

# LEGISLATIVE COUNCIL

Tuesday 19 October 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.

## ASSENT TO BILLS

Assent to the following bills reported:

Electronic Transactions Amendment Bill 2010  
 Evidence Amendment Bill 2010  
 Plant Diseases Amendment Bill 2010  
 Privacy and Government Information Legislation Amendment Bill 2010  
 Terrorism (Police Powers) Amendment Bill 2010  
 Law Enforcement and National Security (Assumed Identities) Bill 2010

## JOINT SELECT COMMITTEE ON PARLIAMENTARY PROCEDURE

### Appointment

**The PRESIDENT:** I report the receipt of the following message from the Legislative Assembly:

MADAM PRESIDENT

The Legislative Assembly having considered the Legislative Council's message dated 23 September 2010 proposing amendments to the resolution of appointment of a Joint Select Committee on Parliamentary Procedure, informs the Legislative Council that the Legislative Assembly agrees to the amendments.

Legislative Assembly  
 23 September 2010

RICHARD TORBAY  
 Speaker

### Membership

**The PRESIDENT:** I inform the House that the Clerk has received the following nominations for membership on the Joint Select Committee on Parliamentary Procedure:

Government member:	The Hon. Michael Veitch
Opposition members:	The Hon. Don Harwin The Hon. Trevor Khan
Crossbench members:	Reverend the Hon. Fred Nile Dr John Kaye

I inform the House further that on 6 October 2010 correspondence was received from the Clerk of the Legislative Assembly advising that the following members of the Legislative Assembly have been nominated to serve as members on the Joint Select Committee on Parliamentary Procedure:

Government members:	Ms Tanya Gadiel, MP Mr John Aquilina, MP Mr David Campbell, MP
Opposition members:	Mr Daryl Maguire, MP Mr Adrian Piccoli, MP
Crossbench member:	Mr Richard Torbay, MP

**Pursuant to resolution, the Committee will be chaired by the Speaker of the Legislative Assembly and me.**

**Message forwarded to the Legislative Assembly advising it of the nominations.**

### **CHILD DEATH REVIEW TEAM**

#### **Report**

**The President** tabled, pursuant to the Commission for Children and Young People Act 1998, a report entitled "A Preliminary Investigation of Neonatal SUDI in NSW 1996-2008: Opportunities for Prevention", dated 6 October 2010, received and authorised to be made public on 6 October 2010.

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

### **REGISTER OF DISCLOSURES BY MEMBERS**

**The President** tabled, pursuant to the Constitution (Disclosures by Members) Regulation 1983, a copy of the Register of Disclosures by Members of the Legislative Council for the period 1 July 2009 to 30 June 2010.

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

### **FIREARMS LEGISLATION AMENDMENT BILL 2010**

#### **Third Reading**

**The Hon. ROBERT BORSAK** [2.34 p.m.]: I move:

That this bill be now read a third time.

**Question put.**

**The House divided.**

#### **Ayes, 31**

Mr Ajaka  
Mr Borsak  
Mr Brown  
Mr Catanzariti  
Mr Clarke  
Mr Colless  
Ms Cotsis  
Ms Cusack  
Ms Ficarra  
Mr Foley  
Mr Gallacher

Mr Gay  
Ms Griffin  
Mr Hatzistergos  
Mr Khan  
Mr Lynn  
Mr Mason-Cox  
Mr Moselmane  
Reverend Nile  
Ms Parker  
Mr Pearce  
Mr Primrose

Mr Robertson  
Ms Robertson  
Ms Sharpe  
Mr Veitch  
Ms Voltz  
Mr West  
Ms Westwood

*Tellers,*  
Mr Donnelly  
Mr Harwin

#### **Noes, 5**

Mr Cohen  
Reverend Dr Moyes  
Mr Shoebridge  
*Tellers,*  
Ms Faehrmann  
Dr Kaye

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a third time and transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.**

### **EXECUTION OF SEARCH WARRANTS ON MEMBERS' PREMISES**

**Motion by the Hon. Kayee Griffin agreed to:**

1. That this House notes the report of the Privileges Committee entitled "A memorandum of understanding with the New South Wales Police Force relating to the execution of search warrants on members' premises", tabled on 23 September 2010, and in particular recommendation 1 of the committee:

"That the House resolve that the President enter into the 'Memorandum of understanding on the execution of search warrants in the premises of Members of the New South Wales Parliament between the Commissioner of Police, the President of the Legislative Council and the Speaker of the Legislative Assembly' set out in Appendix 9 of this report."

2. That this House authorises the President to enter into a memorandum of understanding with the Commissioner of Police concerning the execution of search warrants on members' offices in the terms set out in Appendix 9 to the report.
3. That a copy of the memorandum of understanding set out in Appendix 9 of the report be transmitted to the Legislative Assembly for its consideration and the Legislative Assembly be invited to pass a similar resolution.

**Message forwarded to the Legislative Assembly advising it of the resolution.**

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

**The Hon. John Robertson** tabled, pursuant to Standing Order 59, a list of all papers tabled in the previous month and not ordered to be printed.

### **GENERAL PURPOSE STANDING COMMITTEE NO. 3**

#### **Report: Macedonian Orthodox Church Property Trust Bill 2010**

**The Hon. John Ajaka** tabled report No. 23, entitled "Macedonian Orthodox Church Property Trust Bill 2010", dated October 2010, together with transcripts of evidence, submissions, tabled documents, correspondence and answers to questions taken on notice.

**Report ordered to be printed on motion by the Hon. John Ajaka.**

**The Hon. JOHN AJAKA** [2.45 p.m.]: I move:

That the House take note of the report.

**Debate adjourned on motion by the Hon. John Ajaka and set down as an order of the day for a future day.**

### **LEGISLATION REVIEW COMMITTEE**

#### **Report**

**The Clerk** announced the receipt, pursuant to the Legislation Review Act 1987, of the report entitled "Legislation Review Digest No. 13 of 2010", dated 18 October 2010, received out of session and authorised to be printed on 18 October 2010.

### **ALCOHOL LICENSING ENFORCEMENT COMMAND**

#### **Production of Documents: Return to Order**

**The Clerk** tabled, pursuant to resolution of 22 September 2010, documents relating to an order for papers regarding the Alcohol Licensing Enforcement Command received on 6 October 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****Coogee Bay Hotel Site**

Petition opposing any redevelopment of the site bounded by Coogee Bay Road and Arden and Vicar Streets under part 3A of the Environmental Planning and Assessment Act 1979, received from the **Hon. Don Harwin**.

**Euthanasia**

Petitions opposing euthanasia legislation and any attempts to legalise or decriminalise the practice of euthanasia, received from **Reverend the Hon. Fred Nile**, the **Hon. Greg Pearce** and **Reverend the Hon. Dr Gordon Moyes**.

**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. Dr Gordon Moyes**.

**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**.

**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**.

**BUSINESS OF THE HOUSE****Withdrawal of Business**

**Private Members' Business item No. 262 outside the Order of Precedence withdrawn on motion by Ms Kate Faehrmann.**

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

**Government Business Orders of the Day Nos 1 to 3 inclusive postponed on motion by the Hon. John Hatzistergos.**

**CONSTITUTION AMENDMENT (RECOGNITION OF ABORIGINAL PEOPLE) BILL 2010****Second Reading**

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [3.08 p.m.]: I move:

That this bill be now read a second time.

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

**Leave granted.**

I would like to acknowledge that we are on the traditional lands of the Gadigal people. I pay my respect to elders past and present from a range of areas within our community. It is humbling to have this opportunity, the opportunity to put before this House legislation to recognise our first people, our Aboriginal people, in the New South Wales Constitution Act, and it is inspiring. It is inspiring because I do so in confidence that this bill enjoys the support of all members of this House reflecting the goodwill of communities across New South Wales to our intention.

Our intention is to provide recognition, recognition that is long overdue. One hundred and eight years after its first passing our Constitution Act will acknowledge the first communities, the first nations, of what is now our State. While noting that this recognition is overdue this Parliament can still take pride in the steps we have already taken to honour and recognise our Aboriginal communities, perhaps most notably in the passage of the Aboriginal Land Rights Act 1983.

As well as taking real steps to redress the injustice and neglect of Aboriginal needs this Act included in its preamble an important statement by the Parliament on the spiritual, social, cultural and economic significance of land to the Aboriginal people of New South Wales. We now understand that this recognition should extend further, that it should not be bound to a single issue or Act but expressed as a principle of our democratic foundation so we are enshrining fundamental truths—the truth that our Aboriginal people are the first inhabitants of New South Wales; the truth of the spiritual, cultural and economic ties that bind our Aboriginal people to their traditional lands and waters; the truth in the diverse and unique contributions that our many Aboriginal nations, cultures and communities make to the life, economy and character of our State.

Now some may say that this legislation is "symbolism" but I trust that those who do also know the importance of symbols and their power to inspire and to shape our attitudes and actions. I trust they understand that the icons of our national and cultural identity are of themselves merely symbols. And I ask them to consider how they might feel if they had to live their lives in the absence of these symbols, in the absence of the recognition they proclaim, and in the absence of the identity they publicly provide.

I ask them to consider that in all our cultures and all our histories there are symbols, and then there are the meanings we attach to them. People have died for reasons that others might have called symbolic. There are times when symbols matter very deeply. Similar things could be and were said of aspects of the 1967 referendum. The referendum proposal that Aboriginal people no longer be excluded from the census was, from a perspective, symbolic. But it recognised that Aboriginal people were Australian people. And the impact of this "symbolism" was deep and far-reaching.

For by including Aboriginal people in our census issues that had been well known in Aboriginal circles but had been shrouded away from mainstream Australia were suddenly exposed on a national scale. Numerous insights emerged. Many of them were shocking and that shock kick-started much-needed improvements in health, education and services. Similar things could be and were said of the apology to the stolen generations made by this Parliament in June 1997, the first of its kind by any parliament in Australia. They were also said of the national apology in 2008.

Yes, these were symbolic gestures. They were deeply symbolic gestures because they were powerful and necessary expressions of the community's will. These are gestures of recognition and the emotion on display at their giving, perhaps most memorably in Canberra in 2008, tells us how powerful recognition is when it comes after generations of being denied.

Days like this are both emotive and empowering. And they truly serve as milestones for our whole community, reminding us of how far we have come together and showing the journey still ahead. In the words of Bev Manton, Chairwoman of the NSW Aboriginal Land Council:

There is a tendency to ignore the symbolic over the practical, but there is no good reason, of course, why we can't do both.

We can. And of course we are. Three months ago both sides of this House pledged to work in a bipartisan spirit to close the gap in indigenous disadvantage, specifically the gap in life expectancy. We pledged to work with non-government organisations and the community to improve indigenous health and equality for Aboriginal people across the board. And we are pressing ahead with fresh determination to implement our many measures to improve Aboriginal health, welfare and education. And what gives me the greatest hope in our ambition is that this is now finally an issue beyond politics. And our efforts can only be stronger for our agreements on this priority.

Many people deserve mention as we reach this historic milestone today, because what we see today is fulfilment of a collective expression. So I thank all those who have brought us to this proud day in our State's history. I thank the many New South Wales residents and members of this House who provided comment and feedback on the proposed changes. I thank the Leader of the Opposition for his support, enabling us to move forward with common resolve. Above all, I thank the Aboriginal people of New South Wales for their cooperation, understanding and patience.

This, like other moments in our journey to reconciliation, has been too long coming. And having lived with such recognition my entire life, I cannot begin to understand the tolerance required to live in its absence. I can barely imagine it. So while our commitment to true equality of opportunity in our State is primarily expressed in practical actions, our symbols do matter, especially those that reside in our pre-eminent legal framework. So I am grateful to be here today, to be in the room as our Parliament brings forward necessary and positive change. I commend the bill to the House.

**The Hon. MARIE FICARRA** [3.09 p.m.]: It is an honour to lead for the Opposition in debate on the Constitution Amendment (Recognition of Aboriginal People) Bill 2010. I acknowledge that we are on the traditional lands of the Gadigal people and I pay my respect to elders past and present. I am delighted to advise

of the Opposition's support for this bill, the objects of the bill being to amend the Constitution Act 1902 to provide for the recognition in that Act of the original people of New South Wales. As members would be aware, similar legislative recognition has been conferred in Victoria by way of a similar substantive enactment and in Queensland by way of one of the statements in a constitutional preamble. We acknowledge Aboriginal people as the first peoples of New South Wales and in doing so acknowledge their long history in this State and nation. Bipartisan support for constitutional recognition of Aboriginal people as the first peoples of New South Wales is a positive step towards reconciliation. The bill inserts the following section into the principal Act:

- (1) Parliament, on behalf of the people of New South Wales, acknowledges and honours the Aboriginal people as the State's first people and nations.
- (2) Parliament, on behalf of the people of New South Wales, recognises that Aboriginal people, as the traditional custodians and occupants of the land in New South Wales:
  - (a) have a spiritual, social, cultural and economic relationship with their traditional lands and waters, and
  - (b) have made and continue to make a unique and lasting contribution to the identity of the State.

I am proud that this Parliament was the first to offer a unanimous and sincere apology to Australia's indigenous communities. However, it is disappointing that New South Wales did not follow suit when in 1967 the Australian referendum was passed to ensure equality of indigenous Australians by the largest winning margin of any in the history of this nation—90.77 per cent of votes cast in favour and carried in all six States. The overwhelming support for the yes vote gave the Federal Government a clear mandate to implement policies to benefit Aboriginals. The 1967 referendum provided a symbolic meaning in relation to a period of rapid social change starting in the 1960s and gaining acceleration ever since. As a result, the referendum has been credited with initiating political and social change for Aboriginal people in this State and nation.

However, it saddens me to think that Aboriginal people were not recognised as Australian citizens until 1948, when a separate Australian citizenship was created for the first time. Before that time all Australians, including Aborigines, were British subjects. We recognise through historical facts that we dispossessed Aboriginal people; we took traditional lands and started breaking up traditional life and customs. Certainly we brought diseases and alcohol into their communities. Indeed, our Parliament sits on the site of the north wing of the Rum Corp Hospital, reflective of the large part that alcohol played in society in the early days of the colony. Murders, rapes, bashings, maltreatment, discrimination, removal of children from their families and exclusion were all committed against Aboriginal people in a so-called civilised society. We feel shame for our ignorance, prejudice and racism.

Aboriginal people from Queensland and Western Australia gained the vote in the Commonwealth Territories in 1962. However, the Commonwealth voting right of Aborigines from other States was confirmed by Commonwealth Act in 1949. While the Constitution already gave them that right, it was often interpreted differently prior to 1949. Aborigines were given the vote in the New South Wales State election in 1962 and the Queensland State election in 1965. I am proud that it was the Liberal Party that ensured the election of the first Aboriginal person to the Australian Parliament in 1971. Neville Bonner, AO, served in the Australian Senate until 1983. The quietly spoken, articulate Neville Bonner became a polished speaker, a capable administrator and a respected politician. He was born at Franklin Island, a small settlement on the Tweed River in northern New South Wales. He worked as a farm labourer before settling on Palm Island near Townsville, Queensland, in 1946 where he rose to the position of assistant settlement overseer.

In 1960 Mr Bonner moved to Ipswich where he joined the board of directors of the One People of Australia League [OPAL], an indigenous rights organisation. He became its Queensland president in 1970. He joined the Liberal Party in 1967 and held local office in the party. In the Senate, Senator Bonner served on a number of committees. In 1979 Neville Bonner was jointly named Australian of the Year and in 1984 was appointed an officer of the Order of Australia. In 1998 he was elected to the Constitutional Convention as a candidate of Australians for a Constitutional Monarchy. In July 1998, in another first, the Queensland Premier invited Neville Bonner to address the opening of the forty-ninth State Parliament ahead of the State Governor's Speech. Members of Bonner's indigenous tribe were traditional owners of the land on which the Queensland Parliament House was built. He said that delivering the address was a moment of great pride. Neville Bonner passed away at Ipswich in 1998 and in 2004 the Queensland Federal electorate of Bonner was created and named in his honour.

I sincerely hope that the bill we are debating today will bring benefits for Aboriginal people. There are so many areas that we as legislators need to address to ensure the improved welfare of Aboriginal people. Their

needs and interests have been inadequately and inappropriately addressed for too long. Indeed, I stray for a moment to note the Federal Parliament's ill-considered Wild Rivers Act that has locked up 10 river systems in Cape York. Fierce opposition by local and indigenous communities have gained a voice from their strong and genuine advocate Noel Pearson and the Leader of the Federal Opposition, Tony Abbott, who has spent so much time working and living amongst them as a teaching assistant and an assistant truancy officer. The Wild Rivers Act will be a social and economic disaster for the local indigenous people, a patronising affront to indigenous communities by white, urban, environmental ideologues. Noel Pearson stated:

... indigenous communities are weighed down by a toxic load of ideological rigidity, bureaucratic inertia, and a progressive political agenda which, when it comes to Aborigines, fixates on group identity over individual autonomy ...

It would appear that it is okay for indigenous people to hunt, fish and gather but not to develop their land according to sensible and sustainable guidelines. According to the rabid environmentalists, one cannot trust Aborigines with development control of their own lands yet, hypocritically, the Federal Indigenous Affairs Minister, Jenny Macklin, proclaims her Government's desire to assist regional Aborigines with economic development. We have heard so much rhetoric about closing the life expectancy gap. Years have passed with little progress; we know it will still take a generation. To his credit, Federal member Bob Katter named Labor's failure to secure private home ownership and land tenure for Aborigines in northern Queensland as one of his key reasons for refusing to support a minority Gillard Government.

Indigenous education attainment, employment and economic development remain the cornerstone to improvements in health, housing and social resilience for indigenous people. So much still needs to be done. I am proud to be the Liberal Party's representative on the Standing Committee on Social Issues under the stewardship of the Hon. Ian West as Chair of the committee. We inquired into one major social issue that has not progressed well since the time of white settlement in this nation; that is, overcoming indigenous disadvantage. We reported to this House in June 2009 and we continue to hope that, in a bipartisan fashion, we will work together to close the lifetime expectancy gap between Aboriginal and non-Aboriginal people, which is estimated to be 17 years.

The committee examined the impact on the current lifetime expectancy gap of the following factors: environmental health such as water, sewerage and waste, health and wellbeing, education, employment, housing, incarceration in the criminal justice system and other infrastructure. We travelled to Kempsey, Dubbo, Nowra and Redfern and with my colleagues I was delighted to meet with indigenous elders, representatives, service providers and organisations working with indigenous communities throughout the State. Unless an effective relationship is built with the indigenous community, current programs and services will continue to fail to address the substantial level of disadvantage experienced by Aboriginal people. Providing services in partnership with Aboriginal people from design to implementation is paramount. The amount of Federal funding allocated to New South Wales needs to be addressed, as current levels do not correlate with the fact that the majority of indigenous people reside in our State. Further analysis is required of the effectiveness and assessment of funding programs that are temporary and intermittent in nature.

Our committee noted that there has been some improvement in the literacy and numeracy levels of Aboriginal students in New South Wales. However, we remain concerned that these levels require significant improvement if indigenous students are to meet national benchmarks. It is important for indigenous people to establish links with family and community, and with culturally appropriate mentoring programs, as an effective way to encourage students in their education. The importance of employing indigenous staff as teachers and role models-mentors is vital.

It is evident from employment statistics that current policies and/or initiatives have not been enough to make substantial inroads into indigenous unemployment. Many reasons exist for this, including poor education levels and early disengagement of indigenous students in the education process, and a lack of employer understanding. The important role played by indigenous elders and their communities in providing support for indigenous employment and youth programs was clear to our committee. The building of trust and respect between indigenous communities, government and prospective employers is critical to the provision of indigenous employment opportunities in the long term.

A vital issue in addressing indigenous disadvantage is the availability of affordable housing and the coordination of programs for social housing in New South Wales between urban, regional and rural areas. There is a need to better address the unmet housing needs of indigenous people, most of whom live along our coastline and in urbanised centres. Overcrowding remains a fundamental problem within the indigenous community.

There continues to be a pressing need for various providers and funding programs to work together strategically to provide affordable, appropriate housing for indigenous people. Ideally, there should be local community participation in the housing design and delivery process.

Funding for, and the provision of, community training for property maintenance needs to be better addressed by government agencies. It is totally unacceptable that some indigenous communities do not have the basic infrastructure and access to water and sewerage that the rest of the population simply takes for granted. We must always look at opportunities for strengthening cultural resilience within Aboriginal communities in New South Wales, with a focus on language, cultural identity, economic development and self-determination.

I share the frustrations of all Australians, of previous governments, and of all the committees that have looked into indigenous disadvantage. It was quite moving to hear from the elders and from community groups of their sincere efforts in achieving culturally appropriate, effective and long-lasting outcomes so we can genuinely improve indigenous life expectancy—not only their longevity but also their quality of life.

The New South Wales Liberals and Nationals look to the future with hope and sincerely wish that this legislation, the Constitutional Amendment (Recognition of Aboriginal People) Bill, receives verbal support and results in tangible improvements to the lives of so many indigenous families in New South Wales. New South Wales has the largest population of Aboriginal people in Australia, and much more needs to be done to bridge the vast disparities between Aboriginal and non-Aboriginal Australians in this State. I commend the bill to the House.

**The Hon. LUKE FOLEY** [3.23 p.m.]: The Constitution Amendment (Recognition of Aboriginal People) Bill 2010, which will amend the Constitution of our State, allows us to embrace the contribution of Aboriginal people as our first peoples. It is a milestone on our road to proper reconciliation that began on 19 June 1997, when the New South Wales Parliament apologised to members of the stolen generation. It has taken us 222 years to reach this point, as the descendants of the first European colony. This proposed new provision to be inserted in the Constitution is both an acknowledgement of where we have come from and a reflection of the vision we have for New South Wales. We strive for a society based on the principles of democracy, freedom, peace and equality. Above all, the preamble acknowledges the significant contribution made by the many nations that represent the Aboriginal people of New South Wales. There is a rich heritage of the connection to land, to language, and to things that make this country unique. Australia is unique among the nations of the world in being home to this remarkable, ancient, living culture. The steps we are taking to acknowledge the Aboriginal people of New South Wales are being applauded in Aboriginal communities. This is what Aboriginal people want.

Since the bill passed through the other place, Aboriginal people have reminded the Government that they want this important symbolic gesture to be supported by action in areas where it is most needed. The New South Wales Government has engaged with Aboriginal communities and the Australian Government to provide practical outcomes to make the promises of the constitutional recognition more real and meaningful. Much is being done right across Australia, under Council of Australian Governments [COAG] agreements, on closing the gap on Aboriginal disadvantage. Walgett and Wilcannia are the two communities in our State where work will be undertaken as part of the COAG agreement on remote service delivery. That agreement prescribes how the New South Wales and Australian governments and Aboriginal communities will work together to deliver better outcomes for Aboriginal people.

The Aboriginal people of Walgett are predominantly from the Gamilaraay, Yuwaalaraay and Ngayimbaa nations and include the communities of Gingie Village and Namoi Village. The population of Walgett, including Namoi Village and Gingie Village, is estimated at 2,260 people, of whom a majority, 1,220, are Aboriginal. I am encouraged by work being done in Walgett and Wilcannia to develop priority actions to improve the access to and coordination of quality services. Both communities are very strong and proud of their cultures. At Wilcannia Central School the students learn Paakintji language, and in Walgett the schools are teaching Gamilaroi language.

The New South Wales Government has made progress in helping these communities strengthen community governance and increase opportunities for their people. This work involves the communities making the decisions that improve services and make them culturally appropriate. Aboriginal peak bodies in Walgett and Wilcannia have developed a local implementation plan to provide local answers to local problems. The first iteration of the local implementation plan has been endorsed by the Walgett Gamilaroi Community Working Party. Walgett and Wilcannia Aboriginal communities are showing the benefits of effective partnerships with

Walgett Shire Council and the New South Wales and Australian governments. The New South Wales Government is providing programs and services for Aboriginal people in remote communities. Wilcannia is located on the banks of the Darling River, 965 kilometres north-west of Sydney and almost 200 kilometres from Broken Hill. The Barkindji people have been calling the area in and around Wilcannia home for some 40,000 years. Two former Aboriginal reserves are located on the outskirts of town—Mallee Mission and Warrali Mission.

In 1983, after the passing of New South Wales land rights legislation, both the Mallee and Warrali estates were transferred to the Wilcannia Local Aboriginal Land Council. In the 2006 census the Aboriginal population of Wilcannia, including the Mallee and Warrali missions, was 453—the Aboriginal population represented two-thirds of the total population. By 2026 the Aboriginal population of Wilcannia is projected to grow by 41 per cent and the number of Aboriginal people under 20 is also predicted to increase by 14 per cent over this period. The changing size and age composition of the Aboriginal population in Wilcannia will increase the need for housing, employment opportunities and aged care and health facilities in particular.

The Government is engaging with the State's Aboriginal communities to deliver better government services and programs. It is making sure the changes to the Constitution are matched by real action. It is working to deliver on key priorities identified in stage one of the National Partnership on Remote Service Delivery agreement. The local implementation plans for Walgett and Wilcannia include program support for local men's groups and support for youth-related priorities and housing priorities. An amount of \$2.21 million has been allocated under stage two of the Australian Government's housing repairs and maintenance program for four remaining Aboriginal Land Council houses at Walgett. Some of the priorities to be addressed include a petrol-sniffing prevention initiative in Wilcannia and care for the elderly. Other priorities to be addressed in Wilcannia and Walgett include early childhood facilities, improving school attendance, revision of alcohol accords and a leadership program that involves governance training for community members.

Since the late 1990s local Aboriginal community working parties have existed in the region and have supported the implementation of the Aboriginal Communities Development Program, Council of Australian Governments trials, the Murdi Paaki Regional Partnership Agreement, the New South Wales partnership community program and now remote service delivery in Wilcannia and Walgett. This constitutional amendment acknowledges where we have come from and reflects the Government's vision for New South Wales. I commend the bill to the House.

**The Hon. ROBYN PARKER** [3.32 p.m.]: I support the Constitution Amendment (Recognition of Aboriginal People) Bill 2010. I begin by acknowledging the traditional owners of this land, the Gadigal people; all elders past and present. This acknowledgment is often made but it is particularly significant today with the passage of this bill. I also acknowledge that the Aboriginal people of New South Wales were the first custodians of this land. This acknowledgment is sometimes made in a glib fashion but it is important for our traditional custodians to be acknowledged with respect and should not be skipped over. Today is an acknowledgement of the importance of indigenous people in the history of our State, and it is overdue. I thank our Aboriginal people for their patience, tolerance, resolve and strength. Words are often spoken in recognition of all indigenous people in this House but with this bill—which I am sure will be passed with the undivided support of this House, as it was in the other place—new meaning of recognition will be woven into the very fabric of our great State.

It is a great honour to sit here as the elected representatives of all the people of this State but it carries great responsibility, and the indigenous people of this State have not always been served well by us. Aboriginal people still suffer considerable disadvantage. As the member for Canterbury, Ms Linda Burney, pointed out when speaking in support of this bill, this place stands only footsteps away from where in 1788 the British colony of New South Wales began. Along with that came the displacement of the country's first people, not only through the violence and diseases brought by the Europeans but, most regrettably, through many of the laws they made. Since that time steps towards reconciliation have been slow at best but we have had successes along the way. This Parliament was Australia's first to offer a genuine and unanimous apology to Australia's indigenous communities, and today we are gathered in the same spirit of unity with a bona fide offer of recognition and reconciliation on behalf of all the people of New South Wales.

We often have disagreement in this place but rarely disagreement as to acknowledgement of the Aboriginal people of New South Wales. By supporting this amendment to the Constitution without qualification this Parliament is acknowledging that Aboriginal people were the first people in New South Wales; that there are spiritual, cultural and economic ties binding our Aboriginal people to their traditional lands and waters; and

that the New South Wales indigenous population has made a unique lasting and ongoing contribution to this State's identity. Importantly, it places these facts beyond dispute and demonstrates that recognition of and reconciliation with New South Wales indigenous communities is now an issue that transcends and is beyond politics, and of that I am immensely proud.

Some who will look at the steps taken by this Parliament today will say they are merely symbolic; not enough. It is a symbolic gesture but it is important to match those symbolic words and sentiments with action. Many members have already eloquently placed on the record, and many others will during the debate, that there is a significant gap in health and lifestyle expectations between non-indigenous and indigenous communities in New South Wales. I say to those who may question whether this is enough that the practical and the symbolic are not opposed to one another; they complement one another. Symbols often say much more than words can. Symbols have the power to shape attitudes and beliefs. They also have the power to inspire and engender action where none has been taken before. But I agree that this is not enough. Recognition is important but without real results in the improvement of the lives of Aboriginal people it is empty.

We know the gap that exists between indigenous and non-indigenous Australians is not closing quickly enough. The life expectancy of Aboriginal people is lower than the Australian average. Aboriginal people suffer from higher rates of disease such as heart disease, kidney disease and diabetes, and it is undisputed that these rates have increased over the last decade. The rate of unemployment amongst our Aboriginal people is at least three times higher than in the rest of the New South Wales community. The rate of young people and children in care is significantly higher and increasing. The New South Wales Aboriginal Housing Office has indicated that overcrowding in Aboriginal dwellings is increasing across New South Wales. In relation to education, the Two Ways Together report that was released in 2009 concluded:

There is a significant gap in the achievement of Aboriginal students in years 3, 5, 7, and 9 relative to non-Aboriginal students in New South Wales in both reading and numeracy in the NAPLAN test results for 2008.

I could go on, but today is not the day to talk about such issues. I acknowledge the eloquent speech of the Hon. Marie Ficarra, in which she outlined the results of an inquiry undertaken by the Legislative Council Standing Committee on Social Issues. In many ways that report still stands and shows the way forward. I have acknowledged in the past and want to place on the record again my admiration for the work done by that committee. It took on a difficult task. The Government, whoever is in office, must follow its recommendations and be vigilant in closing the gap.

While today is a day for celebration, those sobering facts continue to dwell on our consciences. In a country as fortunate as Australia and in a State as great as New South Wales they are unacceptable facts. Recognition is one step, but there is no doubt that we have a long way to go. Equality of citizenship will not be achieved without equality of opportunity, and equality of opportunity will not be realised until Aboriginal communities have the same choices and opportunities as the rest of the New South Wales community. It will require strength, resolve and commitment. With steps like these taken today I believe we can be optimistic. Australia is a great country. It should be a great country for all its people, especially its first communities. New South Wales is a great State. It should be a great State for all its people, especially its first communities. Today is a start, one step, but it is certainly not the end. We have a long road to travel yet. I wholeheartedly commend the bill and look forward to the contributions of other members.

**The Hon. HELEN WESTWOOD** [3.42 p.m.]: I speak in support of the Constitution Amendment (Recognition of Aboriginal People) Bill 2010, which is a significant piece of legislation. The bipartisan support for the bill is testament to its significance and importance in recognising the wrongs of the past. It is but one of our attempts to address those wrongs and to rectify the errors we have made that has led to such disadvantage and discrimination against the first Australians. The amendments to the Constitution Act 1902 recognise Aboriginal people as the first people of New South Wales and their contribution to the State's identity. They state:

- (1) Parliament, on behalf of the People of New South Wales, acknowledges and honours the Aboriginal people as the State's first people and nations.
- (2) Parliament, on behalf of the People of New South Wales, recognises Aboriginal people as the traditional custodians and occupants of the land in New South Wales:
  - (a) have a spiritual, social, cultural and economic relationship with their traditional lands and waters, and
  - (b) have made and continue to make a unique and lasting contribution to the identity of the State.
- (3) Nothing in this section creates any legal right or liability, or gives rise to or affects any civil cause of action or right to review an administrative action, or affects the interpretation of any Act or law in force in New South Wales.

Public submissions on the proposed wording of this amendment, which the Government invited during a two-month consultation period, have informed this final amendment. The submissions received by the Government were overwhelmingly in support of the proposal. Aboriginal Affairs NSW invited submissions on the proposal up to mid-August 2010. To assist in this process a discussion paper was provided. The paper outlined recent events, including former Prime Minister Kevin Rudd's apology in 2008 to the stolen generation. Cited too was the resolution passed in 2009 by the Local Government Association of New South Wales annual conference calling for the New South Wales and Australian governments to insert a preamble into their respective constitutions recognising that Aboriginal and Torres Strait Islander peoples as the first peoples of this country.

Historically, local government has been well ahead of State and Federal governments in the acknowledgement of the first Australians. I had an opportunity to be part of the Local Government Association when delegates from the Aboriginal land councils were equal to delegates of regional, city and metropolitan-based councils. The Aboriginal land council delegates played a significant role in the association and in the development of its policies and priorities. Their representatives were members of the Local Government Association executive for a number of years that I served on that executive. Constitutional recognition provides a landmark in reconciliation between Aboriginal and non-Aboriginal people. The steps we are taking to acknowledge the Aboriginal people of New South Wales already are being applauded in Aboriginal communities. It is what Aboriginal people want.

The New South Wales Aboriginal Land Council chairwoman Bev Manton pointed out that it has taken 108 years to recognise Aboriginal people in the New South Wales Constitution. That is clearly far too long. The New South Wales Aboriginal Land Council, which sought the amendment to the Constitution at last year's Local Government Association conference, said that the amendments also will go a long way to help Aboriginal residents of New South Wales feel more a part of this great State. Ms Manton said:

It's extremely heartening that the Keneally Government has recognised the importance of this symbolic gesture.

There's a tendency today to ignore the symbolic over the practical, but there is no good reason, of course, why we can't do both.

Ms Manton said the changes would help Aboriginal people to feel more connected and included. She continued:

It will help make Aboriginal people feel more a part of the great State of New South Wales, and I thank the Premier and Minister Paul Lynch for their foresight and their leadership on this important issue.

Constitutional recognition reminds us that the determination to close the gap in a range of indicators continues. I applaud the work that is being done in the remote Aboriginal communities of Walgett and Wilcannia and, indeed, in remote Aboriginal communities across Australia. However, I remind members that the need for action in Aboriginal communities is not confined to remote communities such as Walgett and Wilcannia or, indeed, those of the Northern Territory, remote far north Queensland and the Kimberley region of Western Australia. According to the 2006 Australian census New South Wales has Australia's largest population of Aboriginal people and most of these Aboriginal people live in the urban areas of Newcastle, greater Sydney and the Illawarra.

New South Wales is taking the lead in urban and regional strategies to provide a focus in the national agenda for Aboriginal people in regional and urban areas of New South Wales. The Government is committed to closing the unacceptable gap in disadvantage between Aboriginal people and the wider population. The New South Wales Government welcomes the opportunity to work in partnership with the Australian Government and other jurisdictions in meeting the key targets set by the Council of Australian Governments [COAG]. In 2007 COAG established the Working Group on Indigenous Reform to lead the reform necessary to achieve these goals. In November 2008 COAG endorsed the overarching National Indigenous Reform Agreement. Through COAG all levels of government have agreed to work in partnership with Aboriginal communities to close the gap in Aboriginal disadvantage.

The six targets set by COAG are to: close the gap in life expectancy within a generation; halve the gap in mortality rates for indigenous children under five within a decade; ensure all indigenous four-year-olds in remote communities have access to early childhood education within five years; halve the gap for indigenous students in reading, writing and numeracy within a decade; halve the gap for indigenous students in year 12 attainment or equivalent attainment rates by 2020; and halve the gap in employment outcomes between indigenous and non-indigenous Australians within a decade. The New South Wales Government has provided a leading role on the Working Group on Indigenous Reform and New South Wales led the development of the

Urban and Regional Service Delivery Strategy. Through the National Urban and Regional Service Delivery Strategy the Government will deliver on its commitment to meeting the Closing the Gap targets. Ninety per cent of the New South Wales Aboriginal population live in urban or regional areas and 39 per cent live in major cities, including Sydney. That is important, especially when unemployment in some urban areas is higher than in remote communities.

A key focus of the strategy is leveraging the significant commitments contained in a number of mainstream national partnership agreements to ensure that the very real needs of Aboriginal people in urban and regional communities are addressed. Additionally, the Urban and Regional Service Delivery Strategy addresses the following priority areas: integration and governance; effective services; focusing on local need/place-based approaches; strengthening capacity, engagement and participation; and building effective accountability and sustainability.

The Constitution will enshrine the fact that Aboriginal people are the first people in New South Wales. It recognises the contribution that Aboriginal people continue to make in our State. Constitutional recognition demonstrates this Government's determination to close the gap on Aboriginal disadvantage and to advance the wellbeing of Aboriginal people in New South Wales. This is a historic moment for the people of New South Wales and it is supported by action by the Government in the Aboriginal communities of our cities and regional centres. I commend the bill to the House.

**The Hon. IAN COHEN** [3.51 p.m.]: I too acknowledge, as prior speakers have acknowledged, that we are on the traditional lands of the Gadigal people of the Eora nation. I pay my respects to their elders, past and present, and I also pay my respects to elders, past and present, of all first nations across New South Wales. On behalf of the Greens I support this historic amendment to the New South Wales Constitution. The Constitution Amendment (Recognition of Aboriginal People) Bill 2010 has been 108 years in the making. I congratulate the New South Wales Aboriginal Land Council on pushing forward with its call for constitutional recognition of Aboriginal people and I acknowledge the work of the Minister for Aboriginal Affairs, the Hon. Paul Lynch, in consulting with Aboriginal people, members of Parliament and relevant stakeholders on the proposal. The Minister should be congratulated on his work on this proposal. The constitutional amendment proposes to insert a new section 2 into the New South Wales Constitution. Proposed section 2 states:

- (1) Parliament, on behalf of the people of New South Wales, acknowledges and honours the Aboriginal people as the State's first people and nations.
- (2) Parliament, on behalf of the people of New South Wales, recognises that Aboriginal people, as the traditional custodians and occupants of the land in New South Wales:
  - (a) have a spiritual, social, cultural and economic relationship with their traditional lands and waters, and
  - (b) have made and continue to make a unique and lasting contribution to the identity of the State.

Without the recognition and acknowledgement of Aboriginal people and nations our State Constitution would remain a falsification of our history, much in the way terra nullius constricted the development of laws in Australia. In that sense symbolism is important: it feeds into our collective psyche and permeates our culture and institutions. Imagine living on land and in communities whereby your history and elders and relationship with the land remained unidentified in that society's key institutions. This State should not deny the first nations of this land the dignity, pride and respect for more than 40,000 years of living on country. The importance of acknowledging the spiritual, social, cultural and economic relationship between Aboriginal peoples and their lands is evident when we consider the very nature of that relationship. Indigenous academic Steve Kinnane states:

The concept of country does not allow for a separation of people, land and waters. In an Indigenous vision of country, economy, spirituality, knowledge and kin are all related and interconnected. Country is not seen as being "owned" as in the Western tradition. Rather, country is held in a reflexive, obligatory way.

In the Victorian Constitution the State acknowledges that the very establishment of the Constitution was created without the recognition of or negotiation with Aboriginal nations. That is an important point that we should always remember. The creation of our State Constitution occurred without the involvement of or negotiation with the Aboriginal nations of country. We should acknowledge that the process of colonisation and dispossession, which contributed to the very foundations of our State Constitution, actively denied Aboriginal self-determination.

I do not think any member in this House is under the illusion that the symbolism of this constitutional reform will in its own right solve the disadvantage faced by Aboriginal people in New South Wales. I am

hopeful that the constitutional recognition of the State's first nations will translate to a sincere recognition of the traditional custodians of this State in all dimensions of government and community. This means providing a framework for land councils to achieve community development objectives, investing in education programs that give Aboriginal children the best start in life, providing culturally appropriate services to Aboriginal people with disabilities, protecting Aboriginal heritage from destruction, delivering opportunities to manage cultural water and securing health services that enhance life expectancy.

I will now discuss proposed subsection (3). As we have heard, the proposed constitutional amendment does not create any additional legal rights, it does not give rise to or affect any civil course of action or right to review an administrative action, and it does not affect the interpretation of any Act. The provision appears to be generally consistent with provisions adopted in the Victorian and Queensland Constitutions that recognise Aboriginal people. This consistency in recognition is important considering some Aboriginal nations span State borders. The argument put forward by the Government for the inclusion of subsection (3) is that the Government is committed to addressing Aboriginal disadvantage through integrated program delivery in key areas such as health, education and training, and housing. Program delivery for Aboriginal communities is important.

The Government is correct in stating that we desperately need to close the gap of Aboriginal disadvantage. Aboriginal and non-Aboriginal communities need to devote vision, commitment and resources to address the disparities in education and health outcomes. This State's commitment to closing the gap on indigenous disadvantage should always be understood as inalienable and non-negotiable. There has always been bipartisan support for closing the gap on Aboriginal disadvantage. The Parliament has legal, ethical and moral obligations to ensure Aboriginal people have the same opportunities as non-Aboriginal people. Yet, I am not sure what program delivery has to do with legal rights.

It is in this construct that I find it strange that some people talk about government program delivery and the exercise of basic legal rights by Aboriginal people as an either/or proposition. Is it an adequate and satisfactory defence to denying legal rights to provide essential programs in core portfolios such as health, education and housing? Certainly, the Government is within its mandate to provide program delivery to encourage people to not exercise legal rights. However, this does not mean we have this either/or proposition. Acknowledging legal rights is not tantamount to throwing money at people, as I heard someone suggest earlier this week; it is a guarantee that if a government stalls in remedying Aboriginal disadvantage our courts will ensure essential rights are restored that will drive equal opportunity and grow community social, cultural and economic prosperity.

This is not to deny the challenging questions and unresolved philosophies about the source of Aboriginal rights and how they are to be given expression and fulfilled within the State's legal framework. Aboriginal rights have found expression in our legislation, including the Aboriginal Land Rights Act, the Water Management Act and the Fisheries Management Act. Aboriginal rights have also found expression in our legal system through native title cases and natural resource and environmental challenges. The diversity of sources often raises the question of whether Aboriginal rights should be reflected by sui generis legislation and case law precedent, or is it more appropriate that Aboriginal rights have formal constitutional recognition? It is a challenging question. The Greens are uncomfortable about the inclusion of the exclusionary provision. We have listened to both Aboriginal and non-Aboriginal communities and the message is clear: This country wants to move forward with reconciliation. This country still has many miles to walk on the path to reconciliation.

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

### **NATIONAL WEEK OF DEAF PEOPLE**

**The PRESIDENT:** I welcome to the public gallery visitors taking part in activities during the National Week of Deaf People, a week-long national celebration of deaf individuals and the deaf Australian community. They are guests of the Hon. Helen Westwood. Interpreters from the Deaf Society will interpret question time into Auslan for members of the deaf community who are here today.

### **QUESTIONS WITHOUT NOTICE**

#### **NEWCASTLE JETS AND LA GALAXY EXHIBITION GAME**

**The Hon. MICHAEL GALLACHER:** I direct my question without notice to the Treasurer and Minister for State and Regional Development. Is the Treasurer aware of public confirmation of negotiations by

the Newcastle Jets to secure an exhibition game, to be played in Newcastle, involving the LA Galaxy team? Given David Beckham's extraordinary power to draw local, interstate and international visitors and the tourism that would result, what consideration is the Government giving to supporting the visit? Will the Treasurer ensure that Events New South Wales provides assistance to the Newcastle Jets with the organisation of the game, if they request assistance?

**The Hon. ERIC ROOZENDAAL:** I am certainly aware of David Beckham and LA Galaxy. In fact, I remember that the last time the LA Galaxy team played in Sydney Beckham had a shot at goal and scored. He did exactly as the movie suggested—he bent it like Beckham. He is a stunning player but with some dispute that he is still at his peak. I will let others decide that. I do not pretend to be a soccer aficionado. My two young sons assure me that there are better players, and I always defer to their expertise. The Government is considering the issue.

### BAIL LAWS

**The Hon. CHRISTINE ROBERTSON:** I address my question without notice to the Attorney General. What is the latest information on initiatives to modernise and improve the Bail Act 1978?

**The Hon. JOHN HATZISTERGOS:** Last week the Government released a review of the State's bail laws and a draft amending bill for public comment. As members are aware, the Bail Act is now 25-years old and has been repeatedly amended. Those amendments have had positive impacts; for example, the absconding rate has declined 46 per cent. The draft bill provides for the first time clear objectives to guide decision-making to ensure that defendants turn up to court, that the community is protected and that no-one interferes with the course of justice. The bill is clear and simple to navigate and, if passed, will allow police officers to devote much more time to frontline duties, assist the judiciary to apply the law consistently and make it easier for victims and defendants to understand the process.

The review has not recommended changes to section 22A of the Bail Act, which provides that a person is prohibited from making repeated applications for bail in the same court if no new information is brought forward. The review notes that the section does not prohibit a person from applying for a new hearing in a higher court if the person is unhappy with the lower court's decision. It also notes that section 22A does not prohibit a person making a fresh application from reapplying for bail in the same court if the person intends to introduce new information. Contrary to the claims of Mr Shoebridge, the Greens spokesperson responsible for today's media release, I make it clear that section 22A does not "limit most accused to only one bail application". Mr Shoebridge erroneously stated in his media release:

At present if an accused makes an early or under-prepared bail application which is lost they lose the right to make any further application.

I am surprised that someone who prides himself on being a member of the bar would put his name to a media release that contains such blatantly wrong and misleading information. It is also important to remember why the Government amended section 22A of the Bail Act in 2007. The reasons were properly encapsulated by none other than shadow Attorney General Greg Smith. He said:

The aim of the bill, generally, is to restrict magistrate or judge shopping—and there is no doubt that that occurs, I have seen it.

He is not the only person who made that observation. The Hon. John Ajaka said:

The Opposition is committed to easing the stress on victims of crime and their families.

He also said:

The Opposition does not oppose an accused making only one application before a magistrate.

However, we appear to have had a policy shift yesterday. We saw what I can only describe as a shocking event—an alliance between the Greens and the Opposition. It was reported on AAP that the Opposition would "aim to scrap" section 22A of the Bail Act. I am concerned that this idea would allow criminal defendants to make an unlimited number of applications for bail in the same court, forcing victims of crime to undergo recurring anguish. The plan could also have a significant impact on police and court resources. We know of the Leader of the Opposition's concerns about that issue. Each time a new bail application is lodged, either a police officer or a prosecutor from the Office of the Director of Public Prosecutions must attend the court to deal with

it. In some cases, it is necessary to call the police officer concerned as a witness at the hearing. I doubt that the Opposition has properly assessed this proposal. As I said, the Government is seeking public comment on the review of the Bail Act and I anticipate receiving a joint submission from the Liberal Party, The Nationals and the Greens.

### COAL SUPPLY FOR ELECTRICITY GENERATION

**The Hon. DUNCAN GAY:** My question without notice is directed to the Treasurer. Does the Treasurer recall that the New South Wales Government sold out of coalmining a decade ago? Can he explain why, on the eve of establishing the gentrader, the Government is now talking about re-entering coalmining? Can he also explain who will be responsible for delivering the coal and the rail infrastructure and guaranteeing the coal quality? Given that we have known for many years that the coal contracts would expire, why was a proper planning process not put in place? Is the Treasurer aware that this Government's mismanagement of these contracts will result in hundreds of millions of dollars worth of losses for New South Wales taxpayers?

*[Interruption]*

**The PRESIDENT:** Order! I place the Hon. John Ajaka on a call to order for failing to set his mobile phone on silent mode.

**The Hon. ERIC ROOZENDAAL:** The New South Wales electricity generators require long-term supplies of fuel to ensure that the State's energy needs are met. The Government has acted decisively to secure significant long-term fuel supplies for existing generators. The Cabbora coal resource in the State's Central West is owned by New South Wales taxpayers and has been set aside to supply coal for electricity generation. This decision secures significant long-term fuel supplies at a price that is less distorted by external price pressures.

### WHEELCHAIR ACCESSIBLE BUSES

**The Hon. IAN COHEN:** My question is addressed to the Minister for Transport. Can the Minister advise the House of the percentage of wheelchair accessible buses operating in Sydney, outer metropolitan areas and regional New South Wales? What is the percentage of timetabling for wheelchair accessible buses in Sydney, outer metropolitan areas and regional New South Wales? Is the current level of funding sufficient to achieve the 2012 accessible buses timetable target of 55 per cent under the Disability Standards for Accessible Public Transport? Do all routes in the Sydney and outer metropolitan areas have some level of wheelchair accessible bus timetabling?

**The Hon. JOHN ROBERTSON:** As I have said previously in this place, the Government has already delivered 300 growth buses and the Metropolitan Transport Plan includes 1,000 additional buses. All of those buses will be accessible for those with a disability. The buses are air-conditioned and their delivery is part of the Government's commitment to continue to grow the bus fleet. Bus operators in the Sydney and outer metropolitan areas report on accessible services as part of their performance monitoring. I am advised that an average of 59.24 per cent of all buses in the Sydney metropolitan area and 31 per cent of all buses in outer metropolitan areas are wheelchair accessible.

The New South Wales Government is also purchasing more than 1,450 new buses over the next 10 years for State transit and private bus operators in the Sydney and greater metropolitan area. In the 2010-11 budget, the Government will provide over \$1.1 billion towards bus services, an increase of more than \$143.9 million on last year. The budget includes \$145 million to purchase 200 new growth buses. The first of those will be delivered under the Metropolitan Transport Plan. All 200 of the new growth buses will be air conditioned, wheelchair accessible and equipped with the latest driver and passenger safety systems.

As part of the New South Wales Government's bus reform program, new contracts require bus operators to develop action plans, showing how they will meet the requirements of the Disability Discrimination Act and Transport Standards as a condition of contract. The new contracts require operators to indicate clearly on their timetables where a service is accessible, helping people with mobility constraints to plan their trips.

### GUARDIAN TRAIN SERVICES

**The Hon. PENNY SHARPE:** My question is addressed to the Minister for Transport. What was the take-up of the New South Wales Government's new late night Guardian train initiative that started last weekend?

**The Hon. JOHN ROBERTSON:** The introduction last weekend of Guardian Trains is yet another initiative introduced by the New South Wales Government to improve safety on our rail network. The new late night Guardian services, introduced as part of the new 2010 CityRail timetable, are designed to help passengers feel safer travelling home on the train late at night. Over the weekend, on both Friday and Saturday night, one Guardian service started operating on the Central Coast, East Hills, South, South Coast, Western and Newcastle lines. As the House is aware, there is already a strong security presence on the rail network, with more than 8,700 closed circuit television [CCTV] cameras, a 24 hour security monitoring control centre and transit officers and police regularly patrolling trains and stations. The new Guardian service adds to this presence with extra security measures on board, including additional transit officers and monitoring of on-board closed circuit television cameras.

On Guardian services, transit officers travel on board for the duration of each train and work closely with the train crew and station staff to provide a reassuring, highly visible presence for customers. Officers close off all but the middle four carriages on some services, so passengers are not left sitting on a carriage alone or with just one or two people. Specific services on each of the six lines have been identified as Guardian, and they are marked with a "G" on the timetable online. In addition to the actual train service, CityRail staff and security guards are present at hub stations along each line each Friday and Saturday night when the services arrive. These Guardian services were chosen based on customer feedback about when they are most likely to catch the train home from the city late at night.

I am pleased to report that on the first weekend of operation, there was a strong take-up amongst commuters of the new Guardian services. On Friday night, for example, many commuters decided to catch a new Guardian service home, with loads of around 80 per cent on most services; that is 80 per cent of seats of these services were occupied. I am advised that there was a similar take-up of passengers on Saturday night. This is a great initiative and I am pleased that even from the first weekend so many people heading home late from the city have chosen to use the Guardian service. The new Guardian services supplement other RailCorp security initiatives, which have already proven very successful in reducing the incidence of recorded crime on all rail premises. In addition to the 8,700 closed circuit television cameras across the CityRail network, 24 hour rail security control centre, transit officers and police patrolling the network, the Government has also installed help points on every train station on the CityRail network, allowing the security control centre to live monitor reports from customers and staff about security incidents.

The New South Wales Government knows that security on the rail network is an important issue and that is why we are continuing to do more. In addition to the Guardian services, we are buying new trains with more security features, such as closed circuit television in their carriages. We are hiring additional transit officers, and we are continuing the roll-out of closed circuit television monitoring, with more than 320 closed circuit television cameras installed across the network over the past year. We are introducing thousands of new car parking spaces close to stations that have closed circuit television monitoring, and security lighting and fencing. These measures are working; there has been a 30 per cent fall in recorded offences against the person on rail premises since transit officers were introduced in 2002. The latest available full financial year data from the Bureau of Crime Statistics and Research shows that on rail premises all 17 major crime categories have either fallen, remained stable or could not be calculated as the incident counts were too small. This shows that the security strategies employed by RailCorp are having an impact and improving safety on the rail network.

#### **VANDALISM OF SOUTH CREEK STATION TRAIN**

**Reverend the Hon. Dr GORDON MOYES:** I ask the Treasurer, representing the Minister for Police, is he aware that a South Creek station train, representing the Vietnam Veterans Association, was recently vandalised outside of St Marys RSL? Is the Minister aware that members of the Vietnam Veterans Association and St Marys RSL had personally paid for the maintenance and restoration of the train especially for Remembrance Day celebrations on 11 November? Is the Minister aware that this historically significant train has been targeted by vandals three times already and that the recent damage will take three weeks to restore and will cost them some \$3,000? Can the Minister indicate what the police are doing to combat hooligan behaviour where significant historic tributes are openly vandalised, and also what is the Minister doing to protect these tributes from future vandalism?

**The Hon. ERIC ROOZENDAAL:** I thank the honourable member for his question. I will pass it on to the Minister for Police to respond.

#### **HOUSING AND LAND SUPPLY**

**The Hon. GREG PEARCE:** I direct my question to the Treasurer. According to the Metropolitan Development Plan, New South Wales Treasury modelling was the basis for the Government's target in the 2006

State plan of achieving 55,000 potential dwellings zoned with lead-in infrastructure by 2009 and the purpose of that was to ensure a continual and adequate supply of land, yet only 30,167 such lots are now ready for subdivision. Based on Treasury modelling, why was the target missed, and what is the Keneally Labor Government currently doing to address this shortfall in land supply?

**The Hon. ERIC ROOZENDAAL:** I thank the honourable member for his question and I am happy to refer the issue of land supply to the Minister for Planning. I will take the opportunity to reflect on a number of announcements made by the Keneally Government in relation to both the challenge of dwellings and the demand and supply side. I think it is appropriate to reflect on the zero stamp duty initiative, the first zero stamp duty initiative by any State Government in Australia for new dwellings bought off the plan up to the value of \$600,000, zero stamp duty to encourage people to buy off the plan. The importance of doing that was to allow builders to get that very important finance, because as we know there has been a tightening of finance supplied to builders doing these developments. It was important to encourage people to buy off the plan so they could hit their presales target to secure the important finance to bring forward projects.

The other day I was driving along Parramatta Road and I noticed an advertisement for a new development which indeed emphasised zero stamp duty and the opportunity presented by the Government. I think that underlines one of our many strategies to support the housing industry, to encourage projects out to market and to deal with the challenges of reduced finance, but of course our support does not finish there. There is also the stamp duty concession for houses that are already under construction; there is a stamp duty concession for the over 65s that are downsizing, if they sell their place of residence and buy a newly constructed home—all initiatives by the New South Wales Government to support the housing supply, but it does not finish there. There are the reforms announced by the Minister for Planning in relation to the section 94 contribution. There have been substantial reductions in infrastructure levies implemented by the State. We have taken a multi-faceted strategy to address both supply and demand challenges in ensuring dwellings for the future in this State.

#### CARERS WEEK

**The Hon. IAN WEST:** I address my question to the Minister for Disability Services. Can the Minister advise the House on how the New South Wales Government is recognising the contribution of carers during Carers Week?

**The Hon. PETER PRIMROSE:** National Carers Week began on Sunday and continues until the 23rd of this month. It is a time for us all to recognise how important carers are in supporting people with a disability and the frail aged to live at home and participate in their community. The most recent census indicated that there are around 750,000 carers in New South Wales. In May, the New South Wales Government formally acknowledged this through the Carers (Recognition) Act. The Act provides clear and strong legislative recognition of carers in New South Wales. The New South Wales Carers Action Plan 2007-2012 also demonstrates the Government's commitment to carers. This five-year plan for supporting carers acknowledges that caring crosses a range of policy areas including ageing, community support, health, education, transport, employment and industrial relations.

In addition to directly increasing support for carers—for example through increasing the number of respite places available—the Carers Action Plan commits agencies to developing innovative policy solutions. For instance, Ageing, Disability and Home Care is leading the development of initiatives to support young carers. This has focused on improving the ability of front-line staff in human service agencies to identify young carers and refer them and their families to information and support. The best estimate we have in relation to younger carers is that out of the 750,000 carers in total, about 90,000 are aged under 25 years. The New South Wales Government provides funding to Carers New South Wales each year for the Carers Week Grants Program to support local activities across the State during Carers Week. Organisations and carer support groups can apply for a grant of up to \$250 each to organise an event that acknowledges carers and gives something back to them.

Today is also Carers Day Out, which is held on the Tuesday of Carers Week each year. The first Carers Day Out last year was held in the square next to the Sydney Town Hall and was a huge success. Today I am pleased to report that events will be taking place in Martin Place all day thanks to the support of the Babana Aboriginal Men's Group, the City of Sydney, Centrelink and Carers New South Wales. I encourage all members, if they have the opportunity, to show their support for carers by visiting the stalls. This year we have introduced a new Local Carer Awards Program to recognise the outstanding contribution of individual carers and organisations on a local level.

Awards will be presented to more than 100 individuals across the State in the categories of primary carer, older carer, caring family, local carer support group or school, caring workplace and caring volunteer. I will be visiting a number of areas around the State to present, along with their local members, the local carer awards to recipients. The award consists of a certificate of appreciation and a small cash prize. One of the highlights of Carers Week will be the Australian Foundation for Disability Carers Recognition Ball to be held at the Bankstown Sports Club this Friday. I am delighted to be able to attend and to have the opportunity to speak to the carers and official guests about all the initiatives in place to support carers in New South Wales. The event is intended to recognise the valuable and vital work that carers undertake in New South Wales on a daily basis. Without our carers and their organisations, many individuals would no longer be able to continue living in our community.

*[Business interrupted.]*

### DISTINGUISHED VISITOR

**The PRESIDENT:** I welcome into the President's Gallery Mr David Kusilifu, Director of Committees with the National Parliament of Solomon Islands, who is here as part of the twinning program between the Solomon Islands and the New South Wales Parliaments.

### QUESTIONS WITHOUT NOTICE

*[Business resumed.]*

### TRIPLE-0 EMERGENCY TELEPHONE SERVICE

**Reverend the Hon. FRED NILE:** I ask the Attorney General, the Hon. John Hatzistergos, a question without notice. Can the Government confirm that 59 per cent of all triple-0 calls to emergency services are fake? How many individuals have been prosecuted for prank calls so far this year? What is the Government doing to educate the public about the prosecution of pranksters? Will the Government consider increasing the penalties for making prank triple-0 emergency calls? What is the Government doing to ensure there is enough staff and resources to handle all triple-0 emergency calls in New South Wales and to discourage any promotion of 112 as an emergency number?

**The Hon. JOHN HATZISTERGOS:** I recall from my time as Minister for Health that one of the concerning things about persons who made prank calls was that they were diverting resources that could have saved lives from being able to be deployed, and they were blocking other callers from getting through and being responded to. The issue the honourable member raises is a very serious one. Even the content of some of the calls astonished me. People would ring up ambulance staff to ask them to help them go to bed at night. There was one case where a person rang ambulance staff to ask them to give them a glass of water with their medication. The member's question raises a very important and timely issue. I do not have details about the proportion of them; I only reflect on my experience as the Minister for Health. I am sure other emergency agencies would be in a similar position to the Ambulance Service. I will refer the question to the Minister for Health and the Minister for Police and obtain an answer.

### TRANSPORT PLAN

**The Hon. MATTHEW MASON-COX:** I direct my question without notice to the Minister for Transport. Can he please clarify how much of the Government's \$50.2 billion transport plan is allocated to contingencies and what Treasury officials referred to in estimates recently as unidentified projects? Can he also explain to the House how it is even possible to estimate the funding requirements of those unidentified projects?

**The Hon. JOHN ROBERTSON:** I am always happy to get up and talk about the Metropolitan Transport Plan. It is a fantastic \$50.2 billion program, fully funded for 10 years. Our \$50.2 billion transport plan talks about some of the great projects for Sydney going forward—1,000 growth buses—which will be delivered, while maintaining the State's triple-A credit rating and our economic prosperity. The Metropolitan Transport Plan builds on the work the Government has already done to improve transport services in New South Wales. It supports a focus on delivering additional services and improving the customer experience. We have delivered the new Epping to Chatswood rail line, the Millennium trains, the OSCars, over \$1 billion of rail clearway projects to add capacity to the rail network and a number of additional commuter car parks.

[Interruption]

Members opposite like to interject because they do not like to hear all the great things the Government has already done in public transport. They do not like the fact that we have been delivering transport solutions for the people of New South Wales and that we are starting to tell people about it. The \$436 million Cronulla line upgrade and duplication project is complete and is delivering increased capacity. On 10 October we saw the introduction of the new timetable, a direct result of that \$436 million investment. The remaining clearways projects are under construction—the Kingsgrove to Revesby quadruplication, Richmond line duplication and Macarthur station upgrade, and a whole range of other projects. These projects provide important infrastructure to the existing network, enabling greater capacity and additional services on key rail lines.

We have reformed bus contracts and services, and introduced the popular and successful Metrobus and free shuttle bus services, providing high-frequency links between key destinations. I am more than happy to explain best practice in the delivery of major infrastructure projects. When estimating costs for any major infrastructure project it is prudent, regardless of whether it is a Government financed project or a private sector delivered package of work, that initial estimates include a contingency component when delivering a project that will involve tunnelling property acquisition, signalling and underground stations.

The Hon. Matthew Mason-Cox is not even listening. He asks the question but he is having a conversation with the Hon. Catherine Cusack. He is getting an answer to his question about contingencies in projects and how we arrive at them, and now he is having a conversation with the Hon. David Clarke.

**The Hon. Eric Roozendaal:** No, he is getting his orders from David Clarke.

**The Hon. JOHN ROBERTSON:** I am sorry, Madam President. The Treasurer is right again: the member is getting his orders from the Hon. David Clarke. When delivering a project that will involve tunnelling, property acquisition, signalling, and underground stations, it is not possible to account for every nut, screw and nail at the beginning of the project. That is why it is an estimate—an amount that best reflects what experts believe to be an indicative cost of the project. These costs are reviewed and assessed by industry. At each step of the estimation these figures are reviewed and analysed by both internal and external specialists, namely quantity surveyors, who provide advice to the project team. This is the way major projects are managed all over the world.

### FORBES GLOBAL CEO CONFERENCE

**The Hon. SHAOQUETT MOSELMANE:** My question is addressed to the Treasurer. Will the Treasurer update the House on the outcomes of the successful Forbes Global CEO Conference held in Sydney recently?

**The Hon. ERIC ROOZENDAAL:** I thank the Hon. Shaoquett Moselmane for his question and his interest in this important matter. I am sure members would be well aware that the Forbes Global CEO Conference was held in Sydney for two days last month. It attracted about 400 global chairmen and chairwomen, chief executive officers, entrepreneurs and business leaders from Asia, Europe, the United States and Australia. This included some 60 Australian business leaders. The conference and associated events provided numerous opportunities for us to showcase our State and, of course, the city of Sydney. The event has already drawn much praise from the delegates and from Forbes executives. They gathered in our beautiful harbour city for two days to exchange views on the most important business issues of our time. It is the second time Sydney has hosted the conference, and the quality of content as well as the associated events surpassed the previous 2005 conference in Sydney.

The New South Wales Government was a proud host of the Forbes conference. It produced outstanding opportunities to showcase the business strengths of Sydney and New South Wales on the world stage, highlighting the resilience of the Australian economy and promoting business investment opportunities here. In fact, the New South Wales Government and Austrade have implemented a business leveraging program to capture specific business outcomes from the Forbes conference. This included significant corporate groups such as Bright Foods and Wahaha from China, S. P. Jain from India, and many others.

Speakers at the conference included the Chief Executive Officer of Fortescue Metals, Andrew Forrest; the Global Chairman of Visy Australia, Anthony Pratt; the President of Seven Network Australia, Ryan Stokes; and the Chair of Telstra, Catherine Livingstone. The conference featured a dialogue between Premier Keneally

and Steve Forbes, Chairman and Chief Executive Officer of Forbes Media and Editor-in-Chief of *Forbes Magazine*. Carlos Slim Helú of Mexico, Chairman of Fundación Telmex, received the Malcolm S. Forbes Lifetime Achievement Award from Steve Forbes.

The theme of the conference was "Full Sail Ahead". The conference looked at important issues following the global financial crisis, including the global business outlook for China and India, new business models, market perspectives, human capital, the green economy, and corporate social responsibility. This event allowed New South Wales to build important business relationships, to showcase Australian capability across a range of sectors, and we are promoting significant investment and joint venture partnerships. We reinforced our message that Australia, specifically New South Wales and Sydney, is at the forefront of the global economic recovery and that there are an enormous range of exciting investment opportunities here. The Forbes conference was a unique opportunity to showcase Sydney, New South Wales and Australia to some of the world's most influential business leaders.

### BAIL LAWS

**Mr DAVID SHOEBRIDGE:** My question without notice is directed to the Attorney General. Given that many in the judiciary are now saying that the State's bail laws are incarcerating people that ought never have been in jail, why is the Attorney continuing to reject the Law Society's appeal to review section 22A of the Bail Act? How is the Attorney General's outright rejection of any reconsideration of section 22A not just part of the same tired, old law and order auction that the people of New South Wales have to suffer through every four years at every State election?

**The Hon. Eric Roozendaal:** Point of order: The question contained significant argument and is therefore out of order.

**The PRESIDENT:** May I see the question?

[Interruption]

**The PRESIDENT:** Order! I place the Hon. Melinda Pavey on a call to order for interjecting, and I will place Government members on a call to order if they too continue to interject. I uphold the point of order. The question is out of order.

### NORTH-WESTERN SYDNEY BUS SERVICES

**The Hon. DAVID CLARKE:** My question without notice is directed to the Minister for Transport. Does the Minister recall recently claiming that the Government's new MyZone fares have enticed more people out of their cars and onto buses in the northwest? Given that peak hour services are still overcrowded and demand is not being met, when will the Minister provide a dedicated direct bus route between the city, Stanhope Gardens and Kellyville Ridge, given that the buses are full before they arrive at these locations in the morning?

**The Hon. Matthew Mason-Cox:** Where exactly is that, David? Is that somewhere in Riverstone?

**The Hon. JOHN ROBERTSON:** I acknowledge the interjection by the Hon. Matthew Mason-Cox.

**The Hon. Melinda Pavey:** About Riverstone?

**The Hon. JOHN ROBERTSON:** Yes, absolutely. One of the things this Government has done is to deliver 300 additional buses in June last year. Some 113 of those buses went to the northwest, delivering increased services to people in the north-western area of Sydney.

**The Hon. Melinda Pavey:** Does that include Riverstone?

**The PRESIDENT:** Order! I remind the Hon. Melinda Pavey that she is already on one call to order. The Minister may continue.

**The Hon. JOHN ROBERTSON:** The Government is committed to making sure that we continue to increase the services we provide. The Metropolitan Transport Plan—that fully funded, \$50.2 billion, 10-year

transport plan—contains a number of proposals, including \$2.9 billion worth of improvements to bus services. Those improvements will provide 1,000 new buses, bus priority measures, the Public Transport Information and Priority System, and new bus depots. Buses will be used on both strategic corridors and local routes.

New Metrobus routes already on the road are the M10, between Leichhardt and Maroubra Junction; the M20, between Gore Hill and Mascot; the M30, between Mosman and Sydenham; the M40, between Chatswood and Bondi Junction; the M52, between Parramatta and Sydney central business district via West Ryde; and the M54, between Parramatta and Macquarie via Epping. The expanded Metrobus network will include the M41, between Hurstville and Macquarie via Burwood; the M50, between Drummoyne and Randwick via Sydney central business district; the M60, between Parramatta and Hornsby via Baulkham Hills; and the M61, between Castle Hill and Sydney central business district via Baulkham Hills.

It is worth making the point that these Metrobuses are the bright red buses that people might have noticed running all over Sydney. M61 will be a Metrobus run out of the northwest. It will run at frequencies of every 10 minutes during peak periods, 15 minutes on the shoulder, and every 20 minutes on Saturday and Sunday. That is the commitment this Government has to the people of the northwest—in addition, I might add, to the construction of the North West rail line, which is also contained within the Metropolitan Transport Plan, a plan to build rail services.

It is probably worth again saying for the benefit of those on the other side of the House, because they struggle to absorb this, that the Richmond line is being duplicated right now, with a new platform being built at Schofields—which is in the northwest and in the middle of the growth centres, in the middle of where the housing is being released. It is something the Government is delivering right now. In fact, last Friday I was out riding the trains. I rode from East Richmond where, together with the local member for Londonderry, Allan Shearan, I reopened the station. Indeed, we have spent over \$1 million refurbishing that railway station. I rode up front with the driver, where I saw firsthand the duplication work that is being performed right now. The new line is down and the old line is being refurbished, so we will have that duplication. Schofield station cannot be missed because the stairs, the platform and the awnings have all been built. That is happening right now in the north-west. The Government is committed to transport solutions right across Sydney, including the north-west, with Metro buses, the Richmond-line duplication and the construction of the North West Rail Link fully funded in the Metropolitan Transport Plan.

## WORKFORCE AGEING

**The Hon. IAN WEST:** I address my question without notice to the Minister for Ageing. Will the Minister inform the House how the New South Wales Government is addressing issues relating to our ageing workforce?

**The Hon. PETER PRIMROSE:** I recently had the pleasure of launching the report of the Ministerial Advisory Committee on Ageing entitled, "Employment and Retention Strategies of Older Workers". That report highlights the skills and experience older workers can bring to the workforce, as well as changing demographic trends. The report, which I launched on the eve of the International Day of Older Persons, followed a roundtable in March 2010 and four focus groups held by the Ministerial Advisory Committee on Ageing. The key issue to emerge from the report was that we must engage and retain mature aged workers. The report contained recommendations that flexible working arrangements be promoted for mature workers and businesses look at how technology could be used to make flexible workplace arrangements more feasible. The report also recognised that there is a need to develop and implement mentoring and succession planning and to foster inclusive workplace cultures that embrace older workers.

The Employment and Retention Strategies of Older Workers roundtable discussion paper will be followed up with the production of information kits targeting employers on the benefits of mature aged workers. New South Wales Industrial Relations is working with businesses to raise awareness about the ageing population to assist them to understand and cope with the change, including how the caring responsibilities of older workers can impact on their operations and productivity. The report by New South Wales Industrial Relations entitled "Taking Care: Mature age workers with elder care responsibilities" investigates the particular needs of mature age workers with caring responsibilities for an elderly person. The report states that workers' elder care responsibilities are likely to increase significantly over the next few years.

Elder care is overwhelmingly conducted by women in the peak working years of 35 to 54 years, who suffer significant adverse effects on labour market participation, including changing jobs, reducing working

hours or refusing promotion. The Keneally Government recently introduced the Carers (Recognition) Act 2010, which contains a New South Wales Carers Charter to recognise the role and contribution of carers to our community and to the people they care for and will assist to increase the awareness of the valuable contribution that carers make to our community. The Working Carers Gateway, funded through New South Wales Health, provides information and advice to people who are juggling work and caring roles. We want people to remain in the workforce for as long as they want to and we are encouraging employers to be flexible in responding to the needs of older workers. There is evidence that the Government's strategy in this area is having an effect.

As at August 2010, the 55 and over age group in New South Wales had a labour force participation rate of 32.5 per cent—higher than previously reported. However, Australia is still ranked thirteenth in OECD countries in labour force participation by people over the age of 55, so there is more work to do. A key New South Wales Government strategy under Towards 2030 is the SageCentre, which is an online toolkit that helps employees exploring retirement options, as well as employees who are managing mature employees. I was happy to announce off the back of the report that the SageCentre will soon be expanded to include local government employers and employees.

## **M2 EXPANSION AND BUS SERVICES**

**Ms CATE FAEHRMANN:** I direct my question without notice to the Minister for Transport. Why did the Government take no action to ensure that performance indicators were included for the M2 expansion that required an increase in bus services and bus patronage rates?

**The Hon. JOHN ROBERTSON:** I will take that question on notice.

## **SURGERY WAITING LISTS**

**The Hon. MARIE FICARRA:** My question without notice is directed to the Treasurer. What is the Treasurer's response to calls from the Australian Medical Association (New South Wales) Executive based on its Access Economics report showing that the State budget allocated only \$53.8 million of a total of \$184 million of Federal funds meant to reduce surgical waiting lists in this State? Will the Treasurer provide an answer to the Australian Medical Association (New South Wales) Council Associate Professor Brian Owler when he reports that "patients have a right to know where the missing funds have been allocated"?

**The Hon. ERIC ROOZENDAAL:** I will pass that question on to the Minister for Health for an appropriate response.

## **OUTER SUBURBAN TRAIN CARRIAGES**

**The Hon. KAYEE GRIFFIN:** I address my question without notice to the Minister for Transport. Will the Minister inform the House about the arrival of the new Outer Suburban Train Carriages [OSCars]?

**The Hon. JOHN ROBERTSON:** The New South Wales Government is delivering on our promise to make rail travel simpler and more comfortable for commuters. It was with great pleasure that I joined the Premier earlier this month to take delivery of the newest Outer Suburban Train Carriages, the first four-car set to be delivered as part of stage 3 of the project.

**The Hon. Robyn Parker:** How long did that take?

**The Hon. JOHN ROBERTSON:** If you listen, I will tell you. It is good news; you will hate it.

**The Hon. Robyn Parker:** Was it on time?

**The Hon. JOHN ROBERTSON:** No, it was not on time.

**The Hon. John Hatzistergos:** There was a great cartoon in the Newcastle *Herald* today. Did you see it?

**The Hon. JOHN ROBERTSON:** I did actually see a cartoon.

**The Hon. Eric Roozendaal:** Do you mean this one, John? Here is a bigger one if you cannot see the first one.

**The PRESIDENT:** Order! The Treasurer will put the cartoons away or I will place him on a call to order.

**The Hon. JOHN ROBERTSON:** The Government is investing a total of \$820 million in 196 new OSCARs to service the Central Coast, the Western line, Illawarra, South Coast and lower Blue Mountains, and 122 new OSCARs have already been delivered onto the CityRail network.

**The Hon. Melinda Pavey:** Is this the one where they had to upgrade the electricity, or is that another one?

**The Hon. JOHN ROBERTSON:** Ask me a question Melinda and you will get an answer. Rail commuters from the Central Coast, Blue Mountains and the Illawarra have been enjoying the benefits offered by these modern state-of-the-art trains. The \$370 million contract for stage 3 of the OSCARs was originally for 72 carriages but the Government has been able to acquire two additional carriages within the budget, taking the total number of carriages that will be delivered to 74. On top of this, the first four-car train was delivered a fortnight ago—five weeks ahead of schedule. All this is excellent news for commuters.

OSCARs have become enormously popular with passengers, performing well and operating improved services every day for thousands of commuters. OSCARs are equipped with CCTV and help points for added passenger security, air conditioning, toilet access for people with disabilities, on-board passenger information screens and reversible seats with graffiti and fire-resistant coverings. The new OSCARs will provide extra capacity on the network, as well as replace older carriages. OSCARs are about further improving safety, capacity, reliability and comfort for passengers across the CityRail network. While the new OSCARs are clearly good news for commuters, they are also great news for New South Wales workers and local industry. The construction of the 74 new OSCARs has provided a boost for manufacturing in New South Wales, supporting around 200 jobs in the Newcastle area and 40 jobs in Taree.

The new OSCARs are helping to provide new services as part of CityRail's new timetable for the South Coast, Eastern Suburbs and Illawarra lines that commenced on Sunday 10 October 2010. OSCARs operate from the Sydney central business district to Kiama and Wollongong on the South Coast, to Gosford and Wyong on the Central Coast, and west as far as Springwood on the Blue Mountains line. With the introduction of the new timetable on 10 October 2010, OSCAR services increased from 878 to 1,123 services per week, delivering hundreds of more comfortable services for commuters. OSCARs are replacing diesel trains between Kiama and Wollongong as part of the new timetable, providing passengers with a more comfortable journey. In fact, the new train that the Premier and I inspected earlier this month operated its first scheduled service between Kiama and Central yesterday. The OSCARs will be used with the new late-night guardian services on the western, Central Coast, South Coast and Illawarra lines.

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

**The Hon. JOHN ROBERTSON:** With their closed-circuit television capability on board OSCAR carriages are ideal for use with guardian services, which will have extra transit officers travelling on board and constant monitoring of closed-circuit television cameras by staff on the trains. The Government is delivering more comfortable carriages for passengers right now, and commuters from the south coast, the Central Coast and the lower Blue Mountains are seeing the benefits of stage 3 OSCARs right now.

### ENERGY REFORM TRANSACTION STRATEGY

**Dr JOHN KAYE:** My question without notice is directed to the Treasurer. Given that the Australian Competition and Consumer Commission has announced it is conducting an inquiry into both AGL and Origin as to their ability to bid for "certain assets" in the New South Wales energy privatisation plan, one, what impacts will the inquiry have on the timetable of the New South Wales Government's Energy Reform Transaction Strategy and, two, does the New South Wales Government have a contingency plan to respond to a decision by the Australian Competition and Consumer Commission that excludes either or both of these corporations from purchasing some or all of the assets?

**The Hon. John Hatzistergos:** It is a hypothetical question.

**Dr JOHN KAYE:** It is not a hypothetical question. It is an actual question: Do you have a contingency plan? It is not hypothetical.

**The Hon. ERIC ROOZENDAAL:** The Energy Reform Transaction Strategy remains on time and bids will close mid-November, as previously advised.

### **WOLLONDILLY SHIRE SCHOOL ZONE FLASHING LIGHTS**

**The Hon. CHARLIE LYNN:** My question without notice is directed to the Treasurer. Is the Treasurer aware that a number of public schools within the Wollondilly shire, including Bargo Public School, still are waiting to have flashing lights installed at their school crossings and that no public school within the Wollondilly shire was given funding this year for this essential road safety equipment? When will funding be given to schools in this area, which have been neglected by the Treasurer and his Government for so long?

**The Hon. ERIC ROOZENDAAL:** This question should be dealt with by the Minister for Roads, but I feel that I may be able to respond. When we talk about school zone safety, it is important to understand the full gamut of initiatives. This Government has made school zone safety one of its major priorities. A 40 kilometre per hour speed limit applies in all school zones and this Government has prosecuted schoolchildren's safety to the nth degree. I will refer to some of our initiatives. We have implemented school zones with road markings and signs to alert drivers to the zone. At a number of schools pedestrian fences have been erected to discourage schoolchildren from crossing at that location. Traffic light treatments and wombat crossings have been introduced at a number of schools.

**The Hon. Charlie Lynn:** Point of order: I remind the Treasurer that the question is about Wollondilly shire and Bargo Public School. Would the Treasurer not avoid the question and try to answer it?

**The PRESIDENT:** Order! That is a debating point, not a point of order. The Treasurer may continue.

**The Hon. ERIC ROOZENDAAL:** Wombat crossings, pedestrian crossings and overhead pedestrian crossings are some of the initiatives. A new initiative that the Government has recently introduced is the dragon's teeth markings on the road. It is yet another initiative of the Government to further reinforce school zone safety. We have been very successful in ensuring the protection of schoolchildren in all school zones. The Roads and Traffic Authority prioritises school zones for the appropriate treatment.

**The Hon. Michael Gallacher:** The Roosters got Dragon's teeth recently.

**The Hon. ERIC ROOZENDAAL:** Go the mighty Dragons. It was a terrific result for the mighty Illawarra Dragons. It was good to see. The Government will continue to fund school zones, to implement the various treatments at school zones and to ensure that schoolchildren are safe in those areas.

### **GOVERNMENT REGULATIONS**

**The Hon. TONY CATANZARITI:** My question without notice is addressed to the Minister for Regulatory Reform. What is the Government doing to minimise the cost to business and the community when interacting with New South Wales government regulators?

**The Hon. JOHN HATZISTERGOS:** The Government is committed to minimising the cost of doing business in New South Wales. As part of this commitment, this month I have asked the Better Regulation Office to commence a review into the ways government agencies and businesses deal with each other in relation to government regulations. These interactions can have a significant cost impact on business. The purpose of this review is to identify ways those costs can be minimised. Businesses subject to regulations typically incur costs through the following interactions with government agencies. Firstly, a business must obtain from government agencies information on the regulatory requirements in relation to the activities they want to carry out—for example, the licence, permit or accreditation that is required, ongoing compliance requirements and any applicable codes of practice or standards.

Secondly, if there is a requirement for a business to acquire an authorisation of some type, the business must go through an application process. This usually involves obtaining an application form or applying online, getting hold of the required information and submitting the form. Once the application is lodged, the government agency must process the application and, if approved, issue the relevant documentation. Thirdly, after the authorisation has been granted the business must comply with any ongoing requirements and keep up to date as to what they are. This may involve reporting information to the government agency on a regular basis or keeping records. The authorisation also may need to be renewed from time to time.

While on their own these interactions appear relatively minor, when considered together the significance of their cost impact boils down to the efficiency of the government processes involved. For example, being able to renew a licence online is far more efficient than having to obtain and post a renewal application form or to show up at the relevant department. The administrative time expended on these interactions has a large impact on a business's bottom line. The Government understands this, and that is why as Minister for Regulatory Reform I have ordered this review. We understand that when businesses complain about red tape, they are referring to the difficulty in obtaining information on government requirements, the time it takes to apply for an authorisation or how difficult it is to comply. A focus of the review will be whether there should be best practice standards to guide how government agencies interact with business. The application of best practice standards will result in consistent levels of high performance across government agencies and predictability in the way these interactions occur. Businesses will become familiar with these systems and standards and will be able to formulate corresponding systems of compliance across the board, thereby saving them an immense amount of time and money.

Some of the standards being considered by the review include: the extent to which information about regulatory requirements should be available online and accessible; the format of forms, including how forms can be made more user friendly and whether they should be available online; whether lodgement of applications and payments of fees should be available online; whether there should be consistent principles for the setting of fees; whether standards for processing applications and renewals should be published by all agencies; the time frames that should apply to notify applicants of decisions; whether particular appeal mechanisms should be available and the nature of those mechanisms; whether, and the extent to which, online updating of details should be available; whether, and the extent to which, renewals should be available online; the nature and extent of reporting requirements; and whether enforcement policies should be available online.

An important consideration of the review will be in what context standards are appropriate and the level of detail. This review will provide real workable solutions for reducing red tape and improving the efficiency of government. It is yet another example of the Government's commitment to making this State a vibrant and responsive place in which to live and invest. More details can be obtained from the issues paper, which is available on the Better Regulation Office website [www.betterregulation.nsw.gov.au](http://www.betterregulation.nsw.gov.au). Comments are due by 26 November 2010.

### **TAMWORTH REGIONAL CANCER CENTRE**

**The Hon. RICK COLLESS:** My question without notice is directed to the Treasurer. In answers provided as part of the budget estimates process it was stated that the Regional Cancer Centre component of the Services Procurement Plan and the Project Definition Plan for Tamworth Hospital have been reviewed and recommended for endorsement. When will these plans be endorsed and when can the people of the Tamworth area expect their new cancer centre?

**The Hon. ERIC ROOZENDAAL:** I will pass the member's question on to the Minister for Health for an appropriate response.

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

### **DEFERRED ANSWERS**

The following answers to questions without notice were received by the Clerk during the adjournment of the House:

#### **MOTORCYCLE COMPULSORY THIRD PARTY PREMIUMS**

On 31 August 2010 the Hon. Charlie Lynn asked the Treasurer, representing the Minister for Finance, a question without notice regarding motorcycle compulsory third party premiums. The Minister for Finance provided the following response:

As the Minister with portfolio responsibility for the Motor Accidents Scheme the question has been referred to me for response.

From 1 July 2010, the Motor Accidents Authority has approved five new motorcycle classes for CTP purposes, based on engine size.

These changes were made following a review of the framework for setting Green Slip prices for motorcyclists conducted by the authority, working closely with the Motorcycle Council of NSW, between June 2008 and September 2009.

The review found that the previous guidelines grouped too many different-sized motorcycles together, resulting in some motorcycle owners paying too much for their Green Slip and subsidising the cost of Green Slips for other riders.

The changes introduced from July mean that motorcycle owners are now paying a Green Slip price which better reflects the actual cost of injuries and compensation for claims against Green Slip policies held by riders of each of the motorcycle groups.

The changes have not resulted in all motorcyclists paying more for their Green Slip. For over 50 per cent of motorcycle owners there will be a decrease in Green Slip prices as compared to last year. For another 12 per cent of owners, Green Slip prices will remain the same or rise by up to \$10. Approximately one-third of motorcycle owners are however likely to see an increase in their Green Slip renewal price as a result of these changes.

I met recently with representatives of the Motorcycle Council and I have instructed the MAA to work with the Motorcycle Council to identify an independent actuary to review motorcycle Green Slip pricing. I have also invited the Motorcycle Council to join the Motor Accidents Council.

I would advise all motorcyclists of the benefits of shopping around to get the best available premium as Green Slip prices can vary between insurers according to a rider's individual profile. The authority can assist motorists find the best price at the Green Slip price calculator: [www.greenslips.nsw.gov.au](http://www.greenslips.nsw.gov.au), or by telephoning its Helpline on 1300 137 600.

#### **CLUB M NIGHTCLUB**

On 31 August 2010 Reverend the Hon. Dr Gordon Moyes asked the Treasurer, representing the Minister for Police, a question without notice regarding the Club M Nightclub. The Minister for Police provided the following response:

The NSW Police Force has advised me that the Club M nightclub receives priority attention from the Tuggerah Lakes Local Area Command. In the six months from March to August 2010, police conducted 21 business inspections of the premises, investigated seven assaults, issued six legal actions for licensing breaches and achieved voluntary closure of the club twice in July due to violence at the premises. Police will continue to work proactively with club licensees and respond to any further incidents as required. Questions regarding the club's licence should be addressed to the Minister for Gaming and Racing.

#### **POLICE ALCOHOL USE**

On 1 September 2010 the Hon. Michael Gallacher asked the Treasurer, representing the Minister for Police, a question without notice regarding police alcohol use. The Minister for Police provided the following response:

The NSW Police Force has advised me that officers who are detected driving above the legal limit are offered alcohol dependency assessment and counselling. Issues leading to alcohol use, including any contributing work or occupational issues, are canvassed during counselling.

The NSW Police Force also conducts random alcohol testing of officers on duty across the State. There is also a range of professional support programs for employees experiencing any dependency or other workplace issues, including stress management.

#### **STATE TRAUMA PLAN**

On 1 September 2010 Reverend the Hon. Fred Nile asked the Attorney General, representing the Minister for Health, a question without notice regarding the State Trauma Plan. The Minister for Health provided the following response:

In March 2009 the Government announced changes to the major trauma network for New South Wales to provide the response necessary for the most complex of health needs of seriously injured patients. The Trauma Plan began operation in March 2010.

It supports the provision of the best treatment by transporting the most serious trauma cases to designated trauma centres where they can be attended by the best clinicians in the system.

NSW Health will continue to monitor the flow of patients under the trauma plan and has recently met with doctors in Sydney West to discuss its implementation and determine if adjustments need to be made.

Additional resources have been committed to the emergency departments to support the predicted increase in activity at major trauma centres.

Following representations made by St Vincent's Hospital Executive, the hospital has been reinstated as a Major Trauma Service for its local catchment area. This is an interim arrangement which will be reviewed in 12 months' time in line with the ongoing monitoring and evaluation of the NSW Trauma Services Plan.

Nepean Hospital remains a regional trauma centre and there are discussions with doctors at Nepean Hospital to review the data and patients that are allocated between Westmead and Nepean to ensure that patients are taken to the most appropriate centre.

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

On 1 September 2010 Reverend the Hon. Dr Gordon Moyes asked the Attorney General, representing the Minister for Health, a question without notice regarding hospital-acquired infection control. The Minister for Health provided the following response:

This case was notified to the NSW Department of Health by the South Eastern Sydney and Illawarra Area Health Service Public Health Unit via the NSW Health notifiable diseases database. Appropriate actions have been taken to reduce the risk of a delay in detection in future cases.

Dialysis patients are routinely screened for changes in their serology status. The Microbiology Unit at the Wollongong Hospital will now contact the renal physician caring for the patient directly if a change in serology occurs, in addition to providing the test results to the dialysis unit.

Changes have been implemented across South Eastern Sydney and Illawarra Area Health Service dialysis units based on the most stringent recommendations of national and international guidelines. These include revised cleaning and disinfection control protocols around dialysis. An enhanced program of regular infection control auditing of all dialysis units in the Southern Hospital Network (which includes the Wollongong Hospital) has commenced. This will be accompanied by a program of infection control education for dialysis nurses three times a year.

#### **ASSYRIAN GENOCIDE MONUMENT**

On 2 September 2010 Reverend the Hon. Dr Gordon Moyes asked the Treasurer, representing the Minister for Police, a question without notice regarding the Assyrian genocide monument. The Minister for Police provided the following response:

The NSW Police Force has advised me that police were aware of possible hostilities following the unveiling of the monument in Edensor Park on 7 August 2010 and conducted proactive patrols at the time. Following a report of the defacing of the monument on 30 August, an investigation was initiated which is ongoing. Police from Fairfield Local Area Command continue to regularly patrol the site.

The NSW Police Force's Community Contact Unit and Safer by Design program both have a focus on preventing crime of this type, the former by engaging culturally diverse communities and the latter by working to achieve crime prevention through environmental design.

#### **AFFORDABLE HOUSING**

On 2 September 2010 Ms Sylvia Hale asked the Minister for Planning a question without notice regarding affordable housing. The Minister for Planning provided the following response:

There has been no recent change to the powers available to City West Housing to levy developers for affordable housing within the City of Sydney local government area. The powers available to City West Housing remain the same as they have been since they were created.

The Department of Planning is currently working on a review of the State Environmental Planning Policy for Affordable Rental Housing which will include consideration of all options for increasing the supply of affordable housing across the State. The possible extension of this power will be considered as one of many different potential actions under that review. The Department will be consulting with the public as well as a wide range of stakeholders involved in the development of affordable housing as part of the review.

#### **DUBBO HEALTH SERVICES**

On 7 September 2010 the Hon. Duncan Gay asked the Attorney General, representing the Minister for Health, a question without notice regarding Dubbo health services. The Minister for Health provided the following response:

The NSW Government is firmly committed to its ongoing role in the delivery of health services in Dubbo and the remainder of New South Wales.

The 2010/11 State Budget includes \$22.7 million for the stage one redevelopment of Dubbo Base Hospital. This includes \$232,000 in 2010/11 for planning the redevelopment, which is now underway.

Investment in cancer services and senior medical appointments also demonstrate the NSW Government's commitment to Dubbo and western New South Wales.

Furthermore, in announcing the establishment of the Western NSW Local Health Network, the Minister for Health advised that special Ministerial directions will secure Dubbo's future funding through the establishment of a distinct western sector budget for the Orana region. There will be a service agreement governing specific service levels and capital works planning for Dubbo.

The State Government greatly values the support of local government and there will be formal agreements developed with Governing Councils in order to strengthen local government engagement with health services.

#### **BLACKTOWN GROUP HOME**

On 7 September 2010 Reverend the Hon. Dr Gordon Moyes asked the Minister for Planning, representing the Minister for Community Services, a question without notice regarding a Blacktown group home. The Minister for Community Services provided the following response:

Yes, I am aware that this property has been ordered to close by Blacktown City Council.

The proprietors of the house at 16 Nicholas Street, Blacktown, also operate three other properties in Blacktown. Two are authorised through Housing NSW to provide emergency accommodation—Allawah Street Guest House and 11 Fulham Road, Blacktown. I am advised that a Development Application has been lodged for the Nicholas Street, Blacktown property to be classed as a group home.

Community Services has referred families to the two authorised services, typically when accommodation is urgently needed for a family outside of business hours. Community Services has not been made aware of any instances where these individuals have been referred or transferred to stay at the unauthorised properties.

Community Services can arrange accommodation for children and young people who are in the parental responsibility of the Minister as a consequence of an Order of the Children's Court. While it can provide information about accommodation which may be available, it cannot make decisions about the accommodation of other persons for whom it does not have a statutory or court ordered role.

The service is a privately-funded and operated facility. Community Services does not have a statutory function to regulate the provision of this service.

#### **FOOTBALL AND CRICKET BETTING**

On 7 September 2010 Reverend the Hon. Fred Nile asked the Minister for Ageing, Minister for Disability Services, Minister for Volunteering, and Minister for Youth, representing the Minister for Gaming and Racing, a question without notice regarding football and cricket betting. The Minister for Gaming and Racing provided the following response:

The codes are rightly responsible for the integrity of their own sports.

I am advised that the issues surrounding the Canterbury versus Cowboys match have been referred to Police by the NRL and this is the appropriate course of action.

I am also aware that the National sporting codes have announced that they will work together to have an internal anti-match fixing judiciary within their codes and that they will work with betting agencies during that process.

I support those initiatives that can only strengthen the integrity of these sports to the benefit of those that have a recreational bet on the games and those who go along to the games every week to support their teams.

#### **ELECTRONIC NICOTINE CIGARETTES**

On 7 September 2010 Reverend the Hon. Fred Nile asked the Attorney General, representing the Minister for Health, a question without notice regarding electronic nicotine cigarettes. The Minister for Health provided the following response:

The "electronic cigarette" is an atomiser device that uses a battery and a computer chip to vaporise a container of liquid, generally nicotine, to be inhaled by the user.

Legislation in NSW prohibits people from selling and using electronic cigarettes containing nicotine where their purpose is for recreational use.

The Therapeutic Goods Act 1989 provides a national framework for the regulation of therapeutic goods in Australia. Medicines and medical devices, including electronic cigarettes if their intention is for therapeutic use, must be tested for quality and safety before they can be entered on the Australian Register of Therapeutic Goods for supply, import, export or manufacture in Australia.

Electronic cigarettes are not currently included on the Australian Register of Therapeutic Goods and therefore their supply in Australia as a therapeutic good is prohibited. Any person offering electronic cigarettes in NSW as an alternative to tobacco products would be in breach of this legislation, attracting a maximum penalty of \$1,100.

There is limited evidence available about the safety and health impacts of electronic cigarettes to users and others. Laboratory analysis conducted by the United States Food and Drug Administration in July 2009 found that electronic cigarettes expose users to harmful chemical ingredients. The World Health Organization has also stated that it does not consider electronic cigarettes to be a legitimate therapy for smokers trying to quit.

To support people who want to quit smoking, the NSW Government funds the NSW Quitline, a best practice telephone information, advice and counselling service. The NSW Quitline provides advice to callers on approved nicotine replacement therapy products. These products have been thoroughly tested and have been shown to be of help to people wishing to quit smoking.

#### **REWARD CONCERNING MALCOLM JOHN NADEN**

On 8 September 2010 the Hon. Michael Gallacher asked the Minister for Planning, Minister for Infrastructure, and Minister for Lands, representing the Minister for Police, a question without notice regarding the reward concerning Malcolm John Naden. The Minister for Police provided the following response:

The Government sets rewards for information leading to the conviction of criminals, based on recommendations from the NSW Police Force.

Investigating police will request a reward where they believe there is a chance that the reward could result in important, new information being brought to light—that would otherwise be unlikely to surface.

I will be happy to consider any request by the NSW Police Force for an increase in the reward in the matter of Malcolm John Naden.

### COMMERCIAL FISHING

On 8 September 2010 the Hon. Duncan Gay asked the Minister for State and Regional Development, representing the Minister for Primary Industries, Minister for Emergency Services, and Minister for Rural Affairs, a question without notice regarding commercial fishing. The Minister for Primary Industries, Minister for Emergency Services, and Minister for Rural Affairs provided the following response:

I am aware of claims made in the report. I am aware that some stakeholders have raised concerns regarding some proposed changes concerning the Marine Park Zoning Plan reviews for Jervis Bay and Solitary Islands.

The New South Wales Government is committed to the viability of the commercial fishing sector, and to providing quality recreational fishing opportunities for recreational fishers. The recent public consultation concerning proposals in relation to the Jervis Bay and Solitary Islands marine parks has allowed for a range of stakeholders to put forward their views. These submissions and other relevant information will be carefully considered, in consultation with my colleague, the Minister for Climate Change and the Environment, before a decision is made.

### SCHOOL LIBRARIES AND INFORMATION LITERACY UNIT

On 8 September 2010 Reverend the Hon. Dr Gordon Moyes asked the Minister for Youth, representing the Minister for Education and Training, a question without notice regarding the School Libraries and Information Literacy Unit. The Minister for Education and Training provided the following response:

The work of the School Libraries and Information Literacy Unit is highly valued by the Department, regions and schools. The Unit provides a range of support and resources for teachers and students.

The Premier's Reading Challenge is currently managed by the Chief Education Officer within the English Unit of the Curriculum K-12 Directorate.

The merger of the Curriculum K-12 Directorate and the Centre for Learning Innovation is an opportunity to build on existing capabilities and synergies in a way that delivers services and products that are leading edge and are at the forefront of educational thinking and learning delivery.

Support for school libraries will not be downgraded in the merger. The School Libraries and Information Services Unit has not been disbanded.

### MEDICALLY SUPERVISED INJECTING ROOMS

On 8 September 2010 Reverend the Hon. Fred Nile asked the Attorney General, representing the Minister for Health, a question without notice regarding medically supervised injecting rooms. The Minister for Health provided the following response:

There are no "no-go" zones for Police in relation to the Centre and the Trial legislation in no way impedes their power to patrol the area around the Centre.

The Honourable Member has not provided a source for statement on numbers of referrals, the recently released independent evaluation report by KPMG that covers these matters.

The report found that the MSIC continues to meet the Government's key objectives including that the Centre has successfully:

- reached the Government's intended target group of socially marginalised and vulnerable injecting drug users with about 40% never having sought treatment before;
- saved lives and successfully managed 3,426 overdoses on site. There has also been a 44% fall in ambulance attendances in Kings Cross during MSIC opening hours;
- acted as a gateway to treatment with the rate of uptake of drug treatment increasing in recent years. Over 8,500 referrals have been made since 2001 with nearly half to drug treatment;
- helped reduce discarded needles and syringes with the greatest reduction being around the MSIC;

The full report may be accessed at [www.health.nsw.gov.au/resources/mhdao/msic\\_kpmg\\_pdf.asp](http://www.health.nsw.gov.au/resources/mhdao/msic_kpmg_pdf.asp)

The Premier announced on 15 September 2010, the Government would bring forward legislation to remove the Trial status and continue the Centre as an ongoing program.

### LANDFILL

On 8 September 2010 the Hon. Ian Cohen asked the Treasurer a question without notice regarding landfill. The Treasurer provided the following response:

I am advised:

The Waste and Environment levy is an economic instrument that ensures that recycling and resource recovery can compete with landfilling. As such, it drives reduction of waste to landfill and increased resource recovery and funds environment, waste and sustainability programs.

### FAULTY SPEED CAMERAS

On 8 September 2010 Reverend the Hon. Dr Gordon Moyes asked the Minister for Transport, and Minister for the Central Coast a question without notice regarding faulty speed cameras. The Minister for Transport, and Minister for the Central Coast provided the following response:

I am advised:

All safety cameras are tested at least every 30 days to ensure they are operating accurately. They are fully calibrated each year, as is the national standard.

Penalties can be withdrawn for a number of reasons:

- Emergency vehicles detected while on official duty;
- Vehicles found to be stolen;
- Vehicles where the registered owner is deceased;
- Faulty cameras; and
- Where signage has been vandalised or obstructed by trees or other objects.

In the interest of fairness to motorists, it is the RTA's practice not to proceed with any camera-based infringements whenever there is any doubt about the operation of fixed camera enforcement.

In circumstances where a camera is found to have been operating inaccurately, the RTA proactively contacts motorists and fully reimburses the penalty and demerit points.

I am advised that the RTA received a number of complaints earlier this year from motorists relating to inaccurate speed readings for the North Narrabeen (southbound) fixed digital speed camera.

Following comprehensive investigations and testing on the camera systems it was revealed that the issue was attributed to road surface instability for lane 1 only.

Lanes 2 and 3 were operating correctly.

The road surface has since been rebuilt and the camera is currently fully operational.

I am advised that the RTA has withdrawn all matters relating to an offence in lane 1 at this camera location (NB dating from the commencement of this camera in April 2009.)

### FOOD PRODUCTION

On 8 September 2010 Reverend the Hon. Fred Nile asked the Minister for Planning, Minister for Infrastructure, and Minister for Lands, representing the Minister for Primary Industries, a question without notice regarding food production. The Minister for Primary Industries provided the following response:

1. Yes.

The NSW Government recently established a senior officers working group to examine issues surrounding the security of food production in NSW. This group, chaired by the Department of Premier and Cabinet, will have representatives from Industry and Investment NSW, Department of Planning, and Department of Environment, Climate Change and Water.

Supportive planning and environmental regulatory environment are key elements of an effective government approach to maintaining food production opportunities for NSW. This approach will help avoid land use conflict, attract investment and promote employment.

3. The NSW Government is delivering record investments in rural and regional communities in the 2010/2011 budget, which will deliver real results for people in rural and regional areas. A record roads budget and regional transport funding are among initiatives that will improve transport infrastructure which is vital in supporting economic growth in rural and regional areas.
4. The NSW Government continues its commitment to primary industries research and development (including agriculture), with an estimated 2010/11 expenditure of \$146.5 million.

In addition to this funding, Industry and Investment has 150 extension and front-line industry development staff—the most extensive extension service in Australia.

I&I NSW also continues to have over 700 scientists and technicians working on more than 900 projects at any one time, spread across its extensive network of research facilities and working in close collaboration with farmers, foresters and fishers.

### **DUBBO HOSPITAL REDEVELOPMENT**

On 9 September 2010 the Hon. Duncan Gay asked the Attorney General, representing the Minister for Health, a question without notice regarding the Dubbo Hospital redevelopment. The Minister for Health provided the following response:

The Greater Western Area Health Service is responsible for the redevelopment of Dubbo Base Hospital, while Health Infrastructure oversees all major health capital works projects.

Representatives of Health Infrastructure recently visited Dubbo Base Hospital for an orientation by the redevelopment's project director and his team, and to commence consultation with locals.

On the day of the visit, Mr Danny O'Connor, Chief Executive, Greater Western Area Health Service held a media conference for local media representatives, and introduced them to the project director and his team.

The Greater Western Area Health Service continues to be open and transparent with the community through the local media and via consultative forums on the master planning and stage one of the redevelopment.

### **SENTENCES FOR OFFENCES AGAINST VULNERABLE PERSONS**

On 9 September 2010 the Hon. Robert Brown asked the Attorney General a question without notice regarding sentences for offences against vulnerable persons. The Attorney General provided the following response:

I am aware of the Crimes (Sentencing Procedure) Amendment (General Sentencing) Bill 2002. The Bill represented a response to concerns regarding violent assaults on the elderly. The amendments inserted section 21A into the Crimes (Sentencing Procedure) Act 1999. This section requires judicial officers to take into account the personal circumstances of any victim of an offence, including the victim's age, any physical or mental disability and any vulnerability arising from the nature of the victim's occupation.

Section 21A requires judges to take into account the circumstances of the victim as aggravating factors when determining a sentence. In such cases the penalty can therefore be higher whilst still falling within the maximum allowable penalty under the Crimes Act 1900.

Neither BOCSAR nor the courts collect statistics on the use of section 21A. However, I understand that its provisions are routinely used in all relevant matters, both by prosecutors when making submissions on sentence and by judges when determining the appropriate sentence.

### **FENCING OF TONGARRA ROAD, ALBION PARK**

On 9 September 2010 the Hon. John Ajaka asked the Minister for Planning a question without notice regarding the fencing of Tongarra Road, Albion Park. The Minister for Planning provided the following response:

In relation to the question from the Hon. John Ajaka, I am advised this is a matter concerning the Roads and Traffic Authority and therefore within the portfolio of the Minister for Roads.

### **CITYRAIL EASY ACCESS PROGRAM AND ACCIDENTS**

On 9 September 2010 the Hon. Ian Cohen asked the Minister for Transport a question without notice regarding the CityRail Easy Access Program and accidents. The Minister for Transport provided the following response:

I am advised:

The number of injuries and accidents at CityRail stations remains low. Of the 307 operational stations in the network 122 are now accessible and over 77% of rail users are using these improved station facilities. RailCorp is committed to improving access to its stations for all rail users, and has an ongoing Easy Access Program to upgrade stations based on priority.

Between the period of 1 July 2008 and 30 June 2010 there was a combined total of 21 passenger related injuries at the following stations: Emu Plains, Kirrawee, Lindfield, Revesby, Woolooware and Woonona.

Post accessibility upgrades at these stations there were a total of 22 passenger related injuries over the same period. The majority of these stations were upgraded in 2009.

### **GOSFORD HOSPITAL CUBBYHOUSE LEASE**

On 9 September 2010 the Hon. Robyn Parker asked the Minister for the Central Coast, representing the Minister for Health, a question without notice regarding the Gosford Hospital Cubbyhouse lease. The Minister for Health provided the following response:

The lease on the subject premises does not expire until December 2012. The Northern Sydney and Central Coast Area Health Service has a growing need for accommodation for clinical service provision and is supportive of the efforts of the Cubbyhouse in its wish to develop a new centre on the Central Coast during the remainder of the current lease.

**SCHOOLS FUNDING**

On 9 September 2010 Dr John Kaye asked the Attorney General, representing the Minister for Education and Training, a question without notice regarding schools funding. The Minister for Education and Training provided the following response:

I am aware of this report. The Commonwealth Government is currently conducting a national review of school funding. The New South Wales Government will be making a submission that emphasises the need for all students to receive the funding they need to reach their full potential.

**Questions without notice concluded.****CONSTITUTION AMENDMENT (RECOGNITION OF ABORIGINAL PEOPLE) BILL 2010****Second Reading****Debate resumed from an earlier hour.**

**The Hon. IAN COHEN** [5.00 p.m.]: As I was saying prior to question time, this country wants to move forward with reconciliation. This country still has many miles to walk on the path to reconciliation. Without detracting from the advancements secured through mature and progressive bipartisanship, the statistics continue to paint a picture of systemic disadvantage. Through one form or another, all members and parties in this place have supported laws, departmental programs and government budgets that sought to redress this disadvantage. However, it is understandable that some Aboriginal people who have been let down by governments of all persuasions want greater security in acknowledgement of their rights, as articulated in the United Nations Declaration on the Rights of Indigenous People.

I do not want our discomfort with the exclusionary provision to overshadow this special occasion. However, we are of the opinion that the exclusionary provision is unnecessary and should be removed. To that end I foreshadow that I will move an amendment to remove the exclusionary provision. While that amendment might not receive support, it is important to keep in mind that we will see further development on constitutional reform at the Federal level in the near future. I hope the people of this country will demonstrate leadership rather than our politicians. I reiterate my congratulations to the Minister for Aboriginal Affairs and the New South Wales Aboriginal Land Council for their work on the bill.

I have said on a number of occasions in this House that it has given me great pleasure to spend time with Aboriginal people, be it the Arakwal custodians in my local area in the establishment of the first indigenous land use agreement [ILUA]; the successes of the Working on Country partnership for Arakwal people, in particular, young people working in national parks and in the Cape Byron Trust; and in more recent times my meetings with the Yorta Yorta nation. I again commend the Government for its significant and forward-thinking action to move to save the river red gums in the Murray-Darling Basin. This is timely action, given current debate on the importance of water to the environment generally and to those ecosystems in particular. I congratulate the Government on introducing this legislation. As I said earlier, I foreshadow that I will move an amendment in Committee. It is significant that we are debating this bill today.

**The Hon. SHAOQUETT MOSELMANE** [5.03 p.m.]: I acknowledge the traditional owners of the land on which we meet—the Gadigal people of the Eora nation—and pay my respects to their elders, past and present. I am delighted to make a short contribution to debate on the Constitution Amendment (Recognition of Aboriginal People) Bill 2010. It is with pleasure that I support the bill. I commend the Premier, the Minister for Aboriginal Affairs and all those in this House and in the other place for their support for this bill. The treatment of Aborigines throughout the nation has, unfortunately, consistently fallen short of the standards that the citizens of New South Wales and the nation want and expect.

I am delighted that this bill has been adopted in the other place and that it is supported with such enthusiasm by so many members in this House. It is a great privilege for me to read onto the record the proposed significant amendment to the Constitution Act. The constitutional amendment will insert a new section into the Constitution Act 1902 to provide as follows:

- (1) Parliament, on behalf of the people of New South Wales, acknowledges and honours the Aboriginal people as the State's first people and nations.
- (2) Parliament, on behalf of the people of New South Wales, recognises that Aboriginal people, as the traditional custodians and occupants of the land in New South Wales:
  - (a) have a spiritual, social, cultural and economic relationship with their traditional lands and waters, and
  - (b) have made and continue to make a unique and lasting contribution to the identity of the State.

- (3) Nothing in this section creates any legal right or liability, or gives rise to or affects any civil cause of action or right to review an administrative action, or affects the interpretation of any Act or law in force in New South Wales.

In the words of Bev Manton, the chairwoman of the Aboriginal Land Council, it has taken 108 years to recognise Aboriginal people in the New South Wales Constitution, which obviously was a very long wait. It is extremely heartening that the Keneally Government recognised the importance of that symbolic gesture. As a recently appointed member of the New South Wales Legislative Council and a member of the Keneally Government, I wholeheartedly support the Keneally Government's proposal to amend the Constitution Act 1902 by the insertion of a new section 2A.

Everything that has been done to date generally has been symbolic, including the recognition in the preamble to the Constitution, or former Prime Minister Rudd's apology in 2008 to the stolen generations which will go some way towards redressing the historical exclusion of indigenous peoples from Australia's foundational documents and national identity. I note that this constitutional recognition of Aboriginal people is not intended to have any legal effect. It provides that the Parliament does not intend by this section to create in any person any legal right or give rise to any civil cause of action, or to affect in any way the interpretation of this Act or of any other law in force.

The only real success in the recognition of the rights of the Aboriginal people has been gained by the indigenous people themselves through legal challenges such as Wik and Mabo. Having said that, I strongly believe in the view that Aboriginal people should lead on Aboriginal issues and a representation in a forum such as this House will give them the voice that they deserve. In its report "Enhancing Aboriginal Political Representation", the Legislative Council Standing Committee on Social Issues, which was chaired by Jan Burnswoods, MLC, stated:

The Committee asserts that a just and equitable society requires the involvement and active participation of all sectors in the decision-making process which affect their individual lives and communities.

I believe that we should enact special legislation to introduce dedicated Aboriginal seats to the New South Wales Parliament. Many Aborigines who participated in this inquiry expressed "a strong desire to play a more active role in the political process in this State".

The Committee found significant support and enthusiasm for the concept of dedicated seats among the Aboriginal and non-Aboriginal people who attended the consultations.

Everyone recognises the challenges in advocating for dedicated seats. Other nations around the world have taken the decision to dedicate seats in their Parliaments, so why can we not do so? However, that is a debate for another day. Today I commend the Keneally Government and those members who have taken an active interest in this matter for their contributions to debate on the Constitution Amendment (Recognition of Aboriginal People) Bill 2010.

**The Hon. TREVOR KHAN** [5.08 p.m.]: I support the Constitution Amendment (Recognition of Aboriginal People) Bill 2010. One person who should be congratulated on the introduction of this bill is the Hon. Michael Veitch. His support for the bill and for the cause of the Aboriginal community is well known to many and he should be the recipient of heartfelt congratulations. In the spirit of an apolitical speech, I acknowledge also the work of the Hon. Christine Robertson in the Tamworth Aboriginal community. Her important work with the Kamilaroi people is well known. As I have worked also with the Kamilaroi people this bill is of importance to me. In some circles the symbolism of legislation such as this could in a sense be belittled. Symbolism is important in our community. In so many walks of life simple acts can achieve great outcomes in and of themselves.

I well remember that on the day on which the apology was delivered by the then Prime Minister, Kevin Rudd, we were in the midst of an inquiry into indigenous disadvantage. That inquiry produced a significant report. It was significant not only because of its findings but also because of its weight. However, the most important thing was that day and the apology. Those of us in the theatre downstairs could not be left with anything but a lasting memory. The sobs that could be heard clearly indicated the emotion felt by many members of the Aboriginal community that the apology, finally delivered, would, at least in part, lead to the healing of many decades, indeed centuries, of discrimination and disadvantage. This amendment to the State Constitution is a small but significant step along the same path. To that extent, it must be welcomed by all.

One should recognise symbols for what they are. This is an important piece of legislation and the majority of members are dealing with it in an apolitical and genuine spirit. Its passage should not be used to

create division, nor should anyone take it beyond what it should properly be. This is a historic and significant step and it should be seen as that and be welcomed by all. The legislation should not be amended or used for political advantage. With those words of reservation, I once again welcome this day and I hope that this is another step along the path to a better life for members of the Aboriginal community.

**Reverend the Hon. FRED NILE** [5.11 p.m.]: On behalf of the Christian Democratic Party I am pleased to support this very important bill—the Constitution Amendment (Recognition of Aboriginal People) Bill 2010. Like other members, I pay tribute to the original occupiers and custodians of this land, both past and present. I support the proposed amendment to the Constitution Act 1902, which inserts a new section 2 to acknowledge and honour Aboriginal people as the first people and nations of the State of New South Wales. This legislation recognises also that Aboriginal people have a spiritual, social, cultural and economic relationship to their traditional lands and waters and have made and continue to make a unique and lasting contribution to the identity of New South Wales.

This legislation was distributed for public discussion from 18 June until 11 August 2010 and it has attracted widespread support. The Crown Solicitor has confirmed that it will not create any legal right or liability, nor will it give rise to or affect any civil cause of action or right to review an administrative action or affect the interpretation of any Act or law enforced in New South Wales. I assume that is particularly because of the wording in the bill, which includes that expression. Proposed new section 2 (3) repeats those words:

Nothing in this section creates any legal right or liability, or gives rise to or affects any civil cause of action or right to review an administrative action, or affects the interpretation of any Act or law in force in New South Wales.

As other members have said, the Greens have foreshadowed an amendment to delete that section. If the amendment were carried, it would change the intent of the bill. It is unfortunate that the Greens have introduced that divisive note into this debate. Whether or not they acknowledge it, it appears to be an attempt to score a political point. I condemn the foreshadowed amendment and call on the Greens, particularly the Hon. Ian Cohen, to withdraw it. I repeat the words the Premier used when introducing the bill in the other place that I think sum it up in simple but expressive terms. She said:

Today we are enshrining fundamental truths: the truth that our Aboriginal people are the first inhabitants of New South Wales; the truth of the spiritual, cultural and economic ties that bind our Aboriginal people to their traditional lands and waters; and the truth in the diverse and unique contributions that our many Aboriginal nations, cultures and communities make to the life, the economy and the character of our State.

She went on to point out that some may say that the legislation is just symbolic. It is more than that; it is very meaningful. Other members have referred to Sorry Day and to the apology offered in the Federal Parliament by former Prime Minister Kevin Rudd. I was privileged to be a guest in the House of Representatives on that occasion and those there could sense the historic nature of what was taking place. These events are more than symbolic; they have deep spiritual meaning for the Aboriginal and the non-Aboriginal people of Australia. I was very pleased that the apology was offered by the then Prime Minister, Kevin Rudd, and supported by the then Leader of the Opposition, Dr Brendan Nelson.

Some members have referred to the first historic event acknowledging the rights of Aboriginal people; that is, the introduction of the Aboriginal Land Rights Bill by the Labor Government on 13 March 1983. I was elected to this House in 1981 and I still remember the intense debate on that bill. Even though it was historic and symbolic, it was very simple because it was restricted with regard to what Aboriginal land rights would be covered. One person summed it up by saying that we were giving Aborigines the land that no-one wanted, land that had no value. That was probably true, but that legislation was still an important step.

I was pleased to support that bill and I still remember the vote. The Liberal Party, The Nationals and, surprisingly, the Australian Democrats—led by the Hon. Elizabeth Kirby—strongly opposed the bill. For some reason the Hon. Elizabeth Kirby took strong exception to the bill. A division was called on the question that the bill be read a second time and along with me, 20 Labor Party members supported it and Liberal-Nationals members and the Hon. Elizabeth Kirby voted against it. The result was 21 votes for and 18 votes against the passage of the legislation. Obviously I was pleased that it was passed. However, the Hon. Elizabeth Kirby moved an amendment at the third reading stage to provide that the bill be read a third time six months hence. That is a technical way of defeating a bill at the third reading stage. It was a strange day for me, given that I am seen as a conservative, in that I voted with the Labor Party and the Hon. Elizabeth Kirby, who was seen as a trendy and leaning towards the Greens, voted with the Liberal-Nationals Opposition on a very important bill for all of us, but particularly for Aboriginal people.

I pay tribute also to the work of Mick Mundine, Chairman of the Aboriginal Housing Company in Redfern, who for many years struggled to hold the company together—from when it was first incorporated in 1973 until today. It has finally succeeded in its project to redevelop The Block. I place on record my admiration for Mick Mundine and I congratulate him on his persistence.

I place on record my appreciation for, and I pay tribute to, the many Aboriginal leaders I have known over the years prior to the 1980s who have given me advice and friendship and who have shared with me their wisdom on these issues. Many of them had the right to be bitter, angry and resentful. However, because of their Christian faith they had a spirit of forgiveness and reconciliation. They were prepared to put the past behind them and to work for reconciliation in the future. For a number of years one of those Aboriginal leaders, Pastor Peter Walker, organised Praise Corroboree events in the new Parliament House in Canberra in which many thousands of delegates promoted the spirit of reconciliation between Aboriginal and non-Aboriginal communities.

I pay tribute to Pastor Ossie Cruse and to his father the late Pastor Ben Cruse. Originally they were associated with La Perouse and later with the Eden Aboriginal community. I pay tribute to the Muli Muli Aboriginal community near Woodenbong, north of Kyogle, to the late Pastor Francis Bundock who led that community for many years, and to his wife Lola who is now in a leadership role. I pay tribute to Pastor Bill Bird, a great tutor who took me to a number of areas in which Aboriginal people were massacred by groups of white men who were ruthless in killing Aboriginal people. It was a moving experience for me to be physically on those sites as Bill Bird described them to me. I pay tribute to Pastor Dick Blair from Redfern, who is working with Mick Mundine. I pay tribute also to Pastor Kerry Blackman from Bundaberg in Queensland and to the late Pastor Jack Braeside from Redfern, originally from Western Australia, and one of the stolen generations.

When I asked Pastor Braeside how he had acquired such a distinguished name he said that after he had been stolen he was taken to a property called Braeside and that he and all the other boys were given the surname Braeside. His non-Aboriginal name was Jack Braeside. All those men made a big impression on me as have Pastor Bob Brown from Nowra who moved to Adelaide, and Pastor Cedric Jacobs from Perth. All those commendable leaders in the Aboriginal community built a bridge between Aboriginal and non-Aboriginal communities. Those men worked quietly behind the scenes and played an important role that was not referred to in front-page newspaper articles.

I am pleased to support this amending bill which will insert a new section 2 and a new first schedule in the Act. The clerks provided me with copies of the two sections that will be repealed—section 2 and the first schedule—but I would like to know why it was necessary to repeal sections of the original Constitution Act 1902. Those sections link back to legislation that I assume originated in Britain, which gives us an historical timeline. It is a pity that the Government is seeking to remove them; I cannot think of any logical reason for their removal. The proposed new section that the Government is seeking to insert could form part of section 3 and the Government's other proposed amendment could become new section 4.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [5.25 p.m.], in reply: I acknowledge the traditional owners, past and present, of the Eora nation and all nations across New South Wales. It is a humbling experience for me to have carriage of this most important bill. During my inaugural speech I spoke of my respect for the way in which our indigenous friends have cared for the land over thousands of years. I spoke of the need to move forward together as peers and not as combatants. This bill amends the Constitution Act 1902 and places us at a pivotal point in the history of New South Wales. The overview of the bill states that this Parliament:

... acknowledges and honours the Aboriginal people as the State's first people and nations and recognises that Aboriginal people, as the traditional custodians and occupants of the land in New South Wales:

- (a) have a spiritual, social, cultural and economic relationship with their traditional lands and waters, and
- (b) have made and continue to make a unique and lasting contribution to the identity of the State.

It has taken almost 108 years to reach that point. This important bill is long overdue. I take this opportunity to thank those who provided feedback on the proposed amendments to the Constitution Act, including members of this House. The Constitution Act 1902, enacted one year after Federation, establishes our democratic system of State government, including our Legislature, the Executive, the Governor and the judiciary. Essentially, it creates the State of New South Wales, so it is right and just that it recognises Aboriginal people and their contribution to the identity of New South Wales.

Unlike the Commonwealth Constitution, which requires a referendum to amend, the New South Wales Constitution Act can be amended in most cases by legislation such as this. The steps we are taking to acknowledge the Aboriginal people of New South Wales are being applauded in Aboriginal communities. This is what Aboriginal people want. The New South Wales Aboriginal Land Council raised constitutional recognition as an issue. Bev Manton, Chairwoman of the New South Wales Aboriginal Land Council, said:

It is extremely heartening that the Keneally Government has recognised the importance of this symbolic gesture.

There's a tendency today to ignore the symbolic over the practical, but there is no good reason, of course, why we cannot do both.

Ms Manton said the changes would help Aboriginal people to feel more connected and concluded:

It will help make Aboriginal people feel more a part of the great State of New South Wales, and I thank the Premier and the Minister Paul Lynch for their foresight and their leadership on this important issue.

Symbolism must be backed up with practical measures to advance the wellbeing of the Aboriginal people of New South Wales. The achievement of the Aboriginal Land Rights Act 1983 shows that symbolism and practical outcomes can go hand in hand. Aboriginal land councils, which are autonomous from government, have a considerable and financial base to deliver benefits to their members and to Aboriginal communities more broadly.

It is important to reflect on the comments made earlier by Reverend the Hon. Fred Nile. He gave us some history, of which many of us were not aware, about the passage of the legislation through this place all those years ago. I express appreciation to Reverend the Hon. Fred Nile for imparting that information. One Aboriginal land council developed grants programs to assist children and young people at school and in sport so that they could afford the excursions and books that they otherwise could not afford. Other Aboriginal land councils provide assistance for funerals, community transport, youth programs, elders groups and aged care facilities.

Recent amendments to the Aboriginal Land Rights Act 1983 make it easier for Aboriginal land councils to develop plans to use their resources, including landholdings, to provide benefits to their members. Of course, there is a role for government programs and funding. Take, for example, the Aboriginal Health College at Little Bay. This excellent facility, run by the Aboriginal Health and Medical Research Council of New South Wales, aims to improve health care and to provide education for students and health professionals across Australia. The New South Wales Government contributed \$7.9 million to the establishment of the Aboriginal Health College.

Safe housing and a clean environment are essential to good health. Through the Aboriginal Communities Development Program almost \$240 million has been spent on about 360 new homes, refurbishments and repairs to over 1,000 homes, and water and sewerage improvements to 44 communities. Recently the Minister for Aboriginal Affairs announced the Premier's Award for Housing for Health Program in New South Wales. In the last 10 years the program has been delivered in 71 communities, with repairs to 2,230 homes, improving the lives of almost 10,000 Aboriginal people. NSW Health estimates these 10,000 people are 40 per cent less likely to be hospitalised with an infectious disease, and their houses are safer and more liveable. I am proud to be part of the Parliament that has had the courage to recognise in our Constitution Aboriginal people and their contributions to New South Wales.

The Constitution amendment is yet another step in the process of reconciliation with the first peoples of this great country. Many people have been activists in achieving the legislation. I place on record my appreciation to the Minister, the Hon. Paul Lynch, for his diligent and tireless work in preparing and consulting on the wording for this important constitutional amendment, and his long-term commitment to advancing this important measure. I congratulate everyone else who has persevered with the belief that this amendment should occur. There are so many people to thank that I dare not attempt to do so.

In the debate a number of people raised the important report put together by the Standing Committee on Social Issues in 2008. I congratulate all members of that committee, in particular the Chair, the Hon. Ian West, on his diligent approach to chairing what was no doubt a rather difficult committee to chair at times. During the debate a couple of matters were raised. I will reserve my comments with respect to the Greens amendment until the Committee stage. Reverend the Hon. Fred Nile referred to the proposed Greens amendment to omit the exclusionary provision. I am advised that the purpose of the exclusionary provision is to avoid any uncertainty around future legal actions or the interpretation or operation of the Constitution or other Acts. Therefore, I commend the bill to the House.

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

**Motion agreed to.**

**Bill read a second time.**

**In Committee**

**Clauses 1 and 2 agreed to.**

**The Hon. IAN COHEN** [5.33 p.m.]: I move:

Page 2, clause 3 (proposed section 2 (3)), lines 23 to 27. Omit all words on those lines.

As I indicated in my contribution to the second reading debate, the Greens oppose the exclusionary provision in the bill. While I support the intent behind the bill, I find it difficult that we cannot accept the realities that flow from our recognition of Aboriginal people in the New South Wales Constitution. How can we acknowledge such important historical facts and pre-existing legal rights only to render them meaningless in actual legal effect? It is illogical. If we truly accept every dimension of reality embodied in the words professed in the bill then the exclusionary clause sits very uneasily in the bill. I do not want to detract from the importance of this occasion or call into question members' support for this bill; all members who have spoken on this bill have done so with sincerity. I move this amendment because we have an opportunity to match the symbolism with a guarantee of rights flowing from constitutional recognition. I commend the amendment to the Committee.

**Reverend the Hon. FRED NILE** [5.34 p.m.]: I have already spoken in the second reading debate on behalf of the Christian Democratic Party in opposition to the amendment. It is unfortunate that the Greens are persevering with the amendment. I think that the Hon. Ian Cohen would acknowledge that if the bill was as proposed by his amendment we would not be here today debating the bill; it would have raised other questions and would have prevented the whole project moving ahead. His amendment, if successful, would lead to the defeat of the bill. This is a short-sighted move by the Greens.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [5.35 p.m.]: The bill contains an exclusionary provision, new section 2 (3), which states with respect to recognition of Aboriginal people in New South Wales that this section does not create in any person any legal right or give rise to or affect any civil cause of action or affect the interpretation of this Act or any other law in force in New South Wales. The purpose of exclusionary provisions is to avoid any uncertainty around future legal actions, the interpretation or operation of the Constitution or any other Act. This means that the statement is an enduring symbolic gesture of reconciliation between the Aboriginal and non-Aboriginal people of New South Wales and does not create any legal liability on the part of the people or Parliament of New South Wales. Importantly, exclusionary provisions such as this appear in the Queensland and Victorian Constitutions. They are also common in other Acts of Parliaments, such as the Health Records and Information Privacy Act 2002, the Privacy and Personal Information Protection Act 1998, the Victims Rights Act 1996, the Health Services Act 1997 and the Fiscal Responsibility Act 2005. By providing this certainty specifically designed to counter long and expensive litigation for all parties involved the Government is placed to continue to spend public moneys appropriately and in partnership with Aboriginal communities.

The Government is serious and committed to improving the lives of Aboriginal people and communities through a range of policies and programs. Developing appropriate and targeted programs and services to communities is quite simply a better way to spend money on improving the economic participation of Aboriginal people in our communities. Aboriginal Affairs NSW presently administers such programs and initiatives that provide real improvements to the Aboriginal people of this State. I note that these commitments to Aboriginal people are real, which makes the symbolism of the amendment to the Constitution real and in the spirit of all people in New South Wales coming together in an act of reconciliation. Ongoing and divisive litigation is not the way forward. The Government opposes the amendment.

**The Hon. MARIE FICARRA** [5.37 p.m.]: The New South Wales Liberals-Nationals do not support the Greens amendment. I totally agree with Reverend the Hon. Fred Nile that eliminating this part of proposed section 2 would give rise to complete rejection of the bill. It would be against the spirit of the bill—in particular, the bipartisan support that has been achieved thus far. As the Parliamentary Secretary stated in the Government's case for rejection of the Greens amendment, similar clauses exist in Acts that recognise Aboriginal people in

other States. The Acts do not create a legal right or liability or give effect to any civil cause of action or right to review an administrative action that affects the interpretation of the Act or law in force in the State. It was a good try from the Greens to again upset bipartisan support for the bill, but the New South Wales Liberals-Nationals do not support the amendment.

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

**Amendment negatived.**

**Clause 3 agreed to.**

**Title agreed to.**

**Bill reported from Committee without amendment.**

### **Adoption of Report**

**Motion by the Hon. Michael Veitch agreed to:**

That the report be adopted.

**Report adopted.**

### **Third Reading**

**Motion by the Hon. Michael Veitch agreed to:**

That this bill be now read a third time.

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

## **NATIONAL PARKS AND WILDLIFE AMENDMENT (ADJUSTMENT OF AREAS) BILL 2010**

### **Second Reading**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.43 p.m.], on behalf of the Hon. John Robertson: I move:

That this bill be now read a second time.

The National Parks and Wildlife Amendment (Adjustment of Areas) Bill 2010 will enable the revocation of land from Gwydir River and Beni State Conservation Areas for the purpose of allowing safety upgrades to public infrastructure. The bill will also make an amendment to the Native Title (New South Wales) Act 1994 to ensure that native title rights and interests existing in relation to the revoked land are protected. To ensure that national parks and nature reserves are protected in perpetuity, revocation of land reserved under the National Parks and Wildlife Act 1974 requires an Act of Parliament. This is an important aspect of the national parks system because it ensures that our natural and cultural heritage is protected for future generations. Any changes to that status are subject to the scrutiny of the parliamentary process.

In some instances the boundary between national parks and adjoining infrastructure such as roads or dams prevents essential upgrades of this infrastructure, and boundary changes are necessary. The revocation of lands generally will be undertaken as an avenue of last resort and will involve compensatory land being added to the reserve system that is of equal or greater conservation value. Gwydir River State Conservation Area is located about 35 kilometres south-west of Inverell, in northern New South Wales, and was reserved in 2005. Copeton Dam lies directly to the north of the reserve. The dam's current spillway was designed in the 1960s to accommodate the probable maximum flood. However, recent revisions to rainfall intensity estimates and potential impacts of climate change identified risk from extreme rainfall events. The risk is considered too great according to the standards set by the Dams Safety Committee under the Dams Safety Act 1978.

To make the dam safe State Water needs to build an auxiliary spillway providing an emergency flow path from the Diamond Bay area of the dam to the Gwydir River downstream of the dam wall. This was

identified as the most technically appropriate, least environmentally impacting and most cost-effective of the options considered. Such a spill would flow into Gwydir River State Conservation Area. To allow this to happen 144 hectares needs to be revoked from Gwydir River State Conservation Area. The proposal will have a net conservation gain. The land to be revoked is downstream of the dam wall, has recently been logged, and was impacted on by the construction of the dam before the land was reserved in 2005. To offset the loss of land from the State conservation area State Water will transfer land of equal or greater conservation value to add to Gwydir River State Conservation Area.

The bill makes an important provision to ensure that adequate compensatory land is added to the reserve system. Under the bill the revocation of the 144 hectares required to enable the upgrade of the dam cannot occur until the Minister is satisfied that the offset land is of equal or greater conservation value. The bill also proposes to revoke land from Beni State Conservation Area to allow the upgrade of the intersection of Boothenda Road and the Golden Highway west of Dubbo. This is a much smaller area, of only about one and a half hectares. Beni State Conservation Area is located 15 kilometres north-east of Dubbo and was reserved in 2005. It comprises two parcels of land, the smaller of which lies adjacent to the intersection of Boothenda Road and the Golden Highway. Dubbo City Council secured \$1.4 million in funding through the AusLink Strategic Regional Program to upgrade and realign the intersection to improve safety.

Boothenda Road forms part of a northern freight vehicle route which bypasses the Dubbo city centre and links the Golden Highway, Newell Highway and Mitchell Highway to the west of the city. Upgrading the intersection will enable B-double trucks to use Boothenda Road to access Troy industrial area, thereby reducing the distance trucks travel by five kilometres and keeping unnecessary traffic out of the Dubbo city centre. Most importantly, it will mean greater safety for the people who use these roads. The proposal will also have a net conservation gain. The land to be revoked contains disturbed forest located at the corner of the small portion of Beni State Conservation Area adjacent to the Golden Highway. To offset the loss the council has agreed to transfer eight hectares of high conservation value land to Beni State Conservation Area. This land is currently an unused public road reserve which passes through the large portion of Beni State Conservation Area. The road reserve is not required as other existing roads service the area. I commend the bill to the House.

**The Hon. CATHERINE CUSACK** [5.47 p.m.]: The National Parks and Wildlife Amendment (Adjustment of Areas) Bill 2010 amends the principal Act to revoke the reservation of certain land currently reserved as part of Beni State Conservation Area and Gwydir River State Conservation Area. The bill will facilitate two major infrastructure projects. The first is the construction of a new auxiliary spillway at Copeton Dam, which will require the revocation of 143.83 hectares of Gwydir State Conservation Area. This 2,607-hectare reserve was created 35 kilometres south-west of Inverell in 2005, near the shores of Lake Copeton. Copeton Dam holds the town water supply as well as providing for irrigation, stock watering and electricity supply. The Dams Safety Committee has reviewed the structure and spillway of the dam in light of new climate change projections which forecast an increase in the number and severity of extreme weather events. This is certainly a year for such a review. The committee formed the view that the existing spillway, which was built in the 1960s, is inadequate to meet the potential risk and must be made safe for the future. The land to be revoked for emergency water flow purposes is downstream of the dam, and the Minister advises that it has been severely disturbed in the past through logging and construction activities associated with building the dam. We are further advised that State Water has agreed to provide an offset by transferring land of equal or greater conservation value to Gwydir River State Conservation Area. Thus, the essential improvement to dam infrastructure will be accompanied by a net gain to the conservation values and protections of the area. This is supported by the Opposition.

The second project is located 15 kilometres north-east of Dubbo in Beni State Conservation Area, a 1,849-hectare reserve created in 2005. It is a popular picnicking area that represents ironbark-cypress vegetation communities which are typical of the Central West. It is home to a number of species of rare woodland birds. The Boothenda Road and Golden Highway intersection upgrade will require the revocation of 1.159 hectares of the reserve. The \$1.4 million upgrade is being undertaken by Dubbo City Council under the AusLink Strategic Regional Program to improve safety on the Golden Highway. Under the terms of the funding agreement with the Commonwealth the project must be undertaken by 31 December 2010 or the council will be in default of the agreement and this important grant will expire. The safety upgrade is considered both urgent and essential. Boothenda Road is part of the northern freight vehicle route but is not able to be used by B- doubles to bypass Dubbo.

The upgrade of this intersection will reduce the journey distances of trucks by five kilometres and will avoid the need to travel through Dubbo city centre. The project will bring relief and safety improvements to road

users as well as the citizens of Dubbo. The Liberal and National parties support this project. The Minister for Climate Change and the Environment made a commitment to initiate legislation to facilitate a revocation in May of this year but it has taken until September, which is rather tardy, to give effect to this simple and minor adjustment to enable a crucial road safety project to proceed and to ensure that Dubbo is not forced to forfeit \$1.4 million in roads funding at the end of the year.

I have also been contacted by residents of Lake Cathie in the Port Macquarie electorate about a modest request they have been making to the National Parks and Wildlife Service and the State Government for some years now for a minor boundary adjustment for yet another important community infrastructure project—a slight enlargement of the Raiders Oval, which is the only real sporting facility in that community. The oval is so constrained that teams are unable to play at home games on weekends and the amount of sporting activities that community can undertake is restricted. For example, there is insufficient room for netball courts. Netball appears to be the fifth unloved cousin of Australian sport given that the space needed to play that sport is so modest yet the participation rates are so high. I am tired of visiting communities—

**The Hon. Ian Cohen:** What about the Waratahs?

**The Hon. CATHERINE CUSACK:** In talking about netball I will say: Go the New South Wales Waratahs, but they also have been unsuccessful in obtaining help from anybody. The Lake Cathie community is keen for a small boundary adjustment to the Raiders Oval in the order of one hectare into the Lake Innes Nature Reserve. That community is working to identify offsets. The Opposition believes the project ought to be facilitated. Those residents should not be told to go away because it is impossible. The bill before the House today is proof that it is possible for these important community infrastructure projects and the needs of the Lake Cathie community should also be addressed.

**The Hon. SHAOQUETT MOSELMANE** [5.52 p.m.]: The National Parks and Wildlife (Adjustment of Areas) Bill 2010 will enable the revocation of land from the Gwydir River State Conservation Area and the Beni State Conservation Area for the purpose of allowing safety upgrades to public infrastructure. The bill will also amend the Native Title (New South Wales) Act 1994 to ensure that existing native title rights and interests in relation to the revoked land are protected. The Gwydir River State Conservation Area is located about 35 kilometres south-west of Inverell in northern New South Wales and was reserved in 2005. Copeton Dam lies directly to the north of the reserve. The dam's current spillway was designed in the 1960s to accommodate the probable maximum flood. However, recent revisions to rainfall intensity estimates and the potential impacts of climate change identified risk from extreme rainfall events. That risk is considered too great according to the standard set by the Dams Safety Committee under the Dams Safety Act 1978.

To make Copeton Dam safe State Water needs to build an auxiliary spillway to provide an emergency flow path from the Diamond Bay area of the dam to the Gwydir River downstream of the dam wall. This was identified as the most technically appropriate, least environmentally impacting and most cost-effective of the options considered. Such a spill would flow into the Gwydir River State Conservation Area but, to allow this to happen, 144 hectares needs to be revoked from Gwydir River State Conservation Area. The proposal will have a net conservation gain. The land to be revoked is downstream of the dam wall, has recently been logged and was impacted on by the construction of the dam before the land was reserved in 2005. To offset the loss of land from the Gwydir River State Conservation Area State Water will transfer land of equal or greater conservation value to add to the Gwydir River State Conservation Area.

The bill makes an important provision to ensure that adequate compensatory land is added to the reserve system. Under the bill the revocation of the 144 hectares required to enable the upgrade of the dam could not occur until the Minister is satisfied that the offset land is of equal or greater conservation value. The bill also proposes to revoke land from the Beni State Conservation Area to allow the upgrade of the intersection of Boothernba Road and the Golden Highway west of Dubbo. This is a much smaller area—approximately 1.5 hectares. The Beni State Conservation Area is located 15 kilometres north-east of Dubbo and was reserved in 2005. It comprises two parcels of land, the smaller of which lies adjacent to the intersection of Boothernba Road and the Golden Highway.

The Dubbo City Council secured \$1.4 million in funding through the AusLink Strategic Regional Program to upgrade and realign the intersection to improve safety. Boothernba Road forms part of a northern freight vehicle route that bypasses the Dubbo city centre and links the Golden, Newell and Mitchell highways to the west of the city. The upgrade of that intersection will enable B-doubles to use Boothernba Road to access the

Troy industrial area, thereby reducing the distance travelled by trucks by five kilometres, and will keep unnecessary traffic out of Dubbo city centre. Importantly, it will mean greater safety for the people that use these roads.

The proposal will also have a debt conservation gain. The land to be revoked contains disturbed forest, which is located at the corner of the small portion of the Beni State Conservation Area adjacent to the Golden Highway. To offset the loss the council has agreed to transfer eight hectares of high conservation value land to the Beni State Conservation Area. This land is currently an unused public road reserve that passes through a large portion of the Beni State Conservation Area and that road reserve is not required as other existing roads service the area. I am pleased to support the bill.

**The Hon. IAN COHEN** [5.57 p.m.]: The Greens do not oppose the National Parks and Wildlife Amendment (Adjustment of Areas) Bill 2010. On occasion the New South Wales Parliament is asked to authorise the revocation of land from the national park estate. The National Parks and Wildlife Act requires an Act of Parliament to revoke land from the national park estate, and with good reason. Our national parks represent our natural heritage and we should not allow the destruction of such heritage except in exceptional circumstances and where adequate compensatory measures are provided for.

The revocation bill affects two State conservation areas: the Beni State Conservation Area and the Gwydir River State Conservation Area. I will deal with Beni State Conservation Area first. The bill proposes to revoke about 1.5 hectares of land from Beni State Conservation Area; a 1,849 hectare reserve created in 2005. If the land is revoked from the national park estate the Dubbo City Council, which secured \$1.4 million in funding through the AusLink Strategic Regional Program, will upgrade the intersection of Bootherba Road and the Golden Highway west of Dubbo. In order to compensate for this loss of land the Government has advised that the Dubbo City Council has agreed to transfer eight hectares of high conservation value land to the Beni State Conservation Area. The eight hectares will be made up from a public road reserve: Old Mendooran Rd, which is adjacent to the State Conservation Area.

Approximately 144 hectares of Gwydir River State Conservation Area will be revoked under the proposed bill. The revocation of this State conservation area is required to allow the upgrade of Copeton Dam as the upgrade activities would be inconsistent with the management principles of the State conservation area. Copeton Dam, which is located three kilometres south-west of Inverell, holds town water supply and is used for irrigation, stock watering and electricity.

The dam currently has a storage capacity of approximately 1.3 million megalitres and a spillway capacity of 1.28 million megalitres per day. After a review of rainfall intensity estimates and rainfall patterns under climate change projections, the New South Wales Dam Safety Committee has recommended an upgrade to Copeton Dam so that it complies with the standards set by the committee. The Copeton Dam upgrade will involve the construction of a \$51 million auxiliary spillway to provide an emergency flow path from the Diamond Bay area of the dam to the Gwydir River downstream of the dam wall.

In circumstances where a Government seeks to revoke land that has been placed in the national park estate for protection and maintenance in perpetuity, the Government must seek to compensate the ecological loss. Ecological loss through revocation is generally compensated for by adding other high conservation value land into the national park estate to offset the revocation loss. The usual practice is for the department to identify the relevant offset land, having made acquisition, purchase or transfer arrangements before the revocation is put before Parliament. The bill strays from this usual practice in that the compensation offset for the Gwydir River State Conservation Area has not been finalised. Under the bill the revocation and vesting of the land in State Water does not take effect until the Minister publishes a notification in the *Government Gazette* that the offset land transferred by State Water to the national park estate is of equal value.

Acquiring land for conservation compensation and offsetting requires a level of commercial confidentiality. Disclosure of specific details relating to land acquisition could have an adverse influence on negotiations. The need for confidentiality must be balanced with the need for members to evaluate the offset for the revocation. Parliaments, when asked to authorise a revocation of land placed in the national park estate for its conservation values, should be able to evaluate whether the sacrifice of conservation land is justifiable. In this situation we have to rely upon the provisions that bind the Minister to ensure that offset land is of greater conservation value. I do not know why the "maintain and improve biodiversity value" test is not directly referenced in section 2 (4). A commitment by the Minister on the record to apply this test would be sufficient to remedy this. I ask that the Minister consider making such a commitment.

Serious consideration must be given to the process of the adjustment of an area. I am concerned that during debate on this bill the Hon. Catherine Cusack mentioned netball courts and Lake Innes Nature Reserve. I have visited this area and I was extremely impressed by its beauty. If the Hon. Catherine Cusack, who is the shadow Minister for the Environment, becomes the Minister for the Environment in a Coalition government after the next election, I hope that she makes the protection of the environment a priority. It is important that the Minister who represents that portfolio, whoever is in government, advocates for the protection of the environment. The member's remarks leave me concerned that she would provide less than adequate defence of important environmental areas for the convenience of other activities. It is important that these steps are taken carefully and in a considered way, particularly the revocation of national park areas. I accept that such areas are necessary to undertake important tasks in the interests of the environment and the public good. However, I am concerned about too great a degree of laxity with regard to future processes.

**Reverend the Hon. FRED NILE** [6.04 p.m.]: On behalf of the Christian Democratic Party I support the National Parks and Wildlife (Adjustment of Areas) Bill 2010. Once land is reserved under the National Parks and Wildlife Act 1974 it cannot be revoked unless by an Act of Parliament. The passing of this bill will allow the revocation of land, which is sometimes necessary to address boundary errors and encroachments or to enable the development of public infrastructure that is not permissible under the National Parks and Wildlife Act. The Department of Environment, Climate Change and Water is the determining authority for activities and developments on land reserved under the National Parks and Wildlife Act. Developments such as major public infrastructure may not be permissible under the Act or may be inconsistent with the Act's objectives.

The bill proposes to revoke two parcels of land and to provide land to offset the loss of land from the State conservation area. There is no net loss to the State by this legislation. The bill will revoke two parcels of land from reservation under the National Parks and Wildlife Act 1974 to enable essential safety upgrades at two locations: Copeton Dam and the intersection of the Golden Highway and Boothenda Road. Both these upgrades are urgent and must be facilitated. The Copeton Dam upgrade will ensure that the dam is safe. If this work does not proceed, people's lives and property will be endangered.

Dubbo City Council secured \$1.4 million in funding through the Auslink Strategic Regional Program to upgrade and realign the Golden Highway and Boothenda Road intersection to improve safety. If this work is not undertaken by 31 December 2010, the council could default on the funding agreement, and that would prevent this safety upgrade from being undertaken. It is important that the House pass this bill, which I am pleased to support.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [6.07 p.m.], in reply: I thank honourable members for their contributions to this debate. I note that no-one raised significant issues with the bill and that all members will support it. The National Parks and Wildlife Service manages over 8 per cent of the State, that is, more than 6.5 million hectares. The Government remains committed to building a comprehensive, adequate and representative reserve system in this State consistent with national and international obligations, including those set out under the Convention on the Conservation of Biodiversity that have been enshrined in the State Plan.

To ensure that national parks and nature reserves are protected in perpetuity, the revocation of land reserved under the National Parks and Wildlife Act 1974 requires an Act of Parliament. This is an important aspect of the national parks system because it ensures that our natural and cultural heritage is protected for future generations. Any changes to that status are subject to the scrutiny of the parliamentary process. The revocation of land generally will be undertaken as an avenue of last resort and will involve compensatory land being added to the reserve system that is of equal or greater conservation value.

The Hon. Ian Cohen raised an issue about process and decision making. I emphasise that the decision to de-gazette any portion of a nature reserve, national park or State conservation area is not one that the Government takes lightly. The proposals contained in this bill are the result of a process of strict scrutiny within the National Parks and Wildlife Service. The Department of Environment, Climate Change and Water is using the biobanking assessment methodology to assist in determining an appropriate offset package for the revocation of the reserve land and part 11 land, which also will be transferred to State Water. Biobanking provides a consistent approach to determining that biodiversity is maintained or improved as a result of an activity such as revocation. The bill includes a clause to ensure that the Minister will not transfer the land to State Water until he is satisfied that the land is of equal or greater value. The land to be revoked is downstream of the dam wall and was logged prior to its reservation in 2005. It also has been impacted on previously, by the construction of the dam in the late sixties and early seventies.

On behalf of the Government I commend all the National Parks and Wildlife Service staff who have been involved in this process, particularly for ensuring an outcome where public safety has been improved at two sites in regional New South Wales while ensuring that the environmental integrity of the New South Wales reserve system is not diminished. I commend the bill to the House.

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

**Motion agreed to.**

**Bill read a second time.**

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

### **Third Reading**

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

That this bill be now read a third time.

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

## **INDUSTRIAL RELATIONS ADVISORY COUNCIL BILL 2010**

### **Second Reading**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [6.10 p.m.], on behalf of the Hon. John Robertson: I move:

That this bill be now read a second time.

The amendments to the Industrial Relations Advisory Council Bill 2010 include appointing to the advisory council an extra representative from the Master Builders Association of New South Wales and, to balance that, an extra union representative. That amendment will necessarily require an increase in the number constituting a quorum. The bill as originally drafted did not seek to put individual representatives of a particular industry on the council, and that is a justifiable position. The bill was logically drafted in that way and is very close to the South Australian model.

However, the Master Builders Association approached the Government with an argument that it should be represented on the advisory council. It made some legitimate points: that the building and construction industry is now the third largest employer throughout Australia; that the Master Builders Association represents all sectors of that industry, with almost 9,000 members in New South Wales and 31,000 members from the various associations across the country; that the majority of the works of the New South Wales Government are tendered for and undertaken by members of that association; and that the Master Builders Association is nominated by the Commonwealth on the national council. Those are cogent arguments for amending the bill to include a representative on the council from the Master Builders Association and the Government is happy to accede to that request. I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

**Leave granted.**

The Industrial Relations Advisory Council Bill 2010 establishes a new industrial relations body in New South Wales—the Industrial Relations Advisory Council.

First and foremost, the purpose of the council is to provide, in the public interest, a regular and organised means by which representatives of the government of New South Wales, of employers and of employees and, when the Minister considers it appropriate, representatives of other persons, bodies and organisations may consult on industrial relations matters of statewide concern. That is particularly important in the context of the national industrial relations system in which all private sector employers and employees now operate. That national system is fundamentally a cooperative system run by the Commonwealth and the referring States and Territories.

The Fair Work Act lays down the fundamental principles of the national system, and an intergovernmental agreement and the Workplace Relations Ministers Council provide the consultation and cooperation to make the system work in the manner intended. Consultation and cooperation, in turn, rely on information. That is where the consultative council proposed in this bill

has work to do. The council is particularly designed to provide a forum for employees and their unions, employers and other bodies to discuss industrial relations issues of concern, especially as they relate to the implementation and operation of the national industrial relations system at a State level.

For example, it is expected that the council will provide an ideal opportunity for peak industrial stakeholders in New South Wales to provide feedback to the Minister on important matters that may be deliberated on from time to time by Fair Work Australia in the national system. Such matters would include, but by no means would be limited to, equal remuneration and national wage cases. In this way, the council will provide an important forum for identifying and discussing issues that have been raised by the new national system and provide the Minister with important background information to pursue those issues either in the Workplace Relations Ministers Council or directly with the Commonwealth and other States.

It is important to remember that late last year when the New South Wales Government decided to refer its powers to the Commonwealth, it did so only on the basis of adherence to certain fundamental workplace relations principles. Both the Commonwealth Fair Work Act and the New South Wales Industrial Relations (Commonwealth Powers) Act contain seven elementary principles. These include that the new national industrial relations system provides and continues to provide for a strong, simple and enforceable safety net of minimum employment standards; genuine rights and responsibilities to ensure fairness, choice and representation at work, including the freedom to choose whether or not to join and be represented by a union or participate in collective activities; collective bargaining at the enterprise level with no provision for individual statutory agreements; fair and effective remedies available through an independent umpire; and protection from unfair dismissal.

Further, there should be and continue to be in connection with the operation of the Fair Work Act an independent tribunal system and an independent authority that is able to assist employers and employees within a national workplace relations system. These principles are the benchmark for ensuring that the Fair Work Act develops in a fair and decent manner, as intended by New South Wales and the other referring governments.

It is expected that the formation of the Industrial Relations Advisory Council will provide all its members with an appropriate forum to ensure all workplace relations principles are being met by the new system. The council will be composed of 17 members. Its members will be appointed by the Minister for a period of up to three years, but they may be nominated for further terms. There are also the usual provisions for resignation, termination of appointment and representation by a substitute member. This will include the capacity for the Minister to be represented by another member of the council. Under the terms of this bill, the council must meet at least twice a year. But, if necessary, the Minister will be able to call on additional meetings. The Minister will chair the council, which will be made up of senior public servants, representatives from Unions NSW, peak employer bodies and legal professional associations.

As well as monitoring the new national industrial relations system, the council will be an important focal point for making and implementing industrial relations policy in New South Wales. The intent is that the council will assist the Minister and the New South Wales Government in formulating industrial relations policy and then act as a source of direct information about the implementation of that policy. Obviously, that means that legislation that the New South Wales Government is intending to pass to give effect to those policies will be high on the list of items for the council's consideration. I commend the bill to the House.

**The Hon. GREG PEARCE** [6.12 p.m.]: The New South Wales Liberals and Nationals do not oppose the Industrial Relations Advisory Council Bill 2010. However, we do not believe that the Government has made out any real justification for establishing the council. The agreement in principle speech in the other place is devoid of any argument for the council's establishment. But if the Minister needs to establish the council to enable him to consult with employers, unions and others in the State, then I suppose there is little harm to be done, except that the composition of the council seems to be skewed in favour of the union movement. As the Parliamentary Secretary has indicated, the Government has already had to amend the bill to rectify the very odd logic that seems to have led to the selection of so-called employer-type representatives.

Interestingly, the agreement in principle speech stated that the justification for the creation of this body is to discuss "issues of concern" and that the council is to meet at least twice a year. Although the council is to be chaired by the Minister, there is provision in the bill for the Minister to appoint a representative and to not even attend the meetings. One is at a bit of a loss to know what is really being achieved by the establishment of this council. Members are appointed by the Minister for a term of up to three years, and the Minister kindly indicated during the estimates hearing that they will not be paid for their membership of this body. It is interesting that the Government has already agreed to an additional member from the Master Builders Association of New South Wales. We do not have any problem with that, but I note that other organisations have indicated that they are not very happy with the composition of the council if it has to exist.

**The Hon. Greg Donnelly:** Is that the HR Nicholls Society?

**The Hon. GREG PEARCE:** No. The Australian Mines and Metals Association has written to the Minister in that regard; I know, because it sent me a copy of its letter, which is dated 5 October 2010. The Australian Mines and Metals Association points out that the New South Wales resource sector plays an important role in the New South Wales economy—and we all know that—that the total value of minerals and metals exports from New South Wales was more than \$16 billion in 2008-09 and that royalties from the New South Wales minerals produced \$1.28 billion in 2008-09. It might be interesting to know what the Minister's response was to that body. Self-insurers have also expressed concern. Self- and specialised insurers represent 25 per cent of the WorkCover scheme, yet they are not being given one of eight or nine spots on the advisory council.

Comment has also been made that although the balance is notionally equal in terms of so-called employers and unions, it is obvious from the composition of the membership, including government public servants, that the numbers are not equal. Further comment was made that "the council will perpetuate the current situation with party-party animosity and a talkfest on IR issues, resulting in the structural problems complexity remaining unresolved". There are significant omissions of significant parts of industry—for example, farmers are also not represented on this body. As I said at the outset, we do not oppose this legislation, although it is very difficult to see what it is meant to do. If the Minister thinks he needs to have this council for the remaining time he will be in that role as a way of communicating with unions, employers and others, then so be it.

**Mr DAVID SHOEBRIDGE** [6.17 p.m.]: I speak on behalf of the Greens on the Industrial Relations Advisory Council Bill 2010. The Greens will support the bill, the aim of which is to set up a standing body to advise the Minister for Industrial Relations on matters that arise out of the still-new national industrial relations system, and in particular to advise the Minister on how these matters should be addressed in the various forums that exist between State governments and the Federal Government. There is nothing objectionable in those aims, and, as a matter of principle, the Greens support consultation. That said, the disappointing aspect of this legislation is that it will oversee the final dismantling of the State industrial relations system and the transfer of private sector employees under State awards to a national system that gives them less protection than those provided by the existing State system.

In a week in which we have seen the Premier finally stand up for the superior occupational health and safety laws of New South Wales rather than agree to a reduction in those laws as part of the so-called harmonisation process of the Federal Government, it is sad that, in part, this legislation marks the death of an industrial relations system for workers in the private sector that gave them some genuine level of freedom to pursue improvements to their pay and conditions of employment. While the Federal Fair Work Act is a significant improvement on the appalling WorkChoices of the Coalition Government, it has substantially fewer protections than currently exist for working people in the New South Wales system.

We have now had 30-odd years of industrial relations reform that has focused on increasing flexibility in the workplace. However, the great untold story for our fellow citizens over the past 30 years is that many of us, rather than enjoy shorter working hours and greater leisure time, or even an eight-hour working day that was once the norm, now spend 45, 50 or 60 hours a week at work. Of course, the focus on flexibility leads to stresses and strains on personal and family life. The loss of input in the workplace by workers that was a hallmark of strong union involvement and balanced laws now sees about one-third of our fellow Australians working for labour hire companies or as casual employees. They are often afraid to take a day off work, even if they are sick or injured, for fear of losing their job.

While workplace flexibility is in large part a good aim, for many workers it has simply meant that they work when their employer wants them to, not when it suits them or their family. For flexibility to be genuine there must be a balance between employees and employers. The existing Federal system does not provide that balance. The Coalition criticised the composition of the Industrial Relations Advisory Council. Clearly its membership represents a balance between employers and employees. Organisations like the Bar Association and others are simply employer organisations and should be recognised as such. There is no merit in the Coalition's criticism of the composition of the council. As I said, there is nothing objectionable in principle in this bill. However, the reality is that the proposed council is a toothless tiger and the rights of workers in New South Wales will not be protected by its establishment.

**The Hon. LUKE FOLEY** [6.22 p.m.]: I support the Industrial Relations Advisory Council Bill 2010. Before I speak about its substantive aspects, I will briefly respond to the remarks made by the two previous speakers. I point out to Mr David Shoebridge that members of the New South Wales Labor Party do not need a lecture on the benefits of the Industrial Relations Act 1996, because it is a piece of Labor Government legislation of which we are very proud. When this Government and other State governments challenged WorkChoices in the High Court, the court found that the Commonwealth Government had a right to legislate in the area of industrial relations and the Labor Party and the wider labour movement had to respond to that. As a result, we have a national industrial relations system and the Fair Work Act, which has dismantled the odious aspects of John Howard's WorkChoices legislation. We in the Labor Party will not put up with sanctimonious criticism from the Greens; we are very proud of our record on industrial relations legislation that supports the interests of the working men and women of this country at both a State and national level.

In respect of the underwhelming endorsement of the bill offered by the Hon. Greg Pearce, I point out that if it is as disturbing to the member as he makes out, he should simply display the courage of his convictions

and vote against it. He could perhaps expose the real attitude of the Liberal-Nationals about these sorts of arrangements. At the end of the day, they offend the fundamental principle that people like the Hon. Greg Pearce go through life supporting, that is, the absolute right of managerial prerogative and the absolute right of employers to direct employees as they see fit.

The New South Wales Industrial Relations Advisory Council is designed to enable representatives of the government, employers, unions and other bodies to consult on industrial matters of significance in this State in the public interest. The New South Wales Government's commitment to assisting the employers and employees of New South Wales did not end when it decided to refer its industrial relations powers to the Commonwealth Government. Following the signing of the intergovernmental agreement to achieve a national workplace relations system, it is imperative that New South Wales pay proper regard to its responsibilities as an equal partner and active participant in the new system. The Industrial Relations Advisory Council is merely one practical example of how the New South Wales Government intends to continue to meet its responsibilities to the workers and employers of this State. The council will provide an appropriate environment for key industrial stakeholders to provide the Minister with feedback about how the new national system is operating in the workplaces of New South Wales and constructive proposals about how it may be improved.

The establishment of the council demonstrates that this Government is serious about its responsibility as an equal partner in the national system. As I said, the Government is justifiably proud of the longstanding success of its industrial relations system and the ensuing workplace harmony that has been delivered by the New South Wales Industrial Relations Act 1996. Therefore, when New South Wales agreed to participate in the national workplace relations system it did so only when it was clear that the best interests of employers and employees in this State would be properly considered.

The council will play an important role in ensuring that the principles upon which the successful New South Wales industrial relations system was based and which are reflected in the Industrial Relations (Commonwealth Powers) Act and the Fair Work Act are being met. Those principles include a strong, simple and enforceable safety net of minimum employment standards, which under the Commonwealth Fair Work Act include the 10 national employment standards that operate together with the new modern awards; the right of employers and employees to bargain in good faith to make workplace agreements with no provisions for individual statutory agreements; a truly independent tribunal with the capacity to set fair minimum wages; an independent umpire with broad dispute settling powers, including disputes about dismissals; and special protections for vulnerable workers, including safeguards from exploitative contracting arrangements. It is expected that the council will advise the Minister on how these fundamental workplace relations principles are operating in practice.

Of course, a number of industrial relations matters have been hotly contested by both unions and employer groups since the inception of the Fair Work Act. That was expected with the implementation of the new national system, which is less than one year old. These issues include the operation of take-home pay orders, transitional arrangements in modern awards and minimum hours provisions. These matters can be properly debated and addressed at meetings of the Workplace Relations Ministers Council or discussed directly with the Commonwealth and other referring States. The New South Wales Government takes its industrial relations partnership responsibilities seriously and is pleased to be able to provide a forum that will ensure that New South Wales peak industrial stakeholders continue to be an integral part of the national system. I commend the bill to the House.

**Reverend the Hon. FRED NILE** [6.29 p.m.]: On behalf of the Christian Democratic Party I support the Industrial Relations Advisory Council Bill 2010. However, I have some reservations about the membership of the council. This bill will establish an Industrial Relations Advisory Council which will provide, in the public interest, a regular and organised means by which representatives of the Government of New South Wales, of employers and of employees, and, when the Minister considers it appropriate, representatives of other persons, bodies and organisations, can consult on industrial relations matters and issues of statewide concern. I am in favour of consultation and I am in favour of the sharing of ideas rather than strikes and other industrial action that is taken by employers or employees. This important step forward will lead to a cooperative industrial system in New South Wales. This bill is based on section 47 of the South Australian Act which lists among the functions of its council:

- (a) to assist the Minister in formulating, and advise the Minister on implementing, policies affecting industrial relations and employment in the State;
- (b) to advise the Minister on legislative proposals of industrial significance; and
- (c) to consider matters referred to the Committee by the Minister or members of the Committee.

Opposition members have already referred to an imbalance in the membership of the council and to the absence of a representative of the Minerals Council. There is potential conflict in an area in which we do not want conflict or delays. The efficient operation of this system is important to this State's economic progress. An examination of the Industrial Relations Advisory Council's membership reveals that only three of the 19 members of the council will be genuine employers. I was surprised to learn from the Greens that the Law Society and the Bar Association are employers.

In all the years I have been a member of this Parliament I do not think I have heard a submission from the Law Society on behalf of employers in this State. In their contribution to debates on legislation in this place they have represented only employees. I know that employees work in law offices and so on but it seems to me that their philosophical approach is to support employees and not employers in this State. In the time that I have been a member in this place there has been no evidence of their representing employers. I do not put the Law Society in the same category as I put the Master Builders Association or the New South Wales Business Chamber, which genuinely represent employers. However, all good employers know that they must look after their employees or they will not have a profitable business. Employers usually are genuinely concerned for the welfare of their employees.

I draw the Government's attention to what I regard as an imbalance which I hope at some time in the future is redressed. It is a pity that while we are debating this bill articles in the *Sydney Morning Herald* are reporting conflicts between Prime Minister Julie Gillard and the Premier of New South Wales, as the New South Wales Government is not being cooperative in relation to Federal industrial relations legislation. I urge the Government to come to a rapid agreement with the Federal Government and to reach conciliation. We have a conciliation council but there is not much conciliation between those two Labor governments. I am not an expert in union matters but I believe that what the Prime Minister is seeking to achieve should be supported. The New South Wales Government should stop fighting with the Federal Government and the Prime Minister and urgently come to such an agreement.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [6.35 p.m.]: I thank members for their contributions to debate on the Industrial Relations Advisory Council Bill 2010 and note that it is supported, with varying degrees of enthusiasm, across the House. The New South Wales Industrial Relations Advisory Council will provide the New South Wales Government with valuable input from a range of stakeholders on industrial relation issues affecting the State. Other speakers in this debate went through the history of why we have come to this point and why this council is important in the interaction between New South Wales and a national industrial relations system in the future. 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.**

*[The Deputy-President (The Hon. Kayee Griffin) left the chair at 6.36 p.m. The House resumed at 8.00 p.m.]*

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

### **Second Reading**

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [8.00 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

### **Leave granted.**

The purpose of this bill is to amend the Classification (Publications, Films and Computer Games) Enforcement Act 1995 to achieve three key outcomes:

- 1) It will increase the capacity of the NSW Police Force to enforce classification laws by helping to reduce the cost of classification prosecutions;
- 2) It will foster a more national approach to the recall of publications being sold in breach of classification laws; and
- 3) It will modernise advertising provisions in the Act to ensure that people, especially minors, are not exposed to advertising content in films and computer games that is higher in impact than the content of the film or computer game that they have chosen to view or play.

### **Increasing enforcement capacity**

Under the national classification scheme, the Commonwealth is responsible for classifying films, publications, computer games and certain other material while the States and Territories are responsible for enforcing these classification decisions.

These arrangements are embodied in an intergovernmental agreement (IGA), which also provides that State and Territory enforcement agencies are entitled to 100 free applications for classification and evidentiary certificates for use in classification prosecutions.

Once this quota is exhausted, the IGA provides that State and Territory enforcement agencies must pay the fees prescribed in Commonwealth classification regulations for classification certificates, and half of the prescribed fee for evidentiary certificates, to the Classification Board.

The NSW Police Force consistently exhausts its annual quota of free applications. It made 161 applications to the Classification Board in 2008-09 and has been similarly active in previous years.

Enforcement action can become very expensive once the quota has been exhausted. For example, the fee for having the Board classify a 120 minute DVD film is \$700.

This bill will help to alleviate this cost pressure by removing unnecessary evidentiary requirements, which currently require a classification certificate and a separate evidentiary certificate in classification prosecutions.

Evidentiary certificates serve a range of purposes, including verifying a previous classification decision, and can cost up to \$1,410. The police must pay half of this cost to obtain the certificate. So in a prosecution relating to material that has not been classified, the cost to the police can be up to \$1,405 for a 120 minute DVD film, comprising \$700 for the classification certificate and \$705 for the evidentiary certificate.

A separate evidentiary certificate will no longer be necessary in a prosecution for unclassified material as the bill provides that the classification certificate is evidence of classification in the prosecution. By removing this unnecessary cost and red tape, police will have a greater capacity to enforce classification laws.

This bill will also introduce new provisions authorising the prosecution and the accused in criminal proceedings under the Act to agree to the classification of relevant publications, films and computer games. These provisions will only apply to more explicit material, that is, material that would likely be classified X18+ or RC by the Classification Board.

Under the scheme the prosecution may, prior to trial, give the accused a notice to agree to the relevant classification of the publication, film or computer game concerned. For example, the police may put it to the accused that an unclassified film would be classified X18+ if it were submitted to the Classification Board.

The accused must be given an opportunity to view the material to enable it to make an informed decision. If the accused agrees and signs the notice, the notice becomes evidence of, and in the absence of evidence to the contrary is proof of, the matter agreed, removing the need to obtain costly classification or evidentiary certificates for the prosecution.

If a person served with a notice does not agree, or does not respond to the notice, but is subsequently found guilty of the offence specified in the notice, the prosecution is entitled to apply to the court to recover the appropriate classification fees from the person. This will encourage defendants to participate in this process in good faith.

This will reduce pressure on the annual quota of free applications, and reduce enforcement costs where the quota is already exhausted. It will also expedite prosecution proceedings allowing the police force to make more efficient use of its resources.

If the defendant is found not guilty of the offence in question (eg. because the material is found to have a classification other than RC or X18+) then he or she will not be liable to pay the costs of classification set out in the notice.

Together, the new classification by agreement provisions and the removal of unnecessary evidentiary requirements are intended to increase the capacity of the police to enforce classification laws, reinforcing the integrity of the national classification scheme.

**Mutual recognition of "call-in" notices**

The bill also makes important changes to the existing "call-in" provisions, which empower the Director of the Classification Board to call-in publications being sold and exhibited in breach of classification laws. Once a call-in notice is issued in NSW, the publication must be submitted to the Classification Board for classification and cannot be legally sold or publicly exhibited in NSW until it has been classified.

The changes will provide that these notices will be recognised no matter where they have been issued in Australia, so that when a publication is called-in under the classification legislation of another State or Territory, it will also be called-in automatically in NSW. NSW is the first jurisdiction to introduce mutual recognition for these notices and encourages other jurisdictions to follow suit to ensure a truly national approach to them.

**Cross advertising of films and computer games**

Finally, the bill makes important changes to modernise the advertising provisions in the Act. Currently, the Act provides that a person must not publicly exhibit an advertisement for a classified film during a program for the exhibition of another classified film unless the advertised film has the same classification as, or has a lower classification than, the classified film. Similar restrictions apply in relation to the sale of films (on DVDs for example). This also applies to classified computer games containing advertisements for other classified computer games.

The main objective of the rule is to protect audiences from being exposed to advertisements for material classified, or assessed as likely to be classified, at a higher level than the film they have chosen to view (or computer games they have chosen to play), and in particular, that higher level content is not advertised to children.

However, computer games are now commonly being advertised during film screenings and vice versa. The bill will amend the Act to ensure that films and computer games that are advertised carry a classification equal to or lower than the film or computer game with which they are advertised.

**Conclusion**

The bill makes a range of amendments to improve the operation of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995*.

I commend the bill to the House.

**The Hon. DAVID CLARKE** [8.00 p.m.]: The Opposition does not oppose the Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2010, which amends the Classification (Publications, Films and Computer Games) Act 1995. The Commonwealth Government regulates the classification of films, publications and computer games in this nation and the States and Territories enforce those classification decisions. The purposes of the bill are to provide for the mutual recognition in New South Wales of notices that call in publications for classification under a law of another State or Territory; to provide that advertisements for computer games and films contained within another computer game or film must be of the same or a lower classification as the principal game or film; to enable all certificates issued by the director and deputy director of the Classification Board and the convenor of the Classification Review Board under the Classification (Publications, Films and Computer Games) Act 1995 of the Commonwealth to be admissible and prima facie evidence in proceedings for offences under the principal Act or the Crimes Act 1900; and to provide that the prosecution and the accused in criminal proceedings under the principal Act may agree to the classification of relevant publications, films and computer games.

In introducing this bill on behalf of the Government in the other place, Parliamentary Secretary Barry Collier stated that three key outcomes are sought: firstly, to increase the capacity of the New South Wales police to enforce classification laws by helping to reduce the cost of classification prosecution; secondly, to foster a more national approach to the recall of publications sold in breach of classification prosecutions; and, thirdly, to modernise advertising provisions in the Act so that persons are not exposed to advertising content in films and computer games that is higher in impact than the content of the film or computer game that they have chosen to view or play.

Currently the national agreement between the Commonwealth, the States and the Territories governing the classification scheme and its enforcement provides that State and Territory enforcement agencies are entitled to a quota of 100 free applications for classification and evidentiary certificates for use in classification prosecutions. Thereafter those enforcement agencies must pay Commonwealth prescribed fees, classification and evidentiary certificates. Under this currently structured process the New South Wales Police Force consistently exhausts its annual quota of free applications and faces considerable expense to acquire further certificates. Pursuant to this bill, however, a separate evidentiary certificate will no longer be required for a prosecution for unclassified material as the classification certificate itself will be evidence of classification. This will reduce costs and allow the police more effectively to enforce classification laws.

The bill introduces amendments, the effect of which will be that a publication called in—whether in New South Wales or elsewhere in Australia—becomes a submittable publication, thus becoming subject to the prohibitions and controls of the principal Act. Once a call-in notice is issued in New South Wales, the publication must be submitted to the Classification Board for classification and cannot be legally sold or publicly exhibited in the State until it has been classified. This bill provides that these notices will be recognised in New South Wales no matter where they have been issued in Australia.

As I indicated earlier, one of the purposes of the bill is to provide that advertisements for computer games and films contained within another computer game or film must be of the same or a lower classification as a principal game or film. This is a worthy purpose because all too often parents and others who view games and films for their children or themselves find they are confronted with such games and films containing advertisements of a higher classification that they find offensive and unsuitable for their children. This bill will bring to an end this classification ambush. It provides that a person must not, during a program for the exhibition of a classified film, publicly exhibit an advertisement for another film or computer game unless the advertised film or advertised computer game has the same classification as, or has a lower classification than, the feature film. Also, a person must not sell a film that contains a classified film and an advertisement for another film or a computer game unless the advertised film or advertised computer game has the same classification or has a lower classification than the feature film. The bill also contains provisions in similar terms relating to computer games containing advertisements for another computer game or a film of a higher classification.

A new provision is incorporated into the Act enabling proof of classification by agreement, whereby the prosecution and accused can pursue a process resulting in an agreed classification of a relevant film publication or computer game but only in circumstances when the Classification Board would be likely to use a classification of X18+ or RC. If the accused agrees to the issue of a notice of agreed classification it becomes evidence of the classification and the other matters agreed to, thus streamlining the process and reducing costs. If the accused does not agree and is subsequently convicted of the offence and on the matters specified in the notice, classification fees can be awarded against the accused. These provisions will not apply, however, where the offence with which a person is charged involves an allegation that a publication, film or computer game was unclassified but would, if classified, be classified at a level other than X18+ or RC.

In summary, the bill streamlines the process and workings of the Classification (Publications, Films and Computer Games) Enforcement Act 1995. It assists in reducing costs and promoting a nationwide approach to the matters with which the principal Act deals. Finally, by providing that advertisements for computer games and films contained within another computer game or film must be of the same or a lower classification as the principal computer game or film, protection is provided to those in the community who do not want to be confronted with material which they find offensive and would not have watched had they been aware of its classification. As I have indicated earlier, the Opposition does not oppose the bill.

**The Hon. GREG DONNELLY** [8.07 p.m.]: I speak in support of the Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2010. The Government recognises that classification laws are important in providing for an appropriate balance between protecting people, particularly children and young people, from offensive material and enabling adults to make mature decisions about what they want to watch and read. As such, one of the purposes of this bill is to improve the coverage of the Classification (Publications, Films and Computer Games) Enforcement Act 1995 to protect children from advertising content that is unsuitable for them during the screening of films and while playing computer games.

The bill will provide greater comfort in particular to parents and carers when choosing to take their children to film screenings and when buying DVDs and computer games. Currently the Act provides that a person must not publicly exhibit an advertisement for a classified film during a program for the exhibition of another classified film unless the advertised film has the same classification as or has a lower classification than the classified film. Similar restrictions apply in relation to the sale of films or DVDs. This rule applies also to classified computer games containing advertisements for other classified computer games.

The objective of the new provisions in the bill is to protect audiences from being exposed to advertisements for material classified, or assessed as likely to be classified, at a higher level than the film they have chosen to view, or computer games they have chosen to play and, in particular, that higher level content is not advertised to children.

The advertising market is constantly evolving. Increasingly, films are being advertised within computer games, and vice versa. The bill will update the advertising provisions in the Act to ensure that films and computer games that are advertised carry a classification equal to or lower than the film or computer game with which they are advertised. I commend the bill to the House.

**Mr DAVID SHOEBRIDGE** [8.10 p.m.]: The Greens support much of the Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2010 but strongly oppose certain elements of it. Under the National Classification Scheme, the Commonwealth is responsible for classifying films, publications, computer games and certain other material, while the States and Territories are responsible for enforcing these classification decisions. The objects of the bill are said to be:

- (a) to provide for the mutual recognition in New South Wales of notices that call in publications for classification under a law of another State or Territory,
- (b) to provide that advertisements for computer games and films contained within another computer game or film must be of the same or lower classification as the principal game or film,
- (c) to enable all certificates issued by the Director and Deputy Director of the Classification Board and the Convenor of the Review Board under the *Classification (Publications, Films and Computer Games) Act 1995* of the Commonwealth to be admissible and prima facie evidence in proceedings for offences under the Principal Act or the *Crimes Act 1900*,
- (d) to provide that the prosecution and the accused in criminal proceedings under the Principal Act may agree to the classification of relevant publications, films and computer games.

Certain cost elements are attached to that. Elements of this bill make welcome additions to the principal Act—additions that are long overdue and that take into account different forms of media and products, particularly videogames. The bill modernises advertising provisions in the Act to ensure that people, in particular young people, are not exposed to advertising in films and computer games that is of a higher classification than the film they are watching or the videogame they are playing. This amendment is simply common sense, and it has the firm support of the Greens. The Greens note also that the amendment under item [5] of schedule 1, which replaces section 41 (2) of the Act, contains the following note:

The highest classification for computer games under the National Classification Code is MA 15+. The highest classification for films under that Code is R 18+.

It seems illogical that it is possible to have a film rated R18+ and not be able to have a computer game rated the same, given the diversity of media we now have in our society. This perhaps is an indication of the view of the initial Federal legislators, who believed at the time that only those under 18 played computer games. Increasingly, the use and enjoyment of computer games of all sorts is spread throughout the community, particularly to members of the community who are over the age of 18.

I note that the Federal Attorney-General's Department recently undertook public consultation regarding an R18+ classification for computer games. Of the initial submissions to this consultation process, 98.2 per cent of the almost 60,000 respondents believe that the Australian National Classification Scheme should include an R18+ classification for computer games. The Greens hope that the Federal Government and State governments respond to this overwhelming indication of support, and indeed we congratulate the Federal Government on engaging in the community consultation process. If the New South Wales Government engaged also in community consultation with regard to classification enforcement before presenting this bill perhaps it would not be before the House or contain the flaws that I will now outline.

The main section of the bill that is of concern to the Greens is the provision that the prosecution and the accused in criminal proceedings under the principal Act may agree to the classification of relevant publications, films and computer games. Certain cost elements are attached to that. The supposed justification for this amendment to the principal Act is that it will, according to the member for Miranda, Mr Barry Collier in the other place, "increase the capacity of the New South Wales Police Force to enforce classification laws by helping to reduce the cost of classification prosecutions".

The intergovernmental agreement between the States and Territories regarding classifications provides that the enforcement agencies of each State and Territory are entitled to 100 free applications for classification and evidentiary certificates for use in classification prosecutions. Once this quota is exhausted, the enforcement agency concerned then has to foot the bill for each such classification. I note that New South Wales is entitled to the same number as Tasmania, Victoria, Western Australia and Queensland, notwithstanding the huge discrepancies in the populations and the obvious needs of each State. I have been advised that in 2008-09 the New South Wales Police Force submitted 161 films to be classified. The first 100 of those would have been free and I am advised that the remainder would have been classified commercially at an average cost of \$850 per film. The total cost for the entire State was therefore of the order of \$51,000.

The bill proposes that police undertake an initial classification and serve that on the accused. If the accused challenges the assessment of the material—and it would be a rough-and-ready assessment made by an

untrained police officer—the accused requires the material to be properly classified by the Commonwealth agency. But there is a sting in the tail. If the accused does this and is convicted, he or she becomes liable for the cost of the assessment. As I have noted, for each such assessment the cost is of the order of \$850, and there may be multiple such costs to be paid by any one defendant. Plainly, this is seeking to have defendants pay for their own prosecution.

When reviewing this legislation the Legislation Review Committee pointed out that recouping the cost of having a film or game classified from a defendant found guilty of a classification offence presents an additional financial burden for the accused. As the committee noted, a penalty scheme already exists for individuals convicted of classification offences under the principal Act and it is not proposed that this bill reduce the maximum penalties for these offences. Additionally, the bill seriously undermines the National Classification Scheme. Under the bill, members of the New South Wales Police Force effectively are empowered to act as national classifiers. Clearly, police officers simply do not have the relevant training to undertake the role of classifier. The effect of the bill would be that the Federal Attorney-General could no longer claim to preside over a national uniform classification scheme. It is difficult to see how Australia could have a national classification board comprised of highly trained personnel, acting in the interests of all Australians, except in New South Wales where police officers out on the beat are able to make a determination about the classification of a DVD. It makes little sense.

The bill undermines the Federal Classification Act, in that it states that any publication banned in another State will automatically be banned in New South Wales. In presenting the bill, the New South Wales Attorney General seems to have forgotten that some States still have their own classification boards and that, as we saw in South Australia just a few years ago, a book can be banned there that has been classified and considered as legal by Federal authorities and would ordinarily be available for distribution, purchase and reading in New South Wales. Again, it does not make sense. A great benefit of a National Classification Scheme is having a national standard. The bill erodes this national scheme and the national standard. The Legislation Review Committee raised further concerns with regard to the legislation. In its report the committee stated:

While it is generally regarded that an individual found guilty of an offence should not have to bear all or part of the costs incurred by their prosecution, the Committee notes that Section 60 of the Principal Act specifically states that if a person is convicted of an offence under the Act, the court may order the person to pay by way of costs, in addition to any other costs that the court may order, the amount of any fee incurred by the prosecution for the classification of the material concerned (i.e. for the classification certificate) and for the provision of an evidentiary certificate.

Secondly, the Committee is concerned with the power imbalance between the prosecution and the accused, with a well resourced and knowledgeable prosecution trying to enter into an agreement with a likely less resourced and knowledgeable accused. This situation may also be potentially intimidating and there is a risk that the accused may agree to the classification notice sent by the prosecution without proper consideration or being properly informed of the issues and risks in doing so. The Committee also has concerns with this process insofar that it circumvents the proper channels for film or game classifications by bypassing the need for an application to the Classification Board for appropriate determination.

Thirdly, this process also displaces the evidentiary burden, which traditionally lies on the prosecution to prove the elements of an offence, by enabling the prosecution to come to an agreement with the accused to produce material that could then be used to prosecute the accused. On this issue, the Committee is concerned that this process makes it easier on the prosecution to meet the evidentiary burden.

Lastly, the Committee notes that the bill provides that if the prosecution serves a notice on the accused that a film or game should be classified at a certain rating, the accused fails to sign and return that notice, and then the Classification Board classifies that film or game at a higher rating than that specified in the notice, then the notice operates as if the notice had specified that higher classification.

The Committee notes that a similar provision in which the Classification Board's decision which stipulates that a particular film or game is at a *lower* rating than that specified in a notice given by the prosecution to the accused, then the notice operates as if the notice had specified that *lower* classification, does not exist in the bill. On this issue, the Committee notes the inherent unfairness in the current scope of the existing provision.

The Committee considers that these issues may be an undue trespass on personal rights and liberties as there is a lack of fairness in their scope and operation and potentially puts the accused at a significant disadvantage.

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Those concerns raised by the Legislative Review Committee, which comprises members from both Houses of this Parliament and represents a broad cross spectrum, are shared by the Greens. The principal elements of those

concerns are contained within proposed section 58A, item [7] to schedule 1 of the bill, which the Greens will be moving an amendment to remove. Our preference is that the bill be referred to the committee for discussion as to how it should be amended to address the serious issues that have just been outlined.

The modest financial cost referred to appears to be the only justification for those provisions of the bill that shift the evidentiary burden from the prosecution, create a further power imbalance between the prosecution and the defence, increase the financial burden on the accused beyond that imposed by the courts by way of penalty and, in the words of the Legislation Review Committee, are an "undue trespass on personal rights and liberties". This is all to save the police force or the Commonwealth the rather modest sum of around \$51,000 annually and is clearly a disproportionate action to achieve such a simple aim. The same result could be achieved by a number of other methods involving communication rather than legislation.

The issue revolves around New South Wales enforcement agencies exceeding their allotted 100 free allocations. The New South Wales Attorney General could make a request that New South Wales obtain more free classifications for its enforcement agencies by simple communication with the office of the Federal Attorney-General. As previously noted, currently each State and Territory receives 100 free allocations per annum. This is clearly unfair and unreasonable given the population differences between the States. If the free classifications were allocated proportionally, New South Wales would receive substantially more with no undue burden on police finances. It is difficult to imagine a rational argument that provides for Tasmania or the Northern Territory, for example, having as many classification certificates as New South Wales or Victoria. A similar result could be achieved if the classifications were not allocated to the States but rather to a pool of some 700 or 800 that could be made available to all State agencies.

To achieve such a small administrative outcome, which could be solved by a conversation between the State and Federal Attorneys-General, New South Wales appears to be giving undue power and influence to the prosecution and the police. The New South Wales Greens have been liaising with the office of Greens Senator Scott Ludlam to examine the possibility of such arrangements being made between the Commonwealth and the States and Territories. Senator Ludlam has seen, as would the majority of people reviewing this matter, the inherent logic in that situation. Yesterday during Senate estimates hearings he inquired of Robert McClelland, the Federal Attorney-General, as to the actual take up of free classifications by States and Territories. He also inquired as to the potential for reallocation to alleviate the financial burden on New South Wales enforcement agencies.

Reports from those Senate estimates hearings yesterday are that the Federal Attorney-General understands the situation and has indicated a readiness to come to a commonsense solution. It would have been prudent for the New South Wales Government to engage in such a process and to inquire as to the possibility of an alternative scheme before looking to reverse the onus of proof, to create skewed power relationships and to abuse the personal rights and civil liberties of its citizens. It appears to be a consistent trend of late for this Government to fail in its obligation to communicate with its Federal counterpart. Whatever internal machinations and political differences are consuming the Labor party, the people of New South Wales should not be disadvantaged. As I have indicated, the Greens will move amendments to this bill during the Committee stage. The substance of those amendments will be to remove proposed section 58A, item [7] to schedule 1 of the bill, in its entirety, and I will speak to that then. The Greens do not oppose the balance of the bill.

**The Hon. TONY CATANZARITI** [8.24 p.m.]: I support the Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2010. The New South Wales Classification (Publications, Films and Computer Games) Enforcement Act 1995 forms part of a national cooperative scheme for the classification of films, computer games and publications. The New South Wales Government is acting to promote the national application of the legislative scheme by enacting the country's first mutual recognition provisions for the calling in of publications being sold or delivered in breach of classification laws.

Currently the Act provides that the Director of the Classification Board may call in a publication that is being sold or displayed for sale in breach of the classification laws. Once a call-in notice is issued in New South Wales the publication must be submitted to the Classification Board for classification and cannot be legally sold or displayed for sale in this State until it has been classified. The bill amends the Act so that these notices will be recognised no matter where they have been issued in Australia. Consequently, when a publication is called in under the classification legislation of another State or Territory it will also be called in automatically in New South Wales.

New South Wales is the first jurisdiction to introduce mutual recognition for these notices and encourages other jurisdictions to follow suit to ensure a truly national approach. The fact that South Australia,

Western Australia and Tasmania retain some powers to classify publications is irrelevant to these provisions. Contrary to the argument made by some in the community, the new call-in powers in the amendment recognise only those call-in notices issued by a director. The provisions do not pick up a ban of a publication, the example given by the Sex Party, in South Australia or anything other than a director's call-in notice. I commend the bill to the House.

**Reverend the Hon. FRED NILE** [8.26 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2010. The bill will make miscellaneous amendments to the Classification (Publications, Films and Computer Games) Enforcement Act 1995. These amendments will provide for the enforcement of classification decisions made under Commonwealth classification legislation through penalty provisions and by prohibiting the publishing, including the sale, exhibition, distribution and demonstration of certain publications films and computer games. One of the main purposes of the legislation is to reduce the heavy cost burden that has been imposed on the police force in obtaining material that may be prohibited under the classification legislation.

The police force consistently exhausts its annual quota for free applications. In 2008-09 it made 161 applications to the Classification Board and it has also been very active in previous years, for which it is to be commended. Once the quota has been exhausted enforcement action can be very expensive. For example, the Commonwealth charges \$700 for the Classification Board to classify a 120-minute DVD film. This bill will help alleviate cost pressures. It will remove the unnecessary evidentiary requirements in classification prosecutions for both a classification certificate and a separate evidentiary certificate. Evidentiary certificates serve a range of purposes, including verifying a previous classification decision, and can cost up to \$1,410. Police must pay half this amount to obtain a certificate. In a prosecution relating to material that has not been classified, the cost to the police force can be up to \$1,405 for a 120-minute DVD film—\$700 for the classification certificate and \$705 for the evidentiary certificate. I question whether the Commonwealth should be imposing these charges on the State. The Commonwealth took on this role and it should bear the cost. We live in a user-pays environment and the Commonwealth is passing on as many costs as it can to the States. This bill will assist in reducing this unnecessary expenditure, which must be paid.

An important aspect of the legislation relates to the accused person. Under this bill the accused will be given an opportunity to review the material to enable him or her to make an informed decision. If the accused agrees to the classification made by police and signs a notice to that effect, that notice becomes evidence of, and in the absence of evidence to the contrary is proof of, the matter agreed. This removes the need to obtain costly classification or evidentiary certificates for the prosecution. If a person served with a notice does not agree or does not respond to the notice but subsequently is found guilty of the offence specified in the notice, the prosecution is entitled to apply to the court to recover the appropriate classification fees from the person. The Commonwealth charges the State and the State charges the person who has broken the classification law. The cost is passed down the line. It is reasonable that the person who breaks the law should pay for the classification costs.

The bill has been criticised in relation to whether police are qualified to assess classification. Obviously, the police force would have experts trained in this area. It would not be left to a constable on the beat to make such decisions. The police would be able to obtain correct advice from experienced officers in the relevant department. I agree with the provision enabling New South Wales to recognise a ban imposed on an item by another State. Having uniformity across Australia is a positive move forward. I am pleased that the legislation provides for increased coverage of the advertising provisions of the Act to ensure that films and computer games that are advertised carry a classification equal to or lower than the film or computer game in which they are advertised. Parents may be viewing a film with their children and an offensive computer game could be advertised during the film, which is of a lower classification. This provision will provide protection and ensure that higher level content is not advertised to children while they view classified films or play classified computer games. I support that as a positive step forward.

I ask the Government, as it continues to review the classification legislation, to give further consideration to introducing legislation dealing with the possession of X18+ material. Currently penalties apply to selling it but not possessing it. People in possession of such material may argue that it is for their own personal use, even though they may be in possession of a number of DVDs or videos. An offence of possession would remove any doubt and give police greater confidence in apprehending these offenders. Obviously, this type of provision would not be used against a single person with a single X18+ DVD or video. However, where police suspect but are unable to prove that an offender is selling the material they could act on the basis of possession.

I am concerned, as are many others, that X-rated material is available from the Australian Capital Territory and the Northern Territory. The Commonwealth Government, if it were sincere, would bring the Commonwealth legislation in line with the legislation in all the States. X-rated material has been prohibited by all the States but not by the Commonwealth in the Australian Capital Territory and the Northern Territory. This loophole has been in existence for many years. The neglect of this area over the years by Federal governments, both Coalition and Labor, is not an excuse for not taking action now. There is greater community concern and the Commonwealth Government would receive praise and compliments if it acted to introduce consistent national laws in Australia. Although the State is unable to take action on national laws, I urge the State to lobby the Commonwealth Government to act on this matter.

**The Hon. MICHAEL VEITCH** (Parliamentary Secretary) [8.35 p.m.], in reply: I thank all honourable members for their contributions to this debate. During the debate a number of matters were raised. However, at the outset, I will restate how the provisions for classification by agreement work. Generally speaking, the legislation provides that the prosecution and a person charged with an offence under the Act, the accused, in criminal proceedings under the Act may agree to the classification of relevant publications, films and computer games. The application of the provisions has been limited to content which, if classified, would come within the high end of ratings under the National Classification Code. New section 58A (2) provides that the legislation does not apply where the offence with which a person is charged involves an allegation that a publication, film or computer game was unclassified but, if classified, would be classified at a classification other than X18+ or RC—for example, the police and the accused could not agree that the material would be classified MA15+ by the Classification Board.

Under the provisions the prosecution may, prior to trial, give the accused a notice inviting the accused to agree to the relevant classification of the publications, films or computer games concerned. The provisions include a number of safeguards to enable the accused to properly consider his or her options, to understand the nature of the process and to make informed decisions. Firstly, the notice must set out relevant information for the accused, including the title, if any, of the material and the particulars of the offence in relation to which the notice is served. In addition, the accused must, on making a written request to the prosecution within 14 days from the date of service of the notice, be allowed to view the material, the subject of the notice, at a time and place fixed by the prosecution. Importantly, the notice must also set out the potential financial consequences for the accused if he or she does not agree to the classification in the notice and is subsequently found guilty of the offence specified in the notice.

It will state that if the accused does not agree to the classification set out in the notice within 14 days from the date of service of the notice the accused will, if found guilty of the offence specified in the notice, be liable to pay the fee for the classification of the material. If the accused agrees and signs the notice, the notice becomes evidence of, and in the absence of evidence to the contrary is proof of, the matter agreed. The matter agreed is not that the offence has been committed by the accused—for example, the sale of an RC film. The accused and prosecution are agreeing only to the classification of the material at the specified classification in the notice. Whether the accused is guilty of an offence under the Act remains a matter for the prosecution to prove beyond reasonable doubt.

Some members made comments about the cost-recovery provisions. The cost-recovery provisions in proposed new section 58A essentially replicate existing provisions in the Act. If the accused does not indicate his or her agreement to the classification set out in the notice and is found guilty of the offence specified in the notice, the accused is liable to pay the vehicle classification of the material or for an evidentiary certificate, as the case may be. This is essentially the same as currently provided under section 60 of the Act. Section 60 provides that if a person is convicted of an offence under the Act the court may order the person to pay by way of costs, in addition to any other costs that the court may order, the amount of any fee incurred by the prosecution for the classification of the material concerned and for the provision of an evidentiary certificate, as the case may be. Enabling the prosecution to recover costs in this manner is not unique to this bill nor the Act. There are many examples of this in New South Wales legislation—for example, sections 247 and 248 of the Protection of the Environment Operations Act 1997 and section 131 of the Food Act 2003. Mr Shoebridge also stated that the size of the population should be the basis for the calculation of the certificates. That is quite an erroneous argument because the population base has no relevance to the amount of material that is available or produced. I commend the bill to the House.

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

**Motion agreed to.**

**Bill read a second time.**

**In Committee****Clauses 1 and 2 agreed to.**

**Mr DAVID SHOEBRIDGE** [8.41 p.m.]: I move:

Pages 4–7, schedule 1 [7] and [8], line 18 on page 4 to line 18 on page 7. Omit all the words on those lines.

Much of the substance of the Greens' concerns was already described in the substantive debate on this matter. The purpose of this amendment is to remove from the bill those elements about which serious concerns have been raised, in particular by the Legislation Review Committee, by other interest groups and also by the Greens. Greens amendment No. 1 is simply to remove proposed section 58A from the bill. Doing so will not affect those positive aspects of the bill that I spoke of earlier—many of them are common sense and have broad agreement. However, this amendment will address those concerns raised by the Greens and the Legislation Review Committee.

As noted before, the Greens have spoken to our Federal counterpart, Senator Scott Ludlam, who in turn questioned the Federal Attorney-General on the matter in Senate estimates hearings. Reports from those hearings are that once the issue was brought to the attention of the Federal Attorney-General he could see the logic of the situation in regard to the disproportionate number of free allocations and he displayed a willingness to discover a common sense solution to the matter. Contrary to what the Parliamentary Secretary suggests, it is a simple nonsense to suggest that there will be the same demand for classifications coming from a State with 400,000 or 500,000 people or a Territory with 160,000 people as there will be coming from a State the size of New South Wales. It defies logic and common sense, as indeed much of this legislation does. The Greens suggest simply that the New South Wales Attorney General display a modicum of common sense and a degree of conviviality with his Federal counterpart and pick up the telephone and have a conversation. I commend the Greens amendment to the House.

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [8.43 p.m.]: The Government opposes the Greens' amendment. For the edification of the honourable member, and indeed for other members of the House, this issue has already been raised with the Minister who is responsible for these provisions, the Minister for Home Affairs and Justice at the Standing Committee of Attorneys-General. This is a cooperative scheme involving all of the jurisdictions. The material that is referred to is generally material that is available on a national basis: there are no State boundaries with this kind of material. That is why, whilst the volume of material that may be available in a particular jurisdiction may vary—obviously, according to its size—the scope of the number of publications, films and so on that may be available do not tend to vary from jurisdiction to jurisdiction.

This legislation as a whole enables a situation where, for example, a particular certificate that is obtained from one jurisdiction will be able to be used in another jurisdiction without the need to have the same material reclassified for evidentiary purposes. There are some very common sense solutions in what has been proposed. We have raised this matter at the Standing Committee of Attorneys-General and we will repeatedly agitate with the Commonwealth to try to obtain a greater number of free certificates. However, the situation remains as it is. Obviously, if the situation changes at some point then it will give us even more capacity to enforce the scheme. Certainly, the police will have more capacity to enforce the scheme, and that is obviously highly desirable.

I make the following important observations. The relevant provisions we are talking about essentially provide a deeming provision in a prima facie sense. It does not mean that the prosecution does not have to prove the offence beyond reasonable doubt. The prosecution will be required to prove the offence and, of course, it is available to the accused to be able to provide whatever material and evidence he or she has in relation to a contrary position. However, the particular provisions we are referring to are essentially in relation to cost recovery from a person who fails to provide a response in relation to the certificate. The cost-recovery provisions, which are contained in proposed section 58A, essentially replicate existing provisions in the Act. If the accused does not indicate his or her agreement to the classification and is found guilty of the offence specified in any notice, the accused is liable to pay the fee for the classification of the material or for an evidentiary certificate, as the case may be. That is essentially the same as currently provided for in section 60 of the Act. Section 60 of the Act provides that if a person is convicted of an offence under the Act a court may

order that person to pay, by way of costs in addition to any other costs that the court may order, the amount of any fee incurred by the prosecution for the classification of the material concerned and for the provision of an evidentiary certificate, as the case may be.

Enabling the prosecution to recover the cost in this matter is, as has already been stated, not an issue that is unique to this bill or, indeed, to this Act. As the Parliamentary Secretary has already indicated, a number of other pieces of legislation have a similar arrangement. However, I should express my concern, as I have done repeatedly, about the Greens' position in relation to these kinds of amendments. By opposing this amending legislation the Greens are effectively giving a green light to a person who is accused of selling or renting X-rated material, because he or she will be supported by the position that the Greens seem to be advocating, which is a very interesting position, bearing in mind the Greens' own policy on pornography, which states:

The Greens in New South Wales oppose the production, performance and display of pornographic material where it discriminates against women and children by presenting them as suitable objects for violence or sexual exploitation and valorising forms of power and pleasure achieved by disempowering and injuring women and children.

The Greens in New South Wales will work towards promoting the use of legal complaints procedures and processes.

That is exactly what this bill does, consistent with the Greens' policy. But the Greens seem to be taking a position which is at variance to their own policy and which seems to be in accordance, quite strangely, with the Australian Sex Party, because they are the ones who have been advocating that this legislation somehow disadvantages their particular constituency. The Greens have to identify whether they are going to support their own policy, which is as I have described, or whether they want to try to get the preferences of the Australian Sex Party for the next election.

In one breath the Greens are opposed to giving the police the ability to bring about efficient prosecutions of those who illegally sell X-rated material in New South Wales and in another breath they say they will look towards promoting the use of legal complaints procedures and processes. I oppose the Greens amendment and I commend the bill the way it is drafted.

**The Hon. DAVID CLARKE** [8.48 p.m.]: As I understand it, the Greens object to the cost-recovery provisions on the basis that the problem can be solved by redistributing applications from the smaller States to the bigger States. The Attorney General appears to have addressed that issue. These applications are not distributed on a volume basis. As I understand from the Attorney General, it is more or less equal between all the States. What is the response of the Greens to the assertions of the Attorney General on that issue?

**Mr DAVID SHOEBRIDGE** [8.50 p.m.]: The Commonwealth has it wrong; it allocates 100 applications to each jurisdiction regardless of its size. As I said, questions were asked yesterday of the Federal Attorney-General in the budget estimates hearings in Canberra and he showed a willingness to review the issue because it simply does not make sense. Why should Tasmania have the same number of allocations as New South Wales has given the great disparity in population? It defies common sense and logic. That issue could be readily resolved by communication. The fact that our Attorney General does not get it is a personality problem rather than a principle problem.

**The Hon. DAVID CLARKE** [8.51 p.m.]: As I understand it, the Attorney General has pointed out that the volume of applications is roughly the same in each State.

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [8.51 p.m.]: We live in a national market. The reality is that material available here is available in other jurisdictions. That is what is classified—the different types of material. It may be that more of it is sold in one jurisdiction or another, but that is irrelevant to the argument. We are talking about the quantity of different types of material available for classification. This bill will enable the Government to leverage them. The Commonwealth Government's response when this issue was raised was to ask why New South Wales did not do what the other States do. Western Australia and South Australia have provisions similar to those that we are seeking to introduce. This Government is doing what the Commonwealth Government has asked it to do to make it easier for the prosecution to establish these matters within the existing quota system.

**The Hon. DAVID CLARKE** [8.53 p.m.]: The Opposition is not persuaded by the Greens arguments. Accordingly we will not support the amendment.

**The Hon. TREVOR KHAN** [8.53 p.m.]: It is not a question of how many free certificates are allocated. The police do a raid and retrieve boxes and boxes of DVDs. We are not talking about one or two or half a dozen; they end up with truckloads. The simple reality is that people do not have that many DVDs for personal use. They are engaged in a commercial transaction. Who will be required to pay for them to be classified? The cost must be borne by somebody. Is it borne by the prosecution and therefore the people of New South Wales, or by the convicted person who has been engaged in the commercial hire or sale of that material? If they are engaged in a commercial transaction—that is, a profit-making exercise—and if they want to put the prosecution to proof, they will end up paying for it. If it cannot be proved, then they do not pay. The question of who bears the cost of proving that those truckloads of DVDs are of a particular nature was discussed by Legislative Review Committee. There is nothing that particularly justifies a concern with regard to this exercise.

**Mr DAVID SHOEBRIDGE** [8.55 p.m.]: If the concern is that the accused is engaged in some kind of criminal enterprise and therefore should pay the cost of the prosecution, that would apply to many of the offences that are the subject of prosecution in New South Wales—drug offences, standover offences, assault and robbery offences, break and enter offences and car theft offences. All of those offences are committed with an eye to commercial gain. A great many criminal offences are committed for the purpose of commercial gain. If members are adopting the principle that if a criminal offence has been committed with an eye to commercial gain and it has been proved that means that the accused must pay the cost of his or her prosecution, that is a very dangerous and slippery slope. It will potentially undermine swathes of longstanding common law tradition dealing with the State having to prove the case against the defendant and not to require the defendant to admit elements of the offence up front or to face the sting in the tail of having to pay the cost of the prosecution. It is a slippery slope and a poor principle. The fact that other States may have done it under pressure from the Commonwealth Government is not a good argument for it to be adopted in New South Wales.

**Reverend the Hon. FRED NILE** [8.57 p.m.]: The Christian Democratic Party does not support the Greens amendments. The last bill of which Lee Rhiannon gave notice in this House would have made State legislation consistent with national classification legislation, and that would have created a backdoor way of making X-rated videos legal in New South Wales. Despite their stated policy, the Greens are moving in the direction of legalising X-rated videos in New South Wales by making our legislation consistent with the legislation enacted in the Northern Territory and the Australian Capital Territory.

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

**The Committee divided.**

**Ayes, 5**

Ms Fazio  
Dr Kaye  
Mr Shoebridge  
*Tellers,*  
Mr Cohen  
Ms Faehrmann

**Noes, 28**

Mr Ajaka	Mr Hatzistergos	Ms Robertson
Mr Catanzariti	Mr Khan	Ms Sharpe
Mr Clarke	Mr Lynn	Mr Veitch
Mr Colless	Mr Mason-Cox	Ms Voltz
Ms Cotsis	Mr Moselmane	Mr West
Ms Cusack	Reverend Dr Moyes	Ms Westwood
Ms Ficarra	Reverend Nile	
Mr Foley	Ms Parker	<i>Tellers,</i>
Mr Gallacher	Mrs Pavey	Mr Donnelly
Mr Gay	Mr Primrose	Mr Harwin

**Question resolved in the negative.**

**Amendment negatived.**

**Schedule 1 agreed to.**

**Bill reported from Committee without amendment.**

### **Adoption of Report**

**Motion by the Hon. John Hatzistergos agreed to:**

That the report be adopted.

**Report adopted.**

### **Third Reading**

**Motion by the Hon. John Hatzistergos agreed to:**

That this bill be now read a third time.

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

### **ADJOURNMENT**

**The Hon. JOHN HATZISTERGOS** (Attorney General, Minister for Citizenship, Minister for Regulatory Reform, and Vice-President of the Executive Council) [9.05 p.m.]: I move:

That this House do now adjourn.

### **JOURNALISTIC ETHICS**

**The Hon. SHAOQUETT MOSELMANE** [9.05 p.m.]: On Sunday, 19 September, the *Sunday Telegraph* ran the headline "Part-time Pollies—MPs on \$130,000-plus have second jobs". I was somewhat bemused by the report and the way it sought to portray politicians as people hungry for money, undeservedly pocketing public funds. Barry Cohen, who wrote in the *Australian* under the headline "No need to name and shame MPs for extra work", described the article as "a disgrace".

This adjournment speech is not about this article or its author or whether the information it contains is factual. It is, however, generally about ethics in journalism and the unnecessary race to the bottom by some journalists. This short piece seeks to highlight, in my view, the importance of ethics, fairness and balance in reporting. However, some media articles that find their way into the press are patronising, and so simplified and shallow that any sense of accuracy is sacrificed, the concept of balance and objectivity is non-existent, the stories trivialised for mass consumption and the journalistic code of ethics trashed. In the process, accuracy, honesty and integrity are lost. Journalists should follow their code of ethics and the high standard that their profession dictates. They have a duty not to abuse their power. As the fourth estate, the media in all its forms is an important element of our democratic system and to a great extent can mould public discourse and set the political agenda. As my colleague the Hon. Ian West maintained in his article on the Premier's Literary Awards:

Journalists in particular are an important element of democracy and play a central role in the dissemination of information to the broader community. Without the fourth estate, those in positions of power—from judges to corporations and even politicians—would be somewhat freer to hoodwink, manipulate and deceive an unsuspecting general public.

The media can, without a doubt, not only influence community perceptions, but shape and mould community opinion and future decisions. Journalists must, in playing this powerful role, collate and disseminate information in an objective, truthful, fair and balanced manner. Like any institution with inherent power and influence, the press has great responsibility not to abuse this power. Indeed, it has an obligation to maintain a sense of objectivity in giving a fair and truthful account of the news.

Today it seems no longer a political fight or competition between governments and opposition. It is between governments and the media. Each is trying to outdo the other. The Government and Opposition are vying to get their messages through, while the media is always looking for new and innovative ways to profit. Each manipulates the news to its own ends to the ultimate disadvantage of the citizen, voter or consumer. With the advent of the Internet and satellite broadcasting, politicians and governments are paranoid about the speed

and the rapid flow of ideas and stories journalists have to put out at every news cycle. The media hunger for stories that politicians cannot manufacture fast enough to meet the ferocious appetite. In the process, politicians churn out press releases and the media spits out its news stories to the point where the politicians and the Government cannot meet the demand. John C. Merrill, in his article "East Asian Communalism and Western Media Ethics", maintains:

Profit making, not public service, is increasingly the bottom line in western journalism. Relativism, not absolutism, is the modern mantra. Subjectivism, not objectivism, is becoming the beating heart of western journalism. Opinion, not facts. Spin, not evidence.

Merill wrote:

Western journalism is still a maverick journalism, with individual journalists seeking a higher place in the hierarchical structure and media giants seeking ever greater power and profit. By and large, western media are highly competitive, self-indulgent, profit oriented and largely devoid of any serious community responsibility for providing helpful and enlightening information.

Journalists, in their endeavour to meet the needs of a ferocious appetite for news and demands of the media cycle, must stay focussed, ethical and not forget decency and accuracy in reporting.

## HUNTER ECONOMY

### TILLEGRA DAM

**The Hon. ROBYN PARKER** [9.09 p.m.]: For the past 15 years the New South Wales Labor Government has treated the Hunter region as little more than a cash cow. While Premier Kristina Keneally and her long list of predecessors have happily collected the billions of dollars in revenue that is generated in our backyard each year, they have neglected investment in vital infrastructure to support this rapidly growing part of the State. The strength of the Hunter's agricultural, mining and export industries has long made it the engine room of the New South Wales economy. However, despite wealth generated in the region being one of the leading contributors to the bottom line of the New South Wales economy, and despite the Hunter accounting for 32 per cent of the State's exports, the Keneally Labor Government has taken the region for granted. In government the New South Wales Liberals and Nationals will not do the same.

Last week in Newcastle the New South Wales Leader of the Opposition, Barry O'Farrell, announced a groundbreaking initiative that will, for the first time, give Hunter people the ability to direct government funding towards Hunter projects. If elected in March 2011, the New South Wales Liberals and Nationals will create a \$350 million Hunter Infrastructure and Investment Fund that will be oversighted by an independent board, comprising people drawn from the local community, to ensure the fund is spent on local priorities. The fund is in recognition of the jobs and investment the Hunter brings to New South Wales and will have a mandate to invest in Hunter infrastructure projects, including transport, health and water infrastructure. The capital for the fund will come from savings from the cancellation of Tillegra Dam.

The Keneally Labor Government's boundless support for the construction of the \$477 million white elephant has become farcical. Ever since the dam was proposed by a Government eager to build up the impression it had a water policy, and keen to play down the crisis enveloping disgraced former Labor Minister Milton Orkopoulos, it has been savaged by local residents, environmental groups, economists, water experts and just about anybody else with a degree of common sense. The Keneally Labor Government has repeatedly been presented with evidence arguing against the need for the dam. An independent analysis of the project by the Institute for Sustainable Futures found that there is a one-in-a-million chance of current water supplies being low enough to justify building the dam.

A senior official within the New South Wales Office of Water has formally advised the New South Wales Government against proceeding with the construction of the dam on the grounds there will be severe adverse environmental impacts on the Hunter River estuary and wetlands. Hunter dams, which the Government feared would run dry in 2006, are now at full or near full capacity. If elected in March, the New South Wales Liberals and Nationals will work to close the gap between regional and metropolitan areas that has resulted from a Labor Government whose considerations do not extend beyond Sussex Street.

The Liberals and Nationals Hunter Infrastructure and Investment Fund will be a significant step towards rebuilding the region after more than 15 years of Labor neglect. The funding it will provide is in addition to the money that will be allocated to the Hunter under the Coalition's Regional Kick-Start and

Infrastructure NSW programs, which will ensure money is provided to regional areas to build infrastructure, create jobs and grow our communities. With the Hunter fund, the region will be able to draw from three programs specifically designed to reinvigorate regional New South Wales and, importantly for the Hunter, redress the funding gap.

The beauty of the new Hunter fund is that it will provide investment in areas that the local community recognises are most in need. The issues that local residents identify as their top priorities, whether it is revitalising the Newcastle central business district, the Glendale interchange or improving roads in Maitland and Port Stephens, will be considered for funding by the local independent board. The people of the Hunter finally have a choice. In March they can vote for more of the same from this broken down Keneally Labor Government or they can vote for a New South Wales Liberals and Nationals Government committed to restoring prosperity to the Hunter. They can vote for a Labor Party that has ignored the community and plans to waste \$477 million on the flawed Tillegra Dam or they can vote for the New South Wales Liberals and Nationals, who will deliver the transport, health and water infrastructure the community wants and needs.

The contrast is stark and the choice in March 2011 is clear. For the first time in 15 years this Labor Government must put the people of the Hunter ahead of cheap political pointscoring. My challenge to Hunter Labor members is: Will they turn their backs on their constituents and support the construction of Tillegra Dam or will they support the \$350 million plan of the New South Wales Liberals and Nationals to revitalise the Hunter? The people of the Hunter have rightly demanded their fair share of investment from the State Government, and through the Hunter Infrastructure and Investment Fund the New South Wales Liberals and Nationals will deliver. We are committed to the Hunter region. We want to close the gap in the funding shortfalls. We have three important initiatives to target regional New South Wales that will ensure incentives for employers and people to move from Sydney and establish business in regional areas. In addition, the Hunter fund is specifically designed so that not one cent will go out of the Hunter. The fund will be managed by a local board comprising people from the Hunter region with Hunter priorities. We will ensure that some of the gaps and funding shortfalls are addressed. [*Time expired.*]

### COAL SEAM GAS

**Ms CATE FAEHRMANN** [9.14 p.m.]: Tonight I alert members to the potentially significant impacts of a relatively new industry—coal seam gas exploration and extraction. This industry is putting at risk some of the State's prime agricultural land and pristine water supplies. Foreign and local companies, including Peabody Energy, Santos and Rio Tinto, are lining up across New South Wales to exploit not only coal seam gas deposits but also the communities that live in areas rich with such deposits. Next month the film *Gas Lands* will premier in New South Wales. It takes a look at the impact of the coal seam gas extraction method labelled hydraulic fracturing or fracking on aquifers. The film highlights the situation of a town in Pennsylvania where residents' drinking water has ignited due to contamination as a result of the fracking process.

In 2005 an energy bill by the Bush Government in the United States exempted natural gas drilling from the Safe Drinking Water Act. It also exempted companies from disclosing the chemicals used during fracking. For those campaigning against the polluting aspects of coal seam gas this law is now commonly referred to as the Halliburton loophole after the company that invented the technology. We, the members of this House, have a responsibility to the members of the New South Wales community to ensure there is no Peabody loophole, Santos loophole or BHP loophole in this State. We have a responsibility to protect the State's water supply.

One of the first places the film will be shown in Australia is in the Gunnedah Town Hall on the Liverpool Plains. This area is one of the most productive food growing areas in Australia. Coal seam gas mining in the area has the potential to cause millions of litres of saline water to be brought to the surface to allow access to the gas. This has the potential to pollute the fertile land of the plains as well as local waterways and reduce the water supplies available for agricultural production. Service roads and supporting pipelines would crisscross the landscape, further impacting on productive agricultural land.

Earlier this month Santos, one of the companies involved in the large coal seam gas development project currently being assessed for south-east Queensland, admitted that up to 180 million litres a day of water from the coal seam would be extracted and could lead to changed pressure gradients in the groundwater, lowering the watertable. Farmers are right to be concerned about the impacts of coal seam gas extraction on local water supplies. But what is taken out in the coal seam gas process is only half the story. The chemicals used in the fracking process remain a mystery. Recent media reports suggest chemicals including acetic acid, hydrochloric acid and naphthalene could be used. The report further suggested that Industry and Investment NSW was unable to supply a full list of chemicals that would be used in the fracking process.

New South Wales is behind in ensuring tough regulations for this industry. Recently the Queensland Government introduced legislation that would ban some chemicals from being used in fracking. No such action appears to be planned in New South Wales and so far there appears no willingness to be open and transparent with the public about the chemicals that would be used. Plans by Apex Energy to explore for coal seam gas near Warragamba Dam should be a wake-up call for the members of this place to take action to protect New South Wales's water supplies. It beggars belief that any government would allow mining activities that could contaminate Sydney's primary water source.

The community has the right to know what is being put into the groundwater they rely upon. Even more so, they have the right to a safe water supply. There should be a moratorium in place on all coal seam gas exploration and extraction activity until it can be proven safe to our water supplies. The New South Wales Government has an appalling record of protecting local communities and the environment from large-scale mining. The National Pollutant Inventory recently reported that almost half of all of New South Wales's dangerous PM2.5 fine particulates are produced in the area around the mining towns of Muswellbrook and Singleton. These towns are surrounded by open-cut coalmines and on some days a yellow haze can be viewed over these two towns that lie in a valley that traps the polluted air.

Other communities have seen their local rivers cracked from longwall mining, and the Thirlmere Lakes, which are close to another underground mining operation, are mysteriously draining despite recent rains. Local communities are at breaking point trying to keep at bay the destructive plans of mining companies. They should be able to trust that the Government is there to protect them from this unreasonable impost on their communities and environment. Instead they have been left on their own to fight. Coal seam gas is the next battle and I call on the members of this House to stand with local communities in the fight.

### **SYDNEY TO COBAR AIR SERVICE**

**The Hon. CHRISTINE ROBERTSON** [9.18 p.m.]: On Friday 24 September 2010 it was my great pleasure to attend the Cobar launch of the air service between Cobar and Sydney, run by Brindabella Airlines. I was there in my capacity as the Labor Party's Legislative Council duty member for Barwon and representing the Minister for Transport, the Hon. John Robertson, MLC. I flew to Cobar as a guest of Brindabella on its test flight that morning before returning to Sydney as a booked passenger that evening. I am pleased to say that the flights were very comfortable on Brindabella's Metro III 18-seat aircraft. I really love the Metros. For many years Metro planes flew from Tamworth to Sydney. It is a fantastic aeroplane.

Brindabella now operates a daily return service from Monday to Friday, departing Sydney at 6.45 a.m. and arriving in Cobar at 8.10 a.m., and departing Cobar at 8.40 a.m. and returning to Sydney at 10.00 a.m. On Fridays an evening return service also operates. It is important to note that this excellent morning timeslot allows passengers to get to Cobar for a full business day and likewise to travel to Sydney at an acceptable morning time. Indeed, on my flight I spoke to a woman who works in Western Australia and does shifts of four days on and four days off and flies home to Cobar. She was absolutely delighted that from now on she can return home without driving for many hours.

One of the greatest challenges for regional New South Wales air services is achieving workable peak timeslots at Sydney's Kingsford Smith Airport so that the services are viable. Much more needs to be done to allow regional airlines to access these timeslots in Sydney. The Brindabella Cobar service is under a four-month trial, with an agreement to share risk between Brindabella, Cobar Shire Council and a number of local mine operators. Brindabella Airlines was established in 1994 and now successfully operates services connecting Albury, Canberra, Newcastle, Port Macquarie, Coffs Harbour, Brisbane, Tamworth and Moree.

Air services are essential to our regional areas in assisting the work of government services and local businesses. Unfortunately, in late 2008 much of the north-west of New South Wales was left without air services when the Regional Express Airlines-operated Air Link withdrew from the market. This is a great inconvenience to many communities that now face a day's drive to get to an airport. This is obviously off-putting for visitors, whether they are on business or social visits, or touring the area.

In June this year Transport NSW called for expressions of interest to provide air transport services between Sydney's Kingsford Smith Airport and Bourke, Cobar, Coonamble, Lightning Ridge and Walgett. There was a proposal to connect all those areas, but the proposal was withdrawn. Brindabella's proposal for the Cobar to Sydney service was the only interest expressed, despite much work by the New South Wales Government through Transport NSW to encourage operators. A huge amount of work has been put into this proposal by Brindabella, Cobar Shire Council and the mines. A tourism element is also at play.

**The Hon. Rick Colless:** None of it has been done by the New South Wales Government.

**The Hon. CHRISTINE ROBERTSON:** I have spoken about what the Government has done.

*[Interruption]*

Is the Hon. Rick Colless saying the New South Wales Government was responsible for Rex? It is fantastic that Brindabella has provided this service. Destinations further afield such as Bourke, Brewarrina and Wilcannia will now have greater access to flights instead of people living in those areas having to travel via Dubbo. Transport NSW did a lot of work to liaise with agencies such as Bourke Aboriginal Health Service and the New South Wales Outback Division of General Practice regarding their air travel needs.

The gap in services is still great but many eyes will be on Brindabella as its four-month trial period ends in January. Cobar Shire Council owns and operates Cobar airport and has done everything it can to get this trial service off the ground. I am grateful to the Mayor of Cobar Shire, Lilliane Brady, for her hospitality in hosting me in Cobar for the day and briefing me on all the latest issues for the region. Lilliane is a hearty and energetic woman who has worked tirelessly for her community for many years, and I am sure she will continue to do so for many more. I congratulate Lilliane Brady and Cobar Shire Council on its work towards this top-rating service. I also congratulate and thank Brindabella Airlines, through its Marketing Manager Monique Meijer, on its assistance and hospitality.

The mining companies Cobar Management Pty Ltd, Peak Gold Mines and CBH Resources also are to be commended for committing to this air service that will provide so many community benefits. The mining companies have done this by underwriting the trial. It is a huge risk for town industries but something that makes for much more hope of success. Certainly the encouragement I heard from the area about keeping this airline going was very good, and I wish Brindabella well.

### CHAFFEY DAM

**The Hon. TREVOR KHAN** [9.23 p.m.]: I speak about a topic that I have spoken about on a number of occasions before. I apologise if I seem repetitive, but this is an issue that cannot rest until it receives the proper attention and action from the Government that it deserves. The issue is, of course, Chaffey Dam. For years there has been a proposal on the table to augment Chaffey Dam and to increase its capacity from 62 gegalitres to 100 gegalitres. The State Labor Government confirmed its commitment prior to the New South Wales State election in 2007 to provide funding for the project. But, as with other major capital commitments, such as the redevelopment of Tamworth hospital, progress has been sadly lacking. I guess one at least has to give the Government credit for being consistent.

For a long time the Keneally State Labor Government has used the excuse that because of its own delays the cost of the project has blown out and more Federal money was required before construction could begin. As late as 16 August 2010 the Minister for Water, Phil Costa, said in a media release, "Providing further investigations at Menindee Lakes yields funding for NSW, I'll be seeking more than \$10 million from the Commonwealth" to make up the additional costs and that Chaffey Dam was "front and centre". The Minister went on to say:

... by the end of the year NSW should have a clear picture of the savings that can be achieved at Menindee and how much funding will be available for water related projects in non-metropolitan towns.

Well, the gods must have heard the Minister's prayers because, lo and behold, on 19 August 2010, just three days later, the then Federal Minister for Climate Change, Energy Efficiency and Water, Senator Penny Wong, announced that the Federal Government was committing a further \$10 million on top of the already committed \$6.5 million. The Federal Government said Chaffey Dam would be a priority project under its plan. However, the remainder of the costs will have to be met by the State Government, Tamworth Regional Council and water users.

Let us be clear: On 16 August the Minister for Water said he was seeking more than \$10 million from the Commonwealth and on 19 August 2010 the Federal Government, through Penny Wong, committed a further \$10 million. Put another way and ignoring a dollar here or there, Minister Costa got precisely what he asked for. One would have thought his eyes would have boggled. It must now be asked of the Keneally Labor Government: Why has the augmentation not begun? The excuse we had from the State Government for so long was that additional Federal money was required. Well, that money has now been provided. We now have that cleared up. One might ask: What is the hold-up?

In answers back from budget estimates committee hearings we were told that the State Government made clear its support for the Chaffey Dam augmentation, subject to "the availability of Commonwealth funding to be secured through water savings under the Menindee Lakes Memorandum of Understanding". Even the Minister said that the only excuse he once had not to proceed with the augmentation has now disappeared. Why have we not seen any action in relation to this project? I suspect that the reason we have not seen any action on the augmentation is that the Minister has no real commitment to seeing this project through.

In the Minister's media release of 16 August he said that the augmentation would cost \$25 million and that the safety upgrade would cost \$13 million. However, from answers back from budget estimates committee hearings we now see that the real cost of the entire project is much higher, at over \$59 million. The Minister either has no idea as to the real cost of the project or is deliberately stalling and does not have the money or the commitment to deliver water security to the people of Tamworth. New South Wales Liberals and Nationals have said that if they win government in March next year they will move forward on the augmentation as soon as possible. Why will the Minister not make this same commitment?

### URBAN ENCROACHMENT ON SYDNEY BASIN FARMLAND

**The Hon. IAN COHEN** [9.28 p.m.]: October is Good Food Month in Sydney and I would like to speak about food. The rising price of fresh food should be of concern to us all. The Organisation for Economic Co-operation and Development recently forecast that "global food prices would rise over the coming decade by close to 50 per cent". Sydney's Metropolitan Strategy seems to have locked this city into urban sprawl that is rapidly swallowing some of the most productive farming land in New South Wales. According to Professor Bill Bellotti from the University of Western Sydney, where he holds the Chair of Sustainable Agriculture and Rural Development, farms in the Sydney Basin now produce less than 5 per cent of the food energy used by Sydney's residents. This figure will fall even further if our remaining agricultural land is not protected.

Sustainable agriculture is needed to cope with climate change. But food production in the north-west and south-west of the Sydney Basin is disappearing. This includes vegetables grown in greenhouses around Liverpool and the Hawkesbury. Hundreds of hectares of fertile and irreplaceable farmland along the Hawkesbury River have already been lost in Blacktown, Parklea and Kellyville. Valuable and sustainable Asian vegetable market gardens are being squeezed out by development in Sydney's south-west. Much of the land now for sale in Bringelly, in the south-west, is former farming land. We used to think that Sydney farmers would be forced to relocate over the mountains but it is now clear that farmers who have lost their land to developers are no longer producing. Instead, Sydney now imports more and more food from interstate and overseas. This is of great concern to Australian vegetable growers and equally it should be of concern to consumers.

AUSVEG, a body that represents about 9,000 vegetable growers, obtained data from the Australian Bureau of Statistics showing a negative trade balance of \$306 million for vegetables in 2009-10. In the past financial year Australia imported produce worth \$555 million. Over the past five years the major countries of origin for this food were New Zealand, China, Italy and the United States of America. AUSVEG has suggested changes to food labelling laws so that Australian consumers can more easily choose home-grown produce. Farmers need to be close to their market, and in Sydney that is us. City dwellers benefit from close proximity to their farms and to their food supply. Local farms keep us in touch with the produce of the soil and are a good educational resource in a modern world in which many children grow up and are not aware that their food comes from the land.

Water is becoming increasingly scarce and more housing developments mean more competition for this precious resource, with less water available for agriculture. Urban fringe farms are environmentally important as they can use recycled water and turn the city's green waste into compost and mulch. The further away a farm is from the market the higher the cost of the food, and that is due in part to increased fuel prices. Obviously, the closer the food is to consumers the fresher that food is. Vegetables and fruit grown in the Sydney Basin can be eaten the same day that they are picked. Food from interstate and overseas can take days to arrive and the taste alone is different.

Farmers need constant contact with their customers so that they are aware of what they want. Rita Kelma, a Sydney market gardener near Liverpool and an incredibly energetic woman, currently is growing many leafy green vegetables including purple cabbage, broccoli and broccolini, as well as cauliflower and artichokes. She takes her produce to six different farmers markets each week, including markets at Bondi, Kings Cross and Double Bay—a new venue for her. At those markets she sells to enthusiastic customers who tell her what they would like to eat the following week and she tries to grow that produce if possible. Currently she is

growing sweet corn which will be ready to pick in a few weeks. Customers keep coming back because they know her vegetables will keep for two weeks, having been picked the same morning. Rita would like to grow organic garlic and carrots but she needs more land. Imported garlic is not popular and it is non-organic. Currently the only organic garlic available in Sydney comes from Coffs Harbour and Rita tells me it sells for \$56 per kilo.

Rising fresh food prices will exacerbate rising rates of obesity in Australia. While families in the developing world suffer from malnutrition and they scrape each day to put food on the table, rising prices in Sydney are squeezing household budgets making it more difficult for poorer Australians to afford a steady supply of fresh meat, fruit and vegetables. We already know that people on a low income tend to buy junk foods which, over a period, tends to lead to poor health outcomes, including early onset of obesity-related type 2 diabetes and high blood pressure. Diet is critical. While Australia can and should be food rich, we are becoming nutrition poor.

However, the good news is that supermarkets are beginning to recognise the problem of food waste. In order to divert food waste from landfill some big supermarkets now send unsold food to Foodbank, the hunger relief charity that supports around 1,500 welfare agencies, feeding over two million Australians a year. Since 2004 Woolworths has been donating food and grocery products to Foodbank as a way of helping the community while reducing waste. In Good Food Month we need to reflect on our need for local, fresh and healthy food and we need to preserve our means to supply this to all of Sydney and New South Wales. [*Time expired*]

### **JOHN HUNTER HOSPITAL**

**The Hon. LYNDIA VOLTZ** [9.33 p.m.]: Tonight I refer to the wonderful work that is being done by the staff at John Hunter Hospital, particularly those in the intensive care unit. From my experience hospital staff members are miracle workers who do extraordinary things. Recently I had the pleasure of attending at that hospital the wedding of Sally and Jason O'Connell. Jason has been on dialysis for 10 years. Unfortunately he suffered a major heart attack and was not expected to survive, but thanks to the miraculous work of the hospital staff Jason has been in the intensive care unit for some time. Originally Sally and Jason were to be married on the tenth of the tenth 2010. However, when Sally became pregnant the wedding was postponed until after the birth of the baby, which is due in a few weeks. Happily Jason regained consciousness after his heart attack and he was able to be wheeled out of the hospital to be married. Jason and Sally were happy because they were able to be married before the birth of their baby. I thank Dr Bellamy, Dr Seehra and all the staff in the intensive care and cardiac units at John Hunter Hospital for helping Jason and Sally to achieve their special day.

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

**Motion agreed to.**

**The House adjourned at 9.35 p.m. until Wednesday 20 October 2010 at 11.00 a.m.**

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