of the error as soon as possible after having learned of the error and indicates that he or she made an error in the electronic communication; and the customer has not used or received any material benefit or value from the goods or services, if any, received from the other party.

The term "input error" is not defined but is intended to cover errors relating to inputting wrong data, such as unintentional key stroke errors that, for example, result in a customer entering the wrong quantity of goods on an order form. However, proposed section 14D clearly sets out that the right of withdrawal of a portion of an electronic communication under this section does not in itself confer a right to rescind or otherwise terminate a contract. The intention of article 14 is to encourage online businesses to build in an opportunity for their customers to correct input errors, such as a confirmation screen that provides the customer with an opportunity to correct information before it is sent. This bill is both good for New South Wales businesses and consumers and, therefore, it is good for the New South Wales economy. I commend the bill to the House.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.27 p.m.], in reply: I thank members for their contributions to debate on the Electronic Transactions Amendment Bill 2010. This bill amends the Electronic Transactions Act 2000 and makes consequential amendments to related legislation. The purpose of the bill is to update the New South Wales electronic transactions regime to reflect internationally recognised legal standards. This bill does not significantly change the New South Wales electronic transactions regime; rather the amendments clarify additional rules on contract formation to address the needs of electronic commerce.

The main changes are new rules that recognise the use of automated message systems, a new rule about what is an invitation to treat in the electronic context, minor amendments to the electronic signature provisions and other form requirements, clarification of the location of parties rules, and minor amendments to the default rules for time and place of dispatch and receipt. The Government believes that this bill will ensure that our laws keep pace with developments in this rapidly evolving area of law. These amendments will enhance cross-border online commerce and increase certainty for international trade by electronic means and thereby encourage further growth of electronic contracting. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Michael Veitch agreed to:

That this bill be now read a third time.

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

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Report: Proposed Amendments to the Independent Commission Against Corruption Act 1988

Reverend the Hon. Fred Nile, on behalf of the Chair, tabled report No. 10/54, entitled "Proposed Amendments to the Independent Commission Against Corruption Act 1988", dated September 2010.

Ordered to be printed on motion by Reverend the Hon. Fred Nile.

Reverend the Hon. FRED NILE [3.29 p.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by Reverend the Hon. Fred Nile and set down as an order of the day for a future day.

PRIVACY AND GOVERNMENT INFORMATION LEGISLATION AMENDMENT BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.30 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

Leave granted.

Last year, the Government introduced the *Government Information (Public Access) Act 2009*, which is to commence on 1 July this year. That Act delivers on the Government's commitment to improve the transparency and integrity of Government in New South Wales. It does so by promoting greater access to Government information. With that Act, the Government also introduced the *Government Information (Information Commissioner) Act 2009*, which establishes the independent Office of the Information Commissioner (OIC), led by the Information Commissioner, who will be an independent "champion of open Government".

NSW also has a unique record in relation to privacy. In 1975 it was the second jurisdiction in the world to enact privacy legislation. And in 1998 the Labor Government introduced the *Privacy and Personal Information Protection Act 1998* which established the first enforceable standards for the New South Wales public sector when collecting, using and disclosing individuals' personal information. The Privacy Commissioner, a statutory office holder under the Act, is the "champion of privacy", who provides authoritative advice on privacy-related matters.

Questions about the privacy of personal information and access to Government information will naturally overlap. They both involve rights to access information and impose obligations on Government in the way that it deals with information. They are both concerned with transparency and with holding Government accountable. They may also be in tension with each other, for example where a person seeks access to Government information which includes a third party's personal information. There will sometimes be a need to strike a balance between the importance of disclosure, in the interests of open Government, and the importance of protecting individuals' privacy.

In recognition of this relationship between the values underpinning privacy legislation and legislation about open Government, this bill merges the Office of the Information Commissioner and Privacy NSW to create a significant new body, the Information and Privacy Commission. The new Information and Privacy Commission will be a "one-stop shop" for the people of New South Wales in matters involving access to Government information, privacy and personal information. The creation of this single office gives effect to the view of the NSW Law Reform Commission, set out in its 2009 Report number 125, *The Offices of the Information and Privacy Commissioners*, that a single office should administer legislation about privacy and access to Government information.

As the Law Reform Commission pointed out, the creation of a single office will help to ensure that agencies and individuals receive consistent information and advice. It will also allow for co-ordinated training and assistance to be provided to agencies. By providing one point of contact for these matters, "referral fatigue" should be reduced. Also, shared corporate services should result in operational efficiencies.

I turn now to the key features of the bill.

Part 4.3 of schedule 4 creates the Information and Privacy Commission, replacing the Office of the Information Commissioner. The Information Commissioner will be the Head of the Commission, with responsibility for managing its budget and administration, and employing and allocating staff. Item [23] of schedule 1 transfers the existing staff of the Privacy Commissioner to the Information and Privacy Commission, where they will be employed alongside the staff of the Information Commissioner.

The Privacy Commissioner will be located in the Information and Privacy Commission, and will no longer be administratively dependent on the Department of Justice and Attorney General This will strengthen the ability of the Privacy Commissioner to fulfil his or her statutory functions.

Given the importance of the position of Privacy Commissioner, and to ensure consistency of appointments in the Information and Privacy Commission, item [3] of schedule 1 amends the *Privacy and Personal Information Protection Act 1998* so that the Privacy Commissioner is to be appointed and removed in the same manner as the Information Commissioner. This implements one of the Law Reform Commission's recommendations. Like the Information Commissioner, the Privacy Commissioner will be appointed subject to veto by a joint parliamentary committee and will only be eligible to be re-appointed once. The Commissioner will only be able to be removed from office following a resolution of both Houses of Parliament.

The NSW Law Reform Commission recommended that the Privacy Commissioner should be a Deputy Information Commissioner. The Commission's view was that the Information Commissioner rather than the Privacy Commissioner should report to Parliament on the operation of privacy legislation and that the exercise of certain functions of the Privacy Commissioner should require the approval of the Information Commissioner.

The Government has decided instead that there will be on office with two Commissioners of equal status. This will maintain the status and role of the Privacy Commissioner as an independent privacy advisor and champion. However, the Information Commissioner will have additional responsibilities as Head of the Commission. This model has the strong support of the Acting Privacy Commissioner and the Information Commissioner.

To ensure that there are strong and unbiased advocates for both privacy and for access to Government information, the bill provides that the Privacy Commissioner cannot be the same person as the Information Commissioner, and vice versa.

Each Commissioner will report to Parliament on their respective functions and the operations of their respective legislation. These reports will be included within the annual report of the Information and Privacy Commission. Item [12] of schedule 1 creates a new obligation on the Privacy Commissioner to report to Parliament on the operation of the *Privacy and Personal Information Protection Act 1998*. This reporting requirement aims to ensure that Government agencies are complying with that Act. The reporting obligations of each Commissioner will ensure also that there is transparency and accountability regarding the distribution of resources in the Information and Privacy Commission. Currently, the Privacy Commissioner makes his or her annual report to the Minister rather than to Parliament. Providing for the Privacy Commissioner to report directly to Parliament will enhance the independence of the Privacy Commissioner and place them in the same position as the Information Commissioner.

Item [6] of schedule 1 extends the functions of the Joint Committee on the Ombudsman and the Police Integrity Commission, consisting of members of Parliament, to include oversight not only of the Information Commissioner but also of the Privacy Commissioner. This will assist in ensuring that the Information and Privacy Commission functions effectively as a single office, rendering both Commissioners subject to the same accountability mechanism.

Item [11] of schedule 1 establishes an Information and Privacy Advisory Committee, as recommended by the NSW Law Reform Commission, and abolishes the existing Privacy Advisory Committee. This new advisory committee will advise both the Information Commissioner and the Privacy Commissioner on matters relating to the performance of their functions. A key advantage of having a single advisory committee is that it will be able to consider the areas of overlap and interaction between privacy legislation and open Government legislation.

The composition of the Information and Privacy Advisory Committee adopts the recommendation of the NSW Law Reform Commission and draws on the model for the Commonwealth's Information Advisory Committee. The new Committee will consist of:

- the Information Commissioner, who will be the chair;
- the Privacy Commissioner; and
- the following part time members:
  - two senior officers from Government agencies, nominated by the Minister in consultation with relevant Ministers;
  - four people, not from Government agencies but nominated by the Minister:
    - two of whom have a special knowledge of, or interest in, matters affecting access to Government information; and
    - two of whom have special knowledge of, or interest in, matters affecting the privacy of persons.

The two Commissioners will continue to exercise discrete functions in relation to privacy and access to Government information. In accordance with the recommendations of the NSW Law Reform Commission, the bill creates obligations for the Commissioners to consult each other in relation to certain aspects of their responsibilities which may overlap. This will assist in ensuring that both privacy objectives and the objectives of open Government are taken into account so that an appropriate balance is struck between the two when they are in tension.

- The Information Commissioner has the power to issue guidelines about public interest considerations against the disclosure of Government information, including some which are privacy related. In doing so, item [1] of schedule 3 requires that the Information Commissioner consult with the Privacy Commissioner.
- The Information Commissioner also has the power to review certain agency decisions and then to make recommendations to agencies in relation to those decisions, including decisions to provide or refuse access to Government information. Item [2] of schedule 3 requires the Information Commissioner to consult with the Privacy Commissioner before making a recommendation that involves a privacy-related public interest consideration against disclosure.
- Item [4] of schedule 1 requires the Privacy Commissioner, when exercising his or her power to issue guidelines about the Information Protection Principle relating to limits on disclosure of personal information, to consult with the Information Commissioner.

To further assist decision-makers to strike the right balance where privacy and open Government considerations are in tension:

- Item [3] of schedule 3 gives the Privacy Commissioner the right to appear and be heard in any proceedings before the ADT in relation to a review under Part 5 of the Government Information (Public Access) Act 2009, where such proceedings involve a privacy-based public interest consideration against disclosure. Item [9] of schedule 1 gives the Information Commissioner the same rights in respect of a review under the Privacy and Personal Information Protection Act 1998 involving the provision of access to Government information.
- Further, when the Minister exercises his or her power to recommend the making of a regulation under the Government Information (Public Access) Act 2009, item [4] of schedule 3 requires the Minister to consult with the Privacy Commissioner when the regulation concerns the protection of individual privacy or a privacy-based public interest consideration against disclosure.

The Joint Committee is currently required to keep under review the public interest considerations against disclosure, set out in the *Government Information (Public Access) Act 2009*. Its role is to ensure that their policy objectives remain valid and the content of the relevant provision remains appropriate for securing those objectives. Item [7] of schedule 3 requires the Joint Committee to consult with the Privacy Commissioner on any review of those public interest considerations against disclosure that concern a privacy-based public interest consideration.

Apart from these important reforms in relation to the role of the Privacy and Information Commissioners and the new Information and Privacy Commission the bill also simplifies and streamlines the right to correct one's personal information held by Government agencies. The right to correct one's personal information is a crucial component of privacy protection. It allows a person to go to an agency and, if the person believes the agency has recorded their information incorrectly, to seek to amend that information. This gives individuals some control over what personal information is held about them.

At present, there are two ways that a person may amend their personal information: one in the *Privacy and Personal Information Protection Act 1998* and another in the *Freedom of Information Act 1989* (to be transferred into Part 6A of the *Privacy and Personal Information Protection Act 1998* on 1 July 2010). Item [10] of schedule 1 removes the latter option, preventing the persistence of two separate regimes for amending personal information which overlap and potentially conflict.

The Freedom of Information Act method of amending personal information provides detailed and prescriptive rules for written applications, with a fee, 21 days for determination or deemed refusal, and review procedures. The second method of amending personal information, under section 15 of *Privacy and Personal Information Protection Act 1998*, is much simpler and more flexible. It simply requires public sector agencies to amend an individual's personal information, at the request of the individual, to ensure that it is accurate. This applies to all "personal information," not just documents. If the agency is not prepared to amend the information (for example, if the agency considers the information is already accurate), the agency must take reasonable steps to attach a Statement from the relevant individual to the information.

The bill abolishes the *Freedom of Information Act* option for amending personal information, as recommended by the NSW Law Reform Commission, and leaves the simpler method as the sole mechanism for amending personal information. This reform acknowledges that there is no necessity or utility in maintaining two separate, and potentially inconsistent, regimes.

Item [2] of schedule 1 provides for amendment of personal information contained in Ministers' records as well as agencies' records. Items [7] and [8] of schedule 1 make clear that in relation to decisions of Ministers or their staff about amending records, internal review will not be available but review will still be available in the Administrative Decisions Tribunal.

The merger of Privacy NSW with the Officer of the Information Commissioner will co-ordinate the activities of the Privacy Commissioner and the Information Commissioner. It will create a one-stop shop for individuals and agencies to seek advice and redress in relation to access to Government information and the protection of the privacy of personal information. It will also create administrative and operational efficiencies. Finally, it acknowledges that privacy legislation and open Government legislation sometimes overlap, and sometimes come into tension, and creates mechanisms for these competing values to be balanced where such tension exists.

I commend the bill to the House.

The Hon. DAVID CLARKE [3.30 p.m.]: The Opposition does not oppose the Privacy and Government Information Legislation Amendment Bill 2010, which amends three acts: the Privacy and Personal Information Protection Act 1998, the Government Information (Information Commissioner) Act 2009 and the Government Information (Public Access) Act 2009. Pursuant to the bill, an Information and Privacy Commission will be established by merging the Office of the Information Commissioner and Privacy NSW. The Information Commissioner will be head of the commission and responsible for managing its staff. This will implement a recommendation the New South Wales Law Reform Commission proposed last year. The staff of the Information Commissioner and the Privacy Commissioner will be employed in the new commission. The Privacy Commissioner, who is to report to Parliament on the operation of the Privacy and Personal Protection Act, will be appointed and removed in the same manner as the Information Commissioner. The same person is not permitted to hold both offices as the Government maintains that such a restriction will ensure unbiased advocates for privacy and access to government information. The new reporting obligations on the Privacy Commissioner are meant to ensure compliance with the Act.

The bill provides that the Privacy Advisory Committee operating under the Privacy and Personal Information Protection Act will be replaced with an Information and Privacy Advisory Committee to advise on matters relevant to the functions of both the Information and Privacy commissioners. The Joint Committee on the Office of the Ombudsman and the Police Integrity Commission will be responsible for oversight of the Privacy Commissioner's function, as it currently is with the Information Commissioner's function. The Information Commissioner and the Privacy Commissioner will be required to consult each other in respect of certain matters. The Information Commissioner will be required to consult the Privacy Commissioner before issuing guidelines about a privacy-related public interest consideration against disclosure under the Government Information (Public Access) Act and before making a recommendation about a decision of an agency that concerns a privacy-related public interest consideration against disclosure under the same Act. The Privacy Commissioner will be required to consult the Information Commissioner before issuing guidelines about the information protection principle that limits the disclosure of personal information by a public sector agency.

The bill confers on the Privacy Commissioner a right of appearance in proceedings before the Administrative Decisions Tribunal on a review under the Government Information (Public Access) Act or the Privacy and Personal Information Protection Act in relation to privacy-related public interest considerations against disclosure, and on the Information Commissioner in relation to the provision of access to government information. The bill requires that the Minister consult with the Privacy Commissioner before a regulation is made under the Government Information (Public Access) Act that concerns the protection of individual privacy or a privacy-related public interest consideration against disclosure.

The bill requires also the Joint Committee on the Office of the Ombudsman and the Police Integrity Commission to consult with the Privacy Commissioner on any review of the public interest provisions of the Government Information (Public Access) Act that concern a privacy-related public interest consideration. As I indicated earlier, the Opposition does not oppose the bill. The creation of a single office will create a one-stop shop for access to government information. The protection of the privacy of personal information and the shared

corporate services should result in operational efficiency. In favour of the bill also is the fact that the Information and Privacy Commission will be administratively independent from the Department of Justice and Attorney General. Additionally, the rationalisation of the method for amending personal information is a positive move. All in all, this bill is a step—a small step—in the right direction of achieving greater transparency in the administration of this State.

Dr JOHN KAYE [3.35 p.m.]: On behalf of the Greens I address the Privacy and Government Information Legislation Amendment Bill 2010. The bill merges the Office of the Information Commissioner and the Office of the Privacy Commissioner into one entity, recognising the benefits to the public of having a one-stop shop for privacy matters and information matters. The change comes from a recommendation by the New South Wales Law Reform Commission in its December 2009 report No. 125, entitled "The Offices of the Information and Privacy Commissioners" that a single office should administer legislation about privacy and that there be one office with two commissioners of equal status. Each commissioner will report directly to Parliament rather than to the Minister, as is currently the case with the Privacy Commissioner. In addition to annual reports, the commissioners can also make special reports to Parliament.

The Joint Committee on the Office of the Ombudsman and the Police Integrity Commission will have oversight of the Privacy Commissioner's functions in the same way that committee currently is responsible for oversight of the Information Commissioner's functions. The Government has indicated that the merger will not result in job losses. I ask the Parliamentary Secretary in reply to give an undertaking that the merger is not about reducing jobs and that all employees in the two existing offices will be guaranteed a job in the new merged entity—that is, that all existing staff will be transferred and none will experience loss of job security. The Information Commissioner and the Privacy Commissioner will be appointed subject to a veto by a joint parliamentary committee. Each commissioner will be able to be removed from office only following a resolution of both Houses of Parliament. An Information and Privacy Advisory Committee will be established to assist the commissioners. Each of these aforementioned provisions is a sensible step towards improving access to public information and privacy against adverse use and incorrect recording of information about individuals.

The Greens note also that currently individuals have two processes available to request a change of information held about them in the public sector. The bill designates one process from amending personal information to simplify the regime thereby creating a single portal for individuals to access the right to amend errors about information held in respect of them by public sector agencies. The process will require public sector agencies at the request of the individual to amend personal information where an inaccuracy has been identified to ensure that it is accurate. The Greens support this bill.

Reverend the Hon. FRED NILE [3.38 p.m.]: The Christian Democratic Party supports the Privacy and Government Information Legislation Amendment Bill 2010, which will establish an Information and Privacy Commissioner for New South Wales and amend provisions about access to and amendments of personal information held by New South Wales government agencies. The bill will establish the Information and Privacy Commission as a single office with two commissioners: the Information Commissioner, who will be the head of the commission, and the Privacy Commissioner. The bill will also streamline rights of amendments of personal information held by government agencies. I trust this new combined office will operate to provide information and not conceal it. In recent months there has been much controversy that, despite the Government's claim for open government, free information applications often are being rejected or, if not rejected, applicants are being told that the documents could be made available at a cost per page that amounts to thousands of dollars.

People on low incomes, or on almost no income—pensioners, et cetera—cannot use the services. A guarantee of greater openness and cooperation in providing information should be given. There also should be some way of reducing the cost of applications, or a means test applied to individuals. I do not mind a legal firm reimbursing the cost of the work, but I believe that other citizens who do not have comparable resources should receive a concession to assist them when applying for documents under freedom of information legislation.

The bill emanates from a recommendation by the New South Wales Law Reform Commission in December 2009 that the Office of the Information Commissioner and Privacy New South Wales be merged to provide a one-stop shop for the public. The bill creates one office, which will make it easier for people by avoiding an overlap between two separate offices at two separate locations. The bill replaces the Office of the Information Commissioner with the Information and Privacy Commission, headed by the Information Commissioner. I look forward to the new arrangement achieving the legislation's objectives. I am certain there will be complaints if that is not the case.

The Hon. HELEN WESTWOOD [3.41 p.m.]: I am pleased to support the Privacy and Government Information Legislation Amendment Bill 2010. The establishment of the Information and Privacy Commission will ensure that the cultural change that has already occurred with the introduction of the Government Information (Public Access) Act will continue. Agencies already are taking up the spirit of the Government Information (Public Access) Act and releasing information proactively. All members would welcome the adoption of that approach. More information is available on websites than ever before, with most super agencies already having a right to an information access point on their website's home page. I congratulate agencies on the cultural change that is so clearly occurring when it comes to the release of government information.

This Government is committed to transparency. This has been proven with the introduction of the Government Information (Public Access) Act, the Premier's memorandum on the Government Information (Public Access) Act released in May this year, the cultural change that is occurring public sector wide, and the establishment of the Information and Privacy Commission by this legislation. I will address some issues that were raised in debate in the other place. The first is a matter raised by the Opposition when Parliament debated the Government Information (Information Commission) Bill 2009—a bill that provides power for the Governor to suspend the Information Commissioner, pending a decision by Parliament whether or not relating to removal from office.

This bill provides the very same power with respect to the Privacy Commissioner. No such power to suspend exists with respect to the Ombudsman, and so the argument has been advanced that the independence of the Information Commissioner and Privacy Commissioner is compromised. However, that is not the case. The Privacy Commissioner will be independent of the Government. The commissioner can be removed only upon an address of both Houses of Parliament. There is no power for the Government to remove the commissioner. The limited power to suspend temporarily a commissioner, pending consideration of a parliamentary resolution for removal, is appropriate.

Although one would like to think that such a situation will never arise, it is possible that something could happen on a day, which is not a sitting day, that could justify removing a commissioner. The suspension power is included only as a temporary measure until Parliament can decide the issue. A similar suspension power already applies in the same way to the Auditor-General. It does not affect the office holder's independence in any way.

The Minister is required to lay before Parliament a full statement of reasons for which the commissioner was suspended, and there are limited grounds for suspension. Moreover, a suspension lapses after 21 days unless Parliament decides to remove the commissioner. The contention that this power could, or would, be used capriciously to undermine the office certainly is without foundation. The second issue is why there is no provision for internal review of a decision by a Minister's office regarding alteration of personal information. This is the same as for a decision about access under the Government Information (Public Access) Act.

Adequate internal review requires a decision maker to be independent of the initial decision-maker who was not involved in the original decision. It also requires a decision to be made by a more senior person. Ministerial offices will have only a handful of staff who will be able to make that type of decision. Given the limited number of applications with which ministerial offices deal, it was determined that it will be better to have the decision reviewed by a body with expertise in this area, namely the Administrative Decisions Tribunal. I strongly support the Privacy and Government Information Legislation Amendment Bill 2010, and I commend it to the House.

The Hon. TONY CATANZARITI [3.45 p.m.]: I am pleased to support the Privacy and Government Information Legislation Amendment Bill 2010. Privacy and public access are the key platforms relating to government information. Therefore I am very pleased that a single body, the Information and Privacy Commission, will oversee issues relating to government information. On 10 May this year Privacy NSW co-located with the Office of the Information Commissioner. That enabled both commissioners to consult operationally in respect of matters when privacy and access to government information intersect. The co-location also is delivering recourse benefits. The Information Commissioner and Privacy Commissioner already have engaged in joint training and staff development.

While the acting Privacy Commissioner is clearly the advocate for privacy and the Information Commissioner is clearly the advocate for access to information, I understand that the two commissioners are proactively working together to ensure that government information is dealt with appropriately by agencies. The Privacy and Government Information Legislation Amendment Bill 2010 will anchor the strong working

relationship between the commissioners. This will ensure that both the right to privacy and the right to information are protected and that the correct balance is achieved. The Information Commissioner already is championing access to government information by taking a road show to 11 regional areas to ensure that the people of the regions are aware of their rights under the Government Information (Public Access) Act.

The acting Privacy Commissioner recently launched a self testing online toolkit containing specific personal privacy risk information on matters such as wallets, online shopping and credit card safety. Individuals receive an assessment on completion of the test of their risk of identity theft. The achievements of both Privacy New South Wales and the Office of the Information Commissioner demonstrate that the new Information and Privacy Commission will be a proactive agency that will protect the public's rights in relation to government information. I will touch on an issue raised continually by the Opposition and referred to recently by the member for Davidson in the other place—that the Information Commissioner and the Privacy Commissioner should be in the Ombudsman's office.

Indeed, on 23 June 2009 during the debate on the Government Information (Public Access) Bill 2009, the leader of the Opposition committed his party, should the Opposition win government, to moving the Information Commissioner's office within the Ombudsman's office. The Opposition has never resiled from that commitment. There are very good reasons for establishing the Information and Privacy Commission outside the Ombudsman's office. The Ombudsman's focus is on identifying and rectifying maladministration whereas the focus of the Information and Privacy Commission's office will be on promoting best practice in information handling. The new commission will work collaboratively with agencies and will have a policy development role that the Ombudsman does not have.

The Ombudsman should maintain an independent distance from decision makers in order to scrutinise Government decision making. His office should not be involved in developing policy or administering Acts other than his own. Indeed, the Ombudsman should be able to scrutinise the work of the Information and Privacy Commission, and this would be compromised should the commission be located in the Office of the Ombudsman. I note that the Law Reform Commission, the then Privacy Commissioner, Ken Taylor, the Law Society of New South Wales and a number of other key stakeholders strongly supported the establishment of a separate Information Commissioner's office. I strongly support the Privacy and Government Information Legislation Amendment Bill 2010.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.50 p.m.], in reply: The main purpose of the Privacy and Government Information Legislation Amendment Bill 2010 is to merge Privacy NSW and the Office of the Information Commissioner, establishing the single office of Information and Privacy Commission, with two commissioners, the Information Commissioner, who will be the head of the commission, and the Privacy Commissioner. In December 2009 the New South Wales Law Reform Commission recommended that the Office of the Information Commissioner and Privacy NSW be merged to provide a one-stop shop for the public. The bill implements that recommendation.

If this bill is passed, the Privacy Commissioner will be appointed in the same manner as the Information Commissioner, with the same oversight by the Joint Committee of the Office of the Ombudsman and the Police Integrity Commission and similar reporting requirements. This increases the transparency of the appointment, demonstrating the Government's view of the importance of the position. This bill acknowledges that privacy legislation and open government legislation sometimes overlap and sometimes come into tension. It creates mechanisms for these competing values to be balanced where such tension exists. One of these mechanisms is that each commissioner has the right to be notified of applications for review in the Administrative Decisions Tribunal that affect their functions.

Another mechanism is the establishment of an Information and Privacy Advisory Committee to advise each commissioner and replace the existing Privacy Advisory Committee. In addition, the Information Commissioner must consult with the Privacy Commissioner before making guidelines or recommendations relating to privacy and considerations against the disclosure of government information. The bill also deletes part 6A of the Privacy and Personal Information Protection Act 1998 so that the only means to amend personal information will be located in section 15 of the Privacy and Personal Information Protection Act 1998, making amendment of personal information simpler for the public.

The Information and Privacy Commission will coordinate the functions performed by the Privacy Commissioner and the Information Commissioner. It will be a one-stop shop for individuals and agencies seeking advice in relation to government information and will create administrative and operational efficiencies.

The bill demonstrates the Government's commitment to both, recognising an individual's right to privacy and making it easier for individuals to access the information they need. Dr John Kaye raised the issue of staffing. I advise that the object of this bill is not to address the number of staff that are required for the Information and Privacy Commission. Staffing arrangements will be a matter for the Information Commissioner and are not for the Executive to determine. The effect of this bill will be to increase significantly the resources available to Privacy NSW under current arrangements.

Reverend the Hon. Fred Nile commented on costs. The cost is enshrined in legislation. It has not changed. Personal information is free and people can seek full or partial exemptions. Section 80 of the Government Information (Public Access) Act 2009 allows the review of a decision to impose a processing charge or to require an advance deposit. In addition, there are specific discounts provided in the Government Information (Public Access) Regulation. Also, the Government Information (Public Access) Regulation encourages informal and proactive release. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Michael Veitch agreed to:

That this bill be now read a third time.

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

PLANT DISEASES AMENDMENT BILL 2010

Second Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.54 p.m.], on behalf of the Hon. Tony Kelly: I move:

That this bill be now read a second time.

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

Leave granted.

The *Plant Diseases Amendment Bill 2010* proposes minor but important amendments to the Plant Diseases Act 1924.

The amendments will improve the Government's ability to respond more quickly and with greater flexibility to biosecurity threats to plants and fruit in the State.

The *Plant Diseases Act 1924* aims to prevent the introduction and spread of diseases and pests affecting plants or fruit in New South Wales. It also establishes important tools to eradicate diseases and pests affecting plants or fruit in this State.

Pests such as grape vine Phylloxera and Fruit Fly in the Riverina district and diseases such as the Banana Bunchy Top Virus are regulated under the Act.

Before going through the amendments in detail, I wish to outline the significance of continuing to strengthen this State's ability to respond to biosecurity threats.

Biosecurity is about protecting the economy, human health and the environment from the threats posed by pests and diseases.

The enormous impact of the 2008 equine influenza outbreak clearly demonstrates that acting quickly and decisively is vital in responding effectively to biosecurity threats.

From a biosecurity perspective, Australia, like New Zealand is geographically isolated and has always maintained a strong focus on quarantine. This means that New South Wales like the rest of Australia is free of many problematic pests and diseases that adversely affect agricultural production in other countries.

Plant pests and diseases may be introduced into New South Wales from overseas or interstate or may spread from one region of the State to another.

Plant pest and disease outbreaks can devastate crops, plantations and orchards, depriving individuals and families of their livelihood. This can have a flow on effect.

It can lead to a decline in our regional and rural communities and increase food prices for consumers.

Pests and diseases can have a significant impact on the New South Wales economy.

For example, ensuring that the Riverina district is kept free of Queensland Fruit Fly is critical for this district's major fruit production industries.

Ongoing freedom from Fruit Fly means orange and grape farmers in the Riverina experience significantly reduced production costs and guaranteed access to major export markets in the United States and New Zealand.

Unfortunately, Fruit Fly incursions do occur from time to time. Last summer, there were several fruit fly incursions in the Riverina. All of which were successfully controlled and eradicated.

However, following this incursion fruit traded to 'fruit fly sensitive' domestic and export markets required additional treatment and certification. This resulted in higher costs for industry and Government.

For example, markets will accept fruit that has had cold treatment of one degree celsius for sixteen days. The cost of this cold treatment is approximately four dollars per carton. This results in a significant loss in profits for producers and can impact on fruit quality.

It is vital that we have the most effective biosecurity management systems and controls in place.

This bill makes three main amendments to the *Plant Diseases Act 1924* which will improve the effectiveness of our biosecurity management systems and controls.

The first amendment is designed to enable New South Wales to put in place effective controls more quickly.

Time is of the essence in managing biosecurity threats. The more quickly we can respond to a biosecurity threat the greater our chance of preventing a pest or disease entering the State or part of the State. If there is a pest or disease outbreak, being able to respond quickly increases the prospect of eradicating that disease or pest quickly.

Currently, the power to regulate or prohibit the importation or introduction of any thing that is likely to introduce plant diseases or pests into the State or any part of the State resides with the Governor.

Given this power resides with the Governor there are limitations with the timeframe in which the power can be exercised.

While the New South Wales Government has a terrific record in responding to outbreaks of plant diseases and pests, the amendments proposed in this bill will give the Government even greater flexibility in responding to these outbreaks.

In addition, the Act requires the conditions that apply to the movement or treatment of the items that pose a risk of introducing the pests or diseases to be detailed in the Governor's proclamation.

The requirements for movement conditions are often detailed and complex. In addition, having to specify the conditions in the proclamation is inflexible because they cannot be changed quickly. This restricts the Government's ability to respond to an emergency or to changes in circumstances or our understanding of the pests or diseases and how best to fight it.

The first amendment will modernise the *Plant Diseases Act* and bring it into line with similar legislation such as the *Animal Disease (Emergency Outbreaks) Act 1991*.

Recent incursions of the serious pest Red Imported Fire Ant and the disease Citrus Canker in Queensland highlight just how this legislation will allow the Government to respond more quickly and with greater flexibility.

The amendment will give me, as Minister for Primary Industries, rather than the Governor, the power to make orders to regulate or prohibit, the importation or introduction of any thing likely to introduce plant diseases or pests into New South Wales or any part of the State.

An important implication of this change is that under the Act I am able to delegate this power to senior officers in the Department of Industry and Investment.

If this was to occur a formal delegation would be required.

This power would only be delegated to experienced senior officers with the necessary technical expertise, such as the Director, Plant Biosecurity.

If I formally delegate this power the senior officer with the delegation will also be able to make orders.

This will enable the Government to respond more quickly to biosecurity threats to our agricultural products from plant pests and diseases.

Orders, as with the Governor's proclamation, will still need to be published in the Gazette.

The second amendment in the bill establishes a mechanism for the State to react in extreme circumstances. As Minister, if I consider the order needs to be made urgently it may be published either in a newspaper, be announced on the radio or television in the area to which the order applies, or appear on the Department's website. Any such urgent order must be published the Gazette as soon as practicable after it is published in the mediums outlined above.

This will ensure that in these circumstances that the order can have effective more quickly.

These amendments will allow the Government to respond quickly and effectively to outbreaks of plant pests and diseases occurring either within or outside of the State.

The third main amendment in the bill relates to the powers of inspectors to issue permits to a person, or a particular group of people.

The permits will allow the movement of infected plants and fruit, or anything which has come into contact with an infected plant or fruit or anything, which in the inspector's

A permit may also be issued for the movement of plants, fruit and other things into or out of a quarantine area.

These permits will provide additional flexibility for specific circumstances which do not fall within the terms of a Ministerial order.

For example, if a property is infected by a pest or disease, the property may be quarantined which would prohibit the movement of all things off the property because of the risk of the disease spreading. In these circumstances a permit could be issued to allow the movement of vehicles to and from the property subject, of course, to certain conditions to prevent the spread of pest or disease.

This amendment will bring the Act into line with other biosecurity legislation such as the Stock Diseases Act 1923.

The bill also provides for the making of regulations for permit applications and fees.

As I said earlier, these are minor amendments to the *Plant Diseases Act*.

However, they will significantly improve the Government's ability to respond quickly and effectively to a pest or disease outbreak, contributing to the integrity of our State's plant biosecurity systems.

We would hope that such outbreaks could be avoided altogether.

However, when they do occur, it is in everyone's interest for the impacts to be minimised.

I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.55 p.m.]: The Plant Diseases Amendment Bill has been introduced into Parliament to amend the Plant Diseases Act 1924. The proposed amendments are important but minor. Indeed, the amendments are so minor that they could have been dealt with by way of regulation, and I am surprised that that was not done. It is interesting that the Government, in an attempt to kick on its record of legislation in the Parliament, has taken important issues that could have been fixed by way of regulation and turned them into a bill that is taking the time of the House, people in the department and others. Having said that, I believe that the aims behind the bill remain laudable and that is why we are supporting them.

As an overview, the amendments will bring the Act into line with other biosecurity legislation, such as the Stock Diseases Act 1923. There are three main amendments to the Act proposed. The first amendment will allow the Minister to make orders—rather than the Governor making proclamations, as is presently the case—regulating or prohibiting the importation of anything that is likely to introduce plant diseases or pests into the State or any part of the State. It is designed to enable New South Wales to put in place effective controls more quickly and will bring the Act in line with similar legislation, such as the Animal Diseases Emergency Outbreaks Act 1991. The Minister will also be able to delegate this power to senior officers in Industry and Investment New South Wales; if this were to occur, a formal delegation would be required.

Delegation would only be to experienced senior officers with the necessary technical expertise, such as the Director of Plant Biosecurity. The second amendment is to establish a mechanism for the State to react in extreme circumstances. It will allow orders to be published in a newspaper or by radio or television broadcast in the area to which the order applies or appear on the department's website prior to publication in the *Government Gazette*. This means that an order can have effect more quickly. The order must be published in the *Government Gazette* as soon as practicable after being made. The third amendment will allow inspectors to issue permits that authorise a person or a particular group of people. The permits will allow the movement of plants, fruit, coverings, goods or other things that are infected and may have come into contact with, or are likely to introduce or spread, plant pests and diseases.

We contacted various stakeholders about the legislation. Sydney Markets Limited, which was surprised that legislation was being introduced, had not identified any concerns. The Australian Macadamia Society and the Nursery and Garden Industry Australia (New South Wales and the Australian Capital Territory) had no concerns. We spoke to the New South Wales Farmers Association, which indicated that it supported the legislation. Indeed, it noted the association's policy: to make every effort to encourage and assist the Federal and State governments to design and implement a plan of action that can be used to improve the detection and arrest the spread of exotic disease and pest and achieve the eradication of any foreign insect, pest or plant disease that may breach the continental quarantine barrier. The association believes that the proposed amendments will be beneficial to New South Wales plant industries, as it should improve the Government's ability to respond quickly to a pest or disease outbreak that could cause significant losses to New South Wales producers. The Opposition supports the bill.

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

QUESTIONS WITHOUT NOTICE

TRANSIT OFFICERS

The Hon. MICHAEL GALLACHER: My question is directed to the Minister for Transport. What is the progress in transferring transit officers to the Police Force? When will that process be completed?

The Hon. Rick Colless: How are you getting to the football?

The Hon. JOHN ROBERTSON: Ask me a question and I will give you an answer on that too if you like. I thank the Leader of the Opposition for giving me the opportunity to outline the huge success that we have had with our transit officers on our railways. Our transit officers were introduced to railways in 2002. Over that time we have seen a reduction of crimes against the person on railways reduced by 30 per cent. RailCorp, through its transit officers and with the police, operates regular activities associated with police officers, using intelligence that we gather to make sure that we are putting our transit officers and our operations with police on lines where they are required most. During the 24 months to the end of June three major crime categories were trending down: motor vehicle theft down by 31.5 per cent; theft from motor vehicles down by 25.5 per cent, or 270 incidents; and malicious damage to rail property down by 22 per cent, or 361 incidents.

During the past four years we have implemented things such as strengthening security at key infrastructure sites, depots, yards and sidings. We are continuing to utilise the services of our transit officers to make sure that we provide people with safe and secure means by which they can travel home. RailCorp will continue to work to position its transit officers as appropriate with police and continue to run operations with police to ensure that people can ride on our rail network feeling safe and secure.

The Hon. MICHAEL GALLACHER: I ask a supplementary question. Will the Minister further elucidate on when transit officers will be transferred to the control of the Police Force?

The Hon. JOHN ROBERTSON: There is ongoing dialogue and we will continue to work our way through those issues. We are focused on improving and enhancing security on our rail network by ensuring that transit officers engaged by RailCorp continue to work with police, making sure they are moving throughout the network so people are secure when they use the rail network.

MULTICULTURALISM

The Hon. HELEN WESTWOOD: My question is addressed to the Minister for Citizenship. What is the latest information on the Government's efforts to multiculturalism through prizes and awards?

The Hon. JOHN HATZISTERGOS: The Government is committed to promoting community cohesion and multiculturalism through the provision of funding to regular events and awards programs. A good example is the Premier's annual Chinese Community Service Award. Another is the annual Community Relations Commission Symposium, which was held last week in Parramatta. Another example is the commission's support for the Premier's Literary Awards, the Sydney Film Festival and the Multicultural Marketing Awards. It is in this spirit of community harmony that I am pleased to inform the House that a young poet who has been named winner of the annual Community Relations Commission's prize for poetry about cultural diversity has joined us in the gallery.

Benjamin Gibson, 14, of the Redeemer Baptist School in Parramatta was selected as part of the annual nationwide Dorothea Mackellar poetry award for 2010 for his poem the *Great Nation*. I just met Benjamin, who is here in the gallery with his parents, school principal and headmaster. I had the honour of presenting him with relevant prizes and a cheque for $500. Benjamin struck me as a young man of considerable maturity who will no doubt succeed in whatever vocation he chooses. The Dorothea Mackellar Poetry Society conducts its national poetry competition for primary and secondary students, with the aim of inspiring an appreciation for poetry in Australian schoolchildren. The society's aim is also to recognise the contribution Mackellar made to Australian literature and to ignite a spirit of national pride among our youth. Each year the Community Relations Commission Award—part of the society's overall award program—is given for a poem best highlighting the value of cultural diversity within the Australian community.

The criteria against which poems are judged include: celebrating the cultural and linguistic diversity of Australia, canvassing issues arising from the Australian migration and settlement experience, and treating issues in one or more cultural settings. Benjamin's poem fits all the criteria I just mentioned. As members well know, Australia has a proud history when it comes to poetry that records our unique way of life extending back to colonial days and the words of men such as Banjo Patterson and Henry Lawson. Benjamin's poem, the *Great Nation*, eloquently continues that tradition of observation and reflection and at the same time tells the story of modern multicultural Australia. The poem used verse to paint a rich picture of the sights and sounds of a modern city inhabited by a range of cultures. Benjamin displays a level of understanding about his surroundings well beyond his years. I wish him warm congratulations and bid him well for the remainder of his school years. I also congratulate the Redeemer Baptist School itself, which also won the Dorothea Mackellar national schools award.

The Hon. Charlie Lynn: Are you going to give us a copy?

The Hon. JOHN HATZISTERGOS: The poem is available for all to see on the CRC website.

The PRESIDENT: Order! On behalf of members of this House I congratulate this year's winner of the Dorothy Mackellar National Schools Award.

PORT BOTANY RAIL FREIGHT PRICING

The Hon. DUNCAN GAY: My question is addressed to the Minister for Ports and Waterways. I refer to the Minister's decision announced yesterday to implement a pricing regulation on rail freight operations at Port Botany. What is the extent of the Minister's consultation with port operators? Is the Minister aware that one port operator, Patrick, has been seeking urgent talks with the former ports Minister since at least 15 February 2010? Will the Minister explain why the former ports Minister was too busy to meet? Is it true that as soon as this Minister was appointed as Minister for Ports and Waterways he was approached for urgent talks but on the very day he finally met with that port operator he had already made a decision to intervene?

The Hon. ERIC ROOZENDAAL: The Government is committed to moving freight by rail and that is why it has set a target of 40 per cent of all freight to and from Port Botany being on rail.

The Hon. Duncan Gay: You are not within a bull's roar of it. What percentage are you getting?

The Hon. ERIC ROOZENDAAL: The Deputy Leader of the Opposition asks a question and then he starts heckling as soon as I answer it. As Port Botany grows, the way we move freight to and from port becomes increasingly more important. We do not want to see more and more trucks clogging up Sydney roads, especially when capacity is available on the rail network. That is why we are working to make sure our growing volume of trade is transported by rail. The Government has been working hard with industry, including rail operators and stevedores during the past two years through the Port Botany Rail Task Force, to provide certainty, fairness and equity for all elements of the supply train and increase rail volumes.

The Hon. Duncan Gay: Point of order: My point of order is relevance. My question was specifically about consultation with operators. Had I asked a question on the rail operator, and I am quite happy to do that at another time, the Minister's answer would be appropriate. His answer is not appropriate to my question.

The PRESIDENT: Order! I take it your point of order was on relevance?

The Hon. Duncan Gay: I indicated that.

The PRESIDENT: Order! I ask the Minister to continue to be generally relevant.

The Hon. ERIC ROOZENDAAL: The Port Botany Rail Task Force, about which clearly the member knows nothing, includes both rail operators and stevedores. The member does not know that because he is just a post boy delivering a question written by somebody in the other Chamber. Since becoming ports Minister I have been disappointed to learn that one of the stevedores, Patrick Corporation, had decided to act outside the spirit of the process and increase its charges to rail operators by 67 per cent. I met with both rail operators and Patrick to discuss the issue and understand the impact the price increase would have on the movement of freight in and around Sydney. The prospect of having thousands of extra trucks—

[*Interruption*]

The PRESIDENT: Order!

The Hon. ERIC ROOZENDAAL: The prospect of having thousands of extra trucks on our roads because of Patrick's price rise is simply unacceptable to the Government and unacceptable to the community, but clearly acceptable to the bozos on the other side of the House—clearly acceptable to them. That is why I announced yesterday that the Government will regulate rail prices at Port Botany. This was a move welcomed by the industry, including Qube Logistics, Independent Rail and the Rail, Tram and Bus Union.

Contrary to Andrew Stoner's misguided media appearance yesterday, this is not a problem of capacity—the rail industry clearly has enough capacity to cater for demand—it is about Patricks exercising its monopoly position to undermine reform at Port Botany and hold the New South Wales economy and commuters to ransom in the process. And it is not just the New South Wales Government saying that: I quote David Knight of Qube Logistics, who said on 2SM yesterday:

> Last year in New South Wales there were 330,000 containers moved by rail; we believe that number can be doubled or even tripled with the infrastructure that has been built. But you cannot allow companies like Patrick trying to price gouge, which will drive that volume back on the roads.

That is what people in the industry are saying about this. We will not allow Patrick to raise prices by 67 per cent and force freight onto Sydney roads. It is not going to happen under this Government, and that is why I acted quickly and strongly to sort out the issue.

ELECTRICITY PRICE INCREASES

Reverend the Hon. FRED NILE: I ask the Treasurer a question without notice. Is it a fact that more than 138,000 New South Wales households are unable to pay their electricity bills since the price hike in July? Is it a fact that a further 148,000 are either behind in their payments or are seeking some sort of emergency relief? Is it a fact that the Independent Pricing and Regulatory Tribunal [IPART] confirmed that electricity prices are likely to increase by more than 60 per cent over the next three years? Does Treasury regard this as good news for the New South Wales economy? Can the Treasurer confirm that the price hike has been attributed to a carbon tax that is yet to be implemented? What is the Government doing to alleviate this situation?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his question and ongoing interest in this matter. A large part of the question falls within the responsibilities of the Minister for Energy; however, I will take the opportunity to respond to other parts of it and refer to the Minister for Energy for direct response those parts that are applicable to him. The Government understands the challenges of delivering reliable and efficient electricity supplies. That is why our energy reform strategy has strong consumer safeguards. As a government we have started implementing a $320 million consumer protection package. That is to give assistance to those less well off in managing their electricity bills. The Government increased the energy rebate to $145 from 1 July in line with price increases and also took the decision to extend eligibility to all health care card holders. In fact the New South Wales Government will spend over $800 million on energy concessions for five years from 1 July 2009 and from July this year one in three households are eligible for the energy rebate.

HOME BUILDING CODES

The Hon. KAYEE GRIFFIN: My question without notice is addressed to the Minister for Planning. Will the Minister please update the House on the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008?

The Hon. TONY KELLY: I thank the honourable member for her question. Planning is a complex and challenging task that has a profound, lasting and positive effect on the lives of millions of people in this State. There is plenty of work to be done. We need to plan for the accommodation of a New South Wales population of over 9 million people by 2036. In fact by 2036 we will need 770,000 more homes and 760,000 additional jobs. In light of the size of the challenge, it was with great pleasure that today I read in the *Sydney Morning Herald* that:

> The new housing code is proving popular with builders for quick approvals of new houses in areas of land release on Sydney's fringe.

It also said:

> Complying development certificates can be issued under the housing code or under a council's own complying development code and avoid the need for a development application.

A key platform of the New South Wales planning system is the development of the codes State environmental planning policy for building or renovating a home and other small-scale developments. This policy has been proven to provide a simpler, cheaper and faster approval process for homeowners and small business owners. Preliminary data obtained from councils for 2009-10 is showing gains in complying development with the overall number likely to increase from 11 per cent in the 2008-09 to over 17 per cent for this year. This suggests that industry and homeowners are increasingly attracted to complying development, which offers greater certainty and faster, cheaper and simpler processes.

Based on the number of development applications received in 2008-09, almost 3,000 fewer development applications are being processed by councils. This results in significant time and cost savings for home owners. For example, in 2008-09 a development application for a new home processed by a council took 74 days on average in comparison with a new home approved as a complying development, which takes only 10 days—a saving of 64 days or the equivalent of two months' mortgage repayments. In terms of cost savings, the Housing Industry Association has estimated savings to the home owner of $6,645 in the metropolitan area and $2,500 in regional areas for a typical new house. The Property Council of New South Wales has also estimated the commercial and industrial codes will result in cost savings of approximately $4,500 for a standard non-food retail shop fit-out, $6,250 for a food retail shop fit-out, $3,420 for a commercial office fit-out and over $74,000 for an industrial warehouse internal fit-out. Since the policy was introduced the Government has successfully drafted and implemented a policy that brings direct time and cost-saving benefits to the owners of nearly two million residential housing lots and over 150,000 commercial and industrial premises statewide.

The new codes simplify the New South Wales planning system by creating a consistent set of rules for low-impact development across 152 councils, making it simpler and faster for home owners and business owners to obtain approvals. These reforms have been developed in close consultation with local government as well as our stakeholders from the housing and commercial development industry and the Government will continue to look at ways to refine these housing codes for builders. Since the implementation of the codes policy the department has held workshops for over 7,000 people throughout the State, which is in addition to more than 6,000 telephone and email inquires that it has responded to. The continued expansion of the exempt and complying development codes is a key initiative in supporting jobs and economic investment in this State as well as removing unnecessary red tape and making real savings for real people.

PLANNING PROCESS

Mr DAVID SHOEBRIDGE: My question without notice is directed to the Minister for Planning. Given the damning conclusion of the report released today on reconnecting the community with the planning system, that the community feels disconnected with the planning process, deeply cynical about whether it is worthwhile to engage and extremely frustrated about the current system, when will the Minister move to return planning powers to local councils for all but genuine matters of State significance, such as public roads, railways and hospitals?

The Hon. TONY KELLY: I thank the honourable member for his first question. I also acknowledge the interjection, as I stood, of the Hon. Don Harwin, who said that they would return all those powers back to the councils. I can just see what that is going to do for this State! That will make them very popular with their supporters, the development industry. The Department of Planning is committed to making sure that the community is engaged in the planning system in the most effective way possible.

The Hon. Duncan Gay: You are deliberately misleading the House.

The Hon. TONY KELLY: He said, "We will do it." He said—they will have to be in government—"We will do it".

The Hon. Duncan Gay: You misinterpreted what he said.

The Hon. TONY KELLY: That is what he said. The department welcomes the report, which I understand indicates that improvements could be made to community involvement in the planning system and makes a number of suggestions accordingly. The department received the final report on 23 August and, as agreed with the Total Environment Centre and the Environmental Defender's Office, is carefully examining it with a view to making both the report and an action plan to deal with issues raised publicly available.

I have heard that there are some criticisms of the consultation process in the report. I find that curious given that only 84 people attended the six workshops held across the State. In Wollongong only 12 people attended, and another 12 attended in Newcastle. A whopping 23 turned up in Sydney, 7 in Moruya, 19 in Ballina and 11 in Coffs Harbour. Those 84 represented around 45 groups and organisations. I probably meet more people in a month about planning issues.

PORT BOTANY RAIL TASKFORCE

The Hon. RICK COLLESS: My question without notice is directed to the Treasurer. Will the Treasurer confirm that on 16 July this year former ports Minister Joe Tripodi represented the then ports Minister Paul McLeay, at a meeting of the Port Botany Rail Taskforce? Has the Treasurer discussed ports policy with Mr Tripodi and can he detail the role of Mr Tripodi in the Government's decision to intervene at the port? Is it a fact that the real Treasurer, and Minister for Ports, in New South Wales is Joe Tripodi?

The Hon. ERIC ROOZENDAAL: I am advised that the former Minister for Ports and Waterways appointed the member for Fairfield as his observer on the Port Botany Rail Taskforce and engaged the member for Fairfield to provide advice on implementing the Port Botany landside improvement strategy reforms. I am further advised that it is not a paid position. There has been no consultation between the member for Fairfield and me in relations to ports. The decision to intervene against the 67 per cent unjustifiable increase in charges by Patrick stevedoring was taken by me on the advice of the Sydney Ports Corporation after an hour meeting with Patrick stevedoring corporation, which I found to be unsatisfactory to say the least, and was taken in the interests of keeping thousands of trucks off Sydney roads.

PREPAY BUS ROUTES

The Hon. PENNY SHARPE: My question without notice is addressed to the Minister for Transport. Will the Minister please update the House about the rollout of PrePay buses to improve on-time running?

The Hon. JOHN ROBERTSON: I thank the honourable member for her question and acknowledge that she is doing a fantastic job as my parliamentary secretary. I also particularly acknowledge her ongoing interest in delivering better services to bus commuters. This Government wants to see more people every day pulling out their simpler, fairer MyZone ticket and jumping on board a train, bus or ferry. Having more people on public transport helps ease congestion in our cities and suburbs, and the faster we get people to work and home again the more time they have each day with their family and friends. That is why the Government is continuing to roll out PrePay only bus services on the Sydney bus network.

PrePay services operate on our busiest routes and help improve on-time running by reducing the queue at the bus's front door. There is no searching for change while you juggle your keys, wallet, mobile phone and briefcase. Bus passengers on PrePay services experience cashless bus stops with faster boarding and a speedier, more reliable bus trip. It may surprise members to hear that on average it takes three seconds to dip a prepaid ticket into the green machine on the bus as opposed to an average of 11 seconds to pay in cash. It is an interesting statistic because, multiplying that by the average of 55 passengers per bus, PrePay saves passengers about seven minutes each trip. Over a week that is more than one hour we can give back to bus commuters thanks to the introduction of PrePay services.

Passengers also save money by purchasing a ticket in advance. For example, on a MyBus 1 ticket 10 trips cost just $16, a saving of $4. On a MyBus 3 ticket the saving is more than $8.50 over 10 trips. There is

no question that PrePay only services deliver a faster, cheaper trip for the average commuter. The first PrePay only bus route began in October 2006 with the route 333 Bondi service. Since then 44 other bus routes and major interchanges at Chatswood, Epping, Bondi Junction and Parramatta have become cashless. I am pleased to inform the House that since yesterday even more passengers are enjoying the benefits of PrePay. Commencing yesterday, 20 September, State Transit bus stops have gone cashless on weekdays between 7.00 a.m. and 7.00 p.m. along Broadway, City Road, King Street up to St Peters station, Enmore Road up to Enmore Park, Parramatta Road up to Leichhardt, Norton Street up to Marion Street, and Glebe Point Road up to Federal Road. Over 80 per cent of passengers on Enmore and Newtown bus services already buy their ticket before they ride, and that figure increases to 86 per cent for Parramatta Road passengers.

It is important that customers are well informed and have easy access to ticket sellers before PrePay routes are introduced. That is why before we consider converting a major corridor or interchange to PrePay we first ensure that there are enough ticket sellers along the route for passengers to purchase tickets before they board their bus. Fortunately, there are already more than 80 ticket outlets such as newsagents, post offices and convenience stores around Enmore, Newtown, Sydney University, Leichhardt, Annandale, Camperdown, Glebe and Broadway. We expect that number will continue to increase as shop owners realise the benefits of selling MyZone tickets to the travelling public.

For an initial period of about a month State Transit will also have its staff sell tickets from a mobile facility at any interchanges or major locations where PrePay has been introduced. As well as selling tickets, these staff will assist passengers with information about the best tickets to buy and the location of the nearest ticket outlet. PrePay bus services are a great time and money saver for commuters. The Government will continue to implement measures like this to improve on-time running and make public transport faster and easier to use.

CUMBERLAND PLAIN BUSHLAND CONSERVATION

The Hon. IAN COHEN: My question without notice is addressed to the Minister for Planning. Did the Minister or the department consult with the Department of the Environment, Climate Change and Water [DECCW], on the priority conservation lands identified in the Cumberland Plain Woodland Recovery Plan? Did the Minister consider the Cumberland Plain Woodland Recovery Plan before approving the Penrith Local Environmental Plan? Has the Minister acted consistently with the requirements of section 69 of the Threatened Species Conservation Act by not considering the DECCW Cumberland Plain Woodland Recovery Plan in the approval of the Penrith Local Environmental Plan?

The Hon. TONY KELLY: I thank the honourable member for his question. When the Department of Planning in association with councils adopts a local environmental plan it goes through a very stringent and time-consuming process that quite often lasts many years. It used to be about three years and it is down to about two years now, and we will be adopting plans for every council in this State over the next three-year period. The plan is prepared first by the council, which then applies to the department under section 65 to have it exhibited publicly. Once the department, through the director general, authorises the exhibition of the plan it goes on public exhibition. The council considers all the submissions made at the end of the public submission process and may or may not alter its draft plan. Then it is submitted to the Department of Planning for approval. It goes through a very rigorous and stringent process and at the end of the process, after Parliamentary Counsel has prepared the words in the plan, the department sends it to me with a recommendation for approval and it is then approved. That is the process, so I am sure the department would have gone through and checked all the relevant strategies in the process, as the council would have done.

ILLAWARRA JOBS

The Hon. GREG PEARCE: My question without notice is directed to the Treasurer, and Minister for the Illawarra. What are the factors to explain the most recent employment numbers in the Illawarra released by the Australian Bureau of Statistics last week, which show a decline in numbers employed in August of nearly 6,000 jobs, or 3 per cent, whilst the Hunter saw an increase of over 3,000 jobs? Will the Minister give the people of the Illawarra an assurance that his Government will address job security in the Illawarra and what action will he take to do so?

The Hon. ERIC ROOZENDAAL: I acknowledge the member's ongoing interest in this important matter. Employment and job creation are important for many, in particular, in the Illawarra, which has had unique challenges in its unemployment rate and its youth unemployment rate. That is one of the reasons why

this Government has as one of its major priorities job creation and investment in infrastructure across the whole State. Our $62.2 billion investment in infrastructure right around New South Wales is supporting about 155,000 jobs each year. At the moment the State unemployment rate has fallen to about 5 per cent, which is below the national average.

Having said all that, there are challenges for the Illawarra, which is why this Government is committed to the Illawarra by supporting jobs and attracting investment. That is why this Government is investing in the expansion of Port Kembla and that is why, as I announced in the budget, a record $1.7 billion is being invested in the Illawarra. The Illawarra has been and will continue to be a central focus of the Keneally Labor Government. I will work closely with all local members in the Illawarra to implement new and additional strategies to support the area and, in particular, to deal with the challenges of youth unemployment.

The Hon. GREG PEARCE: I ask a supplementary question. Given that the trend has been for loss of jobs in the Illawarra, at least over the past six months, will the Treasurer give an assurance to Noreen Hay and Matt Brown that their jobs are secure?

DEMENTIA SUPPORT SERVICES

The Hon. SHAOQUETT MOSELMANE: I address my question without notice to the Minister for Ageing. Will the Minister inform the House what the New South Wales Government is doing to support people with dementia, their families and carers, and outline to the House the significance of the New South Wales Dementia Service Framework 2010-2015?

The Hon. PETER PRIMROSE: Dementia Awareness Week runs from 16 to 26 September and World Alzheimer's Day is today, 21 September, with the theme "Dementia: It's time for action!" With the number of people diagnosed with dementia predicted to increase from almost 87,000 this year to 341,000 by 2050, it is time for action. Dementia is a disease that causes a progressive decline in a person's cognitive functioning. Symptoms include impairments in memory and social skills, and an inability by people to relate to the environment and to those around them. The New South Wales Dementia Services Framework 2010-2015 will set the direction for New South Wales in providing quality dementia care in the context of our rapidly ageing population.

The framework was developed by the New South Wales Department of Health in partnership with the Department of Ageing, Disability and Home Care. Clinicians, researchers, service providers, carers and families of people with dementia were also consulted. The framework will provide the blueprint for quality dementia care by identifying key service elements and outcomes for people with dementia. It is critical that New South Wales has identified current issues and challenges along the service pathway. Different types of care and support are required at each stage of the disease, from diagnosis up until end-of-life care provision. Stages include access to assessment and ongoing clinical management as well as information, counselling and carer education.

As part of Dementia Awareness Week 2010, tomorrow the Deputy Premier, and Minister for Health, the Hon. Carmel Tebbutt, and I have the privilege of jointly launching the New South Wales Dementia Services Framework 2010-2015 at a Parliamentary Friends of Dementia event at Parliament House. There are a number of other areas in which the New South Wales Government is active in providing dementia care and support. The Home and Community Care Program, which is jointly provided by the Australian and New South Wales governments, assists more than 234,000 people each year, including people with dementia, with an expenditure of $653.4 million this year. Under the Home and Community Care program, growth funding for dementia- specific community care services in New South Wales will total more than $5.8 million for 2009-10 and 2010- 11.

While most people with dementia are frail aged, the New South Wales Government recognises also the need to support a growing number of younger people with dementia. Alzheimer's Australia NSW estimates that about 5 per cent of all people with dementia are under the age of 65. About 5,000 people in New South Wales are in this group. In July this year Premier Keneally and I announced that Alzheimer's Australia NSW would receive $250,000 in Home and Community Care funding for a two-year research project aimed specifically at improving services and outcomes for people with early onset dementia. The New South Wales Government also allocated $664,000 to Alzheimer's Australia NSW for Dementia Awareness Week this year and for 2011 to promote awareness of dementia and ways in which people can reduce their risk. The diagnosis of dementia is challenging for individuals and their families so it is critical that all people who need support, especially those

from Aboriginal and culturally and linguistically diverse backgrounds, receive good information, advice and assistance. I ask all members to consider joining me in the memory walk that will take place on Sunday to raise funds for Alzheimer's Australia NSW.

GREENHOUSE GAS EMISSIONS

Dr JOHN KAYE: My question without notice is directed to the Treasurer. Has the Treasurer been promoting the extension of the New South Wales Greenhouse Gas Abatement Scheme [GGAS] to all Australian jurisdictions despite widespread criticisms of benchmark schemes in general and the GGAS in particular, and their well-known inability to set a stable and efficient price for carbon emissions? Have any jurisdictions shown the slightest interest in importing the GGAS?

The Hon. ERIC ROOZENDAAL: As the GGAS does not fall within my responsibilities I have not been talking to any other jurisdictions about it.

NSW FIRE BRIGADES TRIPLE-0 CALL CENTRES

The Hon. MELINDA PAVEY: My question without notice is directed to the Treasurer, and Minister for the Illawarra. Is the Treasurer aware that one of the three NSW Fire Brigades 000 call centres is based in Wollongong? Is the Treasurer aware of plans by the NSW Fire Brigades to rationalise three call centres that could involve the closure of Wollongong centre along with another one in Katoomba? What actions has the Treasurer taken to secure this facility for the Illawarra?

The Hon. ERIC ROOZENDAAL: I will refer the member's question to the Minister for Emergency Services, who has responsibility for those issues.

ILLAWARRA SPORTING EVENTS

The Hon. LYNDA VOLTZ: My question without notice is addressed to the Minister for State and Regional Development, and Minister for the Illawarra. Will the Minister update the House on what the New South Wales Government is doing to attract and retain sporting events in the Illawarra?

The Hon. ERIC ROOZENDAAL: I am sure I do not have to tell members that the Illawarra has a proud sporting tradition. Two teams are competing in national competitions—the St George Illawarra Dragons and the Wollongong Hawks. I know that the people of the Illawarra are proud of their local sporting teams. The people of the Illawarra have even more reason to be proud of the St George Illawarra Dragons this season, with the Dragons taking out the minor premiership. The New South Wales Government recognises the importance of the Dragons and sport to the Illawarra region, which is why it is investing in the redevelopment of the WIN Stadium to attract and retain sporting teams and events in the region.

WIN Stadium, which has served the Illawarra region well, is one of the home grounds for the Dragons and during the 2008 Rugby Union World Cup was used as a facility to host international matches. In 2009 the New South Wales Government announced that it would invest $28.9 million in a new grandstand at WIN Stadium. This project will deliver a world-class sporting and entertainment facility for the Illawarra. The new two-tiered stand that will be built will house 5,710 covered seats. There will be improvements also to the patron, player, media, corporate and other facilities in the stadium, providing an enhanced experience for everyone who visits to enjoy sporting events. The capacity of the ground will increase to 22,490.

I am advised that demolition of the old grandstand and construction of the new grandstand will be staged during 2010-11. This will enable the St George Illawarra Dragons and other teams to continue their games at WIN Stadium, minimising disruption for fans and for players. Only recently the Dragons played the Canberra Raiders at WIN Stadium, their last home game for the season. It was the last game before demolition work started on the western grandstand. Last Friday I joined the Premier and hardworking local members Noreen Hay and David Campbell to announce Lipman as the successful construction tender. This $20.8 million tender is the biggest stage of the $28.9 million redevelopment project, which I am pleased to report is running on time and on budget.

The New South Wales Government is delivering on its promise to invest in a better future for Wollongong's home of sport, WIN Stadium. Once completed, it is expected to lift the WIN Sports and Entertainment Centres' total economic output by $8.5 million a year. Not only will this project deliver a

state-of-the-art sporting facility, but it will also help stimulate the local economy. I am advised that the redevelopment of the western grandstand will create 180 construction jobs, while the completed facility will support the full-time equivalent of a further 20 ongoing jobs at the WIN Sports and Entertainment Centres. Every dollar invested by the New South Wales Government in the WIN Stadium is not just a dollar that makes for a better sporting experience; it is a dollar that helps to support jobs. The WIN Stadium redevelopment will ensure that Wollongong continues to attract the best national and international sports and entertainment events and, through that drive, increased economic and social benefits for the Illawarra region for many years to come.

SAME-SEX ADOPTION LEGISLATION

Reverend the Hon. FRED NILE: I ask the Attorney General, representing the Premier, a question without notice. Is the Keneally Government satisfied that the issues of health, transport, energy and crime have been dealt with effectively in New South Wales? Why did the Keneally Government allow homosexual adoption to become the most important issue in both Houses for 10 days? Does the Keneally Government regard the alleged rights of the homosexual community to be the most pressing issue facing the State? What was the cost to the taxpayers to have both Houses spend dozens of hours in debate and hundreds of hours in preparation and research on that bill? With only 20 sitting days remaining for this year, does the Keneally Government acknowledge that the resources, money and time could have been better spent on legislation to the benefit of all in New South Wales?

The Hon. JOHN HATZISTERGOS: Many items of legislation assume importance that honourable members wish to debate. Of course, the areas the member has identified take up an enormous amount of time in this House and elsewhere. Just as private members are free to agitate their particular interests around same-sex adoption, so too will the honourable member be free to agitate his particular bill to ban burqas.

Reverend the Hon. Fred Nile: You will not let my bill into the House.

The Hon. JOHN HATZISTERGOS: Eventually the honourable member's bill will come before this House for debate and the opportunity will be there to resolve that issue. I do not imagine the honourable member will shy away from debating his bill because he believes that other priorities should consume the time of this House. No doubt he will want his bill brought forward and debated and he will not be concerned about the cost of it when it is being debated because that is an issue that is very important to him. That is his right, as it is the right of every honourable member.

Reverend the Hon. Fred Nile: It is a private member's bill.

The Hon. JOHN HATZISTERGOS: And so was the same-sex adoption bill a private member's bill. That bill underwent exhaustive debate, the matter has been resolved and we move on to the next item of legislation. At the moment, a range of government business items will be debated. In due course, the honourable member's bill will be debated.

RELIANCE RAIL

The Hon. MATTHEW MASON-COX: My question without notice is directed to the Treasurer. Given that just last week Moody's further downgraded Reliance Rail's credit status to below junk status on the back of concerns of a potential funding gap, what is your Government doing to protect the State's interest in its contract with Reliance Rail? What is the impact of this on the State's balance sheet? As Treasurer, will you rule out any potential liability to the State?

The Hon. ERIC ROOZENDAAL: Full points to the member for maintaining a consistent effort of always trying to talk down the State and talk down the economy.

The Hon. Matthew Mason-Cox: Let's not debate the question, Eric. Give us a clear and direct answer.

The Hon. ERIC ROOZENDAAL: All right, here comes your answer, so sit there. This is another lotteries moment for the honourable member. I am advised that New South Wales Treasury and RailCorp are in regular dialogue with Reliance Rail and along with TCorp are monitoring a range of financial issues related to the rolling stock project. I have made arrangements to meet with Reliance Rail, which has obligations under its contract and the Government expects these to be met without any financial implications to New South Wales

taxpayers. I am advised that under the financial arrangements Reliance Rail negotiated with its bankers during a competitive bidding process for delivery of the project, financing must be provided until the switch date. I am advised that despite the global financial crisis, a switch date has not occurred.

I am advised further that Reliance Rail currently is in a stronger financial position. The Government remains focused on the successful delivery of safe, reliable, state-of-the-art Waratah trains. Any announcements by EDI Downer or Reliance Rail about the delivery of the Waratah trains project will have no financial impact on the State budget. I am advised further that ratings agency Moody's recent re-rating of Reliance Rail will have no impact on the manufacture or delivery of the Waratah trains and no financial impact on the State budget. Should the member have any further questions, I suggest he direct those to the Minister for Transport.

CIRCLE SENTENCING

The Hon. CHRISTINE ROBERTSON: My question without notice is addressed to the Attorney General. What is the latest information on circle sentencing?

The Hon. JOHN HATZISTERGOS: Members would be aware that circle sentencing is an extremely important program in many New South Wales communities. It is a program about breaking down barriers between the justice system and our indigenous people, and helping to rehabilitate Aboriginal offenders by addressing underlying causes of their criminal behaviour such as alcohol and drug problems. This groundbreaking program that enables Aboriginal Elders to take a leading role in the sentencing of Aboriginal offenders will be introduced at five new locations. Currently, New South Wales has more than 20 Aboriginal Community Justice Groups, and circle sentencing operates in 10 of those locations.

Circle sentencing relies on the involvement of the local Aboriginal Community Justice Group in the assessment stage. Any Aboriginal member of the local community is permitted to sit in circle sentencing with the presiding magistrate. The initial part of the process requires members of the justice group to assess the suitability of Aboriginal offenders making an application to participate in circle sentencing. The justice group assesses whether the offender is Aboriginal, whether he or she is from the local community and has kinship ties with the community. In response to evaluations of the program, a number of improvements have been put in place over the past year. The regulations were amended so that only persons facing a prison sentence were referred to the circle; the number of such referrals increased significantly. A number of steps were taken to ensure appropriate post-circle programs were available to support the therapeutic aims of circle sentencing.

Over the coming months, circle sentencing will be expanded to start operating at Moree, Ulladulla, Wellington, Blacktown, and Coonamble. The new locations will receive support and expertise from existing circle sentencing programs in nearby regions and from local Aboriginal Community Justice Groups. More than 500 circle sentences have been held over the past five years in New South Wales, including 142 last year. I can also advise that up to August this year there have been 70 circles. The expansion of circle sentencing was among a series of recommendations made by representatives from the State's Aboriginal Community Justice Groups at forums held in Sydney, Dubbo and Coffs Harbour in late 2009. These forums will now be held biannually, giving Aboriginal community members an opportunity to advise the New South Wales Government on justice issues affecting their people.

Expanding circle sentencing was also a proposal put to me by the Chief Magistrate, who supports the program and its outcomes. The New South Wales Government also supports a proposal made at the inaugural forums to increase Aboriginal representation within the judiciary and the legal profession. Legal Aid NSW is operating pathway programs named after the late Aboriginal District Court judge Bob Bellear that provide employment, legal training and cadetships to Aboriginal people pursuing a career in the law. The Government is also examining the development of an Aboriginal briefing policy to increase the amount of legal work allocated to indigenous practitioners. As a result of the forums, Aboriginal Community Justice Groups will now be consulted on all local council crime prevention plans that receive funding from the New South Wales Government.

As members would know, the Government provides some $1.6 million in grants to local councils each year supporting dynamic grassroots strategies that aim to reduce crime through innovative approaches such as Crime Prevention Through Environmental Design. Local Aboriginal leaders understand the problems facing their community and they are in a position to contribute to the success of a council's crime prevention strategies. The expansion of circle sentencing will help Aboriginal people navigate the justice system in New South Wales and is indicative of the Government's commitment to strengthening Aboriginal communities in our State.

CESSNOCK CITY COUNCIL

Mr DAVID SHOEBRIDGE: My question without notice is directed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. Given his responses to questions asked during an estimates hearing for Planning, Infrastructure and Lands on 15 September 2010 concerning the Cessnock City Council in which he alleged that a Cessnock farm could not obtain approval for a chook pen, has he been able to identify the farm yet? Or, better still, has he found the mystery homeless chook?

The Hon. Michael Gallacher: He is roasting you slowly, Tony.

The Hon. TONY KELLY: Yes, he is a great talent. I refer the member to my response given during the estimates hearing.

AFFORDABLE HOUSING POLICY

The Hon. MARIE FICARRA: My question without notice is directed to the Minister for Planning. Is the Minister aware of a proposal under Labor's affordable housing policy for 26 dwellings at 22 and 24 Gladys Avenue and 54 Epping Drive, Frenchs Forest? Is he aware that the site is in a bushfire zone and has deficient access, so much so that garbage and emergency service trucks cannot travel down the access way to the site, and that the site is steep and floods adjoining properties? Given that clause 53 of State Environmental Planning Policy (Affordable Rental Housing) 2009 requires the Minister to review the policy one year from the date of its commencement, will he withdraw the policy, or have it amended, to prevent development in areas in which there is a clear safety risk?

The Hon. TONY KELLY: I thank the honourable member for her question. As part of the Government's affordable housing strategy, we are creating opportunities to increase the supply of affordable housing for rent. State Environmental Planning Policy (Affordable Rental Housing) 2009, which was released on 31 July 2009, is designed to deliver affordable rental housing throughout New South Wales. The affordable housing State environmental planning policy includes planning-based tools and incentives to encourage public and private sector investment in affordable rental housing and to retain existing low rental housing. The affordable housing State environmental planning policy increases the supply of affordable housing stock and increases the supply of rental housing.

The planning-based tools within the affordable housing State environmental planning policy include making two-storey in-fill affordable rental housing, which includes townhouses, villas and residential flats buildings, permissible in large parts of most residential zones, provided that up to 50 per cent of the stock is dedicated for 10 years as affordable rental housing; making secondary dwellings, which are commonly known as granny flats, permissible in all residential zones with the opportunity to gain approval within 10 days; providing incentives for new generation boarding houses development, which includes floor space bonuses and allowing new self-contained boarding houses in all residential zones; streamlining approvals by the New South Wales Government for developments up to 20 housing units and a small group homes of up to 10 bedrooms; and providing for supportive accommodation to assist sensitive tenant groups with appropriate housing, services and facilities.

The affordable housing State environmental planning policy makes provision to protect the amenity of existing areas—where, for example, low-rise in-fill housing is proposed—by setting minimum development standards to address matters such as height, site area, landscaping and parking. The provisions generally ensure that a two-storey development, which is compatible with residential areas, is permitted. The policy also calls for high-quality design in those areas by requiring compliance with the Government's urban design guidelines. Furthermore, the in-fill housing development can take place only in the Sydney region on sites that are a maximum of 800 metres walking distance from public transport services.

The affordable housing State environmental planning policy also encourages the retention of existing low-rental housing, thereby consolidating and updating provisions formerly in State Environmental Planning Policy No 10—Retention of Low-Cost Rental Accommodation. This requires evaluation in mitigation of the loss of existing boarding houses and low rental flats when they are redeveloped. The contributions to mitigate the loss of affordable housing now are streamlined and are made much more transparent. The affordable housing State environmental planning policy is making real change. It is delivering homes for people in need. The need for affordable housing is supported by the Federal Government's Nation Building Program, and the support

includes $1.7 billion in funding that will deliver approximately 6,300 homes. The affordable housing State environmental planning policy is being used to deliver 290 projects under the Nation Building Program. That will create 3,180 new dwellings.

The affordable housing State environmental planning policy has been in effect for one year. In accordance with its requirements, it is being reviewed to investigate, among other things, means of further increasing the amount of affordable rental housing that has resulted from its introduction and ensuring that the impacts associated with this development are managed appropriately.

LAND AND PROPERTY MANAGEMENT AUTHORITY

The Hon. MICHAEL VEITCH: My question is directed to the Minister for Lands. Will he inform the House of the information and communication technology developments of the Land and Property Management Authority?

The Hon. TONY KELLY: To meet the challenges such as population growth, climate change and sustainable urban development faced by all governments, there must be better ways to share information. The Government has given the Land and Property Management Authority a leading role in the development of a range of information and communication technology initiatives to enable government agencies, their customers and the public to access information more quickly and easily. I am pleased to report to the House that the Land and Property Management Authority is used increasingly by State and local government agencies for resource management, monitoring, development applications, land use and risk management.

One of the major achievements of the Land and Property Management Authority has been the development of the spatial information exchange portal, which is a cross-government shared service initiative that enables spatial and non-spatial information and e-business functions to be delivered throughout New South Wales. This sophisticated system links government services to support government, businesses and the community. As part of the spatial information exchange, a registry has been established to provide information about data and how to connect to it. The spatial information exchange viewer provides advanced users with access to more detailed spatial information and associated tools across New South Wales.

To date business channels have been developed for New South Wales agencies, including the New South Wales Fire Brigades, RailCorp, the Department of Planning, the Sydney Catchment Authority, survey marks, the Game Council in relation to conservation hunting, which was referred to by our new member, the Hon. Robert Borsak, during estimates hearings last week, the Parliamentary Counsel, valuation services and Crown land. The suggestion made by the Hon. Robert Borsak during estimates hearings is being followed up. It was a good idea. One example of the initiatives developed using spatial information exchange is the Department of Environment, Climate Change and Water's vegetable information channel.

The Hon. Michael Gallacher: You're sucking up to the Shooters and Fishers Party.

The Hon. TONY KELLY: The Leader of the Opposition would also appreciate the suggestion made by the Hon. Robert Borsak. The virtual information channel has more than 400 data sets available and provides vegetation maps that, for example, may assist local government with natural resource management and planning. The Game Council environmental hunters, such as the Hon. Robert Borsak, have been some of the first to utilise the spatial information exchange. The Hon. Robert Borsak, who is a spatial information exchange user, recently described it as "a damn good system". It is a system that is under continual development to ensure it maintains its technological position at the forefront of technology.

Some other information and communication technology initiatives and developments include the SAP enterprise resources planning, which provides the common corporate services infrastructure to facilitate financial, human resources and payroll services. The Land and Property Management Authority has also been involved in development of the common spatial information initiative whose role is to coordinate spatial policy and standards to address common goals. Information communication technology also has played a key role in the development of the Land and Property Management Authority's emergency information coordination unit, which ensures that emergency service organisations have the best spatial data, and best-related spatial data, available to deal with multi-agency emergencies, such as terrorism.

The emergency information coordination unit was established as a counter-terrorist initiative, but the data is also required by emergency service organisations in relation to bushfires, floods, earthquakes, storms and

criminal activities. The emergency information coordination unit aims to implement a collaborative data-sharing system on behalf of emergency service organisations. The information and communication technology environment that has been established has allowed the Land and Property Management Authority to become an innovator as well as one of the leading New South Wales Government agencies in the implementation of a service-orientated approach. That means that the Land and Property Management Authority is able to offer customers and shareholders state-of-the-art service delivery alternatives.

KINGS FOREST DEVELOPMENT AND KOALAS

The Hon. IAN COHEN: My question is addressed to the Minister for Planning. Will the Minister advise why he approved the Residential Community Concept Plan at Kings Forest without the final report of the Tweed Coast koala habitat study, which is due to be completed in a month? Did the Minister or the department read or cite the progress report of the Tweed Coast koala habitat study supplied to the Department of Planning, which stated that koalas in the Tweed are in real jeopardy and require a proactive and aggressive approach?

The Hon. TONY KELLY: On 19 August 2010 I approved the Kings Forest concept plan, subject to 34 strict conditions and assessment requirements. I was the approval authority for the Kings Forest proposal, as the proposal met the non-discretionary criteria of the Major Projects State Environment Planning Policy, which was in force at the time. The subject land has been zoned for urban development since 1988 and is identified in the North Coast Regional Strategy as an urban release area. The site is capable of supporting accommodation for 10,000 people. In November 2006 the site was designated as a State Significant Site in recognition of the need to find an appropriate balance between urban development and conservation outcomes. Subsequently, zoning amendments resulted in a significant increase—some 182 hectares—of land to be set aside for environmental conservation. The former Department of Environment and Conservation supported the outcome.

Following the rezoning, a concept plan application for the Kings Forest site was submitted in January 2007. The concept plan proposal was publicly exhibited at the end of 2008. I asked the Planning Assessment Commission to undertake an independent review of the department's assessment of the concept plan. The Planning Assessment Commission completed its review and provided me with its report. I made a decision on the proposal only after considering all the issues raised in relation to the proposal, including the recommendations of the Planning Assessment Commission and the department's response to the review. The proposal will result in extensive new plantings of koala feed trees, which will likely double the area of the site available for koalas. Additionally, the Koala Plan of Management prepared by notable koala expert Dr Frank Carrick will be updated at each further application stage, ensuring that koala management on the site is undertaken to the highest standards. Any development within the buffers, including the golf course, will need to address the planning controls set out in the Major Development State Environmental Planning Policy, as well as the further assessment requirements set out in my approval of the concept plan.

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

DEFERRED ANSWERS

The following answer to a question without notice was received by the Clerk during the adjournment of the House:

NATIVE VEGETATION PROTECTION

On 23 June 2010 the Hon. Ian Cohen directed the following question to the Minister for Planning, Minister for Infrastructure and Minister for Lands. The Minister has provided the following response:

1. According to the Department of Environment, Climate Change and Water web site, sixty-one percent of New South Wales is covered by structurally intact native vegetation. It is not known how much of this vegetation was contained in areas previously zoned for rural-residential purposes in old LEPs.

2. The Department of Environment, Climate Change and Water determines where the Native Vegetation Act 2003 applies, and which standard instrument zones it will apply to.

Questions without notice concluded.

PLANT DISEASES AMENDMENT BILL 2010

Second Reading

Debate resumed from an earlier hour.

Ms CATE FAEHRMANN [5.02 p.m.] (Inaugural Speech): I would very much like to begin by acknowledging the Gadigal people of the Eora nation, whose land we stand on today, and I pay my respects to their traditions and customs and to their elders, past, present and future. Given where I am standing, I must also acknowledge our collective history of the treatment of the first proud peoples of Sydney Harbour and the rest of this land that was named New South Wales. The path to full reconciliation and equality with our indigenous sisters and brothers has taken too long, as has tangible and long-lasting action. The recent move to recognise Aboriginal Australians in our Constitution, while welcome, was shockingly overdue.

We still seem a long way from reaching the moment when we can all proudly say that an Aboriginal Australian can expect to live to the same age as an average non-Aboriginal Australian, and we still seem a long way from reaching the moment when an Aboriginal mother feels safe in the knowledge that her baby has the same chance of living a healthy life and receiving a decent education as the majority of other Australian babies. Here I acknowledge the Aboriginal women and men who have stood tall and fought tirelessly, since the day European boats began arriving on their shores, for their people's rights, dignity and self-determination.

This State has a proud and often colourful history of struggle, of ordinary people standing up for their rights and the rights of others. And this Parliament has hosted many inspiring leaders and visionaries, and I stand here profoundly aware of this history and my responsibility and accountability to the people of New South Wales. I am taking this seat in the place of Lee Rhiannon, whose tireless work in ensuring that the big end of town is held accountable for its actions is admired and respected by communities across New South Wales. Her work both in the Parliament and in the community has been a constant inspiration, and I look forward to seeing her continue to fight for the people and environment of New South Wales as a senator in the Federal Parliament.

If I am able to continue her work with just half the energy, integrity and determination she has shown during her years here, I will be fulfilling my responsibilities well. The people of New South Wales can rest assured, however, that I will aim for much more than half. The hard work and dedication over many years of other past and present Greens colleagues in this place—Sylvia Hale, John Kaye and Ian Cohen—is also inspirational, and I look forward to continuing that work with John, Ian, David Shoebridge and others in coming years. In July next year Lee Rhiannon will join eight other Greens senators and the Federal member for Melbourne in providing this country with strong, compassionate leadership. I have no doubt they will provide a stable, steadying hand on the Government's shoulder to the enormous betterment of this great nation of ours.

I join 21 Greens elected to State and Territory parliaments across the country and many more in local government. I feel immensely proud of my party's ongoing achievements, and feel able to say with a good degree of certainty that these numbers will grow within a few short months. More Greens are getting elected to all levels of government across Australia because more and more people are realising that the Greens represent their values and give voice to their vision—a shared vision of a fair and decent country. This is a vision of an Australia where the voices of communities and the needs of the environment are heard over the greed and self-interest that has come to go hand-in-hand with so many of the activities of big business and industry in this country.

This is a vision of a country where ecologically sustainable development means just that; a vision of a country in which views are tolerated, rights are upheld and our wonderfully rich diversity of peoples, cultures, religions and choices are respected and celebrated; a vision of a country in which communities are healthy and resilient, our cities liveable and sustainable, and our lives rich with learning and discovery and full of creative pursuit; and a vision of a country where our children and young people feel secure, loved and confident, and have the freedom simply to be children. My role as an elected Greens member of Parliament is to play my part in bringing this vision one or two steps closer to becoming a reality, in making New South Wales a better place.

The Greens vision of a just, peaceful and sustainable world, articulated so eloquently by Australian Greens leader Senator Bob Brown, is being heard and accepted by a growing number of people not only across Australia but also across the world. There are Greens parties in more than 70 countries, with some sharing government in countries such as Latvia and Finland; and in Ireland, too, where there is a Green Minister for

Sustainable Transport, a Green Minister for the Environment and a Green Minister for Communications, Energy and Natural Resources. And of course here in Australia we are seeing a growing number of Greens elected representatives taking on positions of increased responsibility at all levels of government. The Greens are truly an exciting, dynamic party of which to be a part.

My father's family here in Sydney has a long history of active Labor involvement. As the first active Green in my extended family I perhaps represent the growing number of people of my generation, as well as those older and younger, who see the Greens as a party that shares their vision of a just, peaceful and sustainable world. My colleagues and I are here representing people who want their parliamentarians to care about and stand up for people, not vested interests. We are here because an increasing number of people see the Greens as playing a vital role in the ongoing fight for justice, equality and the protection of our natural heritage. We are here because an increasing number of people see the Greens as the party that champions open and transparent government. And we are here because an increasing number of people see the Greens as the party that represents their own values of compassion, fairness, integrity and respect for nature.

The four founding principles of the Greens are ecological sustainability, social justice, peace and non-violence, and grassroots democracy. These principles will guide the work I do in and outside of this place, while the party's thousands of passionate and dedicated grass roots members will inspire me to ensure I do that work with humility, integrity and purpose. I am well aware that I, like all other elected Greens across the country, am riding on the shoulders of an extraordinary network of committed party members across New South Wales and Australia and I thank you all for everything you have done to get us where we are today and for where I stand today.

In 1970 I was one of approximately 10,000 babies born in Australia who was put up for adoption. Though my birth mother lived in Melbourne, she joined other girls-in-waiting at St Margaret's Women's Hospital, in Darlinghurst, in the months before my birth. When I was reunited with her 10 years ago she told me she had lived with the most enormous amount of regret at her decision, a decision she felt forced to make due to society's notions of what an ideal woman and family were at the time. Her story of how she and her unplanned pregnancy out of wedlock were viewed back then makes me thankful we have come a long way. I am thankful to the struggles of the feminist movement, from the first suffragettes to the Women's Liberation Movement of the 1970s and later, that a woman now has more control over her reproductive choices in Australia than ever before. I am thankful too that in 2010 pregnancy out of marriage is no longer viewed by most as the bringing into this world of an illegitimate child by a girl who got into trouble.

I am a proud feminist and note with dismay how much more we still have to do before a woman's gender does not impact on the amount of pay she will earn in her lifetime, or when a woman's gender does not mean she will be so much more at risk of experiencing sexual assault than her male counterpart. In the early 1990s I attended Griffith University in Queensland, where I worked closely with a group of passionate and feisty women to establish a Women's Room and Women's Collective on campus. We used these partly as a basis to play our part in the active pro-choice campaigns in Queensland at the time. Despite the relentless work of the pro-choice lobby, it is a blight on the history of women's rights in this country that in New South Wales and Queensland a woman and her doctor can still be charged under the Crimes Act for procuring an abortion. It is my goal to work with progressive women from all sides of politics to decriminalise abortion during my time here.

At three weeks of age I was adopted by loving parents who had recently settled in country Queensland, growing up living a life of comfort, love and having the freedom to roam and explore the town and bush around me. As is the case with many people who are passionate environmentalists, I have no doubt that my love of nature and animals was instilled in me from a very early age. Owning and caring for pets, camping with my father and brothers and bushwalking with my parents in the beautiful rainforests of Lamington National Park are some of my most precious childhood memories. I firmly believe that each and every child must be able to enjoy many positive experiences of the natural world if we are to ensure that as a society we value nature and understand our fundamental connection to it. To this end I believe that environmental education, including the study of the appreciation of nature, must become a central component of our education system in this country.

I am a firm believer in the links between social equality and a healthy environment. I recognise that the conservation of nature and the attainment of truly sustainable communities will only be possible when people have their physical, emotional and spiritual needs fully met. During my time in this place I will be standing up and speaking out for New South Wales's precious natural areas, its magnificent coastlines and its too many threatened species and ecosystems, like many before me have done. I would like to express my heartfelt

gratitude to those passionate men and women, particularly from regional New South Wales, who stick up for the environment, for nature and for animals often in the face of adversity and sometimes shocking abuse. The vast majority of people in New South Wales respect and admire your determination in giving a voice to the environment and to seeing a world full of natural wonders passed on to future generations to love and enjoy.

Here, I would like to acknowledge the passion and fighting spirit that my colleague Ian Cohen has shown in his years of speaking up for the environment in this place and outside it. Due to the dedication of conservationists like him over many decades, and yes, due to those committed individuals within past and present governments who have listened, New South Wales has an extensive national park system that contains some of the most remarkable natural areas in the world, some of them right here on our doorstep. From the World Heritage areas of Barrington Tops and the Blue Mountains, to the eerily beautiful moonscape of Mungo National Park in the State's west, to the spectacular gorges and forests of the Gondwana Rainforests of Australia system in the State's far north, New South Wales is immensely rich with nature's wonders. Yet despite this track record of national park declaration from both Labor and Liberal governments alike, our natural environment is in trouble. Because when it comes to ensuring that future generations can enjoy and reap the rewards of a healthy natural world like we are so lucky to be able to today, national parks are not enough.

In this the United Nations International Year of Biodiversity, New South Wales has little to boast about in some vital areas of biodiversity conservation. Sustainability assessments undertaken by the Department of Environment and Climate Change for its 2009 New South Wales State of the Environment report show that 64 per cent of all assessable fauna species and 65 per cent of birds have a moderate or greater risk of extinction. Meanwhile fish stocks and marine ecosystems are under significant pressures. As a child I loved fishing with my father and brothers and remember nights when the amount of whiting you could catch off the beach or bream off the jetty seemed never-ending. Now, an increasing number of people who make their living from the sea the world over are speaking of empty nets and worrying how to make ends meet.

We must restore the balance between the rights of future generations 100 years or more from now to throw a line out with their children and catch something in return and for communities everywhere to enjoy healthy food from the sea, with the rights we enjoy now to harvest such an extraordinary amount of fish and other marine life from our oceans. We must also ask ourselves: what value do we place on nature? We need to work together on finding solutions to this fundamental question if we are to turn around the decline in the health of our natural environment. If we better understood the value of what we receive from nature—the fresh water, healthy soils, food, medicines, clean air as well as relaxation and enjoyment—we would better recognise the urgency and importance of safeguarding what we have left.

Here in our own backyard of Sydney, how much do we really value healthy water catchments if we continue to allow longwall mining to take place under rivers that supply Sydney with its drinking water? What value do we place on our rivers when longwall mining causes riverbeds to crack and subside, and for some of this water in rivers on the driest continent on earth to simply drain away? And in our wider backyard of New South Wales, what value do we place on healthy soils and aquifers when we prioritise coalmine after coalmine over the health of some of the nation's most productive agricultural land? Are we passing on a world to our children and theirs with no birds in the sky or fish in the sea? Though dire, this is not a hopeless situation but will require true environmental leadership from present and future governments to protect habitat, both terrestrial and marine, to ensure the survival of many species.

We all have a responsibility to leave a legacy for our children and future generations of a healthy and productive planet. Life on earth, in all its miraculous forms, has evolved over billions of years, while we modern humans and our towns and cities have been around for an almost insignificant amount of time comparatively. However our impact on the earth has been far from insignificant. I truly hope I can play some part in ensuring laws are introduced that begin to address the drivers of the ecological crises around us. The impact that climate change will have, and is having, on communities across Australia, as well as on the plants and animals that call this beautiful nation of ours home is profound.

During my more than five years heading up the Nature Conservation Council of New South Wales it was distressing to see this devastating environmental crisis that humanity has brought upon itself and the natural world not receiving anywhere near the attention it so urgently requires.

Like many Australians, I am angry and dismayed at the inaction of governments the world over to reduce carbon pollution, and at how beholden they are to the vested interests of companies whose polluting activities are those that need to be controlled. Future generations will look back at this time with an even greater

sense of anger and dismay if the people given the power to act continue to sit and do nothing. I truly hope that I can work with many of you in this place from all sides of politics in the coming years on lasting solutions to the climate change problem. We must rise above our political persuasions, beliefs and ideologies to work together on this, still our greatest moral challenge. Unless we all work together to end the undue influence of industry and big business on our system of government and political decision-making then communities and environmental interests will continue to be sold out in the quest for higher profits and so-called shareholder value. I look forward to supporting the work of my Greens colleagues in this fundamentally important area and to working with them and others to expose the undue influence and corruption of our democracy at every opportunity.

Finally, I must speak on another issue close to my heart. During my time at university my brother Richard ended his long battle with paranoid schizophrenia by taking his own life. I will be working to support organisations and individuals who undertake advocacy and provide vital support for people experiencing mental illness, and their families, particularly support that prevents young people from suiciding. More than 10 per cent of people in New South Wales suffer from a long-term mental health or behavioural problem—a shocking statistic, which I hope during my time here I can play some small part in addressing.

I am looking forward to my time in this place, excited and somewhat daunted at how much there is to do if any part of the vision I outlined earlier is to be realised for our country, for our communities, and for our children. I do know that the task ahead will be made that much easier by the support of those around me, including the Greens members and supporters in the gallery tonight. Your dedication to the Greens vision is so inspiring and I look forward to working with you all for communities and special places across New South Wales over the coming months and years.

To my friends in the gallery who are not party members, I look forward to our time together sharing stories and laughter over a meal now more than ever before. To my parents, who could not be here tonight, and to Paul's family who is now mine too—Margaret, Michael, Marley and Luca—thank you for your love and acceptance. And to my life partner, Paul Sheridan, without whose love and support I know I would not be standing here today, simply thank you.

The Hon. IAN COHEN [5.26 p.m.]: On behalf of the Greens, I support the Plant Diseases Amendment Bill 2010. The amendments made by the bill to the Plant Diseases Act 1924 are relatively straightforward. The bill seeks to amend section 4 to allow the Minister for Primary Industries rather than the Governor to regulate or prohibit the import of anything likely to introduce plant diseases or pests. This means that the Minister will be able to issue an order and, in certain urgent circumstances, publish the order on the department website or on television and radio broadcasts.

Urgent biosecurity management will be able to be rolled out without the time-frame limitations placed on proclamations issued by the Governor. This is consistent with procedures under other biosecurity legislation, such as the Animal Disease (Emergency Outbreaks) Act 1991. Moving away from proclamations to ministerial orders also allows greater flexibility in altering conditions attached to orders. Having an ability to alter conditions attached to the order does provide flexibility and responsiveness to biosecurity threats from pests and plant diseases.

The other important amendment that the bill makes relates to the issuance of permits by departmental inspectors. Item [8] of schedule 1 proposes to insert section 16A, which authorises departmental inspectors to issue permits to allow for limited and conditional movement of infected plants or fruits. Obviously, the power to issue such permits should be exercised with the utmost precaution and diligence. Quarantining plants and food likely to be infected is one of the most effective ways to prevent the dissemination and spread of diseased plants and pests. A system that allows movement of goods, albeit curtailed, will still lay open the possibility of the spread of pests and diseases further across the State.

While we are attempting to tighten our biosecurity response capabilities, it is appropriate that we consider some of the matters raised by the member for Hawkesbury. Myrtle rust was first detected on the Central Coast in April this year. On 23 July the Minister established a quarantine area in the Gosford and Wyong local government areas. The member for Hawkesbury suggested during debate on this bill that the bill is a "case of trying to close the gate after the horse has bolted". A number of constituents have advised me that there has been a lack of communication in co-ordination of managing the outbreak. My advice is that New South Wales farmers were not notified until early August and some of the flower associations were also not given adequate advice. The notifications placed at the Flemington flower market were not placed in an area

visible to all the growers; therefore many growers remain uninformed. Considering the absolute imperative of keeping stakeholders informed, there should be strong priority given to communications on this particular outbreak.

It may be helpful if the Parliamentary Secretary outlined in reply how the department has managed myrtle rust in the Wyong and Gosford local government areas from identification of the infected property, investigation of host source, and pathways through which myrtle rust has spread. I am aware that the member for Hawkesbury has put a question on notice and I think it is appropriate that the Minister, through the Parliamentary Secretary, provide an outline of departmental action.

Containing and eradicating myrtle rust in New South Wales must be an absolute priority and quarantine programs must err on the side of caution even if it inconveniences growers and farmers. The potential damage myrtle rust could do to our native plant species warrants strong biosecurity management. I certainly hope that permits issued by departmental inspectors acknowledge this fact. The Greens support the bill and look forward to the use of new provisions to enhance vigilant management of biosecurity risks in New South Wales.

Reverend the Hon. FRED NILE [5.30 p.m.]: The Christian Democratic Party supports the Plant Diseases Amendment Bill 2010, which improves responsiveness to disease and pest outbreaks. The bill is very important. As members know, there is a debate going on in the community about proposals to bring more and more fruit from overseas into Australia, which often is not necessary as we grow sufficient fruit. The worst aspect is that the fruit, for example apples from China, may contain diseases unknown to Australia. Thanks to our continent being surrounded by sea we have been protected from some of the worst fruit diseases that are experienced in other countries and in which such diseases are normal. We do not want them to become the norm in Australia. I am pleased this legislation has been introduced because it will improve the Government's ability to respond to disease and pest outbreaks in plant species in New South Wales.

Under the current Plant Diseases Act the Governor has the power by proclamation published in the *Government Gazette* to regulate or prohibit the importation into New South Wales of plants or fruit that are likely to introduce any disease or pest. This power cannot be delegated. It creates a delay in responding urgently to an emergency if the Governor and her office need to be involved in that way. The bill will shift that responsibility to provide the Minister with the powers currently held by the Governor. I imagine the Governor would not be unhappy to be relieved of that responsibility.

Disease and pest outbreaks often occur suddenly, and this bill will allow the Minister or his delegate to declare that certain plants cannot be imported into New South Wales. It gives the Government the ability to respond more quickly to disease and pest outbreaks. The bill also gives inspectors the power to issue permits for particular plants. The Plant Diseases Act does not provide inspectors with the power to issue permits. Such a power would provide some flexibility for specific circumstances in individual cases which did not, for example, fall within the terms of the relevant proclamation. That needs to be carefully controlled so that some plant or fruit disease is not inadvertently allowed into Australia. I urge that those controls be continued, as they are with the Australian Quarantine and Inspection Service. State governments have to share the responsibility to ensure that those negative events do not occur in this section of our society.

The Hon. IAN WEST [5.33 p.m.]: I am pleased to speak in support of this important bill, the Plant Diseases Amendment Bill 2010. New South Wales horticulture is significant to both the State economy and the Australian economy. Our horticultural products such as fruit are consumed within Australia and are exported to overseas markets. It is important to ensure that access to these markets is maintained. It is also important that consumers are able to continue to enjoy the products supplied by New South Wales's horticulture industries. These industries are second to none in Australia and around the world.

There are myriad pests that can affect the excellent products grown in New South Wales. Fruit fly, which has been described as the world's worst fruit pest, can devastate crops and stop market access. Fruit fly outbreaks cost Australian fruit growers more than $100 million each year in lost income and eradication costs, and horticultural confidence can be devastated for a number of years. Such outbreaks can cause complete deprivation for a sector of the community through the loss of money that would otherwise go from that sector into the rest of the economy. The loss of a crop in one area can mean the devastation of a whole community. A fruit fly outbreak means fresh produce cannot be sent freely to some interstate or overseas markets for more than just one growing season. This leads to fewer jobs and less income for fruit growers and the region in which they ply their trade, which can lead to a complete breakdown of the economy in that region.

Fruit fly can develop in a wide range of maturing or ripe fruit. For example, stone fruit, citrus, apples and pears can be seriously affected, as can field crops such as tomatoes and capsicums. New South Wales has had legislation in place for a long time to keep the major fruit growing areas in and around the Riverina district free of fruit fly. A fruit fly exclusion zone was first established in 1955 under the Plant Diseases Act 1924 by parallel legislation in Victoria, New South Wales and South Australia. The zone covers 18 local government areas in the south-west of the State, some of the western unincorporated areas and part of the Central Darling.

The fruit fly exclusion zone was established to ensure these major fruit production areas remain free of fruit fly, thereby maintaining access to both domestic and export markets. The legislation requires all shipments of fruit moving into or through the zone to be free of fruit fly. However, we also rely on the cooperation of the travelling public and local residents not to take fruit into the area. Importantly, the Government also has an ongoing program of detection and eradication of any fruit flies that have been introduced into the zone. If an outbreak does occur the Government must react quickly to prevent it from spreading.

Currently the Governor makes a proclamation to regulate the movement of fruit that may spread the pest outside the outbreak area. The Government also implements a control program to eradicate the infestation. The amendments proposed in the bill will ensure that the Government can respond to an outbreak very promptly and faster than is presently the case. The amendments also give greater flexibility to manage outbreaks when they occur.

The threats posed by pests and diseases to the horticultural industries of New South Wales are ever present. If we do not have safeguards that are capable of providing effective levels of protection the cost to our plant industries and to the regional communities that depend on them could be great. Without effective safeguards, commercial fruit industries such as those in the Riverina and surrounding districts will be dependent on chemical treatments to control pests. They will be at risk of losing their clean and green advantage. That would have a direct impact on trade as well as household gardens, and fruit trees would not be able to grow fruit without the regular spraying of insecticides year in and year out. New South Wales needs the proposed amendments in the Plant Diseases Amendment Bill for the future of its primary industries. I commend the bill to the House.

The Hon. ROBERT BROWN [5.40 p.m.]: I support the Plant Diseases Amendment Bill 2010 and wish to touch on many of the issues that were raised by my colleague the Hon. Ian West. The overview of this bill is as follows:

> The object of this Bill is to amend the Plant Diseases Act 1924 (the principal Act):
>
> (a) to allow the Minister to make orders (rather than the Governor making proclamations as is presently the case) regulating or prohibiting the importation or introduction of anything that is likely to introduce plant diseases or pests into the State or any part of the State ...

The key words are "or any part of the State". Most members who travel regularly around this State would know that if they are carrying particular types of fruit they are required to stop at many exclusion zones or check zones. These range from the southern Riverina fruit-growing areas, which were mentioned earlier by the Hon. Ian West, to the wine growing areas in the Hunter Valley. Another object of the bill is as follows:

> (b) to allow inspectors to issue permits that authorise a person, or class of persons to move plants, fruit, coverings, goods or other things that are infected or that may have come into contact with, or are likely to introduce or spread, plant pests or diseases or to move plants, fruit, coverings, goods or other things into or out of, a quarantine area.

It is not limited only to the movement of fruit. The movement of fruit in and out of some of these quarantine areas that contain pests such as fruit fly is tantamount to a disaster in waiting. We have already seen on our television screens the spectre of an insect plague in many parts of New South Wales and western Queensland. What would be the result if authorities were constrained by having to get the governors of Queensland and New South Wales to sign emergency orders for the destruction of those types of pests? There is no difference when we are talking about pests and diseases in agricultural and horticultural products. The explanatory note to the bill states:

> Currently, section 4 of the principal Act provides that the Governor may, by Proclamation published in the Gazette, regulate or prohibit the importation or introduction into the State, or the bringing into one portion of the State from any other portion of the State, any plant, fruit, covering, good or other thing which, in the Governor's opinion, is likely to introduce or spread any disease or pest.

As I said earlier, anyone travelling through the lower Hunter or upper Hunter regions would be aware of check stations along the way that prevent them from carrying plant products relating to the growing of grapes to limit the spread of any disease. The explanatory notes to the bill also state:

> Schedule 1 [4] also amends section 4 of the principal Act to enable the Minister to make an urgent order regulating or prohibiting the importation or introduction into the State of any thing that is likely to introduce or spread any disease.

Proposed section 16A provides:

> An inspector may, on application or on the inspector's own initiative, issue a permit authorising a person, or class of persons to move:
>
> (a) any plants or fruit that are infected or which, in the inspector's opinion, are likely to cause the introduction or spread of any disease or pest, or …

It is imperative for inspectors to act swiftly. If an inspector had to refer such an issue to a higher authority, by the time the Governor proclaimed a particular pest or a zone the cat could well be out of the bag. Proposed section 16A also states:

> (b) any covering or goods in, or with, which plants or fruit referred to in paragraph (a) have been contained ...

Unfortunately, all sorts of pest species that are to be found in containers regularly invade this State. Most people who have travelled overseas would be aware that they are required to declare any timber products that they bring into the country as they could be carrying borer, white ants or other destructive pests. The same thing could be said about much bigger pests. A colony of cane toads has been found in the southern suburbs of Sydney that obviously were in containers of some sort of material from Queensland. It is imperative for authorities to react quickly to these sorts of issues.

Many members might think that this bill is not important but it is critical to the survival of fruit growers in the Riverina, to wine growers in our wine-growing regions, and to all the other small and large family businesses and horticultural organisations in this State. As my colleague the Hon. Ian West said earlier, Australia recently permitted the importation of apples from New Zealand which caused a bit of a stir as we might not have been able to protect our apples from fire blight. If our apples were affected by fire blight we would lose any competitive advantage that we have internationally, or State by State, for our products. This is a fairly simple and straightforward bill. Inspectors can issue permits to destroy produce on the spot or to move those products away from a zone. Such permits can be written for a specific time—I assume that relates to seasonal changes—or they can be made for a longer time. Proposed section 16A (3) states:

> The inspector may specify such conditions as the inspector thinks fit having regard to the plants, fruit, covering, goods or thing to be moved, or the disease or pest, to which the permit relates.

As I said earlier, this bill is all about trying to empower authorities to move quickly and to get things done instantaneously. Proposed section 16A (4) states:

> (4) An inspector may, at any time, revoke or vary a permit, or a condition of a permit ...

That important provision will permit authorities to vary the conditions under which a permit might have been issued or revoke those conditions. Proposed section 16A (5) and (6) states:

> (5) A permit is issued or a permit or condition is revoked or varied:
>
> (a) in the case of a permit issued to a particular person—by means of an instrument in writing given to the person, or
>
> (b) in the case of a permit issued to a specified class of persons—

referring to a fruit carrying group—

> by means of an instrument published on the department's internet website or published in any other manner that, in the opinion of the Director-General, is most likely to bring it to the attention of the persons who will be affected by it.
>
> (6) A person is not guilty of an offence under section 26 in respect of the movement of any plants, fruit, covering, goods or thing that is done in accordance with a permit issued under this section.

I do not need to detail the other provisions in this straightforward bill. However, these amendments will change the wording that is used in item [9], Section 26 Offences. The bill provides for fees for applications for permits under section 16A. Part 5 merely adds the provisional consequence of enactment to the Plant Diseases Amendment Act. In conclusion, this bill will add a valuable component to the current system whereby these protections are given to the State's horticultural industries by allowing the department to more readily issue permits and close down transportation routes if necessary in relation to any particular plant, fruit or material covered by the Act. I commend the bill to the House.

The Hon. LUKE FOLEY [5.50 p.m.]: I support the Plant Diseases Amendment Bill 2010 because I take plant biosecurity very seriously. The Plant Diseases Act provides a sound basis to ensure plant biosecurity is effective and that outbreaks are responded to as quickly as possible. The amendments proposed in this bill will strengthen our response capability and speed in relation to any outbreak. Plant biosecurity is about protecting the economy, human health and the environment from problems associated with pests and diseases of plants. While we know the effective measures that can be taken under the Plant Diseases Act 1924 to ensure plant biosecurity, we do not hear so often about the ongoing high-quality research across the State that government agencies undertake to support biosecurity. This work is critical in ensuring ongoing protection for our plant industries from biosecurity threats.

Members may be aware that the largest provider of government science and research services in this State is Industry and Investment NSW. Its science and research services underpin the biosecurity, growth and sustainability of our primary industries. The overall value of agriculture and farming to New South Wales is $8 billion annually. This makes the Government's investment in such science and research both relevant and worthwhile. Industry and Investment has been recognised in recent years to be within the top 1 per cent of world research institutions in agricultural, animal and plant science—a rare honour we should not lose sight of. The scientists' work makes a significant contribution to developing and maintaining our local and international markets.

A dedicated group of plant health science specialists within Industry and Investment New South Wales plays an important part in the control of plant diseases. The group works to minimise the impacts of insect pests and diseases on grain, fibre and horticultural crops. One area of its work is the development of diagnostic tests to underpin surveillance, prevention, control or eradication of plant diseases and pests. The information resulting from its work provides a sound basis for policy decisions by all Australian jurisdictions on plant health, quarantine and biosecurity. It underpins also our operational responses to biosecurity threats to the health of our plant industries. An example of the work of these scientists is the major input into the very large program by three States to control fruit fly. The program has ensured continued market access by the citrus fruit industry to high-value global markets. Of course, the Hon. Tony Catanzariti is one of the State's most reputable citrus farmers. My wife's sister and her cousin worked for the Hon. Tony Catanzariti for a while in Griffith in the citrus industry.

The Hon. Robert Brown: He has beautiful fruit.

The Hon. LUKE FOLEY: I acknowledge the interjection by the Hon. Robert Brown. The Hon. Tony Catanzariti has very beautiful fruit indeed. I am sure that if the Hon. Tony Catanzariti were in the Chamber now he would talk about the great threat the fruit fly poses to him and his fellow citrus farmers in Griffith and surrounding areas of southern New South Wales. The New South Wales Government fully recognises the importance of the science and research services to the State's economy. The Government is contributing $56 million to the upgrade of biosecurity facilities at the Elizabeth Macarthur Agricultural Institute in Sydney's south-west. That institute is the only high-containment animal, plant and aquatic biosecurity diagnostic facility in the State. Internationally recognised scientists work at the Elizabeth Macarthur Agricultural Institute.

The Hon. Matthew Mason-Cox: Where is that?

The Hon. LUKE FOLEY: It is in Sydney's south-west. Those internationally recognised scientists diagnose, control and prevent the spread of plant and animal diseases. Therefore, that institute plays a critical role in protecting the State's economy. The $56 million upgrade will deliver improved diagnostic services vital for the management of biosecurity risks, such as those from plant pests and diseases. The proposed amendments to the Plant Diseases Act 1924 will further contribute to the State's effective response to plant diseases and pests. They will provide another strong link in the New South Wales chain to ensure plant health and a strong rural economy. I commend the bill to the House.

The Hon. ROBERT BORSAK [5.59 p.m.] (Inaugural Speech): It is with pleasure that I join in debate on the Plant Diseases Amendment Bill 2010 and advise the House that the Shooters and Fishers Party supports the bill. As this is my inaugural speech to this Chamber, I acknowledge the fact that, for me, the occasion is one of both pride and sadness at the same time. It is a great honour and a privilege to be elected to this place, but I am here as a replacement for my friend and colleague the late the Hon. Roy Smith, whose sudden death shocked us all.

I place on record from the outset that Roy's work will be continued. He flagged a number of issues he wanted dealt with in his inaugural speech to this place just over three years ago. I will continue with that agenda, and indeed add many topics of my own to that list. Particularly, I hope to continue to negotiate further changes to the firearms legislation that Roy was working on when he died. He was seeking to make more sensible amendments to aspects of the legislation that unreasonably restrict legitimate firearm owners, but do nothing to enhance public safety. On that issue we were, and always had been, like-minded. Roy was also keen on reintroducing shooting sports and firearms safety programs in public school sports programs. This is another key point that we will pursue.

Target shooting is a popular and international sport; indeed both a Commonwealth Games event and an Olympic event. Our football, cricket and tennis stars begin their sporting careers at school. We believe our young shooters should be given the same opportunities in their chosen sport. I publicly place on the record my thanks to a number of people, first, to my friends and colleagues in the Shooters and Fishers Party, to my parliamentary friend and colleague Robert Brown and to John Tingle, the party's founder and its first parliamentary representative.

I have worked with Robert and John since joining the party in 1992 and as Chairman of the Shooters Party in 1995. I have watched the comings and goings of this place as more than just a disinterested observer for more than 15 years. Roy, Robert and I owe much to John for his mentoring and leadership—particularly in the way in which during his time in this place he earned the respect of members from all sides of the Chamber. His path-finding efforts after being elected in 1995 have made it all the easier for those of us who have followed in his footsteps.

I also acknowledge the invaluable support for the Shooters and Fishers Party from the Sporting Shooters Association of Australia, particularly the New South Wales and Sydney branches of which I have been a member since 1974, but also all the other branches throughout the State that share our aim of protecting and promoting the rights of shooters and hunters. The same should be said for Australian Hunters International—a club that I, with five others, founded in 1982—and for all the hundreds of other clubs, large and small, around this great State of ours.

Recently the Shooters Party changed its name to the Shooters and Fishers Party. We are unashamedly a party that seeks to promote and defend the rights of our core constituents—the shooters and fishers of New South Wales. We also understand our position in this place. Unlike other minor parties, we do not seek to be the Government: We seek only to represent the people who support us and so, in votes in this Chamber, we will generally support whichever of the major parties is in Government, unless the legislation impacts inappropriately on the shooters and fishers of the State.

I believe that the Shooters and Fishers Party is still unique in the world of Westminster parliaments in that New South Wales is the only State to have specific representation for shooters and fishers in its Parliament. We intend to work tirelessly at increasing our representation in this place. We will even have a close look at certain lower House seats, should circumstance require it.

Of course my greatest supporters have been my family, particularly my lovely and activist wife, Cheryl, to whom I have been married for 34 years. We have three beautiful adult children—my daughter, Annie, and twin sons, Robert junior, and Adam. Annie in turn has a real hardworking, dedicated, great husband in Adam and they have two beautiful children—my first grandchildren, Alicia, aged two, and Aiden, aged five months. Cheryl has been my rock in life. She is very independent of mind, a great sounding board, and a hard worker for all those causes and groups that she sees as needing support. She has always supported me in everything I have done since we met in Rover Scouts at the age of 19. Life's ups and downs have been many, but Cheryl Anne is a constant.

I am the Australian product of migrant parents, Czeslaw and Tini Borsak, the eldest of their three children. I have a younger brother, Stephen, and a still younger sister, Christina. My parents ended up in

Australia, as many millions did, after World War II destroyed their homes, their way of life and communities in Europe. Their story is different, but not unique to their generation at that time. My father was born in the regional town of Biala Podlaska in eastern Poland in 1918. He was apprenticed as a tailor and, by the age of 21, already had his own small business in Warsaw. By 1 September 1939, the date Germany invaded Poland, he was well established and prospering. My mother was a school girl, 12 years of age, living in the city of Utrecht in the Netherlands.

By 1942 my father had been involved in the intrigues of the local resistance movement and its many factions for some time—one might say warring factions. On 2 October that year, he was arrested at his shop by the Gestapo, charged with being a Communist member of the underground, and put into Pawiak central prison in Warsaw. Here he was interrogated until eventually he was shipped out to Majdanek concentration camp, located near Lublin, on 17 January 1943. After a short internment there, he was condemned to Buchenwald concentration camp and shipped there by rail; he was without any food or water for four days. I can still remember that when my father did talk about his experiences of that time—and that was not often—he would describe them as his descent into Dante's description of hell.

Somehow, though, he survived those experiences. With the Allied forces rolling eastward, early one morning in October 1945 he escaped into the Weimar forest. He hid there for three days and eventually was found by a United States of America Army patrol; he was sleeping by a fallen tree and still dressed in his prison garb. Dad spoke fluent English, having taken English lessons at night school. He also spoke German and Russian. When asked to identify himself, he said his name was "Borsuk", which in Polish means badger—an animal that is very common in the forests of Europe. However, the name he gave was taken down as "Borsak". His real name was Mojsiejuk—a fact that he was keen to hide because of his Communist arrest papers: Better to be unrecognised than risk going behind wire again. He then spent the next two years, until September 1947, in the American Army as part of a Polish Brigade, until he was demobbed with the rank of captain and told to go home.

He had decided that Poland under Communism was not what he wanted. Hearing that there was plenty of work in Holland, he moved to Amsterdam as an official displaced person. He quickly found work in his trade and started to put his life together. He introduced himself to my mother Tini, née Feenstra, at a tram stop, and asked her out for coffee. They had seen each other on occasion in the building in south Amsterdam where she worked as a trainee nurse and my father shared lodgings upstairs. My mother took a real leap of faith with my father. She was only 19 and was working towards formal admission into nurse training. She was born in Zwolle in 1928 and was living with her parents in north Amsterdam. My parents married on 4 November 1948.

I believe at that time my father thought that another European conflict between Russia and the Allies would break out, and so he resolved to get as far away from Europe as he could go. He applied for migration to South Africa, Argentina and Australia. The Australian papers came through first. He had saved his own fare, my grandfather paid for my mother's fare, and they left Rotterdam on the ship *Volledum* in December 1948. They arrived in Sydney in January 1949. They started in a rented bedsit at Cammeray, paying key money to get in with £25 they had saved. They moved 10 times in the following years until, in 1952, they bought a new fibro two-bedroom house in Punchbowl.

I was born on 14 August 1953 at Crown Street Women's Hospital, commenced school at St Jerome's, Punchbowl, and then I went to St John's, Lakemba, until 1962. During this whole time my father was self-employed—he had a tailor shop in Railway Square in the city—and he remained self-employed for his whole life. I had a great carefree childhood. We used to roam the streets with our school friends, all over the neighbourhood. I played soccer for Punchbowl soccer club—the red and green devils—and I was the best and fairest in the under 10s in 1962. They were great years. I never forget cracker night and bonfires in the back yard, exploring Salt Pan Creek, catching blue tongue lizards, and trapping and snaring rabbits.

Then my father, homesick, decided to sell up and in the middle of the Cold War move us all to Poland in 1963. I can remember being excited about the prospect of seeing snow for the first time. We arrived in the middle of winter in January 1963 to minus 35 degrees celsius in my father's home town. Poland had hardly changed since the war. There were still war-damaged buildings and pot-holed roads all over the country. It was a great experience for me as I was old enough to remember nearly everything, but it took me only six months to say to my parents that as soon as I was old enough, "I'm going back to Australia; you can't get good chewing gum over here."

By July 1966 we were back in Australia and had moved into the dormitory part of Ashfield in a flat that my father purchased. Within two years he had scraped up enough money with a second mortgage to buy his

house in Ashfield near the station; I think he paid about $14,000 for it. This was the house he lived in until the day he passed away in March 1996, after he proudly told me that he had voted for John Tingle in the 1995 election from his hospital bed at Concord. In 1966 I enrolled in Ashfield Public School, then in Ashfield Boys High School and spent the rest of my school life at that school.

My brother and I joined First Ashfield Scout Group shortly after arriving. I did my scouting under a great Scout Master, the late Ron Rowe. Apart from my father, he probably influenced me the most in life. Whereas my father taught me never to lose sight of my goals and never to give up, Ron taught me about structure and achievement and put goal orientation in my life. He also introduced me to his great love of the Australian bush. With him, I went right through scouting, achieving all goals, through to the Queens Scout Award and the Duke of Edinburgh Award. I made lifelong scouting friends. Even today we still get together once a year for a reunion camp, revisiting old camp sites if we can find them.

My first interest in hunting was spear fishing. I used to haunt the beaches we could reach by train and bus, carrying my home-made spears, goggles and flippers, looking for any opportunity to hunt underwater. At the age of 15 I bought my first single-barrel 12 gauge shotgun and hunted during school holidays on friends' properties down the South Coast around Merimbula and Bega. I was keen on rabbits and foxes. We used to shoot hundreds over the school holidays—the hills were alive with them. I remember shooting foxes in the spotlight at night, along with rabbits, and selling the better rabbits to the local shop owner down the coast. We kept the best rabbit and fox skins, and tanned them ourselves.

Life changed somewhat after I matriculated with the Higher School Certificate: I was told by dad that he could not afford to keep me full time at university. Any thought of being a geography and art teacher studying at the Australian National University with a small teachers college scholarship went out the door. I did not really want to be a teacher, so I had to find employment and resolved to be an accountant. After winning a company cadetship with Waltons Stores, I studied part time at night at the University of Technology, Sydney, for a degree in business studies, majoring in accounting. Over the following seven years I completed my Certified Public Accountant [CPA] qualifications, got a public practice certificate and became a registered tax agent.

My business career has been varied. After Waltons I was employed by News Limited, then by Coopers and Lybrand and then by George Ward Steel. After we sold that company to a BHP subsidiary a hunting friend of mine, Rick Tween, invited me onto the board of an international insurance broking company, Lowndes Lambert, as Finance Director. I left that company in 2002 as Group Managing Director, I thought to enjoy semi-retirement and develop my personal business interests. I am currently an investor, owner and consultant to some 11 different private companies, employing about 200 staff, turning over about $50 million a year, primarily involved in steel and aluminium fabrication and manufacturing, and computer software and systems solutions. I still keep up my CPA public practice work, though now in a very modest and small way.

I have been involved with the Game Council of New South Wales, prior to set-up and subsequent enactment, first as a councillor, then as chairman since 2004, until my recent resignation prior to being elected to this place. This authority is a groundbreaking organisation that sets the standard for conservation hunting in Australia. It is a template that should be followed nationally if we are to properly use the skill, enthusiasm and knowledge of our volunteer conservation hunters Australia-wide. There simply is not enough money in all the treasuries of Australian governments that can successfully substitute for the free resources of our volunteer conservation hunters. We should be organising them and using them.

I have been a keen and dedicated conservation hunter since the age of 15. I have hunted all over the world, participating in real conservation and wildlife management programs, not just with my mouth but also with my money, time and emotion. Hunters are at the real sharp end of conservation. They provide the real dollar for programs all over the world over the long haul. Recently a small part of the media has sensationalised that I hunt elephants and that, by implication, this is bad. Hunting elephants as part of national programs has guaranteed their survival in countries such as Zimbabwe, Botswana, Tanzania and many other African countries that conduct such programs.

If the Black Rhino had been on licence in 1982, when I first saw them in the wild in the Chewore Hills on the Zambezi escarpment, then they probably would still be there today. Conservation hunters would have guaranteed their survival by putting money into the pockets of the starving farmers, who were ultimately wooed into poaching for rhino horn instead. Professional national parks staff could not save the rhino; they were understaffed and under-resourced. If you knew as many white hunters as I do, many of them ex national parks staff, you would begin to understand.

I hunt because I like to hunt; it is part of my genetic make-up. It is in all of us, just more strongly expressed in some than others. Those countries that work with hunters in programs all over the world guarantee the long-term viability of all species and their wild places. The same goes for New South Wales and, indeed, Australia, though we are in an even uniquely worse position. We probably have the world's worst feral animal problem. No parts of our wild places in New South Wales are not infected with feral cats, foxes, pigs, goats, rabbits, hares and wild deer. Even the so-called wilderness areas do not escape their predation on native marsupials, insects, reptiles and birds, large and small, or their effect on native grasses and plants.

The same goes for our total lack of proper balanced conservation of native birds and certain native species. We should be encouraging their management as game, thereby guaranteeing their long-term value and the value of their wild places, whether on public or private land. It is only with the controlled intervention of man in the landscape that we can hope to keep some semblance of what we have in wild species in New South Wales. Total blanket protectionism has failed the biodiversity of New South Wales and needs to be fixed as soon as possible.

As for politics, I can thank the Unsworth Labor Government for radicalising me as a shooter, ably assisted by the Howard Government. An especially vivid bad memory for me is the one of John Howard wearing a bullet-proof vest whilst addressing a meeting of shooters in Victoria. That image remains burnt in my brain. If any government epitomised the total lack of understanding of the Australian shooter, their peaceful law-abiding nature and his sporting shooter heritage, it was John Howard's Government. After the 1996 firearms law reforms the whole attitude to law-abiding shooters seemed to change, and not for the better. Personally, I resent being viewed or treated by anyone as a criminal in waiting; yet here I am in this place, 14 years later, having to talk in these terms. It is plainly just not acceptable.

I refuse to bow to a wrong public view of shooters and hunters that is being actively promoted by a small section of the media and certain activists in some parts of political life in Australia. The flak-jacket Howard view of decent Australian shooters and hunters is insulting and just plain wrong, and I will continue to work to change it. I thank honourable members for their polite forbearance, and for listening to my life history and political views. I look forward to lively democratic debates in this place in the future.

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.21 p.m.], in reply: I thank all members for their contributions to the debate. I single out the Hon. Robert Brown and the Hon. Luke Foley for their particularly detailed analysis of the Plant Diseases Amendment Bill 2010. Basically everyone is in support of the bill. The Deputy Leader of the Opposition said that the amendments proposed in this bill could be done by regulation. However, under section 4 of the Plant Diseases Act the powers to regulate or prohibit the introduction of plant diseases lies with the Governor and cannot be delegated, hence this bill is before us today. Section 4 does not allow for regulations to be made in respect to that power. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Penny Sharpe agreed to:

That this bill be now read a third time.

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

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ENFORCEMENT AMENDMENT BILL 2010

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

Motion by the Hon. Penny Sharpe be agreed to:

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

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

REPCO RALLY

Production of Documents: Return to Order

The Clerk tabled, pursuant to resolution of 7 September 2010, documents relating to the Repco Rally received this day from the Director General of the Department of Premier and Cabinet, together with an indexed list of the documents.

Production of Documents: Claim of Privilege

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

THE CHOICES OF LIFE INCORPORATED

Production of Documents: Return to Order

The Clerk tabled, pursuant to resolution of 8 September 2010, documents relating to The Choices of Life Incorporated received this day from the Director General of the Department of Premier and Cabinet, together with an indexed list of the documents.

Production of Documents: Claim of Privilege

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

ADJOURNMENT

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.24 p.m.]: I move:

That this House do now adjourn.

SUPPORTED LIVING FUND

The Hon. IAN COHEN [6.24 p.m.]: In my time as the spokesperson for the Greens NSW on disability services, I have heard numerous stories and reports about the difficulties facing people with disability. All too often those stories involve individual and family crises as the strain of caring for people with disabilities reaches breaking point. Due to the reactive nature of our disability services, those crises are usually triggered by the escalation of needs of the person with the disability without the appropriate respite care being provided to the family. This leads to the person with disability being placed in a group home with strangers far from family, friends and community, where the only commonality is disability, and often not even the same type of disability at that.

We need to drastically rethink the way in which disability services are rolled out into the community. A part of the solution could be an initiative that is being put forward by Family Advocacy, a group that provides assistance and support to people with disability. They are calling on the Government to implement a preventative approach like the one that has been used in Western Australia for some years now. This program, called the Supported Living Fund, would help families get their adult children with disability into their own home, while the family still has energy and capacity to support the transition.

The Supported Living Fund would be financed by government to provide support that compliments the significant role that family and friends play in the care of people with disability. This in turn provides incentives to families to plan and put in place informal support. The key feature of the Supported Living Fund that makes it stand out is that it targets the families of adults with disability that meet the current established criteria for disability services but that have not yet reached crisis point. It is about helping people before they collapse under the weight of around-the-clock care with inadequate government support.

All the evidence tells us this is the right approach. First, Marmot's work for the World Health Organization on the social determinants of health demonstrates clearly that the extent of control a person has

over their life and the opportunities they have for social participation are crucial to health, wellbeing and longevity. A strategy and funding stream that enables parents to assist their adult children with disability to establish a home of their own would enable them to control their lives and improve their health, wellbeing and longevity. Secondly, 2009 Australian research by KPMG about the key features of a contemporary disability service system indicates that providing paid support that builds on informal support provided by family and friends encourages innovation and enhances system sustainability.

The Supported Living Fund harnesses the natural support provided by people who care for and about the person with disability and who are most motivated to make it work. Finally, the Supported Living Fund will lead to housing and support options that have been shown to be cost effective and lead to good outcomes for people with disability. National research carried out by the Social Policy Research Centre found a range of approaches that are effective in terms of cost and quality of life of people with disability. All had moved away from providing 24-hour care because when the right elements of formal and informal supports were put into place, 24-hour care was not needed.

Key elements of the most effective models are separation of housing and support, support tailored to each person with a notional budget upon which they could call, and support provided through a mix of formal and informal support with an investment in developing informal support. The Greens believe that the Supported Living Fund has significant merit and could be implemented in New South Wales. The proposal has all the right incentives. Instead of rewarding crisis and family breakdown with a bed in a group home, the system will put in place support and incentives for families to plan and develop informal support. With people with disability and their families being the drivers of the support, it will be used in the most effective way to complement rather than burn out the freely given relationships of family, friends and neighbours.

The Supported Living Fund provides benefits all around. People with disability have a life of their own in a home of their own. Families regain control of their lives with a concomitant improvement in health and wellbeing. They will be encouraged and rewarded for planning. The system will be a major beneficiary. The Supported Living Fund is an important step toward the development of a sustainable disability system in New South Wales, strengthening a preventative approach and leading to a reduction in crises. Importantly, as a result of a Supported Living Fund the system will develop a clear, non-crisis strategy that rebuts the notion that the only way for people with disability to move out of the family home is for them to move into a government-allocated place.

The Supported Living Fund has been endorsed by all the major New South Wales advocacy agencies and many larger service providers. Family Advocacy has had talks with both major parties. Both parties seem to think the Supported Living Fund is a good idea, but no-one has committed to its implementation. Families in New South Wales deserve to know. They want encouraging words turned into solid commitments. The Greens support the Supported Living Fund.

PALESTINIAN REFUGEES AND GAZA BLOCKADE

The Hon. LYNDA VOLTZ [6.28 p.m.]: On 17 July 2010 I travelled with Australian People for Health, Education and Development Abroad, the Australian Council of Trade Unions overseas aid arm to the Middle East, alongside my parliamentary colleague Sylvia Hale. Australian People for Health, Education and Development Abroad undertakes tremendous programs with community organisations within refugee camps in Beirut and the Occupied Territories of the West Bank and Gaza, delivering aid projects funded by the Trade Union movement and the Department of Foreign Affairs and Trade. The Burj al-Barajneh Refugee camp that we visited in Beirut has been there since 1948.

I spoke to one lady who had left her home in Palestine as a young woman in 1948. She was told that she would be able to return to her home in a couple of weeks. Sixty-two years later she is still sitting in an overcrowded, dangerous refugee camp surrounded by her children, grandchildren and great grandchildren, waiting to return to her home. The camp is one kilometre by one kilometre and, although the population has grown, the area has not. Houses are now dangerously perched on top of each other as the only way to build has been up. Electricity and water pipes hang dangerously from buildings everywhere and some streets are so narrow only one person can travel along them at a time.

At the time of our visit Palestinians were forbidden to work outside the camp. They were not allowed to take out medical insurance and were the only foreigners forbidden to own property within Lebanon—a change to their previous rights prior to 1981—which had left many who already owned property in Lebanon in limbo.

Also at the time of our visit the Lebanese Government was in the process of discussing legislation to allow Palestinian refugees the right to work outside the camps, and rights to medical insurance and property ownership. On 17 August 2010 that legislation was passed through the Lebanese Parliament. Unfortunately, the right to own property still remains unresolved.

During discussion on the legislation that was before the Lebanese Parliament I asked the lady with her many grandchildren and great grandchildren which part of the legislation was the most important, foreseeing that there was an obvious struggle going on within the Lebanese Parliament. Her response was that none of this was important. She said, "Only the right to return is important. All other things will come when we have the right to return." This woman had no idea what had happened to her house, what territory it was in or whether it had been destroyed, but she was adamant that the British would know and the right to return was everything. This was the view shared by every person I met in that refugee camp.

Everywhere I went within the occupied territories of the West Bank and Gaza I heard the same story regarding the dividing wall and the blockade of Gaza. Christian mayors, farmers who opposed Hamas and government officials were of one view: Nothing matters; there is no tweaking around the edges; the wall must come down and the blockade of Gaza must end. As British Prime Minister David Cameron stated, "Gaza is a prison camp for 1.5 million people. For those who visit Gaza, the underlying poverty and punishment that is being inflicted on the men, women and children of Gaza is palpable. There can be no justification for the blockading of farmers to their export markets; just about anything can come through the tunnels. The blockade hurts the majority within Gaza without achieving any of the professed aims , such as the stopping of imports that can be used by extremists. In fact the blockade has the opposite effect—it drives people to extremists and will create ongoing problems for generations to come if it does not end—a realisation that I hope those within the government of Israel will come to. As one farmer said when he was asked about Hamas, "We think Hamas are criminals, but why are you talking to us about Hamas? They are not doing this to us. Israel is doing this to us. Why do they shoot us when we go out to work in our fields and stop us from earning a living?"

I must say that, after seeing the appalling treatment that was inflicted on Palestinians in Hebron, the situation in Gaza is not so inexplicable. From all the accounts I have received, the previous situation in Gaza was as bad. I defy anyone to leave Hebron without complete incomprehension about man's inhumanity to man. Likewise, fencing-off the water supply from the Bedouin people and their livestock in the Jordan Valley seems just as inexplicable. As we have acknowledged the traditional owners of our land, others must acknowledge that the right to return is a fundamental issue in the Middle East conflict. More importantly, the blockade of Gaza must end. You cannot hold a people captive and expect to see change.

REGIONAL DEVELOPMENT

The Hon. TREVOR KHAN [6.33 p.m.]: I am pleased to inform the House that on Wednesday of last week the New South Wales Opposition Leader Barry O'Farrell was in Tamworth to again meet with local residents and work towards developing strong ideas that will make Tamworth an even better place in which to live. Whilst Barry O'Farrell was in Tamworth he had the opportunity to meet with local residents and business people to talk about the real issues that affect people in Tamworth every day. Kevin Anderson, The Nationals candidate for Tamworth, was able to introduce Barry O'Farrell to a range of people who raised issues like the augmentation of Chaffey Dam, the concern of police numbers in Tamworth and the long overdue redevelopment of Tamworth hospital.

Whilst in Tamworth, Barry O'Farrell also received the Rebuilding the Regions report. This important report followed the Rebuilding the Regions policy workshop with members of the Rural Alliance in Dubbo earlier this year. Rural Alliance members include NSW Farmers, the Country Women's Association, the Royal Flying Doctor Service, the Local Government and Shires Associations of NSW, the Cancer Council New South Wales, the New South Wales Business Chamber, the Livestock and Property Agents Association and the Rural Doctors Association. The report was handed over to the Liberals and The Nationals in order that the proposals raised in the report could be considered in the policy development process.

In developing policy it is important to get a range of input from stakeholders, and members of the Rural Alliance are in a perfect position to help formulate plans to make New South Wales the kind of place we once knew it to be—that is, before the New South Wales Labor Party absolutely ruined it. The members of the Rural Alliance know the issues that face people and communities in regional New South Wales. This is why we engaged with them in the Dubbo forum earlier this year and this is why we take seriously what they have to say. After reading the report I was interested particularly in the proposals to explore options to decentralise

government agencies to regional centres. Decentralisation has the prospect of bringing much-needed services and jobs to regional New South Wales. Already we know that of recent times Tamworth has been the second-fastest growing regional centre in New South Wales after Maitland. This is a demonstration that regional New South Wales can grow if the circumstances are appropriate, notwithstanding the best efforts of the New South Wales Labor Party to ruin it. A movement of government jobs to regional centres will provide a much-needed boost to regional growth in locations such as Tamworth—and, of course, we cannot forget Gunnedah.

Additionally, as we face an ageing regional population, proposals to improve the Isolated Patients Travel and Accommodation Assistance Scheme could change the lives of many across regional New South Wales. I pay a special thanks to Mr Charles Armstrong and all of NSW Farmers for their hard work at holding the successful policy workshop and subsequent efforts in producing the report. I also wish to thank members of the Rural Alliance generally for their work at the forum and on this report. With ideas like those in the report aiding the shadow Cabinet of the New South Wales Liberals and The Nationals in developing policy, we can look forward to making New South Wales No. 1 again, after so many years of mismanagement by the New South Wales Labor Party.

CHIFLEY HOME EDUCATION CENTRE

The Hon. CHRISTINE ROBERTSON [6.37 p.m.]: Joseph Benedict "Ben" Chifley is an icon of the labour movement in Australia and is well respected across the political spectrum today. Chifley was the Federal member for Macquarie between 1928 and 1931, and from 1940 until his death in 1951. He served as Treasurer throughout most of the 1940s, in the Curtin Labor Government between 1941 and 1945, and then succeeding John Curtin as Prime Minister in 1945. As Prime Minister, Chifley was re-elected for the term 1946-49.

"Chif" is credited with being instrumental in many essential reforms of the Second World War years and the post-war reconstruction years. Policies for uniform national taxation and full employment, unemployment and sickness benefits, expanded access to university education, Federal funding of hospitals and the creation of the Pharmaceutical Benefits Scheme, as well as welcoming refugees from war-torn Europe as immigrants and giving Australia a leadership role in the establishment of the United Nations are some of the incredibly important policy achievements of Chifley's administration. Also importantly, Chifley established the Rural Reconstruction Commission in January 1943 charging H. C. "Nugget" Coombs with the director-generalship. The aim of the commission was to rehabilitate and improve the agricultural sector in anticipation of the end of the war and long years of reconstruction afterwards. Undoubtedly one of the greatest Australian Prime Ministers, Ben Chifley was Bathurst-born and bred and his home town is very proud of him.

I was very pleased to attend last Saturday, 18 September, the opening of the Chifley Home Education Centre in Bathurst by Prime Minister Julia Gillard. Funded by the New South Wales Government, the Australian Government and Bathurst Regional Council, the new Chifley Home Education Centre is adjacent to the home of Ben and Elizabeth Chifley in Busby Street, Bathurst. The Chifley home itself was opened to the public by Prime Minister Gough Whitlam in 1973. These great assets now provide an insight into the lives of humble folk from the 1940s, for Ben and Elizabeth Chifley certainly lived the modest lifestyle. I might say that every time I go into that house I feel like I am in grandma's kitchen. It is such a wonderful place to visit. A former locomotive engine driver, Ben smoked a pipe, preferred corned beef and potatoes and kept an austere room of the Kurrajong Hotel as his prime ministerial residence in Canberra.

The education centre now includes exhibition areas, an interactive education room with period furnishings and historical artefacts as well as a museum shop. This unique experience of the lives of the Chifleys is enhanced by film, sound grabs and displays, including a working 1940s laundry as well as a wireless and a telephone, key tools of Ben's parliamentary work. Clearly this will be an attraction for visitors to the city of Bathurst but also it will be a humble feature in the local social history. It is precisely the type of hard work and dedication that have gone into creating the Chifley Home Education Centre that befits the legacy of a man committed to social justice.

In the evening after the opening of the Chifley Home Education Centre, the twenty-sixth annual Light on the Hill Dinner was held with Prime Minister Julia Gillard as guest speaker. The host State member of Parliament, Gerard Martin, his staff and local Australian Labor Party branch members once again provided a great evening. The Prime Minister delivered an inspirational speech, and I recommend that members search it out and read it. It was a thoughtful and humble speech, indeed a great Labor speech. It acknowledged the difficulties of the Federal political situation while committing to working towards the betterment of all people,

an essential goal of Chifley's. Like Ben Chifley and his vision of a Snowy hydro scheme and his ability to achieve it, Julia Gillard is committed to delivering the National Broadband Network, which is so maligned by small-minded critics. As the Prime Minister said, "Broadband will be to the twenty-first century what the railways were to the nineteenth—not just an engine of growth, but a civic bond drawing our whole Commonwealth together." This infrastructure is incredibly important to country New South Wales. Visionaries are always lambasted for their ideas and that is probably why the achievements of people like Ben Chifley endure. Ben Chifley said:

> If I think a thing is worth fighting for, no matter what the penalty is, I will fight for the right, and truth and justice will prevail. I will try to think of the labour movement ... as a movement bringing something better to the people; better standards of living, greater happiness to the mass of the people. We have a great objective—the light on the hill—which we aim to reach by working for the betterment of mankind not only here but anywhere we may give a helping hand.

[*Time expired.*]

KELSO HOUSE FIRE

The Hon. RICK COLLESS [6.42 p.m.]: I speak today on the tragic house fire in Bathurst last week that claimed the life of a local four-year-old boy Billy Johns. Members will no doubt be aware that a Department of Housing managed property in McMenamin Place, Kelso, caught fire in the early hours of Wednesday last week. Local firefighters were quick to attend the scene and from all reports did a commendable job fighting the blaze and doing their utmost in trying to ensure that all residents were safe and accounted for. While Billy's mother, Jackie Kovacs, and her six other children aged between just seven weeks and 15 years were lucky enough to escape the blaze, tragically those at the scene were not able to save Billy. Although firefighters were able to pull Billy from the blaze, allowing him to be quickly transferred to hospital, sadly he was pronounced dead only a matter of hours after the fire took hold of his house.

At this time my thoughts are with Jackie Kovacs and her children in what must be a very trying and emotional time for them. I am sure all members offer similar condolences to the family. This tragic incident shook the Bathurst community. The death of a child is always heart-wrenching, particularly when the child is so young. The shock and grief that was evident in his mother's voice when she talked with the media after the fire, and which no doubt continue to be felt by her and by Billy's siblings, would be almost unimaginable to those of us who have never experienced such tragedy. However, one of the most troubling aspects of this heartbreaking incident was almost lost during the outpouring of grief by the Bathurst community. In the days after the blaze media reports were dominated by ongoing speculation about the cause of the fire.

The fact, as was reported in local press and television news bulletins, that a request had been lodged with the Department of Housing to replace a faulty hardwired fire alarm at the premises some time prior to the blaze is cause for great concern. While the cause of the blaze is still to be determined, the fact that Ms Kovacs and her family were not afforded every possible chance to escape the fire because of a faulty fire alarm is unacceptable. So far no answers have been provided as to when requests to fix or replace this fire alarm were first made to the department, or how long local residents have to wait after lodging requests to have faulty safety equipment fixed or replaced in their homes.

As is the case every winter, local firefighters have run a high-profile campaign about the importance of ensuring that both battery and hardwired smoke alarms are in perfect working order to give residents the best chance of escaping to safety should fire engulf their home. It seems almost inconceivable that the Department of Housing would not take heed of such warnings, particularly in a community as cold as Bathurst, and ensure that such essential safety equipment is properly installed and in good working order in all properties under its management. I have consistently heard concerns expressed by Kelso residents about the failure of the department to carry out basic maintenance on properties under its management in the Kelso estate and to ensure that work carried out by contractors on its behalf is done to an adequate standard, or in some instances done at all.

I have seen firsthand the shocking state of disrepair into which the Government has allowed some houses to slide, from gaps between flooring and walls through which the wind whistles in winter to garden maintenance jobs for which contractors are paid to carry out but fail to complete. I have spoken on a number of occasions about the problems facing the Kelso estate and about the frustrations of local residents in not being able to enjoy a sense of pride in their local community because of the State Government's inability to combat ongoing law and order problems in the suburb and also its reluctance to adequately address basic issues concerning the upkeep of department-owned properties.

The State Labor Government has sought to undertake an overhaul of public housing in the Kelso estate to the tune of $5 million, with the Minister for Housing, Frank Terenzini, coming to town only last month to spruik the safety benefits of the Government's so-called "Kelso Master Plan". While these funds are certainly welcome—they are certainly well overdue—unless the Government can get the basics right, such as ensuring that all local Department of Housing properties have essential safety equipment like properly functioning fire alarms, there can be no guarantee that such a tragedy will not befall some other family next winter. I will continue to seek answers on behalf of the Kelso community about why in this instance a working fire alarm was not in place and how many other local Department of Housing homes are awaiting similar urgent maintenance.

Again I extend my condolences to Jackie Kovacs and her family and offer my assistance in seeking assurances that such a tragedy will not be allowed to happen again for the want of something as basic and crucial as an operational fire alarm.

BREAST CANCER AND ABORTION

Reverend the Hon. FRED NILE [6.47 p.m.]: I speak tonight about breast cancer and pay tribute and my respects to 400 women who belong to an organisation called Women Exploited by Abortion [WEBA]. I pay tribute also to a brave leading breast cancer surgeon, Angela Lanfranchi, of Somerville, New Jersey, the United States of America. I make it clear that in no way am I being critical of women who have experienced the terrible disease of breast cancer. I am concerned with how to reduce its incidence. In an affidavit sworn in the United States District Court on 8 July 2010 in a case involving Planned Parenthood Dr Lanfranchi said:

> I am a breast cancer surgeon practising in New Jersey, since 1984. I hold the position of clinical assistant professor of surgery at Robert Wood Johnson Medical School. I am also a Fellow of the American College of Surgeons, and am certified by the American Board of Surgery.

She goes on to say:

> My work includes assessing risk factors of patients presented for evaluation, and induced abortion is one factor I consider routinely.
>
> I am a surgical co-director of the ... US Breast Care Center and chair of the Breast Institute at The Steeplechase Cancer Center in Somerville, New Jersey.
>
> I am co-founder and president of the Breast Cancer Prevention Institute, a non-profit charitable corporation that has as its mission to educate lay and professional communities in the methods of risk reduction and prevention of breast cancer through research, publications and lectures.
>
> As a breast cancer surgeon over the last 25 years, I have cared for ever-younger women with breast cancer; my youngest was 25 years old. There has been a 40% increase in incidence in invasive breast cancer over my career. I have researched the causes of these alarming increases over the past fifteen years and have become knowledgeable about the reasons for these trends, one of which is induced abortion ...
>
> Just last year alone, three studies from the United States, China and Turkey, confirmed that abortion is associated with increased risk of breast cancer ...
>
> Epidemiological studies have long confirmed that abortion is associated with increased risk of breast cancer, satisfying the Hill criteria for causation. These studies will necessarily continue to be produced because scientists know that in order to conduct valid studies concerning any risk factor all known variables must be controlled for, and induced abortion is one of them.
>
> The physiology of why abortion increases the risk of breast cancer is well-understood, as explained below.
>
> Briefly, the physiology is as follows. A lobule is a unit of breast tissue consisting of milk glands and ducts which carry the milk towards the nipple. Before the first full-term pregnancy, a women's breast is about 75% Type 1 and 25% Type 2 lobules where ductal and lobular breast cancers form respectively. By the end of the pregnancy, the breast is about 85% fully matured to cancer-resistant Type 4 lobules and only about 15% immature, cancer-vulnerable lobules remain, thereby reducing the mother's future risk of breast cancer. After weaning, Type 4 lobules become Type 3 lobules. There are permanent changes in the up and down regulation of genes in these Type 3 lobules conferring life-long reduction in breast cancer risk.
>
> During a pregnancy the absolute number of these lobules also increase as the breast doubles in volume with an increase in the number of lobules and a decrease in stroma (the surrounding connective tissue) ...
>
> Only after 32 weeks' gestation does the fetal-placental hormone human placental lactogen ... in concert with other hormones, fully mature the breast lobules into Type 4, making them cancer-resistant. An abortion before 32 weeks prevents this from occurring. The same physiology accounts for an approximate doubling in breast cancer risk due to premature birth before 32 weeks, as shown by several studies. In addition, it has been well-established by at least 2 meta-analyses that abortion increases the risk of future premature births. A combination of these two effects results in a further increase in breast cancer risk from abortion ...
>
> In light of the clear physiology linking abortion to breast cancer, and the numerous studies documenting the increased risk, physicians have a professional duty to disclose that abortion increases the risk of breast cancer.

Sadly, many doctors will not disclose those facts. [*Time expired.*]

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

Motion agreed to.

The House adjourned at 6.52 p.m. until Wednesday 22 September 2010 at 11.00 a.m.