

LEGISLATIVE COUNCIL

Tuesday 26 October 2010

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.

ADMINISTRATION OF THE GOVERNMENT OF THE STATE

The PRESIDENT: I report the receipt of the following message from the Honourable Justice James Allsop, Administrator of the State of New South Wales:

Office of the Governor
Sydney 2000

J. Allsop
ADMINISTRATOR

The Honourable Justice James Allsop, Administrator of the State of New South Wales, has the honour to inform the Legislative Council that, consequent on the Lieutenant Governor of New South Wales, the Honourable James Spigelman being absent, he has this day at 12.35 p.m. assumed the administration of the Government of the State.

22 October 2010

ADMINISTRATION OF THE GOVERNMENT OF THE STATE

The PRESIDENT: I report the receipt of the following message from His Excellency the Lieutenant-Governor:

Office of the Governor
Sydney 2000

J. J. Spigelman
LIEUTENANT-GOVERNOR

The Honourable James Spigelman, Lieutenant-Governor of New South Wales has the honour to inform the Legislative council that he re-assumed the administration of the Government of the State at 9.10 p.m. on 22 October 2010.

22 October 2010

ADMINISTRATION OF THE GOVERNMENT OF THE STATE

The PRESIDENT: I report the receipt of the following message from Her Excellency the Governor:

Office of the Governor
Sydney 2000

Marie Bashir
GOVERNOR

Professor Marie Bashir, Governor of New South Wales has the honour to inform the Legislative Council that she re-assumed the administration of the Government of the State at 9.40 a.m. on 25 October 2010.

25 October 2010

ASSENT TO BILLS

Assent to the following bills reported:

Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2010
Constitution Amendment (Recognition of Aboriginal People) Bill 2010
Industrial Relations Advisory Council Bill 2010
National Parks and Wildlife Amendment (Adjustment of Areas) Bill 2010

PROTECTED DISCLOSURES AMENDMENT (PUBLIC INTEREST DISCLOSURES) BILL 2010
ROAD TRANSPORT (VEHICLE REGISTRATION) AMENDMENT (WRITTEN-OFF VEHICLES)
BILL 2010

Bills received from the Legislative Assembly.

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. John Hatzistergos agreed to:

That the bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second readings of the bills be set down as orders of the day for a later hour of the sitting.

Bills read a first time and ordered to be printed.

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

COASTAL PROTECTION AND OTHER LEGISLATION AMENDMENT BILL 2010 (NO. 2)

Message received from the Legislative Assembly agreeing to the Legislative Council's amendments.

BUSHFIRE HAZARD REDUCTION

Production of Documents: Order

The Hon. MELINDA PAVEY [2.33 p.m.]: I seek leave to amend Private Members' Business item No. 271 outside the Order of Precedence for today of which I have given notice by omitting "14" and inserting instead "28".

Leave granted.

Motion by the Hon. Melinda Pavey agreed to:

That, under Standing Order 52, there be laid upon the table of the House within 28 days of the date of the passing of this resolution, all documents, created since January 2007, in the possession, custody or control of the Premier, the Department of Premier and Cabinet, the Minister for Primary Industries, Forests NSW, the Rural Fire Service, or the Department of Industry and Investment relating to Flashpoint Fire Services and refers to contracting out of hazard reduction by Forests NSW generally and including roundtable meetings convened by Industry and Investment NSW, and any document which records or refers to the production of documents as a result of this order of the House.

LEGISLATION REVIEW COMMITTEE

Report

The Hon. Kayee Griffin tabled, pursuant to the Legislation Review Act 1987, a report entitled "Legislation Review Digest No. 14 of 2010", dated 26 October 2010.

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

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

Report: Review of the 2008-2009 Annual Report of the Commission for Children and Young People and the 2008 Annual Report of the Child Death Review Team

The Hon. Kayee Griffin, on behalf of the Chair, tabled the report No. 7/54, entitled "Review of the 2008-2009 Annual Report of the Commission for Children and Young People and the 2008 Annual Report of the Child Death Review Team", dated October 2010.

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

The Hon. KAYEE GRIFFIN [2.36 p.m.]: I move:

That the House take note of the report.

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

PETITIONS

Euthanasia

Petitions praying that the House will oppose any attempts to legalise or decriminalise the practice of euthanasia to ensure that the quality of life of the elderly, handicapped or terminally ill is not subject to these unjust or unethical procedures, received from the **Hon. Don Harwin, Reverend the Hon. Dr Gordon Moyes** and **Reverend the Hon. Fred Nile**.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notice of Motion No. 1 postponed on motion by the Hon. Tony Kelly.

PARLIAMENTARY BUDGET OFFICER BILL 2010

Second Reading

The Hon. ERIC ROOZENDAAL (Treasurer, Minister for State and Regional Development, Minister for Ports and Waterways, Special Minister of State, and Minister for the Illawarra [2.53 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The object of the proposed Parliamentary Budget Officer Bill 2010 is to establish the independent statutory office of Parliamentary Budget Officer to provide independent costings of election promises and, outside pre-election periods, provide independent costings of proposed policies of members of Parliament. The officer will also provide independent analysis, advice or briefings of a technical nature on financial, fiscal and economic matters to individual members of Parliament.

This is a significant parliamentary reform which breaks new ground in Australia and is in line with the wider democratic reforms the Premier has introduced in this Parliament recently.

The Parliamentary Budget Office [PBO] will be a truly independent arm of the legislature and will serve this Parliament and the people of New South Wales well.

The scope of work of the Parliamentary Budget Office will not be limited to the costing of commitments or policies made during the election campaign, although this will be an important and critical role that it will play, but extend outside election periods to ensure an ongoing role in providing independent economic and financial analysis and advice to Parliamentarians on a range of matters, such as the costing of bills introduced to Parliament, and economic briefs on important public policy issues.

The Parliamentary Budget Office will possess security of tenure for an initial period of nine years in order to ensure the true independence of the office.

The method of appointing the Parliamentary Budget Officer will be through a committee of senior Government officials which will make recommendations to the Presiding Officers of the Parliament, who will in turn make the final appointment, for an initial term of 9 years.

The panel of senior Government officials will consist of the New South Wales Ombudsman, the Chairperson of the Independent Pricing and Regulatory Tribunal, and the New South Wales Information Commissioner.

Importantly, the Parliamentary Budget Officer will be accountable to the Parliament, not the Executive, in order to increase accountability and transparency between the legislature and the Executive, in regard to budget information and analysis, including costing of commitments made during election campaigns, to achieve a higher level of governance.

The New South Wales Parliamentary Budget Office will serve both the majority and the minority and may, by resolution of the Parliament, be asked to report to a nominated parliamentary committee or committees. It is envisaged that the Parliamentary Budget Officer may be asked to appear before one committee of the Legislative Council and one committee of the Legislative Assembly for examination purposes.

The Parliamentary Budget Office will operate under an Operational Plan submitted to the Presiding Officers of the Parliament and be updated on a rolling basis. The Operational Plan will deal with a range of matters relating to the activities of the Parliamentary Budget Office including establishment, staffing, resourcing, frequency of reporting, scope of activities and related matters. The operational plan will be tabled in Parliament.

The office will have a small, but highly trained staff, whose calibre will reflect the office's status as an independent body and its important role. It would also have the capacity to engage external service providers.

The Parliamentary Budget Officer will also be given significant flexibility to act as he or she sees fit, limited to its functions as per the Act and the Operational Plan. The Parliamentary Budget Officer may inform him/herself on any matter and in any way, may consult with anyone he or she thinks fit, may receive written or oral information or submissions, may establish working groups and task forces and may request information from government departments and agencies. The Parliamentary Budget Office will be provided with a legislated right to request and access information in relation to its functions, with proper limitations and processes in place.

In order for the Parliamentary Budget Office to be established in a timely manner and for the office to carry out its functions, it will be very well resourced with an annual budget secured for the first fixed term of nine years.

The office would be led by an experienced and respected public sector officer or private sector executive with relevant qualifications and expertise.

Remuneration of the Parliamentary Budget Officer will be determined under the Statutory and Other Officers Remuneration Act 1975.

It is envisaged that the office would require approximately 12 to 16 qualified and experienced economists, accountants and financial analysts covering the key spending areas, and the requisite support staff.

The office will receive up to \$4million, recurrent and capital funding combined, in 2010-2011 in order to establish the Parliamentary Budget Office, and then up to \$3million (recurrent) in 2011-2012 to 2018-2019 for the ongoing operational costs for the office.

In reference to the Parliamentary Budget Office's role in the costing of election promises, this bill repeals the Charter of Budget Honesty (Election Promises Costing) Act 2006, but this bill will retain the best elements of the costing process from the former Act. The critical difference, of course, is that the independent Parliamentary Budget Office will undertake all costings.

The Charter of Budget Honesty (Election Promises Costing) Act 2006 provided a framework for costing election promises in the lead-up to the New South Wales election, but was continually criticised by the Opposition and others due to a perceived but non-existent bias by New South Wales Treasury towards the incumbent Government.

This bill will ensure that there is a high quality and independent election costing process in place beyond any criticism concerning impartiality or independence.

This process will be managed by a truly independent office and staff. The best elements of the former Act in relation to process have been replicated in this bill.

At the time of the last half yearly budget review, the secretary of the Treasury is required to publicly identify the amount of money available to meet future spending commitments for the current budget year and the forward estimates—in other words, the financial envelope available to the Government to fund its policies.

A parliamentary leader, which includes an Independent member of Parliament, may request the Parliamentary Budget Officer to prepare costings of policies that are announced or proposed for implementation after the next State general election.

A parliamentary leader may make an election costing request in relation to a policy publicly announced or proposed by that leader or in relation to a policy of another parliamentary leader.

Costing requests are to be made during the period from the day on which the last State budget before the election is presented to Parliament until the State general election. For the State general election due to be held on 26 March 2011, costing requests may be made from 25 January 2011.

A costing request may be withdrawn at any time before the costing is provided by the Parliamentary Budget Officer.

This bill represents a significant enhancement to an already effective election costing process, with the Parliamentary Budget Office in control in the best interests of the residents of New South Wales and to ensure this process is not open to political attack but instead focuses on good public policy outcomes.

I was absolutely astonished that the Opposition voted against this important bill in the Lower House.

This bill delivers a truly independent, well resourced body and covers off on all of the concerns raised by the Opposition themselves and minor parties in relation to the costing of election promises through debates earlier this year, and provides a great resource for all members of Parliament.

What have the Opposition got to hide? Why do they not truly want their election promises costed by an independent institution? Why are they trying to avoid proper scrutiny?

Their answer seems to be that they will get a former Auditor-General, one person, who it cannot be said is truly impartial, to oversee and cost all of their promises, whilst voting against this bill, which will provide an equal playing field for all parties and introduce a well resourced and truly independent body to play this significant and important role during election periods.

The Opposition's contribution to the debate in the Lower House was less than impressive, a complete ramble. Their media commentary on the issue in the past few days has been appalling. They are playing politics with an important public policy issue!

The shadow Treasurer clearly wants to support the concept but is playing petty politics with an important matter.

It is clear that his leader does not want their policies and commitments costed by an independent umpire.

It is clear they have got something to hide and want to avoid proper scrutiny.

They should be condemned for their stance.

Their position flies in the face of their Federal counterparts, who strongly support the concept, and against the views of all of the other political parties and Independents, and the wider community.

Let me enlighten the House as to the national debate surrounding this concept.

The concept of an independent Parliamentary Budget Office was raised at the Australia 20/20 Summit, and was included in its final report in May 2008. The idea is based on models in operation internationally.

At a national level, the Federal Coalition's intention to establish an independent Parliamentary Budget Office was originally announced by former Leader of the Opposition the Hon. Malcolm Turnbull MP in his budget reply of 2009.

The initiative was then announced by the Leader of the Opposition, the Hon. Tony Abbott MP, in Canberra on 22 June, 2010.

On 12 August 2010 the Federal Coalition announced that an elected Coalition Government would establish a Parliamentary Budget Office, similar to the US Congressional Budget Office.

Following heated debate about the costing of election promises during the Federal election campaign, and the push by Independent Members of Parliament and the Greens for parliamentary reform, the Prime Minister of Australia, the Hon. Julia Gillard, MP, as part of her written agreement with the Greens on 1 September 2010, co-signed with the Hon. Bob Brown, MP, committed to the establishment of a Parliamentary Budget Office.

In section 4.3 (a) of the agreement the Prime Minister signed with Andrew Wilkie, the newly elected Federal member for Denison, she confirmed her commitment to establish a Parliamentary Budget Office within 12 months of the agreement date, being 2 September 2010.

On 4 September 2010 the Federal member for Lyne, Rob Oakeshott, MP, announced that the establishment of an independent Parliamentary Budget Office was one of the improvements agreed as part of a parliamentary reform document being finalised across the Parliament.

Thus this concept enjoys widespread support across all parties and in the wider community.

The Keneally Government is acting to establish the first independent Parliamentary Budget Office in the country, taking the lead and delivering on an issue the community and voters have a great interest in.

We are doing so in an extremely bipartisan fashion, and have placed politics aside in ensuring this new body will be able to play a genuinely important and significant role in the best interests of the people of this great State.

Everyone in this place would be extremely disappointed if the Opposition continues to try to find a way to play politics with such an important issue, and I am sure everyone inside and outside this place would legitimately condemn them for doing so if they were foolish and selfish enough to continue to go down such a path.

In terms of international experience, the Congressional Budget Office established in the United States in 1975, the Office of Budget Responsibility currently being established in the United Kingdom, and the Parliamentary Budget Office established in Canada, are the notable examples referred to during the debate on this issue during the recent Federal election campaign.

In a number of countries, the capacity of Parliament and its relevant committees to engage with budget implementation and approval has been significantly enhanced by the establishment of non-partisan, independent budget offices that have the technical capacity to analyse the budget and to help Parliament and parliamentarians to understand what can be complex technical documents.

Parliamentary budget offices are traditionally more common in developed countries, but they are also increasingly common in developing countries. Budget offices come in different sizes, in terms of staffing and operating budgets, and may be endowed with different degrees of authority. Even where resources are limited, small parliamentary budget offices can be established with just a few members of staff, who may initially work primarily with outside think tanks for additional support.

In Canada, the mandate of the Parliamentary Budget Officer is to provide independent analysis to Parliament on the State of the nation's finances, the Government's estimates and trends in the Canadian economy; and upon request from a committee or parliamentarian, to estimate the financial cost of any proposal for matters over which Parliament has jurisdiction.

The Parliamentary Budget Office is provided with a legislated right of access to data necessary for the performance of the Parliamentary Budget Office research and analysis mandates.

Work undertaken includes: economic and fiscal analysis, outlook and risk assessments, this analysis relies heavily on the use of econometric and statistical models and includes broader research on macroeconomic and fiscal policy, analysis of program costs and estimates, assessment of budgetary systems, and the provision of cost estimates on Parliamentary proposals.

I am proud to introduce this bill in to the upper House, a bill which will lead to the establishment of a genuinely independent office reporting to the legislature on important economic and financial matters and further enhance transparency and openness in Government.

I commend the bill to the House.

The Hon. GREG PEARCE [2.53 p.m.]: The New South Wales Liberals and The Nationals have been arguing for an independent costing of election promises for some considerable time. To give effect to that, in December 2009 notice was given of a private member's bill by the shadow Treasurer in the Legislative Assembly to have the Auditor-General oversee the costing of election promises. Support for the oversight of election costings by the Auditor-General was secured in a memorable moment during the debate between the Premier and the Leader of the Opposition when the Premier, quite out of her depth, agreed to it in the televised Leaders' debate on Sky television in March. However, no-one was surprised when the Government flipped and introduced its so-called Charter of Budget Honesty (Election Promises Costing) Amendment Bill 2010 in May, which sought to have costings remain with Treasury.

I do not intend to spend a great deal of time speaking in this debate. It is interesting to reflect on the debate in the Legislative Assembly when the Premier declined to vote in the division. The bill was then debated in this Chamber, with crossbench support for Coalition amendments that were designed to ensure the Auditor-General's involvement, and the bill was passed in this House with those amendments. I am very grateful to the crossbenchers for their even handedness and independence in supporting those amendments at the time. However, what did the Government do? The absolute cynicism and arrogance of this Government set in once again and it voted against the bill because of the amendments, and the bill never went anywhere after that.

The bill is another cynical attempt by the Government to obtain advantage out of this process. The legislation establishes the Parliamentary Budget Officer, who will be appointed by the Presiding Officers from two candidates put forward by the Ombudsman, the Information Commissioner and the Chairman of the Independent Pricing and Regulatory Tribunal. Initially that sounds quite a reasonable proposition and the New South Wales Liberals and The Nationals do not object to that course. In fact, it is modelled on similar provisions that exist in the United Kingdom, Canada and the United States of America. In addition, discussions are underway in Canberra about the possibility of establishing a Parliamentary Budget Officer for that Parliament. We are concerned about the appointment. The initial term will be an extraordinary nine years, with a range of four to nine years thereafter.

It has been argued that the term of office is important with regard to independence, and normally that would be a very compelling argument. However, we are five months out from an election and this Government has introduced this legislation with a view to making the appointment before the election, which will ensure that for the next election the process will not be as independent as it is intended. In future, governments and oppositions will have nine months to access the Parliamentary Budget Officer before an election. In this case we will be looking at an eight-week period. One can only assume, based on the record of this Labor Keneally Government, that it will abuse the process in the period available to it.

Another concern of the Liberal-Nationals Coalition is the specific functions of the office. It is quite surprising and extraordinary that one of the requirements of the bill is that the Parliamentary Budget Officer will decide what his or her functions will be after appointment. We are also concerned about the funding of the office. It seems on a quick analysis that what will be provided by the Government will be, in large measure, per capita funding. As I said earlier, the term of appointment is also a concern for us.

Our major issue with this bill is the provision that allows a party to request a costing by the officer on another party's policy, with no requirement for the Parliamentary Budget Office to check that the characterisation of the policy is correct. Indeed, it is possible that the public and the party whose so-called promise or policy is being costed will not know the result of that costing until it is released publicly. That is likely to be a key aspect of the Keneally Labor Government's attempt at re-election strategy, and it is quite clear that if that provision remains in the bill, it will be utilised to mislead the public about promises of not only the New South Wales Liberals and The Nationals but also potentially all of the minor parties and other candidates standing for election.

I foreshadow that the New South Wales Liberals and The Nationals will move amendments to the bill in Committee requiring that only a leader of a party may request costings, and only in relation to the policies of his or her own party, and not in relation to those of other parties or other candidates at an election. That said, the Coalition hopes that if the bill is passed there will be a degree of transparency and honesty about parliamentary costings into the future. I foreshadow also that if our proposed amendment is lost, the Coalition will oppose the bill.

The Hon. MATTHEW MASON-COX [2.59 p.m.]: I speak to the Parliamentary Budget Officer Bill 2010 and say at the outset that I support the Hon. Greg Pearce in his comments. I note that the purpose of the bill is to establish the Parliamentary Budget Officer as an independent officer of the Parliament to prepare costings of election policies, prepare costings of proposed policies of members of Parliament, and to provide members of Parliament with economic analysis, advice and briefings. In reality, the bill is just another politically motivated bill heralded by this Government as another breakthrough in public accountability and transparency. More than anything it speaks to the culture of the New South Wales Labor Party machine—a machine powered by political spin, deceit and self-interest, bereft of any real understanding of what lies in the best interests of the people of New South Wales. As former Labor Prime Minister Paul Keating said, New South Wales Labor stands for power for power's sake. This bill unequivocally confirms that this Government no longer stands for anything except its selfish self-interest.

One only has to examine the history of what has become the costings fiasco under this Government to expose the real motivation behind the bill. Members will recall that on 2 December 2009 the shadow Treasurer gave notice in the other place of a private member's bill to vest in the New South Wales Auditor-General responsibility for overseeing the costing of election promises. In March this year, during their televised debate, the Premier and the Leader of the Opposition agreed that election costings would be undertaken by the New South Wales Auditor-General as an independent umpire rather than by New South Wales Treasury.

In May this year the Government introduced the Charter of Budget Honesty (Election Promises Costing) Amendment Bill, purportedly to give effect to this agreement but instead sought to give Treasury the responsibility for costings with a residual review role for the New South Wales Auditor-General. I note that this was subsequently amended in the upper House, as alluded to by the Hon. Greg Pearce, to restore what we had thought was the agreement between the Government and the Opposition, with the Auditor-General assuming primacy once again for election costings. The amended bill was introduced in the other place on 2 June 2010 whereupon its consideration was set down for a future time. The amended bill lay dormant since that time and the Government has finally responded by introducing the Parliamentary Budget Officer Bill, which repeals the Charter of Budget Honesty (Election Promises Costing) Act 2006, thereby dispensing with the amended bill passed by this place that lay dormant in the other place for five months.

It is important to put the context in which the bill comes before this place. In effect, for six months the Government has played cat and mouse in this Parliament in a cynical and shameless attempt to get its own way on election costing accountability, only now to abandon its previous model in favour of the new budget office model, which it has surreptitiously launched without any consultation with the Opposition. Indeed, the shadow Treasurer in the other place received notice a few hours before the introduction of the bill in the other place and had no opportunity to offer any comment on the bill. It is appalling that this level of consultation should take place to what is a very important change in the running of the business of this Parliament. To say it is extraordinary is a gross understatement; it really shows that the Government has sunk to new depths even by its appalling standards of public accountability and transparency.

Let me now consider some of the terms of the current bill. The Parliamentary Budget Officer, who will receive a remuneration package similar to the Auditor-General as determined by the remuneration tribunal, will be appointed by the Presiding Officers on the recommendation of two candidates put forward by the Ombudsman, the Information Commissioner, and the Chair of the Independent Pricing and Regulatory Tribunal. I note that the existing Presiding Officers will determine the successful candidate. The initial term will be for nine years and following terms will be from four to nine years. It is difficult to comprehend an initial appointment of nine years and one wonders exactly why the Government has chosen such a long term. Has it guessed that it will be in opposition for just two terms? I shudder to think. I hate to think that would be anything like the judgement the New South Wales people would pass on this appalling Government. I hope it is more like four terms. In its calculations in introducing the bill perhaps it thought two terms was enough to deal with the extra layer of accountability—just as long as it does not have to be accountable.

The bill points out that funding provided for the establishment of this officer will be approximately \$30 million over the course of the next nine years—\$4 million for its initial establishment, \$3 million for each year of the current four-year estimates, and then ongoing for the course of the nine years. That is \$30 million in a budget climate of efficiency dividends across the public service and, as the President would know, cuts to the Parliament on a number of fronts resulting in services being shed, but in its farce to drive for further accountability the Government can find \$30 million to set up another office to ensure it has further resources in opposition. It is quite extraordinary.

I note that the bill does have some merit in terms of processes of accountability and transparency, and the Opposition does not deny that. However, the fact that the Government has been playing with this issue for the best part of the last year and suddenly, six months before an election, we have a bill of such importance introduced without any consultation with the Opposition is an extraordinary situation and one can only reflect on that with some cynicism, given the current and continuing form of the Government. I urge the Government to reconsider its clearly politically motivated approach to this critical issue of public accountability. I note that the Opposition, as the Hon. Greg Pearce has foreshadowed, will seek to amend the bill so that parties can only request costings of their own policies, which I think will go some way to inserting some political balance into this important bill. Clearly the only way to ensure the return of accountability and transparency to the Government and to the State is to change the Government, and we certainly look forward to that.

The Hon. KAYEE GRIFFIN [3.06 p.m.]: Listening to the previous speaker on the Parliamentary Budget Officer Bill 2010 has been very interesting. The Opposition lacks integrity and moral fortitude; it is absolutely spineless. However, we are debating an important matter of public interest, an issue which formed an integral part of the recent debate on wider parliamentary reform in the Federal election. Despite this, the Opposition voted against the Government's bill in the lower House, flying in the face of its Federal counterparts and the Independents, and also contradicting its calls earlier this year for a truly independent process for the costing of election promises.

There is no doubt in my mind that the Opposition is playing political games in order to avoid proper scrutiny of its election promises. It may say it wants an independent process, but its actions speak louder than words. The Government seeks to establish a genuinely independent body, well resourced, part of the Legislature, to play the critical role of officially costing election promises made by any party, and yet the Opposition voted against the bill in the lower House. What does it have to hide? Why does it not want its promises costed by an independent umpire? The Opposition does not want the voting public to know that it will not be able to afford to deliver its promises, if ever elected. It will promise what it cannot possibly deliver, thus trying to entice voters on false premises. If the Opposition were serious about genuine reform it would support the bill, which appeases the concerns raised by all parties in earlier debate on the election costings issue.

On 10 May this year in the other place, the member for Manly, who aspires to be the Treasurer and Premier one day, with respect to election costings said that leadership must be shown; that the politics of old should be put aside and, once and for all, the interests of the community put above individual political pursuits at election time. He referred to the soap opera that is the election costings process and said that the community wants to know that the costings process involves rigour and independence. It wants to know that policies are costed properly, with due process and having regard to expert advice. What has he done since then? He announced that a former Auditor-General of this State would oversight the Opposition's costings—nothing more. That is not leadership. That is not exciting or good policy. That is not transformational in any way, shape, or form. His actions in the lower House debate on this bill prove his words mean nothing. He does not seek to have in place a truly independent process; he wants to avoid scrutiny.

The bill establishes a truly independent body, an arm of the Legislature reporting to the two Presiding Officers of this Parliament that is responsible for the costing of promises during election campaigns and other valuable work for members of Parliament between elections. This concept is above politics. The Parliamentary Budget Officer will be appointed through a rigorous and independent process, whereby three of the most independent and influential public officials in this State, being the Chair of the Independent Pricing and Regulatory Tribunal, the Information Commissioner, and the New South Wales Ombudsman, recommend to the two Presiding Officers for their consideration and appointment at least two suitably qualified and experienced persons for the position. The office will be provided with the resources and finances it needs to carry out its duties in a timely and professional manner, and with security of tenure to ensure the office is above political influence from any party. The three most independent and influential public officials in this State have been touted as such in speeches made in this place in the past, and I am sure that if they recommend someone to the Presiding Officers they will be very worthy of their consideration and appointment. This is transformational. New South Wales, to its credit, will be the first jurisdiction in this great land of ours to set up such an office.

This bill covers all the concerns the Opposition raised on the election costing issue earlier this year, and more. Therefore, the Opposition should take the lead of its Federal counterparts and wholeheartedly support this excellent proposal. It has no excuse to proffer for not supporting the Government in full on this initiative. The bill accords with the call of the member for Manly to put a costing process in place that is independent, gives due process, and enables the community to have confidence that when a policy is put forward it has been

properly costed and planned and that appropriate experts have reviewed it. Unfortunately, the member for Manly did not have a constructive and productive alternative to offer that would achieve the outcomes he professed he was seeking. Luckily for him the Government has come to the rescue.

This bill delivers on the Premier's commitment to have election costings judged independently. The Parliamentary Budget Office will no doubt grow in stature and respect over the coming years, and I look forward to working with the office. I wish the Opposition would stop playing politics on this issue, stop trying to dupe the voters of this State, and act in the best interests of the people of New South Wales, not solely in the interests of the incompetent Liberal and National parties. I commend the bill to the House.

Dr JOHN KAYE [3.13 p.m.]: On behalf of the Greens I speak to the Parliamentary Budget Officer Bill 2010. The Greens strongly support the principle of an independent Parliamentary Budget Office. We have concerns about some of the details, which no doubt we will debate in Committee when the amendments are moved by both the Opposition and the Greens. In principle, the bill is an important step forward. The legislation creates an independent office and officer to fulfil two very important functions within parliamentary democracy. The first relates to election costings and provides an independent mechanism for costing promises made during elections by all political parties. The second relates to what happens outside the election period. It gives members of Parliament the ability to cost policies outside the election cycle.

Both these functions, if appropriately regulated and resourced, will improve our democratic process. It will put pressure on all parties—I include my own party—to produce realistic election policies for costing. It is important that we restore some degree of public confidence in the statements made by politicians during the election cycle. The bill will create the opportunity for politicians to go to the election with their policies fully and independently costed and have the capacity to say to the electorate, "These are our policies; this is what they will be worth. They are affordable and they are within the budget parameters", or, "They are affordable if we raise additional revenue." If it works well it will create a level of honesty not previously seen in politics and certainly a level of honesty that the people of New South Wales desperately seek.

Despite the many things that have been said about the Greens, we do have a tradition, at least over the past decade, of always costing our policies and always providing revenue measures to support those policies. However, we do that ourselves and we are a small party with limited expertise, whereas the Coalition, of course, is a large party that also has limited expertise. It is important that we create mechanisms so that the election policy costing process is fair and deals with all political parties equally. The process should enable the people of New South Wales to have some degree of confidence that what they are being told is realistic. The upshot of a fully functional Parliamentary Budget Office and Parliamentary Budget Officer will be a more democratic debate during an election, one that is enhanced, strengthened and more productive.

The Parliamentary Budget Office will also empower parliaments with knowledge and expertise. Over the past two decades we have seen an increased transfer of power from Parliament to the Executive. It is part of a centralisation of power within our society that also sees the transfer of power from States to the Commonwealth, and within the workplace. It is important that we reverse this trend; that we create a society with diverse power. The Executive, because of its access to information and the capacity for analysis within the bureaucracy, has increasingly been able to control debate within the Parliament. All members in this House belong to a Chamber that is elected by proportional representation and charged with providing checks and balances against the activities of the Government of the day.

The Parliamentary Budget Office will provide the opportunity not only to argue a case but to do so with the power of analysis. We will have the power of an independent body that can analyse government actions outside the election cycle, analyse government policies, analyse our own proposals, and provide a budgetary analysis of their meaning. If it is done well, surely this will lead to enhanced democracy. A better informed debate, both during and outside the election cycle, has to be a good thing. Information, and quality information in particular, is the antidote to the misinformation that has beset politics over the past two decades, if not longer. As the modern State's challenges and management activities become more complex, there is a need to access data and analysis. Governments of the day, no matter how good they are, do not have a lock-hold on wisdom. Therefore, if parliaments are to act as checks and balances, they must have access to quality analysis so they can check and balance the actions and decisions of Executive Government. The Parliamentary Budget Office is indeed a first step in that direction.

Sometimes in politics adverse motivations lead to positive outcomes, and this legislation is an example of that. It is hard to take seriously a lot of what the Government is saying, given that it has now been in power

for 15 years and almost nine months, during which period it took almost no steps towards creating an independent budgetary office that could cost policies both during and outside elections. This proposal was introduced at a time that is likely to be the death knell of this Government. I can only presume that the Government intends to use this issue during the election campaign to beat up on the Opposition and the Greens and, presumably, on any other minor party that gets in its way.

I am sure that Government members are looking forward to a number of terms in opposition and to empowering themselves while in opposition. Neither of these motives are honourable but both motives will lead to a positive outcome—an independent Parliamentary Budget Office that will empower debate. The Greens are convinced of the independence of the Parliamentary Budget Office. Three senior bureaucrats—the Chair of the Independent Pricing and Regulatory Tribunal [IPART], the Ombudsman, and the Information Commissioner—will do the first cull and provide a list of names to the Presiding Officers.

Members should have more than just a small amount of faith in the independence of those three officers. Not just the current incumbents but also their successors in IPART, the Ombudsman's Office and the Information Commissioner will continue to exercise their functions in a way that serves the people of New South Wales. I would expect them to do the same thing when putting forward the names for the Parliamentary Budget Officer. That list of names will then go to the Presiding Officers. I understand from the bill that if both Presiding Officers come from the same political party one of the Presiding Officers will be replaced to ensure that the final decision is not made by only one political party. Checks and balances will ensure that the Parliamentary Budget Officer will be independently appointed and is independent and answerable to Parliament in the broadest sense.

Funding is set at \$30 million over a nine-year period, which has been suggested is a high price tag. If we are serious about restoring some legitimacy to elections, redressing the imbalance between the Legislature and the Executive, and about a functional democracy, what price are we prepared to pay for that? In a budget of over \$46 billion a year, \$9 million is a small price to pay to provide quality information to enhance the debate and to empower parliaments to fulfil their functions in a Westminster democracy. The Greens have some concerns about this legislation. One of our key concerns is that the analysis of policy is restricted purely to straight financial aspects. Surely we have moved beyond the idea that economics is purely about the financial budget bottom line. There are other bottom lines. Most corporations are now beginning to understand that it is not just the financial bottom line; it is also the social bottom line and the ecological bottom line.

The deficiency in this bill is that every policy is measured against its fiscal impact rather than being measured against other crucial determinants—the quality of the outcome of people's lives, what impact it will have on the quality of our communities and their capacity to thrive, and what impact it will have on the sustainability of the environment in which New South Wales operates. Without those other two determinants this is a one-legged stool. Any costing of this policy will be deficient and it will be telling only one-third of the story—what impact these policies will have on citizens' lives and on the lives of their children. In the time we have had available to us we tried to get Parliamentary Counsel to draft some amendments to adjust the ambit of the office and to take into account the social and environmental impacts of any policy. We were unable to do so but it is something about which we wish to maintain a debate.

At best, anything that comes out of the Parliamentary Budget Office is one-third of the story, and at worst it is likely to be much less. It does not analyse the environmental or social impacts. Without those other two analyses we are looking at only a narrow projection of the full impact of such a policy. The Greens are concerned about the types of policies that can be costed. I note the Coalition's foreshadowed amendment relating to whether a parliamentary leader can request the costing of the policies of another party leader. I look forward to debating that amendment. We are concerned about policies that are announced verbally and that can be costed by another party. A parliamentary party could be placed in a complex situation because of the slip of a tongue of a parliamentary leader, or a delegate of the parliamentary leader.

We are concerned also about the one-size-fits-all models suggested by this legislation and, in particular, the idea that every party would have a leader. I am proud to belong to a party that does not subscribe to the idea that there should be a leader. The three people with whom I served earlier this year worked well without a leader, and the current members of the Greens will continue to do so. As long as we have representation in this Chamber we will continue to challenge the hierarchical models of Parliament. If ever there were a testament to the fallacy that party leaders contain all wisdom it would be the debates between the leaders in the last Federal election and the appalling centralism of ideas between Tony Abbott and Julia Gillard. I draw the attention of Labor members to the views expressed by Senator Doug Cameron.

The Hon. Mick Veitch: Speak with his accent.

Dr JOHN KAYE: The Hon. Mick Veitch asked me to impersonate Senator Doug Cameron. However, as Hansard staff members already have difficulty in dealing with my words I will not seek to make it any more difficult for them. If anybody wants to hear my Doug Cameron impersonation I am happy to do so during the parliamentary recess. I have to say, however, that my impersonation is not nearly as good as the real thing.

Reverend the Hon. Fred Nile: What did he say?

Dr JOHN KAYE: Senator Doug Cameron clearly said that Federal parliamentary caucus was stultified by a leadership imposing its position on caucus members. I am sure that is true at a State level and I am sure it is true for members of the Coalition. We stand committed to the idea that a party can thrive and prosper without a leader. Our party does not need a leader. Members of our party work as co-equals and share ideas, and their diversity of views enhances us all. I foreshadow that we will be moving amendments in Committee. We are not seeking to prevent any other political party from indulging in a leader; we will move amendments that make it clear that we will not be appointing a leader in the context of this legislation or any other legislation. That having been said, the principles of this legislation are good and we look forward to debating a number of amendments.

Reverend the Hon. FRED NILE [3.28 p.m.]: On behalf of the Christian Democratic Party I speak on the Parliamentary Budget Officer Bill 2010. The object of the bill is to establish the independent statutory office of the Parliamentary Budget Officer to provide independent costings of election promises and of proposed policies of members of Parliament outside pre-election periods. The officer will also provide independent analysis, advice or briefings of a technical nature on financial, fiscal and economic matters to individual members of Parliament. There is nothing wrong with this proposal; it has been implemented already in other countries. In fact, in the United States of America the Congressional Budget Office was established in 1975, an Office of Budget Responsibility is being established in the United Kingdom and Canada, and our Federal Parliament is also in the process of establishing a Parliamentary Budget Office or officer.

The only criticism of this bill is that the office should have been established when the Labor Party was first elected so that it operated during its term of office. That would have lent more sincerity to the Government's actions in introducing this bill. Obviously, the election of a Coalition government next March is anticipated, and this project will be dropped in its lap. It is a worthwhile project, but it should have been completed some years ago. A bill that deals with matters affecting political parties in this place, particularly the major parties, should have bipartisan support. It is a pity that that is not so in this case, and the fault appears to lie with the Government. There has been much criticism about what promises made during election campaigns entail and cost. Voters have a right to know the costings of election promises. Hopefully, this legislation will generate that information. The intention of the bill is not so much to inform political parties about costings but to give the public clear evidence regarding election promises, and costings to prove that they are workable.

I appreciate the complicated procedure for appointing the Parliamentary Budget Officer, but that person must be truly independent and not support in any way the Labor Party or the Coalition—or the Greens for that matter. Such an appointment will be difficult to achieve because in the operation of Parliament and in the work of public servants at both State and Federal levels one perceives bias in many situations. It is probably impossible to separate entirely a public servant's personal views from their role. They are supposed to ensure that separation, but sometimes there is a breakdown and public servants are not truly independent. If the new Parliamentary Budget Officer is not independent, the legislation will be unworkable. If the Coalition considers that the selection process resulted in the appointment of someone who will be harsh towards it and, if you like, soft on the Australian Labor Party, it will make a mockery of the legislation.

The Government has included in the bill the stipulation that the Parliamentary Budget Officer be appointed for nine years. This has created suspicion as to whether this is to cover two Legislative Assembly terms as the Labor Party does not anticipate being re-elected after the forthcoming March 2011 election and wants to control the office for those two terms. That appears to be a major motive. The Government's defence of the nine-year appointment is that it ensures the officer is truly independent and can make decisions without fearing they will be out of a job—we give judges similar independence. However, suspicion about the nine-year appointment has some merit.

The appointment process will involve a committee of senior government officials—again, I ask how independent they are—who will make recommendations to the Presiding Officers of the Parliament, who, in

turn, will make the final appointment for an initial term of nine years. The Presiding Officers, who we know will act independently, will not have much say: they will have to choose between the individuals recommended. The panel of senior government officers will comprise the NSW Ombudsman, the chairman of the Independent Pricing and Regulatory Tribunal, and the New South Wales Information Commissioner, which is a new position established this year. The Parliamentary Budget Officer will be accountable to Parliament, not the Executive, in order to increase accountability and transparency between the Parliament and the Executive in regard to budget information and analysis, including costings of commitments made during election campaigns, hopefully in order to achieve a high level of governance. Again, this work is not limited to the election campaign period but will occur throughout the entire four years of a government.

The Parliamentary Budget Officer will serve both the majority and minority and may, by resolution of the Parliament, be asked to report to a nominated parliamentary committee or committees. The Parliamentary Budget Officer could also be asked to appear before one committee of the Legislative Council and one committee of the Legislative Assembly for examination. That is a positive provision in the bill and could reveal any problems in the operation of the budget office or the officer. The Parliamentary Budget Office will operate under an operational plan submitted to the Presiding Officers of the Parliament and updated on a rolling basis. It will cover establishment, staffing, resourcing, frequency of reporting, scope of activities and related matters. Included in the briefing papers is up to \$4 million in combined recurrent and capital funding to be provided in the 2010-11 budget to establish the office, and then up to \$3 million recurrent in 2011-12 through to 2018-19 for ongoing operational costs of the office. It is envisaged also that the office will require 12 to 16 qualified and experienced economists, accountants and financial analysts covering the key spending areas, together with the requisite support staff. Funding is required for human resources and information technology set-up, accommodation and a consultancy budget to buy expertise where necessary. In view of the financial situation—whether we can afford to spend \$30 million or so on the office over this period—I hope the benefits will justify the expenditure. We will have to assess that as we watch the operations of the Parliamentary Budget Officer.

The Hon. HELEN WESTWOOD [3.38 p.m.]: I support the Parliamentary Budget Officer Bill 2010. I am delighted that the Premier has decided to establish a truly independent body tasked with not just costing commitments made by parties during election periods but also, importantly, providing members of this Parliament with access to economic and financial analysis and advice to do our jobs even more effectively between election periods in the best interests of our constituents. The Parliamentary Budget Office will be an arm of the Legislature, reporting to the Presiding Officers of the Parliament, and will be separate from the Executive Government. It will enhance the powers of the Parliament as a whole and be a great resource for all members. The appointment of the Parliamentary Budget Officer will occur through a process involving three of the most independent public officials in this State, adding to the independence of the position and ensuring that the appointment will not be politicised. The office will support all parties and members—not just the major parties—in carrying out their work, and will lead to more open, transparent and accountable government.

I believe this is an excellent initiative that should be wholeheartedly supported by all parties and members. I am not surprised that the crossbench members are supportive of it, and I am equally not surprised at the Opposition's embarrassment in not having put this idea forward in New South Wales, in spite of their Federal counterparts strongly supporting the establishment of such an office for the Commonwealth Parliament. It takes great leadership to get things done, and I believe the New South Wales Labor Government demonstrates great leadership and is delivering. All the Opposition could do during debate in the lower House was try to find excuses to oppose the bill and thus avoid the proper and independent scrutiny of its election promises: after all, that is what the electorate expects. Unfortunately for the Opposition, the bill delivers a truly independent body to play that crucial role, which appeases all concerns expressed by Opposition members earlier this year during debate on the election costings issue.

The Parliamentary Budget Officer will be very well resourced and truly independent. He or she will closely examine and report on the costings of all parties, thus increasing accountability and enhancing governance. One has to ask: What does the Opposition have to hide? Why does the Opposition not want its election promises costed by a truly independent body? Why are members of the Opposition trying to avoid the proper scrutiny that all parties' election commitments will be subjected to? Why are they trying to avoid that? Perhaps they are scared that they will be exposed for the frauds they are and scared that massive holes will be found in their calculations—not unlike what we all witnessed following the recent Federal election. I think members of the Opposition are also afraid that the voting public will know that they are not able to fund their commitments. The fact is that, for the Opposition, it is all smoke and mirrors. The Opposition will not be allowed to make unrealistic promises prior to an election that it knows it will not be able to deliver on after the election. The Opposition's opportunity to dupe voters will be restricted.

I turn now to explore a few integral elements of the bill. The object of the bill is to establish the Parliamentary Budget Officer as an independent officer of Parliament with prescribed functions such as preparing costings of election policies for parliamentary leaders and independent members, including a budget impact statement for all their policies in the period prior to a State general election; preparing costings of proposed policies of members of Parliament at the request of the member at any time during the year; and providing to members of Parliament analysis, advice and briefings of a technical nature on financial, fiscal and economic matters, including in relation to the costing of proposals that form part of the State budget. I am sure the people of New South Wales welcome those aspects of the bill. The Parliamentary Budget Officer will be appointed jointly by the President of the Legislative Council and the Speaker of the Legislative Assembly. Provisions in the legislation ensure that the two Presiding Officers who make this important decision will never be from the same political party. That will be achieved by delegation.

Establishment of the Parliamentary Budget Officer will commence upon assent, but the provisions relating to election and other costings will not commence until 25 January 2011 to ensure that the office is truly up and running and to allow a 60-day period for full and proper election costings to be carried out prior to election day. Importantly, apart from election costings, the bill also authorises the Parliamentary Budget Officer to, at the request of any member of Parliament, prepare a costing of a proposed policy of the member and provide any analysis, advice or briefing of a technical nature on financial, fiscal and economic matters, including in relation to the costing of proposals that form part of the State budget. However, the functions of the Parliamentary Budget Officer do not extend to providing any analysis, advice or briefings to committees of Parliament, or to developing policy proposals on behalf of members of Parliament. These processes will ensure openness and transparency as well as proper governance.

The Parliamentary Budget Officer is obliged to prepare an operational plan that includes the objectives of the officer in exercising his or her functions, a broad outline of the strategies of the officer that will be implemented to achieve those objectives, and a schedule of the activities that the officer proposes to undertake. A draft operational plan must be provided to the Presiding Officers, who will approve the draft plan or request changes to the draft plan. The operational plan will be tabled in Parliament. The Parliamentary Budget Officer will have the right to request information from the head of any government agency to assist him or her in preparing costings for an election, or other policy under the proposed Act. This power will ensure that the Parliamentary Budget Officer and staff will be able to prepare accurate costings and briefings in a timely manner. The head of the government agency must respond to such a request within 10 business days, or such other period as agreed by the head of the agency and the Parliamentary Budget Officer.

The bill introduces significant reforms to this area of public interest and, importantly, a truly independent process that is of great benefit to members of Parliament, their constituents and the wider community. The Government has taken the best elements of international models and has listened carefully to recent debate in the context of the Federal election. The Government has come up with a model that will prove to be the best of its kind—leading the way in parliamentary reform. I commend the bill to the House.

Mr DAVID SHOEBRIDGE [3.45 p.m.]: I express general support for the Parliamentary Budget Officer Bill 2010, which in large part will add to the capacity of non-government parties to engage in well-informed debate while providing added scrutiny of the well-resourced political party in government. Criticism has been expressed that the bill comes as a likely end of a lengthy term in office by the current Government. While there is some truth in that criticism, that fact should not obscure what are some essential merits of the legislation. Indeed, the legislation could be viewed as an example of the process of democracy by acknowledging the very real outcome that a political party may, or, with overwhelming preponderance, will, return to Opposition. In that event the acknowledgement will produce a real benefit for the operation of democracy.

The bill provides a tool for reducing the relative power of an incumbent government that is in a position to produce fully costed policies simply because it has all the resources of a government bureaucracy and the Executive behind it. Against that well-resourced Executive Government, there are the modestly resourced Opposition and crossbench political parties, and that often leads to a relatively one-sided agenda being driven in public debate in New South Wales and in other parts of Australia. My colleague Dr John Kaye stated that the Greens do not endorse the leadership model proposed by the bill. He foreshadowed amendments that contrast with the structuring of leadership provided in the bill. I endorse his amendments.

The amendments' provisions will not be imposed upon any other political party. Other political parties can have whatever structures they like to endorse the concept of political leadership, but the concept of a sole

leader can often lead to a cult of personality, and consequently the political party is given little input in political debates. Under such a structure, effectively we have a personality cult associated with particular political leaders—which is not a positive development for democracy. Certainly that is not something the Greens support or endorse. In effect, the bill will return some legislative power to the Legislature. Potentially it is a tool for holding the Executive to account. On balance, it is a step towards improving our democracy.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.47 p.m.], in reply: I thank all members who contributed to debate on the Parliamentary Budget Officer Bill 2010. I will address matters raised during the debate. In respect of the tenure and independence of the office of the Parliamentary Budget Officer that were referred to by the Hon. Greg Pearce and the Hon. Matthew Mason-Cox, any concerns in relation to the impartiality of the appointment and tenure of the Parliamentary Budget Officer are overcome through the method of appointment of the officer, which is clearly more stringent than is the recruitment process for most senior appointments in the public and private spheres. The term of appointment is above politics and is the equivalent of slightly longer than two terms of the Legislative Assembly and one term of the Legislative Council. That will enable the first Parliamentary Budget Officer to be up and running prior to the forthcoming State election and ready to undertake costing. It also will allow the Parliamentary Budget Office time and space to be truly independent before a new Parliamentary Budget Officer is appointed by the government of the day. The process for appointment is so independent and stringent that there should be no concern whatsoever in regard to impartiality.

As stated throughout the debate, the method of appointing the Parliamentary Budget Officer will be through a committee of senior government officials, which will make recommendations to the Presiding Officers of the Parliament, who will, in turn, make the final appointment. The bill ensures that the Presiding Officers deciding upon the appointment will not be from the same political party, through a process of delegation. The panel of senior government officials will consist of the NSW Ombudsman, the chairperson of the Independent Pricing and Regulatory Tribunal and the New South Wales Information Commissioner. As to the comments by the Hon. Matthew Mason-Cox, it is clear that the Coalition is treating the voting public with complete disdain and contempt by assuming that it will certainly win the next State election. Let me give the Opposition some advice: There are no certainties in politics, and the voters of this State are much more astute than the Opposition gives them credit for.

Regardless of who is in Government next April, the Parliamentary Budget Officer will be an invaluable resource and service to all members of Parliament and to all political parties with elected representatives in this Parliament. The office is above politics and will act in the best interests of the people of New South Wales and their elected representatives. In addition, the Parliamentary Budget Officer will be accountable to the Parliament, not the Executive, in order to increase accountability and transparency between the Legislature and the Executive in regard to budget information and analysis, including the costing of commitments made during election campaigns, to achieve a higher level of governance. Indeed, one must ask: If this is good enough for Tony Abbott and the Federal Coalition, why is it not good enough for the New South Wales Coalition? I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Dr JOHN KAYE [3.53 p.m.], by leave: I move Greens amendments Nos 1 and 2 in globo:

No. 1 Page 3, clause 3, line 6. Omit "is taken to be". Insert instead "has the functions of".

No. 2 Page 3, clause 3, line 7. Insert "only" after "this Act".

These amendments give effect to the statements made by me and by Mr David Shoebridge during our contributions to the second reading debate by amending proposed section 3 (2) of the bill. The proposed subsection as it is currently written requires every political party that does not have a leader to nominate someone who is to be recognised as a parliamentary leader of that party for the purposes of the Act. The

amendments remove that requirement and only require a party such as the Greens, which does not wish to have a parliamentary leader, to nominate a member of Parliament who will exercise the functions of a parliamentary leader. That has no impact on the functioning of the bill. However, it removes from the Greens the requirement to appoint a parliamentary leader, even if it is for the purposes of this bill. As both Mr David Shoebridge and I outlined earlier, this is an important matter of principle for the Greens. We do not seek to stop other political parties having leaders. However, we have chosen not to have a leader, and we do not wish to be forced to do so by our participation in the parliamentary budgeting process. I commend the amendments to the Committee.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.55 p.m.]: The Government supports the Greens amendments. The argument put forward by Dr John Kaye during his contribution to the debate was compelling with regard to the leadership arrangements within various political parties. The amendments accommodate those arrangements.

The Hon. GREG PEARCE [3.56 p.m.]: Greens amendments Nos 1 and 2 relate to the internal management of political parties, and the New South Wales Liberal-Nationals will not oppose them.

Reverend the Hon. FRED NILE [3.56 p.m.]: The Christian Democratic Party supports Greens amendments Nos 1 and 2. We believe they represent the views of the minor parties, not just the Greens, which may be applicable at different times.

Question—That Greens amendments Nos 1 and 2 be agreed to—put and resolved in the affirmative.

Greens amendments Nos 1 and 2 agreed to.

Clause 3 as amended agreed to.

Clause 4 agreed to.

The CHAIR (The Hon. Kayee Griffin): Order! With leave, hereafter I will deal with the bill in parts.

Parts 2 and 3 [clauses 5 to 17] agreed to.

The Hon. GREG PEARCE [3.57 p.m.], by leave: I move Liberal Party amendments Nos 1 and 2 in globo:

No. 1 Page 11, clause 18 (3) and (4), lines 10-16. Omit all words on those lines. Insert instead:

(3) A parliamentary leader may only make an election costing request in relation to a policy publicly announced or proposed by that leader.

No. 2 Page 12, clause 21 (3), lines 21 and 22. Omit "(or who announced or proposed the policy)".

The amendments are designed to ensure that only party leaders can have their party's promises costed, for the reasons outlined in my contribution during the second reading debate. I commend the amendments to the Committee.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [3.58 p.m.]: The Government will not be supporting the Coalition amendments. It was clear from contributions to the second reading debate that members opposite have a degree of cynicism. If these amendments were to get up, they would provide an opportunity for parties to hide their promises. On behalf of the Government, I cannot see why we would support these amendments. This bill is outstanding legislation put forward by the Treasurer, and it should not be amended. We will be opposing the Coalition's amendments.

The CHAIR (The Hon. Kayee Griffin): Order! I shall seek advice on the matter. In the meantime consideration will be interrupted, pursuant to sessional orders, for questions.

Progress reported from Committee and consideration set down as an order of the day for a later hour.

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

QUESTIONS WITHOUT NOTICE

NEWCASTLE PUBLIC TRANSPORT INFRASTRUCTURE AND LIGHT RAIL

The Hon. MICHAEL GALLACHER: My question is directed to the Minister for Transport. In light of the release today of a report by Newcastle City Council into public transport regarding level crossings across the Newcastle rail line and a 20 per cent increase in public transport infrastructure, will the Minister now release the scoping study into light rail to better inform the people of the Newcastle community of their options?

The Hon. JOHN ROBERTSON: My office has received two studies. I advised the mayor, amongst others, at a meeting about five weeks ago, that I would receive the studies and they will be dealt with through the normal course and channels within government. I also advised that in due course they will be released to the steering committee in order to feed into what would become a submission to Infrastructure Australia on the redevelopment and enhancement of the Newcastle central business district. Those matters will be forwarded to the steering committee in due course, as I agreed, after the Government has dealt with them. The steering committee will be able to use them, amongst other things, as part of its process for the revitalisation of the Newcastle central business district.

MAJOR PROJECTS PLANNING APPROVALS

The Hon. SHAOQUETT MOSELMANE: My question is addressed to the Minister for Planning, and Minister for Infrastructure. Will the Minister update the House on the approval of major projects in New South Wales and their contribution to the State's economy?

The Hon. TONY KELLY: Part 3A of the Environmental Planning and Assessment Act ensures that there is a whole-of-government streamlined approach to the assessment of our major projects. Part 3A projects are significant, job-creating projects with a high capital investment value which are important to the State's economic growth. I am pleased to inform the House that since part 3A was introduced in 2005, major projects worth more than \$60 billion that have created more than 200,000 jobs have been approved. Those opposite want to hand back that decision-making process on these big projects to local government, diverting council resources and clogging up council planning systems that would treat coalmines exactly the same as a development application for a family home or a kitchen extension to that family home.

They wrongly claim that there is a lack of community consultation. That is far from the truth. Part 3A actually features improved and more extensive community engagement. Part 3A ensures the community can find out about projects at an early stage, well before a proposal is placed on public exhibition. Under part 3A every proposal is issued with the director general's requirements, prepared after consultation with government agencies and councils. They set out the matters that must be addressed before a proposal can proceed to public exhibition. If it does not adequately address those requirements, it never even makes public exhibition and it is sent back to the drawing board.

Once the requirements have been adequately addressed then the project is placed on public exhibition for a minimum of 30 days so members of the public and other stakeholders can make their submissions, all of which are made available on the website of the Department of Planning. The proponent is then required to respond to those submissions, and that response is publicly available on the website. In many cases, they make those changes to the projects to address the issues raised by the community. For example, an important role community consultation plays in the part 3A planning process is the Orchard Hills landfill and waste recovery facility at the former quarry site in western Sydney.

Some 3,700 public submissions were received on that proposal, most of which objected to it. Departmental officers inspected the project and surrounding areas, including various vantage points from within the Vines housing estate. They also attended a community meeting held in relation to the proposal and a full meeting of the Penrith City Council where the proposal was debated in detail to hear the issues raised by the public. In fact, I visited the site and I also met with residents and the proponent. It was only after a comprehensive merit-based assessment that I decided to refuse the application for the Orchard Hills waste project.

ELECTRICITY PRICE INCREASES

The Hon. DUNCAN GAY: I direct my question to the Treasurer. Is the Treasurer aware that last night Prime Minister Julia Gillard said in her speech that electricity price rises in New South Wales had "been

overwhelmingly driven by lack of investment ... State and Territory governments have no longer been able to ignore the need for electricity providers to recoup the costs of these investments through higher prices"? Does the Treasurer agree with the comments of the Prime Minister?

The Hon. ERIC ROOZENDAAL: It is important to clear up what seems to be fundamental misunderstandings of the way our budget is structured and about the operation of our electricity businesses. The payment of dividends does not undermine the State-owned energy business ability to deliver capital expenditure or impact on the level of prices charged to customers. Indeed, the State-owned energy businesses have invested more than \$10 billion during the past 10 years in our electricity network, and they continue to invest in our network with world-class reliable supplies to support our growing economy and growing population. The New South Wales Government-owned businesses operate in a competitive market under commercial frameworks. Those businesses pay dividends to their shareholders—the taxpayers of New South Wales. The dividend payments represent a return to the community from its investment, which is directed straight into funding services such as police, teachers and nurses, that is, frontline infrastructure to support our growing economy.

CENTRAL COAST POLICING

Reverend the Hon. Dr GORDON MOYES: My question is addressed to the Treasurer, representing the Minister for Police. Is the Minister aware that residents on the Central Coast, specifically in the Blue Haven and San Remo areas, live in fear as groups of intoxicated teenagers damage public and private property, and threaten residents at all hours of the night? Is the Minister aware that one resident stated that she and her husband were beaten by 30 youths for asking teenagers to stop banging on their fence, and another resident stated that she sleeps with an iron bar next to her bed to protect herself? Is the Minister aware that the police are called numerous times a night to disperse the crowds that just return as soon as the police leave? Will the Minister indicate why the police are not regularly making patrols of these hotspot areas to prevent hooligan behaviour, and why no charges have been laid in relation to any damage in the area?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for his question and I will pass it on to the Minister for Police for an appropriate response.

DEBT RECOVERY PROCESSES

The Hon. LUKE FOLEY: My question is addressed to the Attorney General. What is the New South Wales Government doing to improve debt recovery processes?

The Hon. JOHN HATZISTERGOS: This is an important issue and that is why I have asked the Better Regulation Office and the Department of Justice and Attorney General to conduct a joint review of the debt recovery process in New South Wales. The current debt recovery process includes alternative dispute resolution and court processes and applications to the Consumer, Trader and Tenancy Tribunal. For small debts, a small claims division exists in the local court with less formal rules and procedures to reduce costs and make it easier for litigants to represent themselves.

Whilst these debt recovery mechanisms are in many respects working well and are consistent with those in other Australian and overseas jurisdictions, a number of issues have been identified, particularly for individuals and small businesses. They include: the complexity of taking legal action for debt recovery; the time involved when claims go through the courts; the inconvenience for both parties of attending court; the cost of debt recovery; difficulties that creditors have with enforcing judgement; and access to information on debt recovery. Those issues can result in loss of confidence in the system and, for individuals and small businesses in particular, can be quite costly.

The review is an opportunity to examine the effectiveness and efficiency of the current approach and to investigate alternative approaches to streamline the process of debt recovery. For example, concerns have been raised about the current process of taking possession of goods as part of enforcement of a judgement. This process is reportedly complicated by numerous steps and a fee arrangement that requires a number of separate payments, all of which, in addition to being complex and difficult to manage, results in delays for creditors. Another potential issue is time frames imposed by certain court procedures. For example, an alleged debtor currently has 28 days after being served a document to file a defence. The intention of this time frame is to allow defendants to assess their options, seek legal advice if required and document the basis of their defence. However, where a defendant does not intend to file a defence and a default judgement follows, the 28-day limit only slows the debt recovery process.

While the review focuses on increasing efficiencies, it will at the same time ensure that the rights of both creditors and debtors are balanced equally. I have today released an issues paper for stakeholders to review and provide feedback. In particular, we would like to hear from individuals and businesses that have experienced the debt recovery system and have ideas for improvement. The issues paper suggests a number of options for reform. These options include building on the Department of Justice and Attorney General Justicelink initiative, which enables parties to file documents online and allows some court hearings and proceedings to be conducted over the Internet. Other options include: expanding the jurisdiction of the small claims division of the local court; providing additional measures to encourage parties to reach settlement through mediation; finetuning court procedure for debt recovery to speed up the process; expanding the jurisdiction of the Consumer, Trader and Tenancy Tribunal; and improving information on debt recovery to boost awareness about the options available for creditors and appropriate strategies to reduce the risk of bad debt.

Targeted consultation will be undertaken with industry, community, public interest, civil liberties and legal groups as well as Government. Copies of the issues paper are available from the Better Regulation Office website at www.betterregulation.nsw.gov.au. Comments are sought on the issues paper by 22 November. This review will make it easier to do business and live in New South Wales. I encourage all interested parties, individuals and small business alike to contribute.

MURRAY-DARLING BASIN PLAN

Reverend the Hon. FRED NILE: I wish to ask the Attorney General, representing the Premier, a question without notice. Is it a fact that the proposed recommendations of the Murray-Darling Basin Authority, such as a further 37 per cent cut in water allocation, would decimate the economies of our New South Wales rural communities, especially those dependent upon irrigation? What action has the New South Wales Government taken to defend the farmers and irrigators of New South Wales about putting the New South Wales Government concerns to Prime Minister Gillard and Minister Tony Burke? Does the Government agree that if no positive action is taken, these regions, including the Riverina, will finally revert to their original dry desert conditions with river water simply flowing into the ocean?

The Hon. JOHN HATZISTERGOS: It is an important question and I will refer it to the Premier and obtain a comprehensive answer.

LAND AND PROPERTY MANAGEMENT AUTHORITY

The Hon. GREG PEARCE: I direct my question to the Minister for Planning, Minister for Infrastructure, and Minister for Lands. In budget estimates, he indicated that a total of 55 Land and Property Management Authority staff were working on conversions of Crown roads and perpetual leases. That is around 15 per cent of the total staff of 383 full-time employees in the Crown lands group, according to the latest budget. Yet, in a recent letter to the member for Goulburn, Pru Goward, the Minister claimed that the staff of the Goulburn office of the Land and Property Management Authority were so overwhelmed by the conversions that they were unable to "efficiently engage in other activities that under normal circumstances would comprise core business, such as the one-off sale of a miscellaneous block of Crown land." Can the Minister explain those inadequacies?

The Hon. TONY KELLY: I do not recall the number of 55 that the Hon. Greg Pearce suggests. I thought it was a much smaller figure than that.

The Hon. Rick Colless: I think he would be spot-on.

The Hon. TONY KELLY: I notice he was spot-on about some other comments that were made about the re-leasing of Governor Macquarie Tower. He suggested that the Government was going to rush headlong into re-leasing. What he said was that the Government was going to re-sign the lease for Governor Macquarie Tower before the election to keep the expensive accommodation, which is exactly the opposite—

The Hon. John Hatzistergos: Who signed the lease in the first place?

The Hon. TONY KELLY: You are asking me who signed it in the first place?

The Hon. John Hatzistergos: Yes.

The Hon. TONY KELLY: I think it was the Opposition. It was Nick Greiner, was it not?

[Interruption]

The PRESIDENT: Order! All members will come to order.

The Hon. Greg Pearce: Point of order: relevance. The question was specifically about Crown lands, Land and Property Management Authority staff and their ability to perform their duties, their core business, in the Goulburn office.

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

The Hon. TONY KELLY: I digressed because the member distracted me by talking about the accuracy of his statement, and I was just pointing out that the most recent statement he made was inaccurate. We in fact were doing the opposite. We were looking for new sites somewhere around the city central business district or perhaps some other sites. Members might have seen in the ad we talked about Redfern-Waterloo and Green Square.

The Hon. Catherine Cusack: You're babbling now. Have a go at answering!

The PRESIDENT: Order! I remind the Hon. Catherine Cusack that interjections are disorderly at all times, including those made by Government members.

The Hon. TONY KELLY: It does give me the opportunity to talk about the wonderful job that the Department of Lands and Land and Property Management Authority staff are doing with those conversions. We have something like 10,000 applications for perpetual leases. We are progressing through quite a number of those and we also understand a similar number in relation to Crown roads applications—

The Hon. Catherine Cusack: Goulburn is near Canberra.

The Hon. TONY KELLY: Every office, whether at Goulburn, Dubbo, Maitland or Armidale, or any of the other lands department offices, is progressing with these applications and progressing with them as a matter of priority.

STATE ECONOMY

The Hon. KAYEE GRIFFIN: I address my question to the Treasurer. Will the Treasurer update the House on the New South Wales economy?

The Hon. ERIC ROOZENDAAL: I have more good news for the New South Wales economy. Today Access Economics released its latest business outlook quarterly report and the news is good for New South Wales. Our economic recovery is continuing and Access Economics projects it to strengthen further from here. It finds the Sydney finance sector is growing confidently again and says:

Retail spending growth is outpacing national gains, the unemployment rate is back within a whisker of its Australian equivalent, farmers are having the best year in a long time, and even second tier indicators such as hotel room occupancy rates have shrugged off their earlier weaknesses.

It goes on to say:

Moreover, there is more in the tank. Sydney's finance sector—shredded during the GFC—is growing confidently again and the 'advisory' sector—

That is accountants, lawyers, IT, et cetera—

is gathering pace as profits rise and capacity tightens.

That explains the basic picture ... one of continuing recovery that will power further gains in both jobs and output.

What a resounding vote of confidence in our State and our economy. I welcome this report as a good, accurate update of where we are in New South Wales. It is in stark contrast to the misleading and ill-informed report released yesterday by CommSec, looking of course for cheap headlines. As I have stated publicly, I will take my

data from the nation's official data keeper, the Australian Bureau of Statistics, rather than from the discount brokerage arm of a bank. It pains me to say that CommSec's report is consistently misleading and repeatedly paints a distorted picture of the economic performances not just of New South Wales but also the other States. Indeed, the last time this report was produced, the three major States—New South Wales, Victoria and Queensland—lodged complaints about the flawed methodology of the report. The report is presented as a direct comparison between State economies, but its questionable methodology does not actually directly compare State economies on key data.

The flawed ranking system penalises States that perform well consistently and rewards States with patchy economic histories for doing little more than avoiding the doldrums. Here is a case in point. CommSec, the discount brokerage firm, said yesterday that the Australian Capital Territory economy is leading the nation. Access Economics says today that the ACT is a basket case. This is their assessment of the ACT:

Job levels stagnated, housing prices lost some lustre ... housing finance tailed off ... retail spending throttled back and wage growth—which had been strong—suddenly lost momentum.

The ACT budget will be in deficit for the next four years. Our budget is already back in surplus and our economy is growing strongly. The New South Wales economy is worth \$400 billion, around 16 times larger than the ACT economy. I look forward to updating the House further on the strong economic achievements of the State.

COASTAL CARAVAN PARKS

Mr DAVID SHOEBRIDGE: My question is directed to the Minister for Lands. This month the Government has announced the handing back to the State by local councils of coastal caravan parks at Bonny Hills, North Haven, Forster, Tuncurry, Hawks Nest, Seal Rocks and Jimmys Beach. These join other parks at Ballina and Lake Ainsworth that have been recalled by the Land and Property Management Authority. Given departmental statements that the properties are to be developed to provide a diversity of accommodation types, can the Minister advise how many camping and caravan sites will be lost at these sites? Is the Government seeking to increase the revenue from publicly owned land and, with the erection of more expensive cabins, reduce access by ordinary wage earners and pensioners to these beautiful coastal camping grounds?

The Hon. TONY KELLY: I thank the member for his question because it gives me an opportunity to talk about some of the great things the Land and Property Management Authority does in relation to providing caravan and camping sites in New South Wales. The member may not know that of the 900 caravan and camping sites in New South Wales, 300 are provided by the Land and Property Management Authority. One-third of the total sites are on Crown land. Some of those are managed directly by the Land and Property Management Authority, some by local councils and some are leased. Some councils have not been maintaining them correctly and have not been reinvesting in those properties, so we have taken some of them back from those councils and reinvested money in those areas.

We provide caravan parks for the people of New South Wales and for the tourists who come here, particularly those on the North Coast to which tourists from Queensland come, and a mixture of accommodation. Many of them are great places to stay. You can take a tent and camp or bring or hire a caravan, and in some areas, people can hire a cabin. We are trying to offer a range of cheap accommodation for families. They are great locations and a significant number are on beach fronts up and down the coast. The Land and Property Management Authority is providing an opportunity for the people of this State to get reasonable accommodation. That is completely contrary to the member's suggestion that we are trying to get out of these parks or sell off the land. We are actually doing the opposite. Many owners of the 600 privately owned caravan parks have found that the land is more valuable if they sell it than if they continue to operate as a caravan park, and I do not blame them for doing that. They have taken the opportunity to sell the land and we are trying to ensure that we take up the slack. We are trying to ensure that we create more caravan parks. We are not about selling off caravan parks. Given the opportunity, we will create as many as we can in this State.

VICTORIA ROAD BUS SERVICES

The Hon. DON HARWIN: I direct my question without notice to the Minister for Transport. What plans does the Government have following the completion of the inner west busway in the coming months to restore the 30 bus services per week along Victoria Road in Drummoyne that were scrapped in March this year as a result of the new timetable? Is the Government considering any plans to re-route the L39 service along Victoria Road following completion of the busway?

The Hon. Catherine Cusack: What a good local question. I wish the local member had asked that. Missing in action!

The Hon. JOHN ROBERTSON: Madam President—

[Interruption]

The PRESIDENT: Order! I place the Hon. Catherine Cusack on a call to order for continual interjections.

The Hon. JOHN ROBERTSON: I will just let you keep interjecting, Catherine, and you will eventually be out of here. One of the great things the Government is doing on Victoria Road is building the busway, and another thing we are doing across Sydney is building bus priority lanes. We will continue to ensure that we enhance the capacity of our bus system. Under the Metropolitan Transport Plan, this Government has a fully funded program for 1,000 additional buses for people in Sydney. The first 200 of those buses are on order from the budget handed down this year and we will continue to deliver new buses and provide new bus services for a range of people. We have applied a new network of Metrobuses, one of which runs along Victoria Road through Drummoyne, and we will continue to enhance bus services for the people of Sydney.

ST MARY MACKILLOP

The Hon. GREG DONNELLY: I address my question to the Minister for Infrastructure. Will the Minister advise the House what the New South Wales Government is doing to recognise the canonisation of Australia's first saint?

The Hon. TONY KELLY: I acknowledge the continuing interest of the Hon. Greg Donnelly in this matter. Last week those members who were keen to learn more of the State's excellent planning system would have noted that the Hon. Jennifer Gardiner and I had the privilege to represent the State at the canonisation of Australia's first saint—St Mary of the Cross MacKillop. What a wonderful moment it was for Australian Catholics and for the nation as a whole. The Hon. Jennifer Gardiner and I will inform the House later of that canonisation. However, before answering the member's question I point out that the Hon. Jennifer Gardiner was born in Penola, where St Mary MacKillop was born, so she, more than anybody else, deserved to be there. We will talk later about that canonisation.

Today I talk about the Keneally Government's commitment to preserving the legacy of St Mary MacKillop in New South Wales. Members would be aware that St Mary of the Cross is interred in the North Sydney Chapel. However, what is not common knowledge is that St Mary was originally buried at the Josephite section of the Gore Hill cemetery—a dedicated Crown cemetery a few kilometres north of the chapel. After a few years it became clear that St Mary's resting place was of significant devotional interest to the faithful, so the sisters decided to re-inter St Mary's remains within the more secure environs of the chapel. Yet St Mary's resting place, surrounded by many of the other sisters with whom she worked and lived, remains a significant site for Australian Catholics. That is why recently I granted a licence to the Catholic Cemeteries Board to restore, maintain and protect the site and its surrounds. That is why recently I also had the privilege of announcing a \$250,000 grant to help efforts to preserve St Mary's original resting place at that Gore Hill cemetery.

Joined by 30 sisters on the day I got a real sense of the spiritual significance of the place. Just before leaving for Rome I was especially pleased to join the Premier in turning on a special light display on both pylons of the Sydney Harbour Bridge celebrating the life and work of Mary MacKillop. The Keneally Government guaranteed the light display—the first time both pylons were simultaneously illuminated with animation—thanks to funding provided by the Roads and Traffic Authority and the Land and Property Management Authority.

The Hon. John Hatzistergos: We are also protecting the name.

The Hon. TONY KELLY: That is correct. Minister Virginia Judge announced that the Government will now protect the name St Mary MacKillop so that unscrupulous people cannot capitalise on the name. Finally, St Mary of the Cross not only was a religious pioneer of the country; she also was an astute business woman. In the late nineteenth century, in her tireless work as Superior General of the Sisters of St Joseph of the Sacred Heart Order, St Mary MacKillop purchased a number of properties in New South Wales on behalf of the

order for convents, schools and orphanages. The Land and Property Management Authority archives, in its position as custodian of the oldest land records in New South Wales, has the original documents from St Mary's business transactions.

A total of 11 of the old system deed records bear St Mary MacKillop's signature, and a further 18 were signed on her behalf. They show how the order flourished and grew under her charge. They include records of some iconic Sydney sites, including the Catholic Church in Mount Street, North Sydney, which became the headquarters of the order and is now home to a memorial chapel and St Mary's remains. The Land and Property Management Authority designed its online shop, improving access to those important historical records, including the St Mary MacKillop deeds. In conjunction with the Sisters of St Joseph, the Land and Property Management Authority also produced a commemorative booklet entitled *St Mary MacKillop*, which details and showcases the records of her transactions made on behalf of the order. They are now available from the Land and Property Management Authority.

HUNTERS HILL RADIOACTIVE WASTE

The Hon. IAN COHEN: My question is addressed to the Minister for Lands. What role does the State Property Authority have in managing contaminated radioactive waste from the Nelson Parade, Hunters Hill site? Did the Minister approve the application of the State Property Authority to store the excavated soil waste at Kemps Creek landfill? Would the Minister advise what other disposal options the State Property Authority is considering, taking into account that the Lucas Heights facility cannot legally store the waste? Will the Minister release the waste classification report held by the State Property Authority?

The Hon. TONY KELLY: Contamination on these blocks of land—I think there are three blocks of land in Hunters Hill—is not from nuclear waste, as has been suggested by some members of the media. The Premier announced that whatever waste is held at the Hunters Hill site will not be transported to Kemps Creek. Currently we are investigating other storage sites. I think the Hon. Ian Cohen suggested Lucas Heights but we are looking at places such as overseas and interstate.

CHAFFEY DAM AUGMENTATION

The Hon. TREVOR KHAN: My question is directed to the Minister for Planning, Minister for Infrastructure, and Minister for Lands, representing the Minister for Water. Is the Minister aware that last week this House showed bipartisan support for my amended private member's motion indicating this Chamber's regret for the time it had taken to augment Chaffey Dam? In light of the passage of this motion, with the support of Government members, when can the people of the Tamworth region expect work to begin on the augmentation?

The Hon. TONY KELLY: The Hon. Trevor Khan directed his question to me in my capacity as Minister representing the Minister for Water. As much as I would like to be able to answer his question I will pass it on to the Minister concerned.

TAXI SERVICES

The Hon. PENNY SHARPE: My question is addressed to the Minister for Transport. Can the Minister update the House about improvements for taxi passengers being implemented by the Government?

The Hon. JOHN ROBERTSON: Taxis play an important role in our public transport system, providing services to thousands of passengers across New South Wales every day. The Government has been working hard with the industry to implement major reforms to taxi licensing that were passed by the Parliament last year. These reforms are improving taxi services across Sydney by making it simpler to get more taxis on the road, better matching extra taxi numbers with increasing passenger demand. The Government is getting more taxis on the road to provide better services for passengers and better opportunities for taxi drives and new entrants to the taxi industry.

Under the reforms the Director General of Transport NSW now determines the number of annual licences—other than for wheelchair accessible taxis—to be issued each year in Sydney. The number is determined each year after looking at passenger demand, service levels and demand for more licences, all the while balancing the interests of drivers and the industry. This annual release of licences is getting more taxis on the road and improving response times and reliability for passengers, while ensuring fleet growth is sustainable.

New licences are put to the market by open tender or auction so that the market determines a realistic price for each licence. Importantly, annual licences for wheelchair accessible taxis will remain available on application outside this process at the current fee of \$1,000 per annum in Sydney.

In August the Government announced that the Director General of Transport NSW had determined 167 extra taxis would be added to Sydney's taxi fleet. These extra taxis will mean more than a 3 per cent increase in the size of Sydney's taxi fleet. This is about making it easier for people to grab a cab when they need one. The aim is to get these additional cabs on the road for the Christmas period, which is usually the busiest time of the year. I am pleased to inform the House that 29 of those 167 extra taxis have already been placed into service, with a further 98 taxi plates being reserved from the Roads and Traffic Authority and vehicle fit-out letters issued, meaning even more of these new taxis will be on Sydney's streets within weeks. Importantly, 90 of the 167 new licences were reserved for current taxi drivers seeking to become their own boss—so the plates will go to the people who know the business well and who know the high level of service passengers expect.

These 167 extra taxis come on top of the 100 additional taxis that started operating earlier this year. We need to ensure response times continue to improve and that a global city such as Sydney has sufficient taxis to cater to the needs of those who live here and use taxis for work or for leisure, or to visit Sydney. To do this we need more taxi licences on issue at an affordable rate and we need a sustainable industry. But with these new plates comes responsibility for drivers to do the right thing. Transport NSW is working hard to continue to improve taxi standards and customer service.

Key parts of this procedure are the field operations conducted with agencies such as the New South Wales Police Force to catch drivers who do the wrong thing. Transport NSW compliance officers are acting on tip-offs received through the Taxi Customer Feedback Line, and they help them identify the issues that cause the most complaints as well as the times and places to target drivers doing the wrong thing. It is clear that the vast majority of the 24,000 New South Wales taxi drivers want nothing more than to provide the travelling public with safe, reliable and efficient taxi services. However, that does not mean that the small minority of drivers who trawl through busy areas looking for fares that suit them, leave their cabs in a filthy condition or do not display the correct driver authority should be able to operate unchecked. Passengers should be able to get to their destination without having to worry about the credentials of the driver. Over the past financial year a total of 1,239 fines were issued to drivers for doing the wrong thing like refusing fares, smoking in the taxi or not displaying identification. With 167 extra cabs coming into service to better cater for demand, Transport NSW will continue to undertake these kinds of operations to help ensure that passengers get a fair deal.

COAL SEAM GAS

Ms CATE FAEHRMANN: My question is directed to the Minister for Planning. Will the Minister ensure that coal seam gas is incorporated into the Hunter Valley coalmining strategy that is being developed by the Government, given increasing concern about the potential cumulative impacts of this type of operation on groundwater and agricultural land, and given that the Minister is the chair of the Cabinet's subcommittee developing this strategy?

The Hon. TONY KELLY: I have been taken by surprise; usually a question from the Greens contains about 50 parts and takes a full minute to ask. AGL's exploration for coal seam gas near Broke in the Hunter Valley is at a very early stage. Because it is at such an early stage it is regulated under the petroleum exploration licence by the Department of Industry and Investment rather than planning approval. Any proposal to drill or operate gas wells at Broke will require assessment and approval under part 3A of the Environmental Planning and Assessment Act. The Government is committed to the safe development of the coal seam gas industry in New South Wales while ensuring that environmental and community issues are addressed properly in all projects.

ILLAWARRA LINE TRAIN SERVICES

The Hon. JOHN AJAKA: My question without notice is directed to the Minister for Transport. Given that the Government has spent \$436 million on the Cronulla rail line duplication, why has the Minister added only one extra afternoon peak service on the most overcrowded CityRail line, the Illawarra line, subjecting long-suffering Sutherland shire commuters to ongoing overcrowding?

The Hon. Eric Roozendaal: Point of order: The question clearly contains argument and, therefore, is out of order.

The Hon. Michael Gallacher: Under which standing order?

The Hon. ERIC ROOZENDAAL: My comment was to the Chair, not to the Leader of the Opposition.

The PRESIDENT: Order! I uphold the point of order. The question contains considerable argument.

GOVERNMENT OFFICE SPACE

The Hon. IAN WEST: My question is addressed to the Minister for Lands. Can the Minister update the House on securing future office space for the Government?

The Hon. Greg Pearce: He's already answered this one.

The Hon. TONY KELLY: No, I made some comments in response to an injection from the Hon. Greg Pearce. I thank the member for his question. The New South Wales Government has called for expressions of interest to find the most suitable and cost-effective option for office accommodation for Ministers and central government agencies. The expression of interest is for accommodation proposals in the Sydney central business district, Green Square or the Australian Technology Park at Redfern. We are doing this because the lease over Governor Macquarie Tower expires in 2014 with no option to renew—I repeat: no option to renew. The Government must act now to meet its future accommodation needs. As part of this process the Government will focus on value for money and sustainability, and environmental performance of buildings. This is a long-term solution, and any accommodation solution needs to be adaptable for future government requirements.

Proponents will be short-listed and asked to provide detailed proposals at a later date with expressions of interest closing on 7 December 2010. That pretty clear process commits the Government to nothing more than testing the water to see whether innovative and cost-effective solutions can be found. If, for example, the choice is a greenfield site with the building to be built, we do not have much time in which to find a solution. Therefore, it was with amusement the other day that I learnt that the newly appointed Opposition spokesman for Lands said on a Sydney radio station, "The Government has announced it's going to sign up new lease commitments in Governor Macquarie Tower even though the leases don't expire till 2014." He went on to say, "This is an example of wasting taxpayers' money." Wrong, wrong, wrong.

How can a simple expression of interest across three potential locations in Sydney somehow lock the Government into a Governor Macquarie Tower lease? This is leasing and property management 1-0-1—scarily enough—from the Opposition's spokesman for financial management. What is more, the lot opposite have been out of government for so long that they have forgotten what they did when they were last in.

These are the facts. I am advised that the former Coalition Government leased Governor Macquarie Tower at the end of 1993. The lease agreed to an area of approximately 30,000 square metres over 25 floors. The lease included significant penalties if broken; breaking the lease and paying out the remaining term would have cost taxpayers millions of dollars. Since then, some 10,000 square metres of space have been surrendered. I believe that the forty-first floor, which these days is actually used for community use, receptions—I have attended Emergency Services functions there—was designed as a private flat for the Premier at the time. One good piece of news from yesterday's own goal from the Opposition was that after the hiatus of almost two years, we now have an Opposition spokesman for Lands. I think he said that he always has been the Opposition spokesman for Lands. We are pretty unsure whether it is official because the responsibility as shadow Minister for Lands does not appear anywhere on the website of the Hon. Greg Pearce or that of the Liberal Party.

The Hon. Greg Pearce: It does appear on my website. You obviously have not noticed.

The Hon. TONY KELLY: Although those opposite have finally woken up and realised that they have not had a shadow Minister for Lands for two years, they are still playing catch-up with the basic facts. We congratulate the Hon. Greg Pearce and remind him that he has five months in which to cram the facts.

ELECTRICITY INDUSTRY PRIVATISATION

Dr JOHN KAYE: My question is directed to the Treasurer. What impacts will a decision of the Australian Consumer and Competition Commission to delay its informal inquiry into AGL and Origin have on

the electricity privatisation timetable? Will it now be necessary to postpone the closing of bids while the Australian Consumer and Competition Commission waits for and then analyses further information to be provided by the New South Wales Government? Does this mean that the privatisation of the New South Wales electricity industry has now descended into a complete farce?

The Hon. ERIC ROOZENDAAL: The Government recognises the Australian Consumer and Competition Commission as the national competition regulator that plays an important role in ensuring competitive market outcomes. Of course, any sale will be subject to its approval.

The Hon. Marie Ficarra: Speak up.

The Hon. ERIC ROOZENDAAL: The member should listen more intently. The Government remains committed to securing a new entrant to generation and reserves the right to conduct a public float of an integrated energy company to ensure that its competition and value objectives are met. Our transactions have attracted a strong field of well-qualified bidders both domestically and internationally. The Government's financial advisers are confident of the contested process when binding bids are received on 15 November.

INLAND COMMERCIAL FISHING

The Hon. RICK COLLESS: My question is directed to the Minister for Planning, representing the Minister for Primary Industries. What role do district Fisheries officers have in monitoring commercial fishing activities in inland waters? Are these officers authorised to interfere with commercially set fishing equipment, causing loss of property and loss of production? Are these officers authorised to disclose to third parties the location of commercially set fishing equipment and the species of fish that may be entrapped in such equipment?

The Hon. TONY KELLY: I thank Reverend the Hon. Dr Gordon Moyes for his question. I undertake to pass on the question to the Minister concerned, and obtain a speedy response.

DISABILITY SERVICES INDIVIDUALISED FUNDING

The Hon. HELEN WESTWOOD: I address my question to the Minister for Disability Services. Will he outline how the New South Wales Government is promoting individualised funding for disability services?

The Hon. PETER PRIMROSE: I thank the Hon. Helen Westwood for her question. The Keneally Labor Government believes that people with a disability have the right to be at the core of decision making about their lives and the focus of all services. This is something that I am personally committed to and have stood by publicly on a number of occasions. It means that the Government is changing the way that people with a disability access their supports. We are moving away from a one-size-fits-all service system, where people will take up places that may be available, to one in which people receive truly individualised, natural and creative support. This move towards a person-centred approach is the result of talking directly with people with a disability, their families, carers and service providers.

A person-centred approach is supported by research and evaluation in New South Wales and in other jurisdictions. The first phase of Stronger Together not only increased the availability of services but also resulted in an expansion in service flexibility that allowed us to effectively assess the impact of individualised funding options. For example, since the beginning of last year the 761 people who use attendant care services have had the option of managing their own funds through the direct-funded model where funding for their services is transferred into their personal bank account. They therefore have the option of assuming employer responsibilities for their carers or of contracting this out to an organisation. They also may save service hours and use them for social activities that happen out of normal working hours, and take a carer with them on holidays or when they travel.

In 2007 school leavers using the Community Participation Program were given the opportunity to trial a self-managed pilot project that has resulted in many participants moving away from traditional centre-based activities to participate in activities such as sports coaching, dance tuition and volunteering in the community. The program has been expanding. Since the beginning of last year, all school leavers who have been eligible to enter the Community Participation Program have been able to choose the self-managed model. Participant numbers have increased from 40 to 124. Other day program users are trying out the model, including 90 people who are engaged in the new Life Choices day programs and six in the Active Ageing day programs.

As a result of the Keneally Government's initiatives, families who are caring for children with a disability now have greater flexibility through programs such as the Family Assistance Fund because they are able to purchase services and equipment that are not available to other programs or other funding sources. Since June 2007 almost 5,000 families have accessed the fund. The Extended Family Support Program provides up to \$50,000 in flexible funding to families who require significant levels of support to be able to continue to care for their child with a disability who is under 18 years of age. The Flexible Respite Program and individual accommodation support packages are other important examples of the new options that the Keneally Government is developing to provide more individualised support.

I emphasise that person-centred approaches already are underway in New South Wales. The Keneally Government is committed to extending those across the system. We are continuing to run pilot projects and to gather a solid evidence base on which to support programs and expand real choices for service users. Through that we will increase our understanding of the benefits and challenges that provide more meaningful choices for people with a disability. The Keneally Government will continue to focus on individuals. We will continue to provide more certainty of support for families and build on capacity in the system.

RADIOTHERAPY SERVICES

Reverend the Hon. Dr GORDON MOYES: I ask the Minister for Transport, representing the Minister Assisting the Minister for Health (Cancer): Is the Minister aware that almost 100 people die of cancer each day in New South Wales and that every year more than 13,000 families lose a loved one to cancer? Is the Minister aware that radiotherapy is an important and cost-effective arm of cancer treatment? Is the Minister aware that thousands of people each year miss out on radiotherapy treatment because of service gaps, and that 80 per cent of patients requiring radiotherapy live more than 120 kilometres from the nearest facility? Will the Minister indicate what is being done to ensure that urgent, substantial, sustained and accessible improvements to radiotherapy services will be provided in New South Wales?

The Hon. JOHN ROBERTSON: The question contained a number of lines of questioning. I will undertake to obtain a detailed response for the member.

NSW HEALTH CREDITORS

The Hon. MARIE FICARRA: My question is directed to the Treasurer. What responsibility will he take for unpaid NSW Health bills that are driving small business owners to bankruptcy—people such as Phil Clare, who was identified by today's *Sydney Morning Herald* as being owed \$1.7 million for work he performed at the Royal North Shore Hospital in 2008. Mr Clare said:

For two years we tried to get them to pay without taking legal action because we are doing so much with the other area health services.

Will the Treasurer intervene to expedite payment of his Government's \$1.7 million debt for work described by the Northern Sydney Central Coast Area Health Service as "exemplary", as Mr Clare is now one week away from bankruptcy?

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

DOMESTIC VIOLENCE PRACTITIONER SCHEME

The Hon. LYNDA VOLTZ: My question is addressed to the Attorney General. What is the New South Wales Government doing to support domestic violence victims when they go to court?

The Hon. JOHN HATZISTERGOS: This is a very timely question because only recently—indeed on 14 October 2010—I visited the Dubbo Local Court, joined by the member for Dubbo, Dawn Fardell, to see the latest stage of the Government's expansion of the Domestic Violence Practitioners Scheme. The scheme is part of the Government's \$50 million domestic and family violence action plan entitled "Stop the Violence, End the Silence". The action plan, which was launched by the Premier on 8 June 2010, included additional funding of \$2.4 million over five years to significantly expand the Domestic Violence Practitioner Scheme. In 17 Local Courts across New South Wales, the scheme already assists women and children who have experienced

domestic violence. With further investment by the Government, the scheme will expand to a further 15 local courts at Port Macquarie, Maitland, Tamworth, Manly, Nowra, Newcastle, Belmont, Port Kembla and, as I have already indicated, Dubbo.

As a result, victims of domestic violence will benefit from free specialised legal representation at 32 local courts across New South Wales on apprehended violence order list days. Their safety and the safety of their children will be enhanced by obtaining strong protection at their first court date and having orders for their protection better tailored to their needs. Under the scheme a panel of suitably trained lawyers will assist women in court to obtain apprehended domestic violence orders against their attackers. The new lawyers will work with the Women's Domestic Violence Court Advocacy Service, bringing together critical legal and social support for victims of violence and their children. Financial abuse also is a part of domestic violence. That is why this scheme is helping women who may not be able to afford legal representation or qualify for legal aid, but who need assistance to obtain an apprehended domestic violence order.

When I visited Dubbo I met with people from the Western Women's Domestic Violence Court Advocacy Service who will be working closely with the scheme. Ms Nichole Blackhall, who is the coordinator of the advocacy service, welcomed the new funding for a specialist domestic violence lawyer at the Dubbo Local Court and stated:

Victims of this sort of crime need all the support and representation that can be given to them and this announcement paves the way for better legal representation for women in the area who experience domestic violence.

The new lawyers also will be able to assist women who are attending court with other related legal issues that often go hand in hand with domestic violence, such as family law, victims compensation, and child care and protection matters. I am sure that all members would agree that domestic violence is an abhorrent crime. Indeed, the Minister for Women, the Hon. Jodi McKay, said:

That's why this Scheme and the Government's Domestic and Family Violence Action Plan are so important in breaking the cycle of violence.

The Keneally Government is committed to giving victims the support they need to break the cycle. The expansion of the Domestic Violence Practitioner Scheme to places such as Dubbo will ensure that many more women across the State have access to legal assistance and local advocacy when they are faced with domestic violence.

LEGAL COMPLAINTS AND DISCIPLINARY ACTION

Reverend the Hon. FRED NILE: I ask the Attorney General a question without notice. On 11 May 2010 I submitted a question on notice regarding the number of complaints concerning the conduct of New South Wales legal practitioners. Further to the Attorney's answer of 15 June 2010 I ask: will the Attorney now divulge what percentage of the 2,653 complaints received by the Legal Services Commissioner resulted in disciplinary action? Does the Attorney General have any concerns regarding the number of submitted complaints and the number of subsequent disciplinary actions?

The Hon. JOHN HATZISTERGOS: I understand that this information is published in the annual report of the Legal Services Commissioner and presumably would be available from that source. I do not have any information to offer the honourable member at this time beyond what is readily publicly available. I will take the question on notice.

Reverend the Hon. Fred Nile: Do you have any concerns about the number?

The Hon. JOHN HATZISTERGOS: That is asking me for an opinion about concerns. There are a large number of complaints. Those complaints go through different processes. Some of them get investigated by the professional associations—I do not have an issue with the way those professional associations conduct the matters. Some matters end up going to the Administrative Decisions Tribunal, and some end up going to the Supreme Court. Obviously, various models exist to deal with disciplinary complaints—it depends on the nature of the complaint and the severity of it—and they are dealt with ultimately by independent tribunals. I am not quite sure what concerns the honourable member is referring to. If he would like to give me some further details or information—

Reverend the Hon. Fred Nile: The large number of complaints.

The Hon. JOHN HATZISTERGOS: People are entitled to complain, and the Legal Services Commissioner investigates those matters and can ultimately determine whether it is appropriate to take the matter further. I do not know that the number is illuminating. In any event, I will take the question on notice and if I have any concerns that emerge from the numbers I will come to the House, but I doubt it.

If honourable members have further questions, I suggest that they place them on notice.

ELECTRICITY PRICE INCREASES

The Hon. JOHN ROBERTSON: On 21 September 2010 Reverend the Hon. Fred Nile asked the Treasurer a question without notice regarding electricity price increases. I provide the following further advice from the Minister for Energy:

The price increases approved by IPART from 1 July 2010 did not include any costs for the proposed Carbon Pollution Reduction Scheme which the former Prime Minister announced on 27 April 2010 would be delayed until at least 2013.

The NSW Government will spend over \$800 million on energy concessions for five years commencing 1 July 2009—around \$115 million in 2009/10. This includes an increase in the Energy Rebate as well as extending eligibility to all health care card holders. Furthermore, the Energy Accounts Payment Assistance (EAPA) Scheme helps financially disadvantaged people experiencing difficulty paying their electricity or gas bill because of a crisis or emergency situation. The scheme ensures people stay connected to essential services during a financial crisis.

The NSW Government has tightened regulatory requirements for energy retailers to assist customers. Energy retailers are now required to develop, implement and publish detailed Customer Hardship Charters outlining ways to identify a hardship customer, and any suitable Government concessions that may apply, together with flexible payment options and appropriate financial counselling services. A residential customer experiencing financial difficulties must now be provided with two offers of assistance under their retailer's payment plan in a year, instead of one, before being disconnected.

NSW FIRE BRIGADES 000 CALL CENTRES

The Hon. TONY KELLY: On 21 September 2010 the Hon. Melinda Pavey asked the Treasurer a question without notice regarding NSW Fire Brigades 000 call centres. I provide the following further advice from the Minister for Emergency Services:

The NSW State Government and NSW Fire Brigades have embarked on a major upgrade to the organisation's computer-aided dispatch system. This will be the same as that used by the NSW Police Force and ACT Emergency Services. The upgraded technology, which has been funded by Treasury, will allow the NSW Fire Brigades to dispatch fire crews even more efficiently and provide quality information to key personnel at the site of emergency incidents.

The Fire Brigades currently has four call-taking and dispatch centres, including one in the Illawarra and the Blue Mountains, which receive all Triple Zero calls and Automatic Fire Alarms in NSW. The new technology provides a major opportunity to improve the effectiveness and efficiency of these Communication Centres' role in delivering these important operational communications.

Fire Brigades management has been in discussion with relevant staff about potential changes involved, including the possibility for firefighters working in call centres to go to local stations to enhance front line service delivery. Consultation with relevant communities, the Union and stakeholders will occur in due course.

Questions without notice concluded.

PARLIAMENTARY BUDGET OFFICER BILL 2010

In Committee

Consideration resumed from an earlier hour.

The CHAIR (The Hon. Kayee Griffin): Order! The Committee is considering two groups of amendments relating to clause 18: the first are Opposition amendments Nos 1 and 2; the second, Greens amendment No. 3. Members may now speak to Greens amendment No. 3. When that is done I will put the question on the Opposition's amendment first, as depending on the outcome of that vote it may not be necessary to put the question in relation to Greens amendment No. 3.

Dr JOHN KAYE [5.04 p.m.]: I move Greens amendment No. 3:

No. 3 Page 11, clause 18, lines 10–12. Omit all words on those lines. Insert instead:

- (3) A parliamentary leader may make an election costing request in relation to:
 - (a) a policy publicly announced or proposed by that leader, or
 - (b) a policy publicly announced by another parliamentary leader in the form of a media release or other written statement.

This amendment is simple. As has been rightly pointed out, this amendment becomes irrelevant if the Opposition's amendment is successful. The Greens amendment is designed fundamentally to stop a leader of a political party seeking a costing on a statement made by a leader of another party that is not in a written form. The intent is to stop a political party from verballing another party when a political leader or a representative of a parliamentary party makes a statement off the cuff in a radio interview—

The Hon. Penny Sharpe: It's a Tony Abbott amendment!

Dr JOHN KAYE: It has been pointed out that this is a Tony Abbott amendment. It is to stop the verballing of political parties. It is important that we have a definition of what is a policy. There are probably other ways of defining what is a policy, but one way is to ensure that an official policy is in a written document circulated by a parliamentary leader or, in the case of the Greens, a representative of the Greens for the purposes of the legislation.

The Hon. GREG PEARCE [5.06 p.m.]: I seek your clarification. I moved two Opposition amendments in globo and they will be put as one question because one flows from the other. If they are lost, then I intend to speak to Greens amendment No. 3. I do not propose to speak to the Greens amendment at this time.

The CHAIR (The Hon. Kayee Griffin): To clarify, the Hon. Greg Pearce will not speak to the Greens amendment until the question on the Opposition's amendments has been put. Is that correct?

The Hon. GREG PEARCE: Yes.

Reverend the Hon. FRED NILE [5.07 p.m.]: The Christian Democratic Party supports the Greens amendment. This issue was raised during the Federal election campaign. There was a lot of confusion as to what was a policy in relation to election costings and so on. The amendment makes it clear that we are dealing with official policies, rather than simply comments or statements. It means that a political party will not be able to verbal another political party. So I support the amendment.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [5.08 p.m.]: The Government will be supporting the Greens amendment. It is a matter of working through the Opposition's top drawer policies and bottom drawer policies. So we are supporting the Greens.

Question—That Opposition amendments Nos 1 and 2 be agreed to—put.

The Committee divided.

Ayes, 21

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

Noes, 18

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

Question resolved in the affirmative.

Opposition amendments Nos 1 and 2 agreed to.

The CHAIR (The Hon. Kayee Griffin): Order! As a result of the outcome of the vote on Opposition amendments Nos 1 and 2, Greens amendment No. 3 now lapses. I understand that the Greens will not move their circulated amendment No. 4.

Part 4 [Clauses 18 to 27] as amended agreed to.

Part 5 [Clauses 28 to 31] agreed to.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion of the Hon. Michael Veitch agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [5.20 p.m.]: I move:

That the third reading of the bill stand as an order of the day for a later hour of the sittings.

Question put.

The House divided.

Ayes, 23

Mr Borsak	Dr Kaye	Ms Sharpe
Mr Catanzariti	Mr Kelly	Mr Shoebridge
Mr Cohen	Mr Moselmane	Mr Veitch
Ms Cotsis	Mr Obeid	Mr West
Ms Faehrmann	Mr Primrose	Ms Westwood
Mr Foley	Mr Robertson	<i>Tellers,</i>
Ms Griffin	Ms Robertson	Mr Donnelly
Mr Hatzistergos	Mr Roozendaal	Ms Voltz

Noes, 17

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

Question resolved in the affirmative.

Motion agreed to.

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

HEALTH LEGISLATION FURTHER AMENDMENT BILL 2010

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

Motion by the Hon. Penny Sharpe agreed to:

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

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

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Orders of the Day Nos 2 to 5 postponed on motion by the Hon. Penny Sharpe.

PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT (ENVIRONMENTAL MONITORING) BILL 2010**Second Reading**

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.27 p.m.], on behalf of the Hon. John Robertson: I move:

That this bill be now read a second time.

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

Leave granted.

The Protection of the *Environment Operations Amendment (Environmental Monitoring) Bill 2010* will ensure that essential environmental monitoring programs can be developed and implemented with adequate funding and in a timely manner. The bill addresses the shortcomings of current legislation in cases where a **cluster of industry** is having a **cumulative** environmental impact on communities and the environment.

In essence, the bill provides a regulation making power so that the Environment Protection Authority can levy environmental protection licensees to pay for strategic environmental monitoring programs, consistent with the "polluter pays" principle.

The need for the amendment was highlighted recently in the Upper Hunter region where there is considerable community concern about the impact of the power and coal mining industries on ambient air quality, dust impacts in particular.

While there was general agreement by industry that further environmental monitoring was required, it took almost two years for industry to sign a legally binding agreement that required licensees to pay for an air quality monitoring network. This caused significant and unnecessary delays to its implementation, leading to further delays in obtaining better information about air quality in the Upper Hunter, so that the impacts on public health and the environment can be addressed.

It may assist the House if I outline the process provided for in the bill before the power to levy licensees would be exercised.

First, the Environment Protection Authority would need to investigate the need for an environmental monitoring program. This may be on its own initiative, or at the direction of the Minister for Climate Change and the Environment.

A number of indicators could prompt the Environment Protection Authority to start this investigation. These may include escalating community concern about environmental or public health impacts from a group of industry within a region and/or apparent high levels of emissions of pollutants, such as national pollution inventory information or modelling from a number of environmental impact assessments.

If, after the investigation, the Environment Protection Authority considers that a strategic environmental monitoring program is required, it may develop such a program in consultation with the relevant industry stakeholders and the community.

As part of this process, the Environment Protection Authority is required to obtain, and take into consideration, advice from an independent person or body with relevant expertise as to the cost effectiveness of environmental monitoring programs in relation to the environment and human health. This is to ensure that value for money is achieved, and that the design of the environmental monitoring program is consistent with its objectives.

Before the Environment Protection Authority implements the environmental monitoring program, the Minister for Climate Change and the Environment must consult with the Minister for Primary Industries and the Minister for Transport if the proposal would impact on industries within their respective portfolios.

The Environment Protection Authority would also consult with the industry and community regarding the design of the environmental monitoring program. In particular, it would work closely with industry to develop a fair and equitable formula for sharing the cost of the environmental monitoring program. It is likely that the formula would refer to a geographical area, a class of licensee and a load of specific pollutants released or estimated to be released.

Once the issues raised in the independent report and consultation process have been considered, the Government will prepare a regulation to enable the Environment Protection Authority to levy licensees on a cost-recovery basis to pay for the environmental monitoring program, in accordance with the cost sharing formula.

The regulation may also make provisions for the environmental monitoring program, including requirements for the Environment Protection Authority to review and report on the program.

In accordance with the usual regulation making processes, the Environment Protection Authority will need to demonstrate that the better regulation principles have been applied when developing the regulation, and will need to satisfy the requirements under the *Subordinate Legislation Act 1989*.

If the environmental monitoring program is urgent or time critical, it can be implemented before the regulation itself commences. However, licensees can only be levied once the regulation commences.

The bill also establishes an Environmental Monitoring Fund, which the levies will be paid into. The fund is under the control of the Environment Protection Authority. The money in the fund can only be used for: the costs of investigating the need for environmental monitoring programs; the costs of developing, implementing, operating and administering environmental monitoring programs; and other costs relating to environmental monitoring programs as directed by the Environment Protection Authority. Money from the fund can also be refunded to a licence holder in accordance with the regulations, for example, if the program costs less than it is initially estimated to cost.

A hypothetical example of where an environmental monitoring program could be established is a large water body where water quality is declining due to the licensed release of pollutants into the water body, including chemicals, salt and nutrients. In this case, the release of these pollutants would be resulting in a cumulative impact on the water body and the source of the impact would not be able to be attributed to a single premises. Industries potentially contributing to the declining water quality in this instance could be located in an area where industrial facilities are clustered together. Potential contributors could include petroleum and fuel production facilities, chemical production facilities, sewage treatment plants, iron or steel production plants and paper or pulp production facilities.

Another example might be an environmental monitoring program to determine whether apparent impacts from organic air toxics emitted from an industrial estate are within acceptable levels. This information would be used to develop pollution reduction programs and other management responses where it is found that emissions need to be reduced.

I would like to assure the House that the mechanism would only be exercised when there appears to be a cumulative environmental impact developing, or likely to develop, from a group of industry within a region. Further, any levy would only apply to environmental protection licensees, as determined by the licensing thresholds under the *Protection of the Environment Operations Act 1997*.

Small scale enterprises, retail outlets, food outlets, offices, domestic premises, and farmers engaged in traditional farming practices, such as cropping and grazing, will not be affected. The only businesses that could be levied are those with environmental protection licences.

Further, there may be instances where diffuse sources of pollution (including particles from transport or nutrients from land-use change and stormwater run-off) appear to significantly contribute to cumulative impacts. If this is the case, a cost sharing formula would be developed to ensure that government also contributed to the costs of the network, in order to ensure that licensees only paid a fair proportion of the costs.

The ability to levy polluters for strategic environmental monitoring programs will help to ensure that the health of the New South Wales population (and the environment more broadly) is not being detrimentally impacted by human activity, including industry activity.

The need for the bill has been clearly demonstrated by the delay in implementing the environmental monitoring program in the Upper Hunter.

The levy will enable Government to respond to escalating community concerns in a timely and measured way, when the growth of industry is having a cumulative impact on environmental and human health, particularly near population centres.

I commend the bill to the House.

The Hon. CATHERINE CUSACK [5.28 p.m.]: The Protection of the Environment Operations Amendment (Environmental Monitoring) Bill 2010 assigns power to the Environment Protection Authority to require environmental protection licence holders to contribute to the cost of environmental monitoring when pollution resulting from their activities or works may have an impact on the environment or human health. The Government claims there are shortcomings in the principal Act, with specific reference made in the Minister's speech to the two-year period it took to establish monitoring funded by the coalmining industry in the Upper Hunter region. There is concern in that region about the impact of dust particles from open-cut mining on ambient air quality and, in turn, on human health.

Under the terms of the bill, the Environment Protection Authority may initiate environmental monitoring programs either on its own initiative or at the direction of the Minister. One deficiency in the bill is the ill-defined requirement to consult with industry about a formula for the fair sharing of costs of such a program. The Environment Protection Authority is not well regarded on the issue of consultation, and understandably industry wants a clearer explanation of what it can expect consultation to entail. It is so loose that forwarding a ministerial media release announcing a new program to a business for comment could fit the definition of consultation. Yet clearly this is an unacceptable means of communication, much less informed discussion. I note with concern that the bill eliminates rights of appeal against a unilateral decision of the Environment Protection Authority, and this seems nonsensical particularly as licence holders have a well-established right of appeal against silly conditions attached to their licences. Why has the Government seen fit to eliminate appeal rights for this form of condition, which sees levies placed exclusively on licence holders?

The mechanism envisaged by the bill includes the establishment of an Environmental Monitoring fund, in the special deposits account, to be managed by the Environment Protection Authority. The fund will receive revenues from levies on licence holders, to be known as environmental monitoring levies. The fund may be used for investigating the need for monitoring as well as for implementing the monitoring. There is therefore a lot of flexibility in how funds may be spent. For practical purposes, the Environment Protection Authority is authorised to delegate its functions in relation to environmental monitoring to a person or body acting on its behalf. There is a requirement to obtain advice from one or more independent persons or bodies with relevant expertise to advise upon the cost-effectiveness of the program. This sounds okay in principle, but the term "independent" is pretty flexible when the Government gets to choose which independent adviser it wishes to hear from.

The Opposition has consulted stakeholders, and the response has been very negative. I note that some of the stakeholders contacted were not even aware of the bill and were very resentful that such significant legislation would be introduced by the Government without prior warning or discussion. Given there are a finite number of licence holders, I was dismayed that the Government failed to consult about such wide-ranging new powers, which include loss of appeal rights. It does not augur well for provisions in the bill that require the Environment Protection Authority to consult prior to ordering that levies be imposed. As the authority is effectively being given a blank cheque underwritten by industry, I find this very concerning and yet another blow to business confidence and willingness to invest in New South Wales.

The specific concerns that have been raised with us by stakeholders include the fact that, firstly, the bill places all costs on licensed businesses irrespective of their contribution to pollution and that the levy is not appealable. Secondly, it has been pointed out that the principal Act already provides for significant environmental monitoring. I refer members to section 66 of the Act. This power relates to "relevant ambient conditions prevailing on or outside premises". Thirdly, the bill overlooks the contribution of smaller unregulated activities and their impacts on the environment, including all the businesses that operate below the licence thresholds. None of those businesses will be required to make a contribution to the funding of monitoring in an area even though their activities are contributing. This is obviously unfair.

The bill seeks to shift the Environment Protection Authority's investigative, administrative and overhead costs associated with an environmental monitoring program onto businesses. The Government already raises \$300 million from the waste and recycling industry in New South Wales through the imposition of the waste and environment levy. Many licence holders we contacted wanted to know why these funds should not be used to fund additional environmental monitoring. There are no guarantees in this legislation that some funds raised through environmental monitoring levies will not be directed into consolidated revenue. A persistent theme in our correspondence is the concern that the bill could be retrospective. New section 295Z (4) (a) provides for the recovery of "the costs of investigating the need for, and the development, implementation, operation and administration of, environmental monitoring programs (including any costs incurred by the EPA before the commencement of this Part)".

The Liberal Party and The Nationals are deeply concerned about the deteriorating quality of air, particularly in the Upper Hunter, the Hunter and the Sydney Basin. We are considering the legislation in this context and we will not oppose the bill. However, the Government should not take our decision in relation to the legislation to be some kind of endorsement of the way it is going about this and the heavy-handed way in which it is treating business and placing investment in the State at risk. I would like to take the opportunity to outline some of our concerns about air quality. Sydney in particular has the dirtiest air in Australia. In 2008-09, national air quality standards were exceeded in Sydney on 19 days, compared with just five days in the previous year.

Other cities around Australia virtually all recorded no occasions on which readings exceeded the standards in the same period. Similarly, in terms of the regional air quality index, in 2008-09 Sydney recorded 37 days of poor air quality, which was more than double the number in the previous year.

The Department of Environment, Climate Change and Water's most recent State of the Environment Report confirms the quality of our air is forecast to deteriorate further and that the Keneally Labor Government has no plan to reverse this trend. We are possibly the only major city in the world that is accepting future declines in air quality without any strategy to counter them. A 2006 report from the department that cited research undertaken by the Department of Health estimated the annual cost to human health in the Sydney Basin region at \$4.7 billion—which is \$893 per capita, or 1.9 per cent of State gross domestic product. Sydney has a serious air quality problem. The Government blames over-reliance on motor cars—this appears in documents such as the State of the Environment Report—but it has failed to provide public transport alternatives, particularly in western Sydney. The Government's planning laws are stripping western Sydney of vegetation, including large tracts of the endangered Cumberland Forest, which is almost tantamount to ripping the lungs out of the city. Therefore, I have a great deal of sympathy for the Asthma Foundation, whose views we sought. I will place on record its reaction to the bill before the House. Michele Goldman, the Chief Executive of the Asthma Foundation NSW, wrote:

Thank you for the opportunity to provide comments on the following suggested legislation.

While the legislation is a welcome initiative that will give authorities the power to quickly investigate health issues that could stem from established industrial activities such as coal mines, power stations or other industry—something which has not happened in the past—Asthma Foundation NSW has a number of reservations.

It seems to be a reactive, makeweight policy that might be useful in the case of existing developments, but does nothing to address issues from new development. The Foundation is concerned that the Government will only investigate once community clamour reaches the media or a study raises health issues. Therefore, people's health will already have been affected by the time a study is done. By having this policy in place it may also be used as a justification for allowing contentious developments to pass on the grounds that there's a "safety net" if anything goes wrong. This gives polluters a large window before the effects of their developments are noticed and have to be remedied.

If there is a genuine desire to address the issue of pollution impacting on health the Government could design a more effective, proactive policy, including:

1. Demanding more stringent modelling before approving Development Applications. The recent decision to allow AGL to build a new gas-powered plant in Campbelltown was criticised on the grounds that the health impact study wasn't thorough enough.
2. Insisting that world standard anti-pollution matters (eg Nox filters/scrubbers) be incorporated into any development that could potentially be harmful to human health.
3. If there are grounds for suspecting that a development may affect public health a study, such as the one proposed should be established as soon as the plant starts to operate, not years later after the health impacts become apparent. For example, the Government has approved the building of two new coal-fired power plants in Lithgow, which already has an asthma rate over 2 x the NSW average. Every study coming out of the U. S. says that coal fired power stations impact adversely on human health. The time to do the testing is at the beginning not after the asthma rate has reached 3 x the NSW average.
4. Upgrading the air pollution monitoring system in NSW so that adverse pollution patterns can be spotted early instead of relying on "human canaries" to tell us when there's a health pollution issue. This can be done by using equipment that measures particles of PM 2.5 and smaller. The current NSW system of PM 10 is not effective—as it doesn't measure small particles that are a feature of the burning of carbon-based fuels.
5. Restoring the air monitoring system to its pre-1994 levels. Additional air monitoring stations should be placed near contentious developments to monitor their output. An example of the failure of the current system is the M5 tunnel. It wasn't fitted with state-of-the-art filtering when it was built and was later labelled the "world's dirtiest tunnel". Yet the air monitoring system in the tunnel or the DECC system didn't raise the alarm—it was a Queensland university study. How could either of these other systems have missed that?

Other more general questions raise their heads about these studies.

1. What air monitoring standard will be used in these tests? Current NSW standards wouldn't be adequate to diagnose the extent of the problem properly. There was an almighty stoush before the PM 2.5 monitoring was agreed to in the Hunter example quoted by Aquilina in his speech. It was the first time in Australia that this standard was agreed to.

Reverend the Hon. Dr Gordon Moyes: It is important in particular for sand blowing.

The Hon. CATHERINE CUSACK: I acknowledge the comment by Reverend the Hon. Dr Gordon Moyes. The letter continues:

2. Also, will the results of these studies be released by the government? The issue of unflued gas heaters has dragged on for 30 years and nothing we have seen in the past 12 months gives us any confidence that the Government would release or be willing to act upon adverse findings that might cost them large amounts of money.

I thank the Asthma Foundation for its comments, which draw together a number of contentious air quality issues, none of which will be addressed by this legislation. In summary, the bill does not deal with any of the major problems that are causing our air quality to decline. The impact that this has had on children, with growing organs and lungs, is disproportionate, just as it is disproportionate to the impact that it has had on the health of elderly people. I received three letters from stakeholder groups that detail specific workability concerns with the legislation. I seek leave to incorporate those letters in *Hansard*.

Leave granted.

14th October, 2010

Proposed bill to amend the Protection of the Environment Operations Act

- In essence the Bill will provide for the EPA (DECCW) to be able to levy environmental license holders for strategic pollution monitoring programs.
- The obvious concern is that this will provide DECCW with even greater powers than they currently have in relation to environmental license holders. However the amendments will not assist DECCW in addressing issues with the smaller, non-regulated end of the market (ie., the many operators that exist below license thresholds).
- This only empowers EPA over licence holders, as activities under certain thresholds do not require licences. If there is a necessity for this type of regulation then it should be applied to all at risk operations including those operating beneath the arbitrary thresholds. For this legislation to be effective all activities should be licensed without thresholds.
- The EPA derives sufficient revenue from the Landfill Levy to fund monitoring of environmental programs therefore we don't see a compelling argument for any additional charges.
- What will prevent the proceeds of this fund simply being ploughed back into NSW State Government consolidated revenue (like the Landfill Levy)?
- The requirement for monitoring programs can be delivered through amendments to licences under current legislation, so there should be no need for any further empowerment.

In our view this legislation should not be supported for the reasons detailed above.

Briefing Note

Protection of the Environment Operations Amendment (Environmental Monitoring) Bill 2010

The NSW Minerals Council, representing the State's minerals industry, has a number of concerns in relation to the POEO Amendment (Environmental Monitoring) Bill 2010 as it is currently drafted. We appreciate the opportunity to provide these views for the purposes of Parliamentary debate. Our key concerns are outlined below:

Consultation with Industry

The bill makes inadequate provision for consultation with those industries expected to financially contribute to all aspects of an environmental monitoring plan. Although the bill does indicate that industry will be consulted to develop the formula for cost-sharing, it does not provide for industry to be consulted about the need for a monitoring program or the design of the monitoring program. Industry is effectively asked to write a "blank cheque", which lacks transparency and is contrary to principles of good governance.

Recommendation: NSWMC believes that industry should be consulted from the outset of any proposal for an environmental monitoring program that it will be required to fund.

Circumvention of Current Licence Process

The bill appears to circumvent the current licence process which already allows for environmental monitoring conditions on licensed sites to be included. For example, Environmental Protection Licences in their current form have wide scope, and include environmental monitoring conditions for environmental impacts such as noise and dust and require studies to be conducted to identify, quantify and manage these issues. The current licence process also factors in consultation and negotiation throughout the process with relevant parties, a process which is markedly absent in this bill. The bill allows the Environment Protection Authority (EPA) to effectively dictate, without consultation, when an environmental monitoring program is required, over and above licence requirements.

Recommendation: NSWMC believes that the bill is in fact a burdensome and duplicative piece of legislation, and that the current licence scheme is more than adequate.

Cost Implications

The potential cost implications of the bill are considerable. Industry will be expected to contribute to the costs of investigating the need for environmental monitoring programs as well as the development, implementation, operation and administration of program as required—all in the context of no consultation or transparency for the proposed program. The bill does not specify whether there will be a cap on contributions, nor how costs will be apportioned across affected licence holders. In the interests of transparency and openness, NSWMC requests that more information be made available on how the levy would be imposed.

Recommendation:

- Any cost imposed on industry should be determined through a consultative process, with a cap on the costs that can be imposed on any party
- An independent, external body should review any compulsory levy
- The costs involved in the establishment and implementation of the program must be shared between all affected parties—including relevant Government agencies.

Existing monitoring program arrangements

The bill states the following:

"The costs of an environmental monitoring program include:

- (a) the costs of investigating the need for, and the development, implementation, operation and administration of, environmental monitoring programs (including any costs incurred by the EPA before the commencement of this Part)."

It is unclear whether the bill is retrospective, rendering uncertain its effects on existing agreements for environmental monitoring programs.

Recommendation: NSWMC believes that the bill should not be retrospective, as all current programs have been negotiated and implemented as per relevant legislation and licence requirements.

Upper Hunter Air Quality Monitoring Network

The Upper Hunter Air Quality Monitoring Network (UHAQMN) was negotiated by the industry in good faith. While the process was challenging and time consuming, positive outcomes were achieved and an agreement reached. NSWMC believes comments made by Mr John Aquilina that the significant period of time taken to negotiate the UHAQMN Deed of Agreement "caused significant and unnecessary delays to its implementation, leading to further delays in obtaining better information about the air quality in Upper Hunter" are unmerited, and do not recognise the concerted efforts and commitment of all parties involved in the development of the Deed, nor do the comments reflect the complexity and scale of the UHAQMN.

NSW Minerals Council
14 October 2010

Dear Minister

The Australian Sustainable Business Group (ASBG) wishes to comment on the *Protection of the Environment Operations (Environmental Monitoring) Bill 2010* (the bill).

The Australian Sustainable Business Group (ASBG) is a leading environment and energy business representative body that specializes in providing the latest information, including changes to environmental legislation, regulations and policy that may impact industry, business and other organisations. We operate in NSW and Queensland and have over 150 members comprising of Australia's largest manufacturing companies.

ASBG was surprised by the tabling of the bill on 24 September 2010. Effective consultation on new legislation, which affects our members has been a long term approach taken by Government. Such consultation results in improved legislation and provides reassurance that the Government is taking a broad range of views into the law making process. ASBG wishes to be involved in such processes in the future to ensure that there is some platform in which to provide comment.

Overall ASBG considers this bill redundant as its objectives can be well achieved by existing licence conditions. It also removes the necessary appeals mechanism that is available for such potentially onerous conditions imposed on licence holders.

BROAD NATURE OF THE BILL

A key justification for this bill is the time delay that the fourteen Hunter coal mines took to agree to a monitoring solution. ASBG considers this is flawed justification for such a broad based bill. Under the bill, unlimited environmental monitoring programs can be applied to any licensed site or group of sites in New South Wales, not just for coal mines.

If the Government had issue with the Hunter coal mines, cannot this bill specifically target this issue and not be made to cover any licensed site?

Additionally, there is no guarantee that the processes for environmental monitoring contained within the bill will ensure faster results if the due processes outlined in the second reading speech and the bill is followed which includes:

- 1) Consultation with industry and the community regarding the design of the environmental monitoring program—second reading speech.

- 2) s295Y(6) The EPA is to obtain, and take into consideration, advice from one or more independent persons or bodies with relevant technical and health expertise as to the cost effectiveness of any environmental monitoring program.
- 3) Implementation of the monitoring is to be conducted by the EPA, or at least under their financial control as from the Environmental Monitoring Fund.

Importantly the bill changes the development and operation of environmental monitoring away from the outcome process incorporated under Environment Protection Licences (EPLs) to one where the EPA has the operational functionality of the program. ASBG considers the current outcome orientated approach to environmental monitoring implemented and conducted by licence holders is, by many measures, a more efficient process than the proposed process in the bill and run by the EPA.

It is recommended that environmental monitoring should continue to be outcome based, with the regulator establishing the outcomes from negotiations with the site/s requiring such.

ASBG has other concerns regarding this bill including:

- It is redundant, as there are many existing legislative means to perform the monitoring requirements the bill seeks to address.
- It undermines the well established approach of negotiated conditions on licensed sites and merit appeals.
- The retrospective nature of the levy payments.

REDUNDANCY ISSUES

The bill is considered redundant in most of its aspects. Reasons for this claim include the following:

Environment Protection Licences (EPL) provide much scope to include substantial environmental monitoring conditions. There are many examples of current EPLs where Pollution Reduction Programs (PRP) include off-site monitoring requirements to deal with community concerns and complaints. Commonly these cover noise, dust and odour and require detailed studies to be conducted to identify and reduce such issues. PRPs offer much broader coverage than for monitoring, enforcing many investigation, treatments and other environmental protection measures. In short the PRP process alone can do most of what this bill proposes and more.

Not only can additional monitoring be placed within an EPL, under a PRP, it can simply be placed under section 6 Reporting Conditions. PRPs are commonly used to investigate environmental issues including ground level concentrations in the surrounding areas beyond the land covered under the EPL, especially for noise, dust and odour.

The second reading speech makes it clear that the purpose of the bill is to cover cumulative impacts from clusters of EPL sites. However, ASBG has found examples where the PRPs have covered this as well. One example of such cluster coverage is under Orica, Qenos and Huntsman's EPLs. These three licenses cover the clustered impacts of noise and storm water. To provide an example, Huntsman's EPL states for noise:

R4.1 A compliance report for all Botany Industrial Park (BIP) Licences (L7494 Hunstman Corporation; L2148 Grica Pty Ltd and LI0000 Qenos Pty Ltd) demonstrating compliance with the noise conditions listed at Condition L6.1 to L6.2 must be appended to the yearly Annual Return for Qenos LI0000.

A similar requirement appears under the other two licenses. In addition, the following condition appears in all three licenses:

U6.1 A continuous improvement program must be implemented to address issues associated with the stormwater system on any part of the premises. The stormwater improvement program must be consistent with the Botany Industrial Park storm water improvement plan.

The above example of use of an area Stormwater Improvement Plan, which relates to a separate document that details the actions the cluster of Botany companies must undertake to manage stormwater across their sites. Use of such a document to cover clusters of licensed activities and reference to, in multiple Environment Protection Licences, demonstrates the ease in which licences can be used to manage cumulative emissions from a cluster of industries.

Existing legislative instruments, especially under the Protection of the Environment Operations Act 1997 (POEA Act), can be used to deal with environmental monitoring and even for clusters of EPLs which includes:

- Section 66(1)(a)(iii) of the POEA Act permits that: relevant ambient conditions prevailing on or outside premises, and (c) the analysis, reporting and retention of monitoring data can be included as conditions under the licence.
- POEO Act Part 7.3—Powers to require Information or Records and especially section 191 Notice provide considerable powers for the EPA to require information and records. S 192 also extends these powers to other regulatory authorities, in particular local Government. There is nothing limiting these powers to also cover environmental monitoring and applying it to clusters of industrial activity. In fact this section is broader than the bill, as it can apply to any site or sites licensed or not.
- Part 6.2 Mandatory Audits can include monitoring requirements as part of an audit, but this can only be triggered if the EPA suspects the EPL holder is breaching licence or the POEO Act. Mandatory audits are meant to be punitive, but have not yet been used by the EPA.

ASBG recommends strengthening the existing application of licence conditions, if at all necessary to achieve the main objectives of this bill.

NEGOTIATION AND APPEALS PROCESS BY-PASSED

The bill, while repetitive in its outcomes of other parts of environmental law, does change the nature of the ways in which environmental monitoring is established and run.

Under POEO Act section 287 *Appeals Regarding Licence Applications and Licences*, the holder of a licence and who is aggrieved by any decision of the appropriate regulatory authority with respect to the licence, can lodge an appeal to the Land and Environment Court as a Class 1, merit appeal matter. The approach the bill proposes by-passes this appeals process.

ASBG notes that the use of s287 is rare for environment protection licenses. In fact the last known appeal was in 1999, EPA vs Australian Solvent Recyclers. Given the rarity of licence appeals there is little argument that excessive appeals will interfere with effective environmental monitoring programs being established under existing licenses.

While the bill does require that *'the EPA is to obtain, and take into consideration, advice from one or more independent persons or bodies with relevant technical and health expertise as to the cost effectiveness of any environmental monitoring program.'* This is not negotiation as it hands over the control of the monitoring program to the EP A, with only reference for consideration.

It is common for our members to be in negotiation with the EPA on Pollution Reduction Programs which at the first round of negotiations are very onerous and costly. Many PRPs can have initial costs exceeding \$1 million and are questionable as to their environmental outcomes: The use of the legislative negotiation process is vital for the removing and re-negotiation of PRPs with high costs and focus on academic questions about environmental issues rather than to be a practical means in which to improve a sites environmental performance.

Given that onerous and costly requirements are commonly placed on licence holders this reinforces the need for an independent umpire to vet such initiatives by the regulator.

ASBG recommends that environmental monitoring programs are developed by a negotiation process comprising of the licensee or a group of licensees and the EPA and this be negotiated outcome subject to the right of appeal to the Land and Environment Court.

RETROSPECTIVE

Under s295Z(4)(a) of the bill it contains the clause:

- (a) *the costs of investigating the need for, and the development, implementation, operation and administration of environmental monitoring programs (including any costs incurred by the EPA before the commencement of this Part).*

Clearly this bill is retrospective. While this section in intent targets the Hunter coal mines, it could apply to far older monitoring. Under the Ambient Air Quality National Pollutant Inventory, the EP A has ongoing monitoring stations across NSW which have been in operation for more than a decade. Can the Government guarantee that this bill will not levy all licence holders to pay for these monitoring stations? Can this guarantee extend to other existing environmental monitoring which could be captured under this bill?

ASBG's members are very concerned over the extent to which this retrospectivity can be applied. The retrospective component of this bill should be removed.

It is recommended that any retrospectivity not be directly or indirectly applied under this bill.

CONCLUSION

This bill has many flaws and at best should be made specific to the issue addressed in the second reading speech namely the Hunter coal mines. It will deliver a more inefficient means of environmental monitoring, because it will be under Government administration. Other more efficient and faster methods of achieving the same or better outcomes already exist under current environmental laws. In short the bill is virtually redundant, except that it removes appeal rights from licence holders.

Time delays for regulation making, community, industry, licence holder and independent experts required under this bill will ensure the outcome is further delayed. Using existing environmental legislation are likely to result in a faster, lower cost means of environmental monitoring based more on market mechanisms. Faster delivery of better monitoring data will ensure quicker decisions and improved environmental outcomes.

Having a retrospective clause within the legislation is deeply concerning as this provides no limit to its retrospectivity.

Filling the Environmental Monitoring Fund concerns all licence holders as none are exempt and there is no limit to the size of the fund and the scale of the levy amounts. The bill appears to have an outcome to establish a new EPA environmental monitoring arm, funded by licence holders, subject to investigations initiated by the whim of the EPA, Minister and community groups. Having only licensed sites pay for environmental monitoring when other sources comprise the majority of the sources is unfair.

Overall the bill will undermine the currently shrinking manufacturing industry in NSW and further deter investment from this State.

Should you require ASBG to clarify or elaborate on the above matter please contact me.

Yours Sincerely

Andrew Doig
National Director
AUSTRALIAN SUSTAINABLE BUSINESS GROUP

The Hon. SHAOQUETT MOSELMANE [5.43 p.m.]: I am pleased to support the Protection of the Environment Operations Amendment (Environmental Monitoring) Bill 2010. New South Wales has led the innovation of environmental regulation in Australia, and, at times, in the world. This has included the development of market-based instruments such as the Hunter River Salinity Trading Scheme, bubble licensing and load-based licensing. All these approaches have built on and complemented the traditional site-by-site regulatory approach, given licensees an incentive to go beyond mere compliance with their environment protection licences, and provided tools to address environmental issues more strategically. They are also based on the polluter-pays principle.

The cost-recovery mechanism that would be established if this bill were enacted similarly would provide another tool to ensure that New South Wales was a leader in the innovation of environmental regulation. It would help to ensure that industry in New South Wales was operating sustainably and that the Government, industry and the community in general were better informed of the cumulative impacts that might be developing due to the operation of a number of licensed premises in an area. This approach also means that industry, rather than the New South Wales taxpayer, would be paying for the monitoring networks that were needed to ensure that it was operating sustainably. I understand that currently the Protection of the Environment Operations Act 1997 does not enable the Environment Protection Authority to require licensees collectively to establish a strategic environmental monitoring program. Monitoring requirements that are imposed by environment protection licences must relate to each licensee's individual performance.

It is essential that the New South Wales Government has the tools it needs to set up essential environmental monitoring infrastructure to ensure that the health of the people of New South Wales and the environment are not compromised by growth in industrial activity. This cost-recovery mechanism will enable monitoring networks to be designed and established—networks that take a more strategic view. This tool will be even more important in the future as the potential for greater land-use conflicts increases. The fact that the bill establishes a regulation-making power rather than simply enabling the Environment Protection Authority to levy licensees as it sees fit means that a regulation must be prepared every time the authority intends to levy licensees for the purposes of environmental monitoring. Each regulation will need to be developed in accordance with all the checks and balances that accompany that process. That includes appropriate consultation with stakeholders, justification for the need for the scheme, and an assessment of the cost and benefits in accordance with better regulation principles. This welcome approach will again make New South Wales an innovator and give it the tools it needs to tackle the environmental issues of today and tomorrow. I am pleased to support the bill.

Reverend the Hon. FRED NILE [5.46 p.m.]: On behalf of the Christian Democratic Party I support the Protection of the Environment Operations Amendment (Environmental Monitoring) Bill 2010. People in the Hunter Valley are pleased that the Government has introduced this bill, as much concern has been expressed in that area about the impact of the coalmining industry on air quality and, in particular, of dust. This bill will provide a regulation-making power to enable the Environment Protection Authority to levy licensees to pay for environmental monitoring programs, consistent with the polluter-pays principle. The bill addresses the shortcomings of current legislation in which the Environment Protection Authority is unable to require a group of licensees collectively to set up a strategic monitoring program, even when they are having a cumulative impact on communities and the environment. I believe the bill will meet those needs.

When there was an urgent need in the past the Government should have allocated funds for that monitoring program; it should not have waited for industry to do so. The bill will ensure such monitoring, but industry will have to pay for it. When the impact of such measures endangers the health of the community, the Government has to step in. At some time in the future it could levy industry to help to pay for such an impact. In the past there was a degree of urgency to address these issues but nothing was done. The Government acknowledged that it has been trying to get industry to respond. It took almost two years for industry to sign a legally binding agreement that required it to pay for an air quality monitoring network. That caused significant and unnecessary delays to its implementation, which led to further delays in obtaining better information about air quality in the Upper Hunter to address the impact on public health and the environment. The slowness with which that monitoring network was set up created greater friction between the community and the coalmining industry.

That is causing a backlash in the region that is probably extending to other parts of the State. The bill will ensure that essential environmental monitoring programs can be developed and implemented with adequate funding and in a timely manner. A number of checks and balances are provided so that specific environmental monitoring programs are cost-effective, and that the cost-sharing formula is fair and equitable. I hope the various industries will give their genuine, enthusiastic and urgent cooperation. The legislation will not have any

impact on levies applied to small-scale enterprises, such as retail outlets, food outlets, offices, domestic premises and farmers engaged in traditional farming practices such as cropping and grazing. I am pleased to support the legislation.

The Hon. IAN COHEN [5.50 p.m.]: On behalf of the Greens I speak to the Protection of the Environment Operations Amendment (Environmental Monitoring) Bill 2010. I indicate from the outset that the Greens support the bill. In addition to my contribution, Ms Cate Faehrmann will outline some of the issues this bill addresses regarding the Mineral Resources portfolio. Monitoring is a fundamental component of environmental management. Monitoring data helps us understand and evaluate the environmental impacts of licensed industrial and commercial activities. Health impacts from waste discharges and air emissions are of particular concern to many communities in New South Wales. Air, noise and water pollution have a substantial effect on quality of life. Before I refer to the substantive amendments, I shall comment on what Pru Goward said in the other place. The member for Goulburn said:

The potential cost implications of the bill for industry, and therefore for jobs in New South Wales, are considerable.

The tenor of her speech is primarily concerned with the implications of the legislation for business, and she is of the opinion that it will encourage non-point source emitters to increase pollution. With all due respect, sadly this is the typical framework in which some members of the Opposition perceive environmental regulation. Should we just put a Tony Abbott "Big Tax" sticker all over the bill? The implication for jobs—which in the Opposition lexicon really means profit margins for large corporations—will always trump the benefits of a healthy society. Our quality of life from clean air and water is repeatedly subjugated to the siren call for corporate profit. Regulating large point source emitters is seen as unfair while non-point source pollution sources supposedly continue unregulated. These positions are rejected daily by our communities: they want a good quality of life and will not buy into this type of corporate apologist narrative.

The comments of the member for Goulburn disappointed me, as they unreasonably mirror the questionable rhetoric of the New South Wales Minerals Council. The 14 coal companies are not afraid of the cost of environmental monitoring; it is the data produced that may underline the significant health implications and costs of their business, which will translate into regulatory restrictions on their operations. Some comments made by the member for Goulburn, and reiterated by the member for Pittwater, are valid. Both members highlight that section 66 currently provides for the insertion of environmental monitoring conditions on an environmental protection licence. With some creative condition formulation and administrative changes, there might be an ability to require financial contribution to monitoring programs evaluating cumulative pollution under existing environmental protection licences. However, I suspect the section is tailored more to site-specific point source emission monitoring by individual licence holders. That is not to say there is not the potential to insert a condition requiring a contribution to a monitoring program measuring cumulative emissions or pollution. I think the bill may streamline the participation of multiple licence holders in environmental monitoring schemes, which may enhance the economies of scale in monitoring programs.

The second point made by the Opposition is that we should deal with monitoring in the development application process. New South Wales could definitely improve environmental management in this State if consent authorities could take a more rigorous approach to requiring monitoring in conditions of consent. Alternatively, we could find new ways to integrate environmental protection licences and development consents. Referring to the substantive amendments in the bill, the insertion of new section 295Y into the Protection of the Environment Operations Amendment Act will enable the Environment Protection Authority, on its own initiative or at the direction of the Minister, to investigate the need for a program to monitor the impact on the environment, human projects and works subject to environmental protection licences. If the Environment Protection Authority is satisfied that an environmental monitoring program should be developed, it may develop and implement such a program.

The bill leaves it to the discretion of the Environment Protection Authority to decide whether a monitoring program should be developed and does not specify criteria for requiring environmental monitoring. The Environment Protection Authority is not required to publish details of any such investigation. Additionally, the Minister is required to consult with the Minister for Primary Industries or the Minister for Transport if the proposed environmental monitoring program will apply to environment protection licence holders whose activities relate to the portfolio responsibilities of those Ministers.

Before the Environment Protection Authority can establish an environmental monitoring program, it is required to obtain and take into consideration advice from independent persons with technical expertise on the

cost-effectiveness of the monitoring program. I am not sure this new subsection is necessary, nor of the relevance of cost-effectiveness to the question of monitoring programs. Certainly, cost-effectiveness is an important question in comparing different approaches to environmental regulation. Regulatory impact statements often consider a range of instruments from traditional command and control regulation to market-based mechanisms with the aim of measuring different cost-effectiveness. I am not so sure of the applicability of relative cost effectiveness in environmental monitoring—you either monitor or you do not. How does one measure the cost effectiveness of monitoring compared with other management options?

I think new subsection (6) might be alluding to the issue of examining cumulative pollution from a number of large point source emitters. Cost effectiveness in this light is about what scale or magnitude of pollution justifies an environmental monitoring program. If the Environment Protection Authority is to seek advice from health experts, I would hope that advice would look beyond the cost of environmental monitoring and evaluate the potential health costs of pollution that has not been adequately monitored, especially in residential pollution pathways. One of the most important elements of the bill will be the review of monitoring data and public reporting. The cornerstone of this legislation must be the ability of communities and public advocates to access monitoring data and draw conclusions about the environmental and health impacts. It would have been preferable to have the reporting and publication regime in the bill rather than defined in regulation, particularly in light of the recent recommendations of the Auditor-General's Environment Protection Authority performance audit on managing pollution incidents. However, I think we should acknowledge that the Protection of the Environment Operations Amendment Act public register can be of great assistance to many in the community who want to understand the operation conditions of licensed works.

Compared with other New South Wales government departments, the Department of the Environment, Climate Change and Water is leading the pack in making information available to the public. I expect—and perhaps the Parliamentary Secretary will confirm—that environmental monitoring data will be freely available on the Protection of the Environment Operations Amendment Act public register, and updated regularly. New section 295Z relates to environmental monitoring levies. It would enable the Environment Protection Authority to levy a specific licence holder or group of licence holders for a contribution to the cost of a monitoring program, if the regulations provide for this. Costs would include investigation of the need for a program and the development, implementation, operation and administration of the program as well as any services that may be provided to the Environment Protection Authority by a person or body for the program. This new section would greatly improve the current situation when the Government does not have this power: it is certainly a positive step forward.

The insertion of new section 295ZA relates to the establishment of an environmental monitoring fund. Levies, moneys from Treasury, proceeds from investments, gifts and bequests and any other moneys from Parliament would be paid into the fund, as required by law. The money in the fund would then be used to pay for environmental monitoring programs, the related costs of monitoring programs and refunds of levies to licence holders. Each monitoring program would have its own account within the fund. There is provision for the money in the fund to be invested in accordance with the Public Authorities (Financial Arrangements) Act 1987. In summary, I hope the Environment Protection Authority will be able to implement new environmental monitoring programs in order to drive real regulatory action, particularly on air pollution.

I hope that this mechanism will not be relegated to the back of the shelf like some of the other chapter 9 instruments of the Protection of the Environment Operations Act that were subsequently underutilised. It is unfortunate that the Department of Environment, Climate Change and Water has not sufficiently applied provisions relating to financial assurance or a tradable emissions scheme. With the exception of the Hunter River Salinity Trading Scheme, the Protection of the Environment Operations Act remains a powerful but underutilised tool. Having made those points, I commend the bill to the House.

Ms CATE FAEHRMANN [5.59 p.m.]: On behalf of the Greens I express support for the Protection of the Environment Operations Amendment (Environmental Monitoring) Bill 2010. I welcome this move, which, according to the Government, will ensure that essential environmental monitoring programs can be developed and implemented with adequate funding and in a timely manner. The example cited by the Government in its agreement in principle speech in the other place was the Upper Hunter, where local residents continue to be deeply concerned about the health impacts of coalmining operations near their homes.

The Government's speech outlined a significant delay in obtaining a legally binding agreement with licensees to pay for air quality monitoring. The result was the formation of the Upper Hunter Air Quality Monitoring Network. I will deal in more detail with the operation of this network at a later stage, but first I will

briefly discuss the health impacts of coalmining. In November 2009 Physicians for Social Responsibility in the United States published a report entitled "Coal's Assault on Human Health", which outlines the impact of pollutants from the coal lifecycle of mining, transport, preparation at power plants, combustion, and the disposal of post-combustion wastes. The impacts include respiratory, cardiovascular and nervous system effects.

The report states throughout that particulates of the size of PM_{2.5} are linked to adverse effects, including poor lung development and reduced forced expiratory volume in children, cardiac rhythm disturbance, acute myocardial infarction or heart attacks, and cerebrovascular diseases that relate to blood supply to the brain. The report is not the only research that points to the impacts of PM_{2.5} particulates. The majority of research has occurred in the United States where measurement of fine particulates has occurred since 1999. I cite the Wisconsin Department of Natural Resources website and its frequently asked questions page regarding PM_{2.5} particulates, which states:

The Department of Natural Resources operates a network that measures particle pollution (also called PM_{2.5}) in Wisconsin's air at 20 locations around the state. As part of its mission to protect public health, the Department measures particle pollution on a real-time continuous basis.

The Department of Environment, Climate Change and Water states that the Upper Hunter Air Quality Monitoring Network will include up to 14 monitoring stations that will operate continuously to monitor the concentration of dust with a particle size of 10 microns, or PM₁₀. On the question and answer page of the Department of Environment, Climate Change and Water, the department goes to lengths to explain why the more dangerous PM_{2.5} particulates will not be measured. It states:

The network is proposed to be based on PM₁₀ rather than PM_{2.5} as this is the current air quality standard and goal under the National Environment Protection Measure [NEPM].

It goes on to state:

If the National Environment Protection Council changes the NEPM standard, the networks can be updated to reflect the revised standard.

Finally, in answering the question about improving community health, it states:

Accurate, long-term records are the cornerstone of evaluating air quality against current and future national standards and supporting studies to assess health impacts.

Given the mounting evidence of the health impacts of PM_{2.5} particulates, Upper Hunter residents are rightfully concerned that the Upper Hunter Air Quality Monitoring Network will not adequately address the cumulative impact of coalmining on their communities. On 28 September this year the National Pollutant Inventory revealed that almost half of the State's PM_{2.5} particulates came from the two areas of Muswellbrook and Singleton, which is where the monitoring networks are. This bill will provide a tool that government can use to protect the New South Wales community from at least some of the impacts of the seemingly endless expansion of coalmining in the State. The Government's agreement in principle speech states:

A number of indicators could prompt the Environment Protection Authority to start this investigation. These may include escalating community concern about environmental or public health impacts from a group of industry within a region and/or apparent high levels of emissions of pollutants, such as National Pollution Inventory information or modelling from a number of environmental impact assessments.

Given the already fervent community concern over the public impact of coalmining, one of the first actions, should this legislation be passed by Parliament, must be to commence an investigation into the health impacts of PM_{2.5} particulates. The Greens support the bill.

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.04 p.m.], in reply: The Protection of the Environment Operations Amendment (Environmental Monitoring) Bill 2010 will ensure that essential environmental monitoring programs can be developed and implemented with adequate funding and in a timely manner. The bill addresses the shortcomings of current legislation in cases in which a cluster of industry is having a cumulative environmental impact on communities and on the environment. In essence, the bill provides a regulation-making power so that the Environment Protection Authority can levy environmental protection licensees to pay for strategic environmental monitoring programs, consistent with the polluter pays principle.

I remind the House that the need for the amendment was highlighted recently in the Upper Hunter region, where there is considerable community concern about the impact of the power and coalmining industries on ambient air quality and dust impacts in particular. In that instance it took almost two years for industry to

sign a legally binding agreement that required licensees to pay for an air quality monitoring network. This leads to significant delays in obtaining better information and air quality in the Upper Hunter so that the impacts on public health and the environment can be addressed. However, I urge members to note that the bill is not required to establish the Upper Hunter monitoring network—that work has commenced already. However, if the existing arrangement is not met, this regulation-making power could be used to ensure that the monitoring network keeps operating.

Before the power to levy licensees is exercised, the Environment Protection Authority will investigate the need for an environmental monitoring program; develop a program in consultation with the relevant industry stakeholders in the community where the initial investigation indicates that a strategic environmental monitoring agreement is required; take into consideration advice from an independent person or body with relevant expertise as to the cost effectiveness of environmental monitoring programs in relation to the environment and human health; ensure that value for money is achieved and that the design of the environmental monitoring program is consistent with its objectives; and consult with the industry and community regarding the design of the environmental monitoring program, and in particular develop a fair and equitable formula for sharing the cost of the environmental monitoring program.

During the debate an issue was raised by the Hon. Ian Cohen regarding data. I can only advise that once the data is analysed and collected, it will be made publicly available on the website of the Department of Environment, Climate Change and Water. Any member of the public as well as industry groups may have access to this information. Only when the issues that have been raised in the independent report and consultation process are considered will the Government prepare a regulation to enable the Environment Protection Authority to levy licensees on a cost-recovery basis to pay for the environmental monitoring program in accordance with the cost-sharing formula. The regulation also may make provision for the environmental monitoring program that will include requirements for the Environment Protection Authority to review and report on the program.

The bill establishes an Environmental Monitoring Fund into which the levies will be paid and which will be under the control of the Environment Protection Authority. The money in the fund will be used only for the costs of investigating the need for environmental monitoring programs; the costs of developing, implementing, operating and administering environmental monitoring programs; and other costs relating to environmental monitoring programs as directed by the Environment Protection Authority. Money from the fund may also be refunded to a licence holder in accordance with the regulations—for example, if the program costs less than it is initially estimated to cost. I assure the House that the mechanism will be exercised only when there appears to be a cumulative environmental impact developing, or that is likely to develop, from a group of industry within a region. Furthermore, any levy will apply only to environmental protection licensees as determined by the licensing thresholds under the Protection of the Environment Operations Act 1997.

Small-scale enterprises, retail outlets, food outlets, offices, domestic premises and farmers who are engaged in traditional farming practices, such as cropping and grazing, will not be affected. The ability to levy polluters for strategic environmental monitoring programs will assist in ensuring that the health of the New South Wales population, and more broadly the environment, is not being impacted upon detrimentally by human activity, including industrial activity. The requirement for the bill has been demonstrated clearly by the delay in implementing the environmental monitoring program in the Upper Hunter. The levy will enable government to respond to escalating community concerns in a timely and measured way when the growth of industry is having a limited impact on environmental and human health, particularly near population centres. 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.

RADIATION CONTROL AMENDMENT BILL 2010

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

Motion by the Hon. Penny Sharpe agreed to:

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

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

**ROAD TRANSPORT (VEHICLE REGISTRATION) AMENDMENT (WRITTEN-OFF VEHICLES)
BILL 2010**

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.11 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

This bill introduces major reform to protect New South Wales consumers from profiteers and criminals who trade in written-off vehicles that are dangerously repaired, often with stolen parts. The bill will improve consumer protection, improve vehicle safety, strike at the heart of vehicle rebirthers and organised crime, reduce the cost to the New South Wales community of vehicle theft, reduce the risk of distress and injury to members of the public who often unknowingly purchase a vehicle that has previously been written off, and get shoddily repaired vehicles off our streets. The bill will build on legislation considered by the Parliament in 2007 that highlighted significant additional issues to be addressed to further improve consumer protection and road safety, and to reduce criminal activities linked to written-off vehicles in New South Wales.

The bill introduces measures to address the issues raised by members during that debate. It also gives effect to some of the key principles contained in the New South Wales parliamentary Staysafe committee report entitled "Repairing to a price, Not a standard", report No. 9/53 of December 2005, which inquired into the crash damaged vehicle assessment and repair industry. I foreshadow an amendment to the bill to be considered in Committee to enable the smooth and effective implementation of this legislation. In the course of discussions with key industry stakeholders it was proposed, in the interest of clarity, to amend the definition of what constitutes a "total loss" when undertaking an assessment of a damaged vehicle.

The current definition provides that a vehicle is a total loss when the cost of repairs to the vehicle plus its salvage value are higher than the market value of the vehicle before it was damaged. However, the insurance industry has highlighted that many of its policies are not policies based on "market value" but may be for the sum insured or agreed value of the vehicle. The sum insured may be greater than the market value of the vehicle. The amendment I foreshadow will provide greater clarity of what is a "total loss" to allow some flexibility to accommodate different types of insurance policies. The amendment will enable insurers to use a specified sum-insured value when determining if the vehicle is a total loss.

As such, a damaged vehicle would be a total loss when the cost of repairs plus its value as a damaged vehicle are greater than the sum insured. The Government believes that the definition, as amended by the inclusion of "sum insured", is appropriate. I am advised that this amendment is supported by key industry stakeholders. Notwithstanding this, industry has recently raised some suggestions in relation to the definition of "total loss" that may further improve the workings of the legislation. The Government is committed to introducing an effective new system for managing written-off vehicles in New South Wales, and we are therefore open to discussing any issues raised by stakeholders.

The proposed new wording of section 16 (H) (2) provides flexibility for the regulations to address and refine the definition of "total loss" and through the regulations to accommodate, if appropriate, any further refinements proposed by stakeholders and agreed by the Government. This amendment demonstrates the Government's constructive approach to working with stakeholders to ensure that the objectives of this legislation to protect consumers, enhance road safety and tackle rebirthing are met. The community deserves and expects this. I seek leave to incorporate the remainder of the second reading speech in *Hansard*.

Leave granted.

Under current arrangements there are two categories of written-off vehicles. The first category is the "statutory" written-off vehicle (or "wrecked" vehicle). A statutory write-off cannot be re-registered in New South Wales or, by national agreement, in any other jurisdiction, and can only be sold for spare parts or scrap metal. The second category is the "repairable" written-off vehicle, that is, a vehicle that has been assessed as a total loss but which, as the name suggests, is currently permitted to be repaired and re-registered.

Under the new legislation, all New South Wales written-off vehicles will be recorded as statutory write-offs, and will therefore not be permitted to be re-registered. Statutory written-off vehicles will still be able to be purchased and sold, but only for parts or scrap metal.

The ban on registering all written-off vehicles builds on and strengthens existing written-off vehicle law. This reform will ensure that all New South Wales written-off vehicles will be recorded on the national Written-off Vehicle Register as statutory write-offs.

THE CHALLENGE WE FACE

Vehicle rebirthing is the criminal activity of rebuilding a repairable written-off vehicle with parts from a stolen vehicle. The vehicle is then "reborn" by being re-registered and on-sold to an unsuspecting member of the community.

Repairable write-offs are targeted by vehicle rebirthers who typically purchase these vehicles cheaply at auction. They then steal a similar vehicle and use the stolen vehicle's parts to illegitimately and shoddily repair the repairable write-off before presenting it for re-registration and sale to the unsuspecting consumer.

There can be no more important reason for this legislation than the lives it will save from getting dangerously repaired vehicles off our streets. "Dodgy" cosmetic repairs to a repairable write-off too often disguise the true condition of the vehicle and can create road safety risks for the vehicle driver and occupants. In the event of a collision, a poorly repaired written-off vehicle is very likely to increase the chance and severity of a crash while also failing to provide the expected level of safety and protection to a vehicle's occupants.

Despite the current New South Wales vehicle inspection regime, some unscrupulous persons employ sophisticated techniques to conceal poor quality repairs which are often impossible to detect without more comprehensive or intrusive inspection techniques.

I have recently witnessed a graphic example of this risk to the safety of New South Wales motorists. On 18 May 2010, the Roads and Traffic Authority's Centre for Road Safety partnered with the New South Wales Motor Traders Association to assess the potential risks involved in driving poorly repaired write-offs. An Roads and Traffic Authority crash lab test was conducted under scientifically controlled settings on a 2004 model Toyota Corolla repairable write-off which had been poorly repaired following extensive structural damage.

I myself viewed the crash test footage and found the results to be extremely disturbing. I had hoped to show this footage today to demonstrate the tragic consequences of poorly repaired write-offs for members of the community. Unfortunately, I am unable to do so. I will therefore try to convey the graphic nature of the crash lab video in words.

As is too often the case with poorly repaired written off vehicles, this vehicle had faults with its seatbelts, airbags and other safety systems. The driver's airbag had been removed from the vehicle and simply replaced with a rolled-up rag. The airbag light was manipulated to flash on and off, giving the unsuspecting driver the impression that the vehicle's airbag and safety controls were functioning properly. Not only was the air bag missing, but the seatbelt pre-tensioners were never replaced either.

Travelling at a speed of only 56 kilometres per hour, the video shows the vehicle crashing head-on into a wall. As the seatbelts and airbag failed, the occupants were shown suffering catastrophic injuries that would have threatened their lives. In fact, when the results of the test were fully analysed, it was found that the driver of the repairable written-off vehicle had 42 times the risk of receiving critical head injuries over the driver of an identical standard Toyota Corolla. The passenger was 36 times more likely to suffer critical head injuries. The types of injuries identified in this class would include major skull fractures and irreversible brain damage. Such serious consequences for the community emphasise the urgent need for these reforms.

As well as the risks to the safety and indeed the lives of vehicle occupants from repairable write-offs, there is also a severe financial risk for vehicle owners. Victims of criminal rebirthing activities report an inability to recoup the money they have paid for a vehicle which is later identified as reborn. Costs include the purchase of another vehicle while the reborn vehicle is impounded for police investigations, while still being burdened with the debt of the reborn vehicle. Coupled with this is the great distress suffered by these vehicle owners throughout this process.

On a broader scale, stolen vehicle activity and rebirthing is a major problem across New South Wales and Australia. The National Motor Vehicle Theft Reduction Council estimates the cost of vehicle theft in Australia to be approximately \$1 billion, excluding the very large community costs associated with police investigations and prosecutions and the impact on the court system.

In New South Wales approximately 19,000 vehicles were stolen in 2008-09. Approximately 5,700 of these vehicles have not been recovered. The National Motor Vehicle Theft Reduction Council estimates that the total cost to the New South Wales community of these thefts is approximately \$270 million.

The changing trends in vehicle theft show the growth of the problem in rebirthing repairable written-off vehicles in recent years. The NSW Police Force advise that the number of unrecovered stolen vehicles is a key indicator of vehicle thefts for use in rebirthing activities. Analysis by the NSW Police Force has shown that the percentage of professional vehicle theft and rebirthing is increasing even though the overall vehicle theft rate is decreasing. Vehicle theft and rebirthing activity has increased as a percentage of the overall theft rate from 20 per cent in 2002 to approximately 30 per cent in 2008-09.

The NSW Police Force has concluded that this increase has been created by criminals constantly evolving their rebirthing techniques.

It is estimated that up to 6 in 10 repairable write-offs presented for re-registration in New South Wales pose serious questions about the origin of the parts used to repair them. This amounts to more than 12,000 suspect repairable write-offs in New South Wales per year.

I will quote from formal NSW Police Force advice to the Roads and Traffic Authority which states, "There is no doubt that the area that has been targeted by criminal groups is the written-off vehicle process and this is one area that can only be impacted upon by legislative and policy changes".

The National Motor Vehicle Theft Reduction Council conducted a national review of written-off vehicles during 2008 in response to the increase in rebirthing of repairable write-offs. The review concluded that banning the registration of repairable write-offs would provide the greatest national financial benefit. The review calculated that the annual financial benefit to vehicle owners and insurers nationally would be more than \$60 million. This is the highest benefit of all of the options that the council costed in its review.

I am advised that following opposition from the insurance industry, the National Motor Vehicle Theft Reduction Council unfortunately has not pursued or advocated the option of a complete ban which its own review found would provide the greatest national benefit.

Prior to its fundamental change of policy, the National Motor Vehicle Theft Reduction Council had also concluded that the rebirthing of repairable write-offs is a major vulnerability in the fight against vehicle theft.

LISTENING TO STAKEHOLDERS

In the development of this bill the Government has listened to the community and industry stakeholders.

A range of options to improve the management of written-off vehicles were detailed in the Roads and Traffic Authority Discussion Paper "Improving the Regulation of Written-off Vehicles in New South Wales", released by the former Minister for Roads for public comment in August 2009.

In total, 56 submissions were received from a diverse range of industry and regulatory stakeholders, including major insurers, auction houses, metal recyclers, motor vehicle dealers and repairers, the Motor Traders Association, the National Motor Vehicle Theft Reduction Council, the New South Wales Office of Fair Trading, the NSW Police Force, other Australian jurisdictions, and the general public. All submissions to the discussion paper were considered in detail.

Comments on the discussion paper indicated strong support for a complete ban on the re-registration of repairable write-offs.

In framing this bill, the Government has also been mindful of the issues raised by the Parliament when this issue was previously considered, and has also reviewed recommendations arising from the important work of the Staysafe committee.

HOW THE NEW LEGISLATION WILL WORK

The bill will:

- require all New South Wales registered vehicles assessed as a total loss under the new legislation to be classified as statutory write-offs;
- require all New South Wales registered vehicles that are written-off to be notified to the Written-off Vehicle Register in New South Wales;
- prohibit registration in New South Wales of a vehicle classified as a repairable write-off in any other Australian jurisdiction, unless that vehicle has been first registered in another jurisdiction;
- allow for operators of certain vehicles to make application for the repair of a statutory write-off subject to satisfying prescribed conditions. These classes of vehicles are:
 - enthusiast vehicles;
 - collectible vehicles;
 - vehicles of high personal or economic value; and
 - some hail-damaged vehicles
- require that a person who makes an assessment of a crash damaged vehicle is a competent person, takes into account the National Crash Damage Assessment Criteria, and uses either the manufacturers repair guidelines or acceptable industry standards to calculate repair costs; and
- require all notifiers to the Written-off Vehicle Register to attach warning labels to statutory written-off vehicles to warn prospective buyers that these vehicles cannot be registered and can be used only for spare parts.

The new legislation is also intended to ensure that all vehicles that should be written-off under the law are in fact written-off and ineligible for re-registration. Under the current legislation, insurers, and others who are required to notify vehicles to the Written-off Vehicle Register, have a degree of discretion regarding the vehicles they write-off.

The current legislation allows for a determination to be made that a vehicle will be written-off, without stipulating specific economic criteria for this determination. Under the new legislation, all vehicles assessed as an economic "total loss" must be written-off, and classified as statutory write-offs. A damaged vehicle is classified as a "total loss" when the cost of its repairs plus its value as a damaged vehicle are higher than its undamaged market value.

The new legislation will therefore prevent any unscrupulous attempts to reduce the number of vehicles that are written-off. The new legislation will require that all "total loss" vehicles are written-off and taken off the road.

A non-regulatory enhancement of consumer protection has already been developed by the RTA through its online Vehicle History Check service. This service provides purchasers of New South Wales registered second-hand vehicles with comprehensive vehicle information, including written-off and stolen vehicle information.

While this service allows consumers to check the status and history of currently registered New South Wales vehicles and has been welcomed by consumers and industry, such a service cannot prevent ongoing or future vehicle theft and rebirthing activities—or "dodgy" repairs to damaged vehicles.

The bill is predicated on the public policy objective that a crash damaged vehicle should be assessed and repaired, if eligible, to a standard and not a price. In this regard, the bill gives effect to the policy intent of the New South Wales parliamentary Staysafe committee report entitled "Repairing to a price, Not a standard", Report No. 9/53 of December 2005.

The bill introduces an additional measure of consumer protection by requiring that a competent person be used to assess crash damaged vehicles. This approach has been taken due to the absence of a formalised accreditation scheme or endorsed national competency standards for vehicle damage assessors.

The training and qualifications required for a person to be defined as a competent person will be determined in consultation with the New South Wales Office of Fair Trading and industry.

The provision requiring the use of a competent person will take effect six months after the legislation commences to allow sufficient time for any additional training to be conducted, so that assessors can meet the required standards without disruption to industry or to the livelihood of assessors.

This bill provides that a crash damaged vehicle must be assessed against a standard. The standard is that the cost of repairs must be determined based on recognised industry repair methods and not price alone. The bill further provides that any vehicle eligible and capable of being repaired must be repaired to that same standard. Accordingly, the bill provides that consumer protection, through the application of industry recognised repair standards, is centre stage at the front end of the process, when the vehicle is assessed, and the back end, when the vehicle is repaired.

Vehicles recorded on the Written-off Vehicle Register as repairable write-offs before the reforms commence as law will be eligible to be re-registered, providing registration requirements are met and they are presented for registration within two years. The reforms will not be applied retrospectively to vehicles that have been repaired and re-registered previously.

SCOPE OF THE BILL

The legislation will cover all light vehicles including trailers, caravans and motorcycles.

The regulation of written-off heavy vehicles will be addressed by the proposed National Heavy Vehicle Regulator in due course.

PROVISION FOR EXEMPTIONS FROM THE BAN

I wish to make some comment on the flexibility provided in the bill to address special circumstances.

The bill provides a number of important, though low volume exemptions from the ban to allow the re-registration of specified repairable write-offs. Vehicles retained by the same operator and which are aged six years or older with a market value of more than \$50,000, or vehicles less than six years of age with a value of more than \$100,000 will be considered for exemption as these are likely to be rarer vehicles and very difficult to rebirth via the theft of an identical vehicle or parts.

Enthusiasts' vehicles, classic collectors' vehicles and specified personally imported vehicles which may or may not have a high market value will also be considered for exemption on similar grounds of being extremely difficult to rebirth via the theft of an identical vehicle or parts.

Vehicles which have a demonstrated high personal or sentimental value to the owner—for example, the vehicle may have been a gift, or may have been in the family for many years—will also be considered for exemption on a case-by-case basis.

Exemptions will also be considered for write-offs following hail damage if the vehicle is retained by the same operator and if the vehicle does not fail the National Crash Damage Assessment Criteria.

Prior to an exemption being considered, the damage assessment of the vehicle must be conducted by a competent person using the crash damage criteria and manufacturers' repair guidelines or accepted industry standards. This framework is used by the insurer, or any other required notifier to the Written-off Vehicles Register, to declare whether or not the vehicle is able to be safely repaired. No exemption application from the vehicle owner will be considered if the vehicle fails the National Crash Damage Assessment Criteria.

CONCLUSION

New South Wales is taking a national lead with this initiative, as it has done in the past. New South Wales initiated the Written-off Vehicle Register in 1996. The register was used as the model for all other States and Territories to adopt, and is now a nationally integrated system for recording and tracking written-off vehicles.

By prohibiting the re-registration of repairable written-off vehicles, this bill will protect consumers, result in safer vehicles, remove the risk of poorly repaired "death-traps" returning to New South Wales roads, and reduce the cost to the community of vehicle theft, vehicle rebirthing and organised crime.

I commend the bill to the House.

The Hon. TREVOR KHAN [6.14 p.m.]: The objects of the Road Transport (Vehicle Registration) Amendment (Written-off Vehicles) Bill 2010 are as follows: first, to provide for the keeping of a register of written-off vehicles and the collection of information concerning written-off vehicles; secondly, to prevent the registration of a vehicle having the same vehicle identifier as a written-off vehicle unless the Roads and Traffic Authority has issued an authorisation to repair the vehicle, and a licensed motor vehicle repairer has assessed the vehicle as meeting certain repair standards and issued a certificate of compliance in relation to the vehicle; thirdly, to prevent the registration of a vehicle that has the same vehicle identifier as certain written-off vehicles recorded on a register of written-off vehicles in another jurisdiction; and, fourthly, to enable the body maintaining the national database of written-off vehicles, to which all Australian driver licensing and vehicle registration authorities transmit information from their local registers and from which they obtain information, to have access to the details on the register of written-off vehicles.

The bill will prohibit the re-registration of all repairable written-off vehicles, with some exceptions, in an attempt to clamp down on vehicle rebirthing. As car rebirthing has been known to have links to car theft and organised crime syndicates, the bill has the potential to put a significant dent in these illegal operations. In addition, it will make New South Wales roads safer by removing poorly repaired, unsafe and older model vehicles from our roads. Nobody wants to see an increase in unsafe cars on our roads or a situation where a criminal ring is allowed to continue. However, the fear is that the bill is an over-reaction and a heavy-handed way of addressing the issue of vehicle rebirthing. One must be concerned about the last-minute amendment foreshadowed by the Parliamentary Secretary, which reveals the Government's failure to properly consult with industry stakeholders at the time the legislation was being put together.

There must be concern about cost increases that will be borne by everyone through increased insurance premiums across the State, and about the health of legitimate businesses that could be adversely impacted by insurance premium increases. It is sensible to examine the current situation in New South Wales. According to the Roads and Traffic Authority, approximately 35,900 vehicles are written off annually. The vast majority of them are repairable write-offs, that is, a vehicle that can be re-registered after it has been repaired in accordance with the manufacturer's standards and after its identity has been verified. Repairable write-offs currently number about 30,300. Roughly half these vehicles, 13,600, are then presented for re-registration in New South Wales. It should be noted that in 2008-09 some 5,700 stolen vehicles were never recovered. The New South Wales Police Force says that this figure is a key indicator of rebirthing activity.

Based on these figures, it is arguable that legislation should be introduced to ban all repairable write-offs. Under this legislation, a vehicle will be unable to be registered anywhere in Australia once it has been registered in the Written-Off Vehicle Register, which is the national database that assists in preventing illegal rebirthing. Exemptions will only be considered by the Roads and Traffic Authority on a case-by-case basis, and cover only rare enthusiasts' vehicles, high-value vehicles, hail-damaged vehicles, collectors' vehicles, designated motor sport vehicles and those with sentimental value. Whilst there appears to be only a few categories laid down, it is predicted that few vehicles will actually fall into these exempted categories.

After reviewing the situation here in New South Wales and looking at the bill, I believe that a number of issues and concerns can appropriately be raised. The first concern relates to the expected increases in insurance premiums for New South Wales residents. As has been the practice for many years, insurance companies rely on selling damaged vehicles at auction to mitigate the financial impact of insurance claims. It has been estimated that the proposed ban on the re-registration of all repairable write-offs could cost the insurance industry \$20 million. Many on the other side of the House would not be worried about this, thinking the insurance industry will just absorb the cost. What they fail to realise is that this money will have to be made up somewhere and that it will be made up from increased premiums for everyone in New South Wales.

Member's attention should be drawn to a *Daily Telegraph* article on 20 October 2010 in which the New South Wales Minister for Roads, David Borger, admitted that premiums would rise in the order of 3 per cent because of this legislation. That may not sound like a lot, but it means an increase of between \$50 and \$100 for an average vehicle being borne by the people of New South Wales who own a motor vehicle. For those who are struggling to get by with higher electricity and grocery prices it is not easy to come by the extra money that this

bill will force them to find. Further, the bill requires that repairs that are undertaken in the exempted categories must be certified by a licensed vehicle repairer. The vehicle must also pass certain inspections. Additional costs will have to be borne by consumers, with the cost of inspections being determined by market forces.

While this measure is designed to reduce car rebirthing, it is important to ensure that the cost of doing so is minimised. The New South Wales Liberals and The Nationals supported another piece of road-related legislation concerning written-off vehicles, that is, the Road Transport (General) Amendment (Written-off Vehicles) Bill 2007, because it went some way towards achieving national consistency in the notification, registering and management of written-off vehicles. However, it is important to note that this bill is different in that it does not take a national approach. The Minister specifically said in his agreement in principle speech in the other place that "New South Wales is taking a national lead with this initiative." Why is New South Wales out in front on this issue when this problem has been demonstrated to be a national problem? The stealing of cars and the rebirthing process does not stop at State borders. It is a national issue and it should have a coordinated national response.

The Government should delay this legislation in order to review the outcomes of discussions being held nationally through the National Motor Vehicle Theft Reduction Council, which is working on a national reform agenda in this area. Some industry stakeholders suggest that changes to individual State laws could simply drive criminal activity from New South Wales to other States. Whilst this bill could push criminals to other States, it seems that, like with so many other bills and actions undertaken by this Government, jobs could also be pushed to other States too. It should be noted that many businesses, such as auction houses, motor traders and some repairers, could be greatly hurt by this bill. Businesses such as Pickles Auctions could be devastated. Pickles Auctions employs 540 people and is Australia's largest auction group, selling more than 200,000 units, a large proportion being cars that would under this bill not be allowed to be re-registered. This sledgehammer approach could needlessly hurt jobs and businesses in New South Wales with a legislative regime that businesses in other States do not have to follow.

One final issue is that of definitions. Suncorp, a large insurer, has stated that it would prefer the term "salvage" to be removed from the bill until such time as the current negotiations with the Roads and Traffic Authority are concluded. That approach seems sensible. Essentially insurers, and industry more broadly, have been unable to reach agreement with the Roads and Traffic Authority in relation to an appropriate definition and operating practice around the issue of a "salvage" value. Suncorp has said that it would prefer that the word "salvage" be removed from the definition at this stage to ensure clarity and certainty, especially considering the short lead time for implementation of this new legislative regime. It should be noted that once the issue surrounding the term "salvage" is resolved it is possible that it could be included by way of regulation.

I will now address the foreshadowed amendment to the bill. The fact that members are seeing an amendment at this late stage shows that the Government has not consulted business—that is nothing new, I guess—and that a major reworking was needed. The amendment centres around the definition of "total loss"—one would have thought a concept fairly fundamental to the bill. The definition in the original bill stated that a vehicle is a total loss when the cost of repairs to the vehicle, plus its salvage value, is higher than the market value of the vehicle before it was damaged. The insurance industry said that many of its policies are not policies based on "market value" but may be for the "sum insured" or agreed value of the vehicle, and asked the Government for the definition to be amended. One would have to say that that is hardly a surprising concept; one only has to watch television, or in fact buy an insurance policy, to know that many are sum-insured policies. One would have to wonder why that concept was not picked up in the early stages of the drafting of this legislation.

The amendment was necessary in order to clarify what is a "total loss" to allow some flexibility to accommodate different types of insurance policies. This will enable insurers to use a specified value—that is, sum-insured value—when determining whether the vehicle is a total loss. As such, a damaged vehicle would be a total loss when the cost of repairs plus its value as a damaged vehicle is greater than the sum insured. If this Government was working with business instead of ignoring it with its usual level of arrogance, the deficiency in the original bill would have been corrected long before the bill came to Parliament. While the New South Wales Liberal Party and The Nationals support a tightening of written-off legislation to protect consumers, reduce crime and make our roads safer, this bill will have a significant and perhaps unnecessary impact on the cost of car insurance premiums. It may be acknowledged that car rebirthing is a national problem. However, to combat it, a coordinated approach must be developed in conjunction with other jurisdictions, not the approach that we see in this bill, which is imperfect and has many flaws. However, the intention of the bill has some merit, and the New South Wales Liberal Party and The Nationals will not oppose it.

[The Acting-President (The Hon. Christine Robertson) left the chair at 6.30 p.m. The House resumed at 8.00 p.m.]

The Hon. PENNY SHARPE (Parliamentary Secretary) [8.00 p.m.], in reply: I thank all members for their contributions to this debate. Once again I emphasise in the strongest possible terms that these reforms are intended to protect consumers in New South Wales, improve the safety of our vehicles and our roads, and combat vehicle theft, vehicle rebirthing and related criminal activity, which is costing the New South Wales community around \$270 million per year.

Stolen vehicle activity and vehicle rebirthing are major problems in New South Wales and across Australia. According to the National Motor Vehicle Theft Reduction Council, around half of Australia's profit-motivated vehicle theft takes place in New South Wales so it is clear why New South Wales needs to take an important step to try to stamp it out. The New South Wales Police Force advises that vehicle theft and rebirthing is also linked to large-scale organised crime, including drug trafficking. The bill addresses the critical problem of rebirthing repairable written-off vehicles by denying re-registration of the high-risk and suspect vehicles which supply the criminal rebirthing market. Vehicle rebirthing and theft deeply distresses affected consumers, including families who may unknowingly purchase a vehicle that had previously been written-off and may have been poorly repaired.

Following consultation on the bill with stakeholders, including the insurance industry, I have indicated that the Government will move an amendment in Committee. For the Opposition to suggest that there has been lack of consultation on the bill is simply untrue. Many insurance policies allow the policyholder to agree to a specified amount for their vehicle, commonly known as the sum insured. The sum insured may be greater than the market value. The Government agrees that insurers should be able to use this specified value—the sum insured—when determining if the vehicle is a total loss and therefore a written-off vehicle.

This amendment provides for greater clarity in the treatment of written-off vehicles in New South Wales and is supported by key industry stakeholders. The bill is a result of extensive consultation with all key stakeholder groups, the New South Wales community and other States and Territories. The New South Wales Government is committed to further improving consumer protection and road safety by removing from our roads shoddily repaired written-off vehicles and by shutting down the criminal activities of vehicle thieves and rebirthers. It is somewhat unfortunate that the Opposition has chosen to make allegations about consultation on the bill that are untrue when in 2007 the Opposition suggested that the bill then before the House had not gone far enough. We introduced this bill, which the Opposition grudgingly supports, but makes a number of gratuitous and untrue remarks along the way. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 3 agreed to.

The Hon. PENNY SHARPE (Parliamentary Secretary) [8.05 p.m.]: I move:

No. 1 Page 8, schedule 1 [2], proposed section 16H (1), lines 2–6. Omit all words on those lines. Insert instead:

- (1) For the purposes of this Part, a vehicle is a **total loss** if it has been damaged, dismantled or demolished to the extent that its salvage value as a written off vehicle plus the cost of repairing the vehicle for use on a road would be more than:
 - (a) the market value of the vehicle immediately before the damage, dismantling or demolition, or
 - (b) if the vehicle is insured for a specified amount (known as the sum insured), that specified amount.
- (2) The regulations may:
 - (a) prescribe other cases as cases in which a vehicle is a total loss for the purposes of this Part, and
 - (b) prescribe exceptions to this section.

As indicated in my second reading speech, in the course of discussions with key industry stakeholders it was proposed, in the interest of clarity, to amend the definition of what constitutes a total loss when undertaking an assessment of a damaged vehicle. The current definition provides that a vehicle is a total loss when the cost of repairs to the vehicle plus its salvage value is higher than the market value of the vehicle before it was damaged. However, the insurance industry has highlighted that many of their policies are not policies based on market value but may be for the sum insured or agreed value of the vehicle. The sum insured may be greater than the market value of a vehicle.

The amendment will provide for greater clarity of what is a total loss to allow some flexibility to accommodate different types of insurance policies. The amendment will enable insurers to use a specified sum-insured value when determining whether the vehicle is a total loss. As such, a damaged vehicle would be a total loss when the cost of the repairs plus its value as a damaged vehicle is greater than the sum insured. This amendment is supported by key industry stakeholders. Notwithstanding this, industry has recently raised some suggestions in relation to the definition of a total loss, which may further improve the workings of the legislation. The proposed new wording in new section 16 (H) (2) provides flexibility for the regulations to address and refine the definition of a total loss, and through the regulations to accommodate, if appropriate, any further refinements proposed by stakeholders and agreed by the Government.

The Hon. TREVOR KHAN [8.06 p.m.]: Unlike the Hon. Penny Sharpe, I will not repeat all that I said earlier, except to again note that the fact the amendment is necessary reflects the Government's failure to enter into timely discussions with interested stakeholders. This bill has been through the lower House and it is only when it gets to the upper House that a blindingly obvious defect in the bill is now being corrected.

Reverend the Hon. FRED NILE [8.07 p.m.]: The Christian Democratic Party supports the amendment. It helps to clarify the intention of the legislation. I have a letter from the Motor Traders Association, which states that this legislation is overwhelmingly supported by the motor industry of New South Wales. The industry employs more than 80,000 people and it is totally supportive of the proposed ban on repairable write-offs. I support the amendment.

The Hon. PENNY SHARPE (Parliamentary Secretary) [8.08 p.m.]: I will not allow the comments of the Hon. Trevor Khan to stand. The New South Wales Government has consulted extensively with the insurance industry for more than a year on these reforms. The Government has made several requests to insurers seeking clarification regarding their claims that these reforms will lead to increased insurance premiums for consumers. The insurance industry has not provided the detail requested. Instead, some insurers have publicly threatened to drastically increase insurance premiums in response to the reforms.

The Roads and Traffic Authority has been working closely with the Insurance Council of Australia and its members to ensure the smooth introduction of these reforms. The Insurance Council has advised that it believes the discussions are very constructive. In addition, NRMA Insurance has advised the Roads and Traffic Authority that the statements attributed to it in the press did not reflect its position. Currently insurers will often pay twice for vehicles involved in illegal rebirthing activity—first, for the written-off vehicle; and, secondly, for the stolen vehicle that is used to rebirth the repairable written-off vehicle. These reforms are supported by the insurance industry, as is this amendment. I urge the Committee to support the amendment.

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

Government amendment No. 1 agreed to.

Schedule 1 as amended agreed to.

Schedules 2 and 3 agreed to.

Title agreed to.

Bill reported from Committee with amendment.

Adoption of Report

Motion by the Hon. Penny Sharpe agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [8.10 p.m.]: I move:

That this bill be now read a third time.

Ms CATE FAEHRMANN [8.11 p.m.]: As I was not present for the second reading debate I am grateful for this opportunity to speak on behalf of the Greens to the Road Transport (Vehicle Registration) Amendment (Written-Off Vehicles) Bill 2010. I note that, despite the Opposition's criticisms of the bill in the lower House, the Opposition does not oppose the bill. The issue of rebirthing of vehicles is clearly one that should be considered by this Parliament. The facts quoted by the Government and the Opposition in relation to road accidents, vehicle thefts and organised rebirthing operations make it clear that the current system requires modification. Lack of investment by successive governments in accessible and affordable public transport has led to many within the community being heavily reliant on private vehicles to go about their daily lives. Consumers should be able to trust that the laws governing the motor vehicle industry ensure that only safe vehicles can be registered and put up for sale.

In discussions with the Government on this bill my office has been told that rebirthers have been substantially pushing up the price of written-off repairable vehicles at auctions. Rebirthers are bidding up the price of vehicles knowing that with stolen parts they can turn the vehicle around cheaply for resale. The insurance industry will have factored in this high sale price for written-off repairable vehicles sold through auctions in determining at what point during an assessment a damaged vehicle becomes a write-off. This new law will undoubtedly depress the price that insurers will get at auction for written-off vehicles. The impact of this will be that legitimate repairers will be able to afford to purchase these vehicles for parts. It will also change the calculations of the insurance companies as to what is economical to repair. If they are going to get \$2,000 less for a repairable write-off at auction, they will need to take that into account when deciding that a vehicle should be a write-off. I suspect that insurance companies will deem many more vehicles to be repairable at the point of assessment. This will further support legitimate repairers.

The potential for this bill to result in more vehicles being legitimately repaired, along with a reduction in stolen vehicles, has an important environmental consequence that the Greens support. The embodied energy in the vehicles we use is substantial. The emissions from manufacturing parts and repairing a vehicle are significantly less than from manufacturing a new vehicle. Over the past 12 months there has been a growth in new car sales in every State of Australia, with a national average growth of almost 7.5 per cent. This bill will likely result in more vehicles being repaired rather than written off, which is a good outcome for the environment. It supports the repair, reuse and recycle philosophy that seems to have been lost in recent times. Supporting a vibrant vehicle repair, used parts and second-hand vehicle industry is a positive result from this bill and is supported by the Greens.

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

Motion agreed to.

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

NATURE CONSERVATION TRUST AMENDMENT BILL 2010**MOTOR ACCIDENTS COMPENSATION AMENDMENT BILL 2010**

Bills received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Michael Veitch.

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. Michael Veitch agreed to:

That the bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second readings of the bills be set down as orders of the day for a later hour of the sitting.

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

PARLIAMENTARY BUDGET OFFICER BILL 2010**Third Reading**

Motion by the Hon. Michael Veitch, on behalf of the Hon. Eric Roozendaal, agreed to:

That this bill be now read a third time.

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

VETERINARY PRACTICE AMENDMENT BILL 2010**Second Reading**

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [8.15 p.m.], on behalf of the Hon. Tony Kelly: I move:

That this bill be now read a second time.

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

Leave granted.

The Veterinary Practice Amendment Bill 2010 makes changes to the Veterinary Practice Act 2003 in three important areas.

The bill will:

- strengthen the complaint provisions in the Act; and
- give the Veterinary Practice Board a greater range of powers to deal with veterinarians who are not meeting, or who are unable to meet, their professional obligations.

The majority of these amendments arose out of a statutory review of the Veterinary Practice Act 2003 conducted in 2009.

The Veterinary Practice Act 2003 regulates the provision of veterinary services in New South Wales. The Act establishes the Veterinary Practitioners Board, which is responsible for ensuring veterinarians provide a high standard of care to the animals they treat. Specifically, the board is responsible for licensing veterinarians and veterinary hospitals. It also administers the professional standards and disciplinary regimes which apply to veterinarians.

New South Wales has the highest number of veterinary businesses in Australia, accounting for around 30 per cent, followed closely by Victoria (24 per cent) and Queensland (22 per cent). Fifty per cent of all veterinary practices are located in capital cities.

This is a useful bill when you consider that Australia has one of the highest rates of pet ownership in the world. Throughout Australia there are over 33 million pets of various species; this includes dogs, cats, birds, fish, horses, rabbits, guinea pigs and other small mammals. At some stage these animals and their owners will require the services of a veterinarian.

Add to this the numbers of stock animals such as sheep and cattle which also require veterinarian services and it will be of no surprise when I tell you that this year the veterinary services industry employs over 20,000 people and is expected to generate revenue of just over \$2 billion into the Australian economy.

I turn now to the amendments in the bill.

The bill makes important amendments to the complaints and disciplinary provisions in the Act.

Veterinarians, like the rest of society and other working professionals, are not immune from alcohol and drug misuse and medical conditions such as depression. The Doctors Health Advisory Service is a telephone helpline providing confidential advice to doctors, dentists and veterinarians facing stress and mental illness, drug and alcohol problems, or personal and financial difficulties. Last financial year, 21 veterinarians called this helpline, with 11 of these calls relating to drug use and depression.

Over the past four years, the Veterinary Practice Board has received a number of complaints alleging that the performance of a veterinarian was affected by drug or alcohol misuse or other medical conditions. Currently, the board is unable to take specific action in relation to these kinds of complaints. This potentially compromises a veterinarian's ability to effectively exercise his or her professional responsibilities.

The amendments will give the board the power to direct a veterinarian, who is the subject of a complaint, to have a medical examination. If a veterinarian refuses to have a medical examination without reasonable cause, they will be considered unfit to practise.

Currently there is no time limit in the Act for making a complaint about a veterinarian. It is difficult for the board to investigate incidents more than three years after they occur because records of consultations, procedures and treatment only have to be retained for three years.

To ensure that records will be available to the board and all parties during the investigation of a complaint, the bill introduces a three-year time limit for making a complaint. This will result in a fairer outcome for all parties involved in the complaints process.

Importantly, the board will retain a discretion to accept complaints outside this time period if it considers it just and fair, in the circumstances, to investigate the complaint.

The bill also introduces a protection for any person who makes a complaint to the board, in good faith, against a veterinarian. This provision is designed to encourage members of the public, other veterinarians and staff who work with veterinarians to report legitimate concerns they have about the conduct of a veterinarian.

During the investigation of a complaint, the board may ask a person to answer questions or produce documents. A person can currently refuse to cooperate with the board on the basis that it might expose them to a civil penalty or criminal proceedings. This would obviously impede an investigation.

The bill will make it mandatory for a person who is being questioned or is required to produce documents to answer the questions or produce the documents. To compensate for this, the Act will be amended to provide a protection against self-incrimination in these circumstances.

This will encourage an honest, open and frank complaints investigation process. In addition, this amendment will bring the Veterinary Practice Act into line with the Health Care Complaints Act 1993 and the Health Practitioner Regulation National Law (New South Wales), which commenced on 1 July 2010 and regulates 10 health professions.

If the Veterinary Practitioners Board is satisfied that a veterinarian is guilty of professional misconduct it must currently apply to the Administrative Decisions Tribunal for a disciplinary finding. The tribunal will then consider the matter and take appropriate action against the veterinarian.

There are, however, cases where the level of professional misconduct is of a less serious nature and will not result in the suspension or cancellation of the veterinarian's registration, for example, in the case of inadequate record keeping or failure to provide an estimate of treatment costs. In these circumstances the board should be able to deal directly with the matter.

The bill provides the board with the power to deal directly with these less serious types of professional misconduct. This will make the process cheaper and more efficient.

The bill will also allow the board to suspend a veterinarian's registration immediately in certain limited circumstances, for example, if the board is satisfied that such action is necessary to protect the health and safety of a person or animal or to protect Australia's international reputation in relation to animal exports.

The bill introduces a new test for determining whether a veterinarian is fit to practise or not.

The concept of a veterinarian who is not fit to practise because of infirmity, injury or illness will be replaced by the broader concept of suffering from an impairment.

The bill provides that a person suffers from an impairment if he or she has a physical or mental impairment, a disability, condition or disorder which detrimentally affects their fitness to practise veterinary science.

Any conduct by a veterinarian demonstrating that he or she is not fit to practise because of an impairment will constitute unsatisfactory professional conduct. As an additional measure, the bill will allow the board to refuse the registration of a veterinarian or impose conditions on registration if the board considers the veterinarian is not fit to practise because the veterinarian suffers from an impairment.

The bill also makes changes in relation to continuing professional development.

Maintenance and enhancement of professional skills and knowledge by veterinarians is important for ensuring the health and welfare of animals.

Continuing professional development is expected of all registered veterinarians throughout Australia. All jurisdictions have agreed, through the Australasian Veterinary Boards Council and the Australian Veterinary Association, that veterinarians must complete a minimum number of hours of professional education over a consecutive three-year period.

To ensure that veterinarians comply with this expectation, the bill makes it mandatory for veterinarians to undertake continuing professional development as determined by the board.

Failure to comply with the board's requirements, without a reasonable excuse, will constitute unsatisfactory professional conduct. In these circumstances the board can impose a fine and/or conditions on a veterinarian's registration.

To ensure that veterinarians are not adversely affected by the business decisions of their employers, the bill extends the prohibition against an employer directing a veterinarian to engage in unethical or unprofessional conduct to all employers of veterinarians. The prohibition currently only applies to employers whose principal business is the supply of goods or materials used in connection with agriculture.

I move now to the issue of incorporated veterinary practices. The Act currently only allows a corporation to carry on the business of a veterinary practice if the controlling interest is held by one or more registered veterinarians.

The bill that was introduced into the Legislative Assembly proposed to amend the definition of "controlling interest" to accommodate a more flexible approach to corporate ownership.

The Australian Veterinary Association subsequently raised concerns about the changes to the corporate ownership provisions contained in the bill. In view of this objection, it was not considered appropriate to proceed with the proposed amendments without further consultation.

Therefore, a Government amendment was passed in the Legislative Assembly to remove item [2] from the bill.

As I have already said, most of the amendments in this bill arose out of a statutory review in 2009. The review highlighted a number of issues with the operation of the Act.

The Department of Industry and Investment NSW worked closely with the Veterinary Practitioners Board during the statutory review process.

In addition, the recommendations in the review report were subject to consultation with registered veterinarians and a number of stakeholder organisations including the Animal Welfare League of New South Wales, the New South Wales RSPCA, the Australian Veterinary Association, and the NSW Farmers' Association. In addition, the veterinary science faculties at Charles Sturt and Sydney Universities were also consulted.

Given the board has significant responsibilities in relation to the administration of the Act, it was closely involved in the drafting of the bill.

This bill proposes amendments to the Veterinary Practice Act which are aimed at ensuring veterinarians maintain high standards of care and service. They are sensible amendments which will deliver benefits to veterinarians, the animals they care for and their owners.

I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [8.16 p.m.]: I support the Veterinary Practice Amendment Bill 2010. The bill has had an interesting genesis. The objects of the bill are to amend the Veterinary Practice Act 2003 to give effect to recommendations arising from a statutory review of the principal Act. The Veterinary Practice Act 2003 regulates the provision of veterinary services in New South Wales. Under the Act, the Veterinary Practitioners Board is responsible for registering veterinary practitioners and veterinary specialists, the licensing of veterinary hospitals and investigating complaints about the practice of veterinary science in the State.

The major proposed amendments are to enable the Veterinary Practitioners Board to require a veterinary practitioner to undergo an examination by a health practitioner for the purposes of investigating a complaint against the practitioner, to protect persons who make complaints against veterinary practitioners from certain kinds of liability, and to authorise the board to suspend the registration of a practitioner with immediate effect in certain circumstances. The key amendment aims to encourage corporate investment in veterinary practices by allowing for different corporate ownership models, provide protection for veterinary practitioners against employers who direct or incite unethical or unprofessional conduct, and to improve the process for making and investigating complaints against veterinarians.

The first thing the Opposition does when it receives a Government bill, as I am sure do crossbench and other members, is consult with stakeholders and in recent times it has not been unusual for them to tell us that this is the first they have been aware of it. The New South Wales Veterinary Association was one of the groups that said it had not been consulted about this bill. The Motor Accidents Compensation Amendment Bill 2010, which was debated earlier today, dealt with concerns from the insurance industry, which said it had not been consulted. At the time Parliamentary Secretary the Hon. Mick Veitch said the insurance industry had been consulted, and that is the assurance that the Government gave us in relation to this legislation. The Minister in the other place said there had been widespread consultation in relation to this bill and that thousands of people were consulted. If that is the case, why are veterinary practitioners so upset about it?

Veterinary practitioners approached the Government, negotiated amendments to this legislation, and as soon as those amendments were drafted they were happy. Those amendments were moved in the lower House so we do not have to go through that ritual. Despite assertions from members in the other place that there was no consultation, Opposition members and others consulted with stakeholders in relation to this legislation. As a result, veterinary practitioners and Opposition members are happy to support this bill. Veterinarians perform a vital role in our communities by looking after our livestock and our pets. Veterinarians, who are opinion makers in our communities, do much more than that which is required of them professionally. I was disappointed that they felt they had been excluded. The Government has consulted with them and, as such, they and Opposition members are supportive of the bill.

The Hon. TONY CATANZARITI [8.21 p.m.]: I support the Veterinary Practice Amendment Bill 2010 which will contribute to maintaining the high regard that New South Wales communities have for veterinarians and the work that they do. Veterinarians play a valuable role in society, which is especially the case in regional and rural areas. In these areas veterinarians, along with local doctors, lawyers, teachers, pharmacists and newsagents, play a prominent role in their communities. A local veterinarian in a place such as Blayney, Yass or Mudgee probably is an active supporter of the local school or schools and might talk regularly to children about important issues, such as how to care for their pets or avoiding dog bites—issues that I am sure all members would agree are important. A local veterinarian in one of these towns might also support the local agricultural show, either by providing services or donating prizes.

On a daily basis many veterinarians provide a range of services free or at cost. They work regularly with organisations such as the RSPCA to de-sex animals or to provide care and treatment in animal welfare cases. Veterinarians regularly provide their services to Guide Dogs NSW and to the New South Wales Wildlife Information Rescue and Education Service Inc. [WIRES] at cost or free of charge. They provide care also for stray animals. A few examples of regional and rural practices illustrate the level of veterinary care that is available in this State. The Yass Veterinary Hospital in southern New South Wales provides a range of services to a community of over 6,000 people. The practice is well known in the community and was one of the winners of the 2010 Australian Veterinary Association and Pfizer Practices of Excellence in Customer Service Awards. It is a typical mixed rural practice, with the bulk of work dedicated to companion animals and a smaller percentage to larger animals.

Another example is the Blayney Veterinary Hospital—an accredited University of Sydney Veterinary Faculty Rural Training Hospital that won the award for top teaching hospital in 2008. This mixed practice treats mainly dogs, cattle, sheep and cats. It treats also a significant number of pocket pets such as ferrets, rabbits, guinea pigs, rats and mice, native animals and birds. Typical of rural and regional veterinary hospitals, care is available 24 hours a day. Services include microchipping, behavioural advice and training, and general care for companion animals and production animals in the district. Dr Ruth Thompson is President of the Veterinary Practitioners Board and owner of the Blayney Veterinary Hospital. Her typical workday might include treating a pet pony with a nail in its hoof, assisting a ewe to deliver a lamb, castrating a white mouse, and removing breast cancers from a rat.

Veterinarians play a vital role in the diagnosis, detection, prevention and cure of diseases in animals, which requires a comprehensive knowledge and understanding, and which takes many years of dedicated study to achieve. From the moment that a veterinarian takes his or her practice oath, it is clear that he or she is required to meet and maintain high standards of practice. That oath reads as follows:

I solemnly swear to practise veterinary science ethically and conscientiously for the benefit of animal welfare, animal and human health, users of veterinary services and the community. I will endeavour to maintain my practice of veterinary science to current professional standards and will strive to improve my skills and knowledge through continuing professional development. I acknowledge that along with the privilege of acceptance into the veterinary profession comes community and professional responsibility. I will maintain these principles throughout my professional life.

The bill will make continuing professional development a mandatory requirement for veterinarians. This will ensure that veterinarians maintain their professional skills and are kept up to date with current best practice and new developments. In addition to working in private practice, veterinarians play a number of other roles. For example, they are involved in teaching at TAFE and teaching and research at the University of Sydney and Charles Sturt University, both of which have world-class veterinary science faculties. Veterinarians play a vital role in the public animal health system, which includes veterinarians in Industry and Investment NSW and in the NSW Livestock Health and Pest Authority system, as well as in the media. Who needs reminding about *Bondi Vet*?

Veterinarians are concerned also about international issues. For instance, on World Rabies Day—28 September 2010—veterinarians raised awareness of rabies in their local communities. While some veterinarians raise money at home others volunteer their time overseas in de-sexing and vaccinating animals such as dogs that carry and spread the disease. This contribution is of particular importance when we consider the impact of rabies. In early September the media reported that over 70 people in Bali had died from rabies in the past two years after being bitten by dogs. This is an issue also for Australia when we consider the large numbers of Australians who holiday to countries such as Bali and India where rabies is prevalent.

The Australian Department of Health and Ageing reports that this year about 30 Australians a month are seeking post-exposure rabies treatment in Australia after being bitten or scratched overseas. Nearly one-third

of those treated were bitten while in Bali. We should be proud of our veterinarians and the great work that they do. These proposed amendments will help to ensure that the veterinary industry continues to be held in high regard by animal owners and the broader community. The bill will strengthen the complaint provisions in the Act and give the Veterinary Practitioners Board a greater range of powers to ensure that veterinarians meet their professional obligations. The bill includes sensible amendments that will help to maintain the high standard of our veterinary industry in New South Wales. This will ensure that vets continue to deliver a range of services to the community. I commend the bill to the House.

The Hon. IAN COHEN [8.29 p.m.]: On behalf of the Greens I contribute to debate on the Veterinary Practice Amendment Bill 2010. The Greens support occupational-based schemes that drive greater professionalism and accreditation of important service providers. Members may note that I have a private member's bill on the *Notice Paper* that seeks to establish an accreditation scheme for ecological consultants. The Veterinary Practice Amendment Bill 2010 makes necessary changes to the current Veterinary Practice Act to improve disciplinary powers, complaints processes, fitness to practice provisions and continuing professional development. The bill was amended in the lower House to remove the provisions relating to controlling interest and veterinary ownership. I congratulate and support the Minister on taking this course of action as many feared the provision would open the industry to a type of corporatisation by large agribusiness that certainly would erode quality in veterinary services.

Referring to the substantive provisions of the bill, item [18] of schedule 1 refines the disciplinary powers of the Veterinary Practitioners Board. Currently, all instances of professional misconduct must be referred to the Administrative Decisions Tribunal under section 47 of the Act. The bill alters the current process by opening up less serious forms of professional misconduct—as opposed to unsatisfactory conduct—to the same penalty actions. This means for disciplinary offences that do not involve suspension or deregistration, the board will have the power to issue fines and cautions directly, and to impose conditions on a practitioner's registration without an application to the Administrative Decisions Tribunal.

It would be helpful for the board, with the department, to issue some guidelines on what constitutes unsatisfactory conduct and professional misconduct, and particularly the circumstances in which the board will apply actions under new section 47 (2) (b) in cases of professional conduct. New section 45A will give the board powers to request veterinary practitioners to undergo a medical examination for the purpose of investigating any complaint. This will give the Veterinary Practitioners Board the same powers as almost all other medical boards in Australia in being able to request doctors, surgeons, dentists and other health practitioners to undergo a medical examination for investigative purposes. However, on this issue the bill leaves open a potential question regarding the extent to which information obtained from an examination can be used. Will the board be able to use medical information incidentally obtained from the investigation of a complaint to disqualify a practitioner on the grounds of impairment or fitness to practice, even though that information has no bearing on the matter being investigated?

The bill also introduces a new, broader test of "impairment" to determine a practitioner's fitness to practice. This new test, provided by items [2], [6], [8] and [11], takes over from the current, more restrictive language of "infirmity, injury or illness" and explicitly states that habitual drunkenness or an addiction to a deleterious drug will be considered as physical or mental disorders. This impairment test is the same standard used by the broader medical profession under the Health Practitioner Regulation National Law and will bring the veterinary profession in line with those professions. I also note the confidentiality provisions around health reports about veterinary practitioners.

In relation to the changes made to the complaints process in items [12], [13], [14] and [15], the Greens note that these provisions are generally consistent with professional standards adopted by other professions. Item [12] introduces a three-year time limit on bringing forward complaints, and the board is under an obligation to investigate any complaint brought within this three-year period. Complaints may still be brought after the stipulated period. However, it will be within the discretion of the board whether to investigate, having regard to the justness and fairness of the situation considering the delay and reasons for the delay. Item [14] provides complainants with important protections and will reduce the factors that may otherwise discourage a person from bringing forward a bona fide complaint.

The new section prevents liability for defamation, and any other civil proceedings, from being incurred because of the complaint. It provides also that the making of a complaint will not constitute a breach of professional etiquette or a departure from acceptable standards of professional conduct. Item [14] will further aid board investigations by removing self-incrimination as a potential excuse for refusing to answer questions

before the board. In the same breath, it also provides protection against self-incrimination by making any information provided by such persons inadmissible against them in a criminal proceeding—except for offences under section 44 of the Crimes Act.

Items [9], [10] and [23] introduce new powers for the board to regulate the continuing professional development of veterinary practitioners. The provisions allow for the board to determine the continuing professional development requirements for practitioners and extend the definition of unsatisfactory professional conduct to include failure by a veterinary practitioner to comply with those requirements without a reasonable excuse. These provisions should help the board maintain standards in the profession and foster up-to-date medical practice. The Greens support the amendment to the bill made in the lower House and support the bill.

Reverend the Hon. FRED NILE [8.35 p.m.]: On behalf of the Christian Democratic Party I support the Veterinary Practice Amendment Bill 2010. The bill will amend the Veterinary Practice Act 2003, which regulates the provision of veterinary services in New South Wales. The objects of the Act we are amending place significant emphasis on promoting the welfare of animals, ensuring that vets meet the required standards and providing public health protection. The 2009 review made certain recommendations that are embodied in this bill we are debating. These amendments are designed to improve animal healthcare services in New South Wales. They will also benefit veterinarians and users of veterinary services, and the animals under their care.

The main aspects of the amendments provide protection for veterinary practitioners against employers who direct or incite unethical or unprofessional conduct. The bill will also improve the process for making and investigating complaints against vets. It will give the Veterinary Practitioners Board discretion to immediately suspend a vet's registration in certain circumstances. The bill will also allow the board to deal with less serious professional misconduct matters without involving the Administrative Decisions Tribunal. It will provide for vets to undergo a medical examination during the investigation of a complaint and allow the board to take disciplinary or other action when it is established that a vet is suffering from an impairment. Finally, the bill will require vets to undertake continuing professional development as determined by the board. As someone who cares greatly for the welfare of animals, I am pleased to support this bill.

The Hon. MICHAEL VEITCH (Parliamentary Secretary) [8.37 p.m.], in reply: I thank all members for their contributions to the debate. The primary purpose of the Veterinary Practice Amendment Bill 2010 is to make a number of amendments to the Veterinary Practice Act arising from the 2009 statutory review of the Act. The most important of these amendments strengthens the complaint provisions in the Act and gives the Veterinary Practitioners Board a greater range of powers to deal with vets who are not meeting, or who are unable to meet, their professional obligations. In respect of the comments by the Deputy Leader of the Opposition regarding the level of consultation, I am advised that a discussion paper was prepared by Industry and Investment NSW for the purposes of consultation. It was sent to six stakeholder groups: the Animal Welfare League NSW, the Australian Veterinary Association, the NSW Farmers Association, RSPCA NSW, the Faculty of Veterinary Science at the University of Sydney, and the School of Animal and Veterinary Sciences at Charles Sturt University.

I am advised that a discussion paper was also sent to all registered vets who had provided an email address to the board—that is, the discussion paper was emailed to 2,898 of a total of 3,055 registered vets, or 95 per cent. The discussion paper was released for comment in June 2009. Nine responses were received from a range of stakeholders, including industry bodies and individually registered vets. An overview of submissions is contained in the statutory review report, which was tabled in Parliament in March 2010, and can be obtained from the websites of the Parliament, and Industry and Investment NSW. Members of the Veterinary Practitioners Board were on the review group that developed the discussion paper.

In response to concerns raised by the Hon. Ian Cohen about who has access to medical records obtained by the board, I am advised that item [15] of schedule 1 to the bill states clearly that only the board and the vet concerned will be provided with a copy of a medical report in relation to an examination requested by the board. The bill also makes it an offence for a person who has access to a medical report to make a record of it or to disclose any information contained in the report. In this regard I refer the House to item [21] of schedule 1 to the bill. The bill contains amendments that will improve the Veterinary Practice Act 2003 and will result in better animal healthcare services for the people of New South Wales. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Michael Veitch agreed to:

That this bill be now read a third time.

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

DRUG MISUSE AND TRAFFICKING AMENDMENT (MEDICALLY SUPERVISED INJECTING CENTRE) BILL 2010

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [8.40 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to bring before the House the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010.

The bill provides for the removal of the trial status of the Medically Supervised Injecting Centre which UnitingCare NSW.ACT has been operating at 66 Darlinghurst Road, Kings Cross, Sydney, since May 2001.

The bill enables the medically supervised injecting centre to continue to operate as an ongoing service for its target group of marginalised long-term drug users with significant health and social problems. This group is at high risk of drug related death and morbidity and there is strong evidence that the centre has been successful in reaching these people.

No one in this House condones drug use and as a government we will continue to do all in our power to discourage people from this destructive course.

But we will not give up on anyone with a drug dependency problem who needs help to get his or her life back on track and that is why we are introducing this bill.

Since the centre opened in May 2001:

- 12,050 individuals have been assessed and registered with the centre;
- there have been a total of 609,177 visits by registered clients, with an average of 5,641 visits per month, with most visits made by the group of long term, frequent drug users that the centre was intended to target; and
- clinical and psycho-social advice, general medical assistance and drug treatment referrals have been provided to clients on more than 51,000 occasions.

While it is not possible to confirm that all these injections would have taken place in the streets without the centre, the 2007 independent evaluation of the centre estimated over 300,000 public injections had potentially been averted.

As honourable members would recall, the Government established the trial in response to the New South Wales Drug Summit in May 1999.

I remember the hope and optimism of delegates at the summit, as those with divergent views came together to find better ways to deal with drug addiction and the problems it brings.

Recommendation 3.15 of the summit stated that: "The Government should not veto proposals from non-government organisations for a tightly controlled trial of medically supervised injecting rooms in defined areas where there is a high prevalence of street dealing in illicit drugs."

The recommendation, essentially that the Government support the trial of a medically supervised injecting centre, generated heated debate.

The Government recognised a new approach was needed to reach marginalised and long-term injecting drug users, many who had never sought treatment before.

So a trial of one medically supervised injecting room at one location was commenced, bound by the following government objectives. That the centre:

- decrease overdose deaths;
- provide a gateway to treatment and counselling;
- reduce discarded needles and users injecting in public places; and
- help reduce the spread of diseases like HIV and hepatitis C.

The Government has made the decision to continue the medically supervised injecting centre as an ongoing program following strong evidence from numerous independent evaluations that the centre is achieving those objectives.

These evaluations were undertaken by the National Drug and Alcohol Research Centre, the National Centre in HIV Epidemiology and Clinical Research based at the University of New South Wales, SAHA International, the New South Wales Bureau of Crime Statistics and Research and, most recently, KPMG. These organisations have made their findings publically available.

The key findings to date of the evaluations are:

The centre has saved lives and avoided serious injury from drug overdose with 3,426 drug overdoses by its clients successfully managed.

KPMG have said that it is reasonable to assume a proportion of these overdose-related events would have led to serious injury or death had they occurred in another location without medical supervision and intervention.

KPMG also found that the centre is helping reduce drug overdose-related events in the Kings Cross area with ambulance call-outs to suspected opioid overdoses during the centre's opening hours decreasing by 44 per cent since the centre has opened, compared to a 36 per cent decline in the rest of New South Wales. These trends also mean significant cost savings for the health system.

In fact, the economic evaluation undertaken by SAHA International in 2008 found that the centre saves the health system at least \$658,000 per annum in avoided costs.

The centre has been increasingly successful in getting a marginalised group of injecting drug users to treatment, with 3,871 referrals to drug dependence treatment accepted by clients since 2001.

I note that reaching this marginalised cohort is a significant achievement in itself given 40 per cent of clients had not sought drug treatment before using the centre. This is even more remarkable given that it can take more than three years for a long-term marginalised drug addict to start to engage in the concept of treatment and rehabilitation.

Most encouragingly, the more frequently a client visits the centre, the more likely they are to accept a referral to a drug treatment service. KPMG found that this demonstrates how the model employed by the centre is successful in engaging with and supporting this particularly vulnerable group of frequent injecting drug users to move towards treatment.

There is continuing evidence of improvements in public amenity in the area with the proportion of residents who reported having observed public injecting falling from 55 per cent in 2000 to 27 per cent in 2010. The proportion of business owners who report having observed public injecting has also declined sharply from 61 per cent in 2000 to 22 per cent in 2010.

There has also been a steady decline in the proportion of residents who reported seeing publically discarded syringes, from 66 per cent in 2000 to 46 per cent in 2010. A similar decline has been seen amongst business respondents, from 80 per cent in 2000 to 46 per cent in 2010.

Furthermore the number of needles and syringes collected in the Kings Cross area more than halved between 2003-04 and 2008-09 with the largest reductions in the areas immediately surrounding the centre.

Overall there is strong support from the majority of residents and business operators with approximately 78 per cent of local residents agreeing with the establishment of the centre, an increase from 68 per cent in 2000. Similarly, 70 per cent of local businesses now support the centre, an increase from 58 per cent in 2000.

And as part of its efforts to help reduce the spread of diseases like HIV and hepatitis C, the centre has provided vein care and safer injecting advice on more than 23,998 occasions, with 97 per cent of surveyed clients reporting that since going to the centre, they now inject more safely.

The centre has also dispensed more than 300,000 needles and syringes to clients exiting the centre to minimise health risks including the spread of blood borne disease.

The centre has saved law enforcement costs and police resources through its positive impact on public amenity in the Kings Cross area and its contribution toward reducing local crime and anti-social behaviour in Kings Cross.

There is no evidence from the Bureau of Crime Statistics and Research that the centre has had a "honeypot" effect of drawing drug users and dealers to the immediate vicinity of the centre or causing any increase in local property or drug-related crime. Long-term crime trends reported by the Director of the Bureau of Crime Statistics and Research indicate that since May 2001:

- theft-related crime continues to decrease in Kings Cross with the most recent data being the lowest since 2001;
- trends in robberies have declined;

- possession or use and dealing or trafficking of narcotics remains stable; and
- possession or use and dealing or trafficking of amphetamines has also remained stable.

I would also highlight the view of Superintendent Tony Crandell, the Kings Cross Local Area Commander, who recently described how his officers now encounter far fewer cases of drug overdoses in the backlanes of Kings Cross since the centre started operating.

The evidence is that the number of people who visit the centre is stabilising with an average of 68 new registrations a month.

The Government believes it is crucial to maintain the positive outcomes that have been identified to date for this marginalised group by continuing to operate the centre while at the same time striving to improve the likelihood of their accessing and remaining in drug treatment and associated social welfare support.

As the Premier has said elsewhere, in an ideal world we would not need a supervised injecting centre. But this is not an ideal world and, as a government, we have been prepared to face up to this difficult issue and develop an appropriate policy response.

As many of you know, legislation was introduced in 2007 which ensured a formal review of the centre would be undertaken should client attendance fall below 75 per cent of prescribed levels. We want to have in place a mechanism that might help us determine if there was continuing need for this sort of facility.

I am advised that attendance has remained well above this level, which is once again evidence for why we are here today as there continues to be clear need for this facility.

Finally, I can also confirm that the centre's operation will continue to be sourced from confiscated proceeds of crime with no funding diverted from treatment programs.

I now turn to the specific provisions of the bill. In order to ensure that the medically supervised injecting centre can continue to operate on an ongoing basis, the bill amends section 36A to remove all references to the trial status and the trial period of the centre. The amended section 36A retains the restriction that only one licence can be issued in respect of only one premise.

Consequential amendments are also made to other sections to remove the references to the trial status of the centre.

The objectives of part 2A are clearly articulated for the first time in the amended section 36A. Those objectives are:

- (a) to reduce the number of deaths from drug overdoses,
- (b) to provide a gateway to treatment and counselling for clients of the licensed injecting centre,
- (c) to reduce the number of discarded needles and syringes and the incidence of drug injecting in public places,
- (d) to assist in reducing the spread of blood-borne diseases, such as HIV infection or hepatitis C.

As the bill removes the references to the trial status and trial period, the current section 36C, which provided for a review of the centre at the end of the trial period, has been amended.

Instead, the amended section 36C now provides that there is to be a review conducted by the Minister after five years from the commencement of the bill to determine whether the policy objectives of part 2A remain valid and whether the legislative framework is appropriate for securing those objectives.

In addition, the existing requirements for the responsible authorities to review the centre, including its service activity and economic viability, are retained at section 36K.

It should also be noted that the licensee would separately need to negotiate periodic funding and performance agreements with the department in line with required corporate governance practice.

As part of this, and in keeping with all New South Wales Health treatment programs that have a substantial budget, the centre will be subject to further independent evaluation within the next four years.

Further, the medically supervised injecting centre licence will continue to be subject to conditions imposed by the Act and the responsible authorities and any failure to comply with the licence conditions may result in the revocation of the licence.

In fact, the bill strengthens the grounds under which a licence can be revoked in the new section 36KA which provides that the licence can be revoked:

- if the responsible authorities are satisfied that the licence should be issued in respect of a different premises;
- if the responsible authorities are satisfied the licence holder is not a fit and proper person; and
- in other prescribed circumstances.

I note that no changes have been made to the licensing requirements and internal management protocols in sections 36E-M except for a new section 36KA which, as already noted, provides additional grounds under which a licence can be revoked.

No changes have been made to the exemptions from liability in sections 36N-P or machinery provisions of sections 36Q-S.

The amendments to part 2A will apply to the current medically supervised injecting centre licence as provided by the amended section 36T.

Conclusion

The Government has developed an appropriate policy and legislative response in relation to the medically supervised injecting centre.

We are not proposing to establish additional medically supervised injecting rooms in other areas.

We will continue to strictly regulate and tightly control the program through the legislative framework and licensing system with the Commissioner of Police and the Director-General of NSW Health remaining as the "responsible authorities".

We will continue to closely monitor and rigorously evaluate the program to ensure its ongoing effectiveness against the Government's objectives.

We will also continue to review all available research and evidence to help the Government make informed decisions about how to deal with the drug problem in line with the evidence-based approach we have taken in relation to the medically supervised injecting centre.

In closing, the Government would like to recognise the efforts of:

- the Reverend Harry Herbert, Executive Director of UnitingCare New South Wales-ACT,
- the centre's current medical director, Dr Marianne Jauncey, and
- the centre's previous medical directors, Dr Ingrid van Beek—the founding medical director—and Dr Hester Wilson

for their leadership and commitment to this important drug summit initiative.

But most of all, the Government would like to acknowledge the work of all the dedicated clinical and other staff at the centre over the past nine years.

They have maintained their focus on helping a marginalised group of entrenched drug users in our society. It is their efforts that have:

- saved lives
- provided long-term users with the tools to start rebuilding their lives, and
- improved the quality of life in the local community at Kings Cross and made the streets of that community safer.

I commend the bill to the House.

The Hon. MATTHEW MASON-COX [8.41 p.m.]: In speaking to the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010, I say at the outset that I oppose the bill. The true test by which the effectiveness of the centre must be judged is the extent to which people are successfully rehabilitated from drug addiction. The evidence, such as it is, does not establish that. For that reason the funds currently made available to the centre should be redirected towards effective programs that successfully rehabilitate drug addicts. There can be nothing more disheartening for those using the centre, and those genuine staff operating it, than to face the situation of wanting to overcome their addiction only to be told that there are no rehabilitation places available in an effective program and they have to wait—but for how long? What an utterly hopeless situation.

This situation might have been improved at some time over the past decade if those opposite in the Keneally, Rees, Iemma and Carr Labor governments had encouraged open debate and constructive action, rather than being "zombie politicians"—as so aptly described by one of their Federal Labor colleagues recently. Perhaps then someone opposite may have had the bright idea of funding the required places in effective rehabilitation programs and, having had that idea, been permitted to raise it in Parliament without fear. Does the Keneally Labor Government give its members, in voting on this bill, the opportunity to voice their own views? The answer is: Of course not. They are not trusted by the faceless figures of Sussex Street to vote using their own conscience—to have their own independent thoughts. Members of the Keneally Labor Government are simply corralled into this Chamber, and into the other place, like a mob of leaderless sheep to vote en masse. It calls that democracy: New South Wales Labor democracy.

Press reports tell us that the KPMG report of a review of the centre undertaken on behalf of the Keneally Government cost some \$240,000—about \$1,000 a page. Those opposite consider that is money well spent. How more effective and sensible would it have been if those funds had been spent providing direct, available places in effective rehabilitation programs to get addicts off the drugs that are destroying their lives? But doing something radical such as trying to be effective is anathema to the Keneally Labor Government. It much prefers to tackle the hard issues through a forest of media advisers, spin and management speak, which is precisely what the KPMG report provides. It is, as someone noted elsewhere, "a stereotypically sycophantic 'Yes Minister' type of production' ... [continuing] a long tradition of rubber stamping".

If the average New South Wales voter had the misfortune to attempt to read that report, they would give up in despair part way through the executive summary. One would expect to find written in plain English in the first sentence a statement saying, "Since year X, Y addicts coming through the centre have successfully been treated for their addiction." Is not getting addicts off drugs the real objective? The answer is: Apparently not. The test by which the centre must be judged is how effective is it in successfully getting people off drugs. The evidence is not here; it has not been presented. The bill should be rejected.

The Hon. LYNDIA VOLTZ [8.45 p.m.]: I speak in support of the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010. The bill provides for the removal of the trial status of the medically supervised injecting centre, which UnitingCare New South Wales-ACT has been operating at Darlinghurst Road, Kings Cross, Sydney, since May 2001. The bill enables the medically supervised injecting centre to continue to operate as an ongoing service for its target group of marginalised long-term drug users with significant health and social problems. This group is at high risk of drug-related death and morbidity, and there is strong evidence that the centre has been successful in reaching these people. The Government established the trial in response to the New South Wales Drug Summit in May 1999. Recommendation 3.15 of that summit stated:

The Government should not veto proposals from non-Government organisations for a tightly controlled trial of medically supervised injecting rooms in defined areas where there is a high prevalence of street dealing in illicit drugs ...

The aim of the medically supervised injecting centre is to reduce the public health and public order issues at a local community level arising from unsupervised and public injecting. A clinical service model was developed to maximise the number of injecting episodes accommodated in a professionally supervised setting and to integrate with the other harm reduction services nearby. In its first two years of operation, 4,719 registered intravenous drug users made 88,324 visits to inject at the centre; 553 drug overdoses—81 per cent involving heroin—were managed on site with no fatalities; and, of the 1,852 client referrals for further assistance, 44 per cent were for the treatment of drug dependence.

This early experience suggests that the medically supervised injecting centre's clinical model has been acceptable to a significant number of the street-based drug injecting population in this setting. As a trial, it has been subject to extensive evaluations. Over the past nine years it has been the subject of a number of independent evaluations conducted by the Bureau of Crime Statistics and Research, KPMG, the University of New South Wales, and SAHA International. Dr Don Weatherburn, Director of the Bureau of Crime Statistics and Research, found in a recent report on the impact of the centre on drug-related crime in Kings Cross that there was no evidence that the centre was a "honey pot" for local drug crime.

The issue of drug addiction is particularly problematic for politicians. Members in this Chamber, like doctors, try to reach a balance through policies—particularly those dealing with the individual—that "do no harm". The community can be in no doubt that parliaments across Australia believe that drug misuse legislation, which prohibits certain drugs, is intended to reduce the considerable harm caused by them. Drugs are not restricted because governments want to play nanny; drugs are restricted because of the real and significant risk they represent. Anything that people put in their body can change the chemical balance—foods, herbal remedies and alcohol—but government has clearly defined certain drugs that represent a significant risk and has prohibited access to them. That is not to say that everything that can be taken and can cause harm is on a restricted list. At some point it becomes impossible for government to legislate every aspect of people's lives. Interestingly, I recently read a comment made by Cardinal Clancy some time ago, in which he said:

While it is of great importance to preserve and respond to the moral dimension, it is even more important to recognise that civil law does not say the final word on morality. Unfortunately, a society that wishes to preserve traditional Christian morality while abandoning the Christian faith on which such morality is founded, more and more looks to the law to be a substitute foundation.

To that extent Cardinal Clancy is right: the lack of prohibition of an action does not make that action right. While the Government prohibits the most dangerous forms of drug abuse, there are other actions—such as the excessive consumption of alcohol or marijuana—that people know represent a risk to their health.

At some point people must take responsibility for their own actions and not expect the State to act as their nanny. Undertaking an action known to cause harm is irresponsible whether people believe there is legislation that prohibits it or not. Of course, for those that suffer from a drug addiction the world is a much more complex place. Many of those sufferers have themselves been the victim of violence, sexual abuse, neglect and mental illness and some, of course, come from stable, loving families. Some will go on to recover from drug addiction, and some will not.

What we do know is that every single person who suffers from a drug addiction is someone's daughter or son. They are our brothers and sisters, aunts and uncles, school friends—sometimes even somebody's mother and father. Many parents will never give up the hope that their child will recover. While many will find heartache, some will find success and happiness. There were 553 drug overdoses, and as I have already said 81 per cent of those involved heroin. They were managed on site, and with no fatalities. It is the "no fatalities" that represents the most important statistic for every mother and father, family member or friend that lies awake at night wondering whether someone is coming home tonight or lying in the dark waiting for someone to find them. I believe that the provision of the medically supervised injecting centre meets the brief of "Do no harm". It certainly presents a much better outcome for the residents of Kings Cross, who support its ongoing work, and who have had to minister to the many overdose victims attracted by the bright lights of the Cross.

The Hon. ROBYN PARKER [8.50 p.m.]: I participate in debate on the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010 as an individual member of the Liberals-Nationals Coalition. In doing so, I will exercise my individual right within the Liberal Party to speak and vote as a matter of conscience on the bill. It is a great strength of the Liberal Party that its members have the opportunity to truly debate issues that are extremely problematical, very complex and difficult to deal with on the basis of our own individual experience, our individual views and our own moral understanding. It is a great thing for members of the Liberal Party to have that opportunity and I take it very seriously, as do all members of the Liberals-Nationals Coalition who are exercising a conscience vote in relation to the bill.

I speak as an individual but also as a strong member of the Liberal Party. My beliefs as a member of the Liberal Party are about supporting people who are on the margins of society and about showing that there is care and compassion. I have stated my support for the medically supervised injecting centre on the record a number of times, and my participation in this debate is to express support for the centre becoming a permanent facility. I do so because I believe that is the most compassionate thing we can do for people who need to use the centre. I do so because I see it very much as one aspect of the war against drugs—not because I am soft on drugs and not because I believe that drugs should be freely available but because I understand the nature of the centre's clientele, I understand the objectives of the centre, I understand the need for the centre to exist, and I most definitely understand the reasons why the centre was established in the first place.

I welcome the decision to remove the trial status from the centre because it has been open for nearly 10 years. During that time, in my view it has demonstrated time and again through evaluation after evaluation that the evidence exists. The centre was established following the Drug Summit and after it became evident that there was a huge problem in the Kings Cross area. A level of consensus was expressed by experts and leaders in the field that supervised injecting facilities do save lives and that enhancing access to treatment was important. Prior to trialling the centre, the very vulnerable population were publicly drug injecting and discarding syringes all around Kings Cross and were dropping unconscious in driveways, alleyways and front doorways. They constantly were being subjected to violent attacks against them and were living a life of crime on the fringes and margins of society.

At that time Kings Cross was a particularly awful place in which to live and exist. It certainly was a time when the spread of blood-borne viruses, such as HIV, was rife and when our ambulances and paramedics were called out over and over again to the Kings Cross area. The amenity of the area at the time was dominated by the sight of a number of shops having been boarded up. It really was quite an undesirable place where people did not feel safe, day or night.

When I was first elected to Parliament, legislation to establish a trial for medically supervised injecting facilities was the first legislation that came forward. On that occasion I exercised a conscience vote but, before doing so, I visited the centre just to see what it was like. I was surprised at that point that many members of Parliament had not visited the centre but had formed a view without going inside its doors. I was interested to see what it was that we were talking about, what the centre was offering and what it was like. I wanted to talk to the staff. I had a look at the centre then, and formed the opinion that I have now—that it is a vital, integral part of health care for those people who are injecting drug users.

On that first visit I met Dr Ingrid van Beek, who is known to many of members of Parliament because of her passion, commitment and drive, and Reverend Harry Herbert as well as other members of the staff at the centre who, then and now, really put so much of their own spirit, enthusiasm and caring as well as compassion into the services they provide for such vulnerable people. At that time my impression of the centre was that over and above everything else it was a health facility. It was very clinical. It was very obvious to me that it was about preventing the spread of HIV and about saying, "Here is a gateway to care."

The centre is a gateway to care not just in terms of referral but because a number of the people who attend have all types of complex needs. They have needs in terms of their health care and in many cases their mental state. When they come through the door for the purpose of injecting drugs, that very moment presents an opportunity to grasp them. I know injecting illicit drugs is certainly an illegal activity, but when they present at the centre and when that window of opportunity opens up, it is an opportunity to take care of their health needs, their mental health needs, their physical needs, perhaps to offer referral and even an opportunity to take them on further to a referral service for them to take the next step in what might be a path to recovery. In every respect, the centre represents a gateway.

When the legislation was introduced for a second time, I was eager to see whether my evaluation of the centre stacked up. In the first instance I was not sure that referral was happening, but it does happen and it is happening. It is not 100 per cent, it is not every time, and it is not successful every time. Members who know about drug addiction understand that it takes a long time before someone is successful, if they are to be successful. But for them to enter rehabilitation, they need to be alive and they need to have someone around them to guide them along the way.

When the legislation came up for the second time, I again visited the centre. I am pleased that many members of Parliament visited the centre over the past few weeks to have a look at it. Recently I visited the centre just to see if I was confident and sure that it still was offering the types of services I have been very aware of since I visited on the previous occasion. I am pleased to say that I met yet another enthusiastic young doctor, Dr Marianne Jauncey, who is the executive director of the centre currently. I also again met Reverend Harry Herbert.

Having spoken to the staff and having had a look at the centre again, I am even more assured that making the centre permanent is the right thing to do. The centre has been operating for nearly 10 years and it is time to make it a permanent facility. The centre is not funded from capital expenditure. Let us face the fact that it is funded from the proceeds of crime. I support taking the centre off its trial status because I think that is the common sense thing to do. It will give staff permanency and an understanding that they can take a step back from constant evaluation.

The removal of the trial is not without safeguards. It does not provide a blank cheque. The trial has undergone exhaustive evaluations. The centre has been the subject of a number of evaluations by independent organisations, including the Bureau of Crime Statistics and Research, KPMG, the University of New South Wales and SAHA International. The legislation guarantees stringent monitoring of the centre. It provides that the centre will remain the only legalised injection centre in the State and that there will be regular statutory evaluation every five years and independent evaluation every four years. NSW Health will continue to conduct routine inspections of the centre. The New South Wales Commissioner of Police and the Director General of Health will also retain the authority to immediately revoke the centre's licence, if it is deemed necessary. The centre will remain the subject of health reviews and monitoring, as does any other government program or treatment regime. I am assured by those safeguards, knowing that the centre will be observed and monitored.

It would be wonderful if one day we did not need the centre. But at the moment we do need the centre and we need it in its present location. As I have mentioned, historically Kings Cross is where drugs are available. But the centre does not have a honey pot effect. People are able to go to this centre and feel safe and supported. They are not supported to maintain their habit; they are supported to feel safe and to have a pathway out. The centre is able to keep people alive in order for that to happen. The medically supervised injecting centre has successfully managed 3,426 overdose-related events. If those events had not been managed and had occurred in an alleyway or on the street, they could have resulted in death or serious mental illness. That would have a huge impact on the health system and on costs, not only in human terms but also in the health budget.

More than 12,000 injecting drug users have been helped at the centre. Importantly, more than 8,500 drug users have been referred for help, including 3,870 to drug treatment. We will not hear success stories from the centre. Those who successfully move from the centre into rehabilitation or a treatment program will not

want to come back and talk about unhappy days. They will not want to revisit that part of their lives. When they make the decision to move on, it may take a few times before they are successful. More than 300,000 clean needles and syringes have been distributed to users. That means less opportunity for the transmission of blood-borne diseases, such as HIV-AIDS and hepatitis C.

The amenity in the local area has improved. The proportion of residents who report daily seeing public injections has reduced considerably from 55 to 60 per cent to less than 30 per cent. The centre has made a huge difference to the amenity of Kings Cross. When I visited a couple of weeks ago I sat in a café across the road and watched people swarming on and off trains from Kings Cross station. The local street was abuzz. I did not feel that people were concerned about safety issues. No-one seemed to notice the injection room. People would not know it was there unless they were told. I thought the centre had made a good impact on the local community. All the shops were open and there was no boarding up of any premises. The area had a cosmopolitan atmosphere.

The injection centre, against all odds, has not had a negative impact on robbery, property crime or drug offences in the Kings Cross Local Area Command. As I said, the centre came out of the 1999 Drug Summit. It has been evaluated over and over again. Each evaluation costs a lot of money—about \$150,000, perhaps more. The centre monitors the on-site injection of drugs. Drug usage changes over time. The staff monitor drug usage and are able to inform the police and hospitals of the drugs that are available in the injection community. As well as the centre providing a gateway to treatment and counselling, it has resulted in reduced public discard of needles. It saves lives and help drug users to access treatment.

It has been said that the centre should be shut down and a rehabilitation facility opened in its place. The type of people who use the centre will not automatically move to rehabilitation. There is no magic potion to fix this issue. People must have a willingness and capacity. The people who use the centre often are on the margins of society. This means that their other health needs have to be dealt with first before they are able to grasp this initiative. Rehabilitation is a complex and difficult path. It is not a matter of simply rolling up to a rehabilitation centre, unloading a person and expecting in three weeks, six weeks or six months that person will be rehabilitated. Often they fall off and get back on the rehabilitation cycle many times over.

Long-term drug users are marginalised people. They must register at the centre. It is not a fun thing for them to do. They do not attend the centre to experiment or increase their dosage of drugs. If they take an overdose, the medical staff immediately steps in. They are not allowed to move from the reception area into the centre if they are already affected by alcohol or drugs. If they want to take risks, the centre is not the place to do so. The injection centre is not a cool environment. It does not have dimmed lights and mood music playing. It is a clinical health facility. In a recent review, KPMG found that 40 per cent of drug users had not sought drug treatment before they attended the centre. This means that 40 per cent were out of that circle of accessing help. For them, perhaps the centre is the first step. They attend this centre where they know there are people with skills who can assist them.

The medically supervised injecting centre is the only facility of its type in the State. It is part of a raft of services that need to be provided. I have reviewed my first comments on the centre that I made many years ago. During the Drug Summit I talked about a young person for whom I was seeking help. This young person had been detoxing under the care of my husband and me. We drove to Sydney to find a rehabilitation bed for this young person. At that point rehabilitation beds were not available in country areas. More resources are needed for the greater availability of rehabilitation facilities and the type of support that people need when they reach out. That means more money on top of other services. Those who come to the medically supervised injecting centre and reach out have a fast track to assistance. If they put up their hand and say, "I have had enough of this life. I don't want to live this life anymore. I want to get off the stuff", the centre staff can fast track them into rehabilitation. It opens some doors that might not be open if they simply fronted up to a service themselves. The centre staff are able to take them physically to a rehabilitation centre. They have a close relationship with a number of rehabilitation centres and work closely with the Kirkton Road Centre. That gateway is more open because of the staff at the centre.

There is more to be done in terms of drug abuse and drug overuse: addressing the spread of HIV-AIDS and hepatitis C, and dealing with mental health issues. A number of people who use the centre may have an ongoing and existing mental health problem. They may have a mental health problem as a result of their drug use, or they may have used drugs to self-medicate over time. There is more to be done in all of those fields. But the evidence is compelling, especially from those who support the centre, who support the average 200 injecting episodes every day, and who support the centre as a lifeline for somebody's child, brother or sister. But for the

grace of God, all of us might know someone in such a situation. What do we say to those parents, brothers and sisters? Do we say "We abandon the person in your life because they have taken the path of drug abuse. We will not care for them because we think this service is invaluable"?

That is not what many organisations say, including the AIDS Council of New South Wales, the Alcohol and other Drugs Council of Australia, the Ambulance Service of New South Wales, the Australasian Chapter of Addiction Medicine, the Australasian College for Emergency Medicine, the Australasian Faculty of Public Health Medicine, the Australasian Professional Society on Alcohol and other Drugs, the Australasian Society of HIV Medicine, the Australian Drug Foundation, the Australian Federation of AIDS Organisations, the Australian Medical Association, the Australian Parliamentary Group for Drug Law Reform, the Baptist Inner City Ministries, the City of Sydney Council, the Come in Youth Resource Centre, the Director of Public Prosecutions Nicholas Cowdery, Drug and Alcohol Nurses Australasia, Family Drug Support, General Practice New South Wales, the Global Fund to Fight AIDS, Tuberculosis and Malaria, Hepatitis New South Wales, the Inner City Legal Centre, the Inner City Youth at Risk Project, the International AIDS Society, the International Harm Reduction Association, the Metropolitan Community Church, Mission Australia, the New South Wales Nurses Association, the National Centre for Education on Training and Addiction, the National Centre in HIV Social Research, the National Drug and Alcohol Research Centre, the National Drug Research Institute, the Network of Alcohol and Other Drug Agencies, the NSW Police Force, NSW Health, the New South Wales Users and AIDS Association, Positive Life New South Wales, the Public Health Association of Australia, the Royal Australasian College of Physicians, the Royal Australian and New Zealand College of Psychiatrists, the Sydney School of Public Health at the University of Sydney, Sisters of Charity Health Services, Social Workers in AIDS, St Canice's Church in Kings Cross, St John's Anglican Church in Darlinghurst, the St Vincent's Hospital Alcohol and Drug Services, the Ted Noffs Foundation, UN AIDS, the Wayside Chapel and Young Lawyers New South Wales, to name a few.

Those reputable organisations say that this centre makes a difference and is important. The list of organisations is lengthy. In conclusion, I refer to one parent who knows that if the centre had existed perhaps his child would be alive. When we have children we do not know how their lives will turn out. Children from all walks of life become drug addicts and drug dependent, and they need something or someone to be there when they fall. Parents do not want to sit at the end of the phone waiting to be told—or have police tell them—that their child has overdosed in an alleyway. They want to know that hopefully someone is there to pick up the pieces. Tony Trimmingham, the founder of Family Drug Support and the author of *Not My Family, Never My Child*, whose son, Damien, died of a heroin overdose at age 23, said:

Although I'll never know, I will always wonder, if the medically supervised injection centre had been open in 1997, whether or not I would still have my son Damien by my side. There are two approaches to the tragedy of drug addiction: morality, myth and magic or compassion, pragmatism and evidence. I subscribe to the latter.

I agree with the latter. I support this bill. I support the injecting centre and the wonderful staff who run it now and will continue to run it into the future. I agree with the monitoring measures that have been put in place by this legislation. I look forward to the day when we will not need the medically supervised injecting centre because we will have found a way forward that means there are fewer drug-addicted people in our society.

Reverend the Hon. FRED NILE [9.15 p.m.]: On behalf of the Christian Democratic Party I speak on the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010 and state for the record that our party opposes it. The Christian Democratic Party supports a policy of a drug-free Australia. In 2000 I visited a number of countries to study current problems with drug abuse under the heading "The Drug Epidemic: Causes and Solutions". I visited several countries that were experimenting with permissive policies, which this bill represents. I was impressed with what I found in Sweden. Sweden had tried all the trendy ideas but found drug use increasing amongst its young people. Then there was somewhat of a revolt in the nation when its people said, "We've had enough of this. We're going to declare a drug-free Sweden and we'll involve every section of society." So police, teachers, community leaders and church leaders came together and resolved to work for a drug-free Sweden.

Sweden introduced, courageously, coercive drug rehabilitation programs whereby any person who was identified as using drugs was subjected to various assessments through the courts and so on, and was ordered into a drug rehabilitation program. I physically inspected those programs and various centres and talked to the addicts undertaking them. I was impressed with what they were achieving. If New South Wales wants to beat the drug problem, it must help addicts to get off drugs, not help them to inject drugs, which is what the injecting room does. Drug addicts call the injecting room a shooting gallery, because it is where they shoot up. All this bill does is assist them to inject heroin, whereas our challenge as members of Parliament should be to find ways

to get these people off drugs and to aim for a drug-free Australia. That may sound optimistic to some members, but I believe that should be our objective. If we had that objective, we could formulate policies that would help to implement it.

I have always had a deep concern for the people of Kings Cross, the young people and the drug addicts. Although a previous speaker was critical of the centre, I would love to see the injecting room turned into a rehabilitation centre. At one stage a group of former heroin addicts approached me and indicated that they were prepared to run the centre as full-time volunteers. It would not have cost the Government anything, except the running costs of the building. They made that offer. I was born in 1934 in a small terrace at 138 Darlinghurst Road, Kings Cross—not far from where the injecting room is located.

Obviously I did not have any such thoughts when I was a child but in later life I felt that I had a special responsibility for the place in which I was born and that is why I have campaigned over the years to try to change Kings Cross from a drug and vice centre to a place of virtue and goodness. Even though it is optimistic in the current environment I have endeavoured to do that with the Jesus Marches through Kings Cross, by picketing porn shops selling child pornography, and so on. Prior to the commencement of this injecting room, I complained to the police when I heard that the Wayside Chapel at Kings Cross wanted to set up an unofficial injecting room. As a result, the facility was closed down because it was breaking the law—a penalty of two years imprisonment is provided for people who inject heroin or who assist others to inject heroin.

Later I heard that the Sisters of Charity had agreed to cooperate with the Government to run the proposed injecting room. I was surprised and disappointed that the church leaders and the Cardinal did not make any attempt to discourage the Sisters of Charity from doing that. I wrote to Pope John Paul and gave him all the background material. I cannot prove that that material had anything to do with Pope John Paul's directive to the Sisters of Charity to have nothing to do with the injecting room. However, I do know that the Pope said that anyone who assisted a person to inject a harmful substance was committing a sinful act and that the Sisters of Charity were not to take part in such activity.

To my disappointment, the Uniting Church, led by Reverend Harry Herbert, then offered to conduct the centre. I have had many arguments with Harry Herbert over the years on a number of moral and social issues, and as a Uniting Church minister I was very disappointed that the Uniting Church took up the project, is still running it today and is keen to be responsible for it in the future. I believe that the majority of members of the Uniting Church do not agree with that policy. But the Uniting Church is like a dictatorship in which a small executive makes decisions for its members. There has never been any consultation with the membership or parishes of the Uniting Church on this issue and many other controversial issues. Reverend Harry Herbert has simply written to members of Parliament to advise that a certain position is the policy of the Uniting Church when, in reality, it is a policy of his department and his particular point of view.

The medically supervised injecting centre is in conflict with the United Nations. Major Brian Watters, who was involved with the United Nations drug authority, has indicated quite strongly that these injecting rooms are against the United Nations policy for combating drug problems around the world. I know some nations have acted against that policy and have set up similar injecting rooms. Germany has done so, and Switzerland, which I have visited to inspect consumer centres, provides heroin to users as well. What a great system! Addicts get the heroin and the Government becomes the drug pusher and the drug injector. That is causing massive social problems in Switzerland.

The Hon. Ian Cohen: That is total rubbish, Fred.

Reverend the Hon. FRED NILE: I have been there. Has the Hon. Ian Cohen been there and inspected the drug centres?

The Hon. Ian Cohen: Yes, I have.

Reverend the Hon. FRED NILE: I saw that in my inspections. The member must have been looking through rose-coloured glasses. The consumer centres are a tragedy for a nation such as Switzerland, which everyone has admired down through the centuries as a wonderful nation.

The Kings Cross injecting centre has reported that since it opened in May 2001, 12,050 individuals have been assessed and registered with the centre. Further, there have been 609,177 visits by registered clients, with an average of 5,641 visits per month. I am not questioning the sincerity of those who work at the centre or

who run it, but it is said that they refer addicts to a number of agencies and on my reading of all the reports and the KPMG evaluation I cannot find any indication how many of those referred actually arrived at the places to which they were referred. It is true that addicts are given the addresses and telephone numbers of rehabilitation centres, but there is no feedback indicating how many of those addicts physically went to those centres. There are figures to indicate how many people were referred to rehabilitation centres, but there are none to show how many physically arrived at the centres and, more importantly, how many did anything towards their rehabilitation.

My inquiries of a number of groups that conduct rehabilitation centres indicate that they have not had any referrals. The Salvation Army states that it has had no referrals. Where do the addicts go who have received referrals? Are any of them being rehabilitated? The referral figures quoted by the KPMG evaluation and the Government seem to be a bit of a smokescreen to justify the bill. The Government established a trial because there was so much public opposition to the concept of a medically supervised injecting room. It was a very contentious issue even at the New South Wales Drug Summit. I think the Greens and others wanted to have five injecting rooms. The delegates who wanted a drug injecting room compromised and accepted one room, but not as a permanent facility, only as a trial—the thinking being that this would minimise the level of public opposition to the experiment. That is why it was called a trial—although I am sure that all along the intention was to make it a permanent fixture.

The question remains: Why is this bill before the House now? My understanding of the review of the injecting room was that this bill was not to be introduced until June or July next year. Some people have asked me why it has been brought forward now. The obvious reason is that there will be an election next March and the Greens have probably advised the Labor Party that if it does not get this bill put through now, it may not get put through at all after March. Barry O'Farrell and the Liberal Party and The Nationals have a strong policy on this issue and it is very likely they would not support this bill if it were to be proposed next year in June or July. That is why we are debating this bill now. It is an ambush to get the bill through this year as part of a raft of controversial bills, such as those relating to same-sex adoption, same-sex relationships and surrogacy. This is part of a program to get these bills through before a change of government next March. I do not know whether the Coalition Government has as strong a view on all these issues as mine, but I believe that there is a good possibility it has, and the fear of that is what is driving the Government and the Greens to ram controversial legislation through the Parliament before Christmas this year.

The Government has said that it believes that the injecting room has achieved its aim to decrease overdose deaths; to provide a gateway to treatment and counselling—I have already questioned that; to reduce the number of discarded needles and users injecting in public places; and to help reduce the spread of diseases such as HIV and hepatitis C. They were the original objectives and obviously they are still the objectives of the Government. The bill removes any reference to the injecting room's trial status. However, I am pleased that it retains the responsible authorities—the Director General of NSW Health, and the New South Wales Commissioner of Police—and the existing strict licensing controls and review requirements.

After March 2011 I hope that a Coalition Government will conduct a review in a more balanced and accurate way than the way in which the KPMG assessment was conducted. Even though KPMG was given the job of evaluating the injecting room, it based many of its recommendations on previous reviews and surveys, many of which were false—they were not accurate at all—and many of the errors were perpetuated in the KPMG evaluation. No doubt KPMG was paid a lot of money, but it would have been preferable if KPMG had not based its evaluation on previous reviews, and ultimately produced a far more accurate report and recommendations for the future of the centre.

The legislation removes reference to the trial status and will insert the four objectives to which I have already referred. The previous requirement for a review in each trial period of the operation of the injecting room has been replaced with a new section 36C, which will insert the standard requirement for a statutory review after five years. Next year the Coalition Government will have to amend the legislation to conduct a review earlier than the five years provided for in the legislation if the centre does not achieve its objectives. Information provided by the Government is frustrating. The Deputy Premier, and Minister for Health, Carmel Tebbutt, said, "satisfied local residents and businesses who increasingly support the injecting room and report seeing less public injection with this falling from 55 per cent to 61 per cent in 2001 to 27 per cent and 22 per cent respectively."

While we are debating the bill, local residents and business men and women in Kings Cross say they do not want the injecting room. It is false to say that the centre has the wholehearted support of local residents and

businesses. On the contrary, they believe it has lowered the whole status of the area and contributed to its continuing as a red light area, which is not conducive to residents who live in the surrounding terraces and buildings and who want a normal suburban life. The Government said that the incidence of crime has reduced around the injecting room, and no wonder, because in setting it up the Government had to introduce certain protocols. People using the injecting room have to buy their heroin, carry it in their pocket and walk to the injecting room. Police were told not to charge people going to the injecting room with possessing heroin. And I believe the police have not charged people who are selling the heroin to the drug addict.

Many members have seen the drug pushers at Kings Cross railway station selling heroin to people who have come from the outer suburbs or other places. They buy the heroin, cross the road and go into the injecting room, and there is not a policeman in sight—they are not allowed to be in sight or to interfere with the operation of the injecting room. If the police were doing their job, and there was not a no-go area, they could charge every person walking into the injecting room with possession of heroin, but they know they are not allowed to do that. A decrease in the crime rate involving drugs in that area is obvious: it is government policy. Police have their hands tied. I know that the police are very effective in other parts of Kings Cross, and perhaps that is one of the reasons why there have been fewer overdoses and other problems in Kings Cross. The Greens strongly oppose the use of police sniffer dogs, but they have been very effective in combating the drug trade in the streets of Kings Cross. They are some of the reasons there have been positive changes in Kings Cross. It is not because of the injecting room, but because of other factors.

I assume a number of members have seen the report of Drug Free Australia, which analysed the KPMG evaluation and highlighted the fallacies in quite a lot of its material when it claimed how successful the injecting room has been. I will not go through all of it in detail. The basis of the Government's introduction of this bill is to make the centre a permanent feature. The Drug Free Australia report is not the report of some amateur; the people who contributed to its analysis of the KPMG evaluation to ascertain whether there were any errors in its approach included Dr Robert DuPont, the First President of the United States' National Institute of Drug Abuse; Dr Kerstin Käll, Clinic for Dependency Disorders, University of Linköping, Sweden; Frans Koopmans, Director of Communications, De Hoop Foundation, The Netherlands; Dr Neil McKeganey, Centre for Drug Misuse Research, University of Glasgow, Scotland; Dr Greg Pike, Director, Southern Cross Bioethics Institute, South Australia. These people have qualifications in this area.

The KPMG evaluation found no measureable impact on drug overdose deaths in Kings Cross, or on nearby hospital presentations for drug overdose. Drug Free Australia calculates that the injecting room statistically saved fewer than 0.5 lives per year, or four lives in nine years, at a cost of more than \$23 million. Every life is important, but the Government and KPMG say that the centre has brought about a decrease in the number of overdose deaths, as if there is a magical number and it is quite large, when in fact it is very small. The KPMG evaluation reports 3,871 referrals to drug treatment or counselling without indicating the very low percentage of clients using those referrals. In 2003 and 2007 it was just 11 per cent of clients, which in light of known motivations of drug users to quit has been abnormally and unjustifiably low. So the number of people actually referred for drug treatment is very low and we still do not know where they went and how effective was the drug treatment or counselling they received.

Objective data reviewed in the KPMG evaluation shows reductions in publicly discarded needles and related public injections, which were replicated across the whole of Australia. I have charts that show the same dramatic reduction, particularly as a result of the heroin drought in Australia, which began six months before the injecting room opened and still continues in 2010. The KPMG evaluation fails to assess or to make mention of these other factors—the heroin drought or the impact of tougher policing of the Kings Cross drug hot spots over the past eight years—in reducing the spread of diseases such as HIV and hepatitis C. The evaluation also does not attribute any impact on blood-borne virus transmissions in Kings Cross to the injecting room. Despite not one previous evaluation attributing any impact on the transmission of blood-borne viruses to the injecting centre, the centre's Fact Sheet 2010 clearly, publicly and speciously claimed success in that regard. There is no evidence to support that claim, but the Government is using it as a basis for its policy. This use of the KPMG evaluation is a hoax.

The evaluation also found no measurable impact on drug overdose deaths in Kings Cross or on nearby hospital presentations for drug overdose; the Government gets a tick for being honest in that regard. The evaluation unfortunately perpetuates the demonstrable error of two previous injecting centre evaluations that calculated the lives saved estimates from the number of overdose events in the centre while failing to examine the level of disproportion between overdoses inside and outside the facility. Overdoses in the facility were 32 times higher than the overdose histories of clients before they registered to use the centre. Such a failure of method is academically indefensible.

As I said, KPMG based its conclusions on earlier inaccurate evaluations. A review credited the injecting centre with reducing ambulance call-outs in the Kings Cross post code area. However, it failed to examine or even to consider the effect beyond that of the heroin drought or police sniffer dogs, which have been central to deterring drug users and dealers from the area for eight of the injecting centre's nine years of operation.

The objectives of the centre as stated by the Government and embodied in this bill are desirable, but they have not been achieved. A chart illustrating the number of ambulance call-outs to Cabramatta indicates exactly the same decline in numbers. That decline had nothing to do with the injecting centre; it happened throughout the city. It is wrong to give credit to the injecting centre for that improvement; it does not deserve it. I reiterate my earlier comment: The injecting centre should be converted to a rehabilitation program. I wish this Government and the Coalition had the courage to introduce a program to make New South Wales, and hopefully Australia, drug free.

The Hon. CATHERINE CUSACK [9.43 p.m.]: The Liberal Party has afforded its members a conscience vote on the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill. There are many issues I consider complex, difficult and a juggling act in politics, but on this legislation, perhaps unusually for me, I have a very black and white view. A legalised drug injecting centre is an utter farce in every sense. It offends everything we believe, or at least say we believe, about illicit drugs. It is a farce in terms of research and it is not achieving its stated objective of being a so-called gateway to the care and rehabilitation of drug addicts.

The Government is exempting the medically supervised injecting centre from the criminal laws of this State—that is what this bill will do. It is prioritising public funding to provide an express service for drug addicts with no waiting time while a few hundred metres away at St Vincent's Hospital 22 per cent of the 3,183 patients who visited the emergency department in June this year could not be treated in an appropriate time frame. That is a farce. Access block at St Vincent's Hospital meant that only 60 per cent of the patients whose condition was so serious they required admission to hospital could actually be admitted within eight hours of active treatment commencing. How can we possibly justify funding a free illegal drug injecting centre when ordinary citizens are unable to access an acceptable public health service?

Members should not say that I do not care about drug addicts because I do. They are also major users of public health services. Like any normal person who has sat in a hospital waiting room watching adults and children writhing in pain on the floor as they wait and wait, they must wonder, as I do, about the phenomenal funding allocated to a drug injecting centre where those who use the service are not required to wait. While drug addicts have access to that level of service, everyone else is stranded and in pain due to underfunding of hospital accident and emergency departments. It is beyond perverse; it is bizarre.

Last Sunday marked the sad fifteenth anniversary of the death of Anna Wood, a 15-year-old school girl who took an ecstasy tablet at the Sydney Phoenician Club only to collapse into a coma and die on 24 October 1995. What was a 15-year-old child doing popping ecstasy tablets in a registered club? Then Premier Bob Carr mustered all his confected outrage and pledged to stop rave parties, to crack down on drug dealing and to improve drug education. He also said that the Phoenician Club's licence should be revoked. Almost from day one we saw the gap between what Labor said should happen and what did happen. The police applied to the Licensing Court to have the Phoenician Club's licence revoked, as promised by the Premier. However, it survived the hearing after the then Minister for Education and Training, John Aquilina, provided the court with a reference and argued against the club's closure.

Last weekend's edition of the *Sun Herald* contained a story about Anna Wood's sad anniversary. Another story on the newspaper's website headed "League players in national blitz on sports drug cheats" stated that four rugby league players were among athletes who tested positive for a banned stimulant. An article headed "A quiet word and rules ease for violent pubs" stated:

SOME of Sydney's most violent bars are avoiding strict licensing restrictions by having the number of assaults linked to them reduced through closed-door negotiations with police and the government.

Yet another headed "Casino's brand gamble" stated:

THE \$860 million redevelopment is designed to transform Sydney's casino into a world-class leisure and entertainment destination.

Another headed "Nurses fear bedlam in jail hospital" stated:

NURSES at the state's highest security psychiatric prison hospital fear for their safety, and say they are left defenceless against violent patients.

There were also several stories about notorious crimes, including an update on Labor councillor Phong Ngo's latest appeal against his conviction for murder, which thankfully has been rejected. An article written by Paul Daley and headed "Thank God for the Salvos' helping hand" begins:

Poverty is still rife so it's onwards Christian soldiers as this charitable army continues to step into the breach to provide critical social support that governments do, or will, not deliver.

Last weekend's *Sunday Telegraph* was equally depressing. An article headed "Pill stats tough to swallow" states:

PARACETAMOL poisonings in children aged under three have hit a record high in NSW.

Yet another article stated that pubs are likely to be banned from selling energy drinks on tap amid claims they provoke violence. And another headed "40 thugs in inner west street brawl" stated:

POLICE used capsicum spray to break up 40 thugs in street brawl in Sydney's inner-west overnight.

Another article headed "It is your bikie mates or me, son" stated:

FREDERICKA Bromich says she has no choice but to stay away from son—Hells Angels member Peter Zervas—who faced court.

Yet another article headed "Raid unearths hydroponic cannabis crop" stated:

A POLICE raid has unearthed cannabis plants worth \$434,000 concealed in a four-bedroom hydroponic set up.

The Hon. Ian Cohen: You are an avid reader of the newspapers, but what is the point of reading all these articles to the House?

The Hon. CATHERINE CUSACK: An article published on 22 October and headed "Drug injection room will stay" stated:

DRUG addicts will remain a fixture in the main strip of Kings Cross with the controversial injecting room given permanent status.

Mr Ian Cohen asked: What is the point of reading through all of these newspaper articles?

The Hon. Ian Cohen: Well, you are not making much sense.

The Hon. CATHERINE CUSACK: I am sorry?

The PRESIDENT: Order! Members will cease interjecting.

The Hon. CATHERINE CUSACK: I listened in silence to a tirade of insults and offensive statements by Mr Ian Cohen, but it is too much for him—

The Hon. Ian Cohen: You are way off the mark.

The Hon. CATHERINE CUSACK: The point that I am making is that ordinary Australians are absolutely—

[*Interruption*]

The PRESIDENT: Order! Again I remind members to cease interjecting.

The Hon. CATHERINE CUSACK: They are absolutely fed up with the problem of illegal and legal drug abuse in this country. It is ruining the wonderful country and lifestyle that we afford to our citizens, and the fact that on one day our newspapers were absolutely full of these stories ought to be of concern to all members

in this place. In response to the story about the drug injecting room, I will read onto the record comments that were made on the *Daily Telegraph* website by members of the public because we are always told that the drug injecting room is popular and that the public overwhelmingly supports it. Luke from the Blue Mountains wrote:

Yeah Never mind the victims of crime who get robbed by these addicts so they can buy their drugs and go inject safely nope let's give criminals and drug addicts more rights GO New South Wales cheering for ya

Chris wrote:

So why do we not have federally and State funded smoking rooms for us addicted smokers?

A person who calls himself "Dark Avenger" of Parramatta wrote:

Now all we need is a Cocaine room for the rich. In Martin Place!!! We could all call it the powder room. Why does the cross get to have all the good stuff to itself.

The Hon. Ian Cohen: Why don't you give up tobacco? Explain please, I would really like to know. Why don't you give up tobacco? Why are you a smoker?

The Hon. CATHERINE CUSACK: Madam President—

The PRESIDENT: Order! If members who are interjecting wish to contribute to the debate, they should seek the call at the appropriate time.

The Hon. CATHERINE CUSACK: NJB of Sydney wrote:

More tax payer funds spent on what the general population don't want they decide to go down this path themselves they should not be a lowed to us taxpayer dollars this is stupidity

J. Baker of Sutherland stated:

Why not put tax payers money into a rehab facility. This is just encouraging people to be able to get away with something that is illegal. Don't worry about the shop keepers and the businesses surrounding it. They pay taxes and it should not be going to support this type of thing. Here are people being allowed to inject illegal drugs and the Government are putting their stamp on it, paying for it from our taxes and we can't afford to pay for our electricity and they get it for free, something fundamentally wrong with this. Ask the Australian people to have a referendum on it.

Neville of Sydney wrote:

How will a drug injecting room rid the streets of dirty junkies. There is only one way to break the cycle of drug use COLD TURKEY. If that hard line is not employed, then everyone is wasting their time. The dealers are having a field day, just wait till the Government starts opening them up in other suburbs. Every Government official and worker who supports this and other injecting rooms should be charged with conspiracy to supply heroin.

Andrew wrote:

Drug taking will remain a fixture in Kings Cross with or without the injection room but you already knew that, didn't you.

Figjam of Potts Point wrote:

If it is really so successful why isn't Keneally announcing new injecting centres in many other suburbs and towns?

Rex stated:

In the meantime your average pot smoker is treated worse than a junkie and given no legal access to their drug of choice. When was the last time you heard of a stoned person trying to steal a handbag? When was the last time you heard of a "bud" giving you aids or hep b? When was the last time you heard of a pot smoker being given a "hot shot" ... The New South Wales Government sure has its priorities right ...

What is happening is that other types of drug users are saying, "Well, if you're doing this for heroin users, why aren't you doing it for us?" They regard this as inequitable. They are the people that the Government is appealing to. Ted Thorne of Melbourne wrote:

Now can we get the alcoholic's room established for free alcohol too please.

Poor of Sydney wrote:

How about a recharging room for mobiles and laptops??

Billy Bob of Sydney wrote:

Maybe we should start giving firearms lessons to armed robbers to make them safer, or provide condoms to rapists to protect the victims, we have to protect those that do wrong.

Members are objecting to this, but I am reading out public comments about this legislation. These are quotes that I am reading to a Government that claims this injecting room is popular. Dave of Sydney wrote:

... I still find it impossible to understand how something that is illegal in the State is allowed and supported by the Government in this centre. Last time I looked illegal drugs were just that—illegal. My brother who is a diabetic has to pay for his needles, these law breakers get given them for free—why????????

Brett of New South Wales wrote:

My god. What about tobacco—a legal product—demonised by our Government with punitive taxes and trade barriers on producers and retailers and the smokers who pay the highest tobacco taxes in the world? Like drivers, smoking is an easy target. Like real crime, shooting up illegal drugs is too difficult to handle so govco does nothing but support it. Pathetic really, but that is modern Australia for you.

Shire girl stated:

The reason the State Government has decided to keep the rooms is because it is cheaper than actually having to help people get off this drug.

Trav wrote:

So where do people that use this centre get the money to buy the drugs?

Skip wrote:

Gone are the days that you can go to the Cross just to have a look if you are a tourist. I remember the good old days when people could have a good time and enjoy themselves without having to put up with this rot. Drugs have always been around we just did not hear about it as much. You may as well put the Drug Sellers outside and the Addicts can collect them on the way in and a door out the back for the Police to pick them up after they inject. What a disgrace that it has come to this!!!!

I spent my first six years in Parliament staying at the Country Women's Association in Potts Point and seeing firsthand what goes on in Kings Cross at all hours of the night. It is absolutely disgusting. The idea that the injecting room has somehow cleaned up Kings Cross is ridiculous and comes from people without firsthand experience of what happens there. The review of newspaper reports gives an unflattering picture of Sydney and New South Wales as a State reeking of legal and illicit drug abuse. Problem gambling, alcohol, prescription drugs and illegal substances trigger violence in our streets and homes and accidents on our roads. They ruin the reputation of revered sporting achievements, cause depression and suicide amongst our youth, leaving our schools, police, health services and voluntary agencies struggling to cope with the social and economic consequences of this malaise.

Our State is really battling with these problems. Many in our community are bewildered and utterly fed up with the lack of discipline and action. We are obsessed with testing for drugs as if this is some type of answer. Tens of millions of dollars are spent annually testing for legal and illegal drugs amongst road users, train drivers, bus drivers, police officers, criminals inside and outside of jail and sporting stars—even racehorses and greyhounds have to be tested for drugs. Of course, we need these tests, but we are kidding ourselves if we think that they are a solution. Does not the fact that we have to conduct all these tests at a population level tell us that we have a big problem with drugs?

The Government's solution is \$2.5 million of taxpayers' money annually invested in operating a centre that is exempt from the State's criminal codes so that addicts can self-inject in a hygienic environment. This response is simply window-dressing to hide the fact that the Government has no credible, let alone effective, plan to address the palpable problem of drug abuse in this State. It is a poor use of taxpayer funds and it is at the expense of better initiatives that would be more effective in saving lives, reducing crime and alleviating the burden on families and communities.

The data and research for public policy purposes is actually being hindered rather than helped by the existence of this facility. I do not blame the staff or even the praetorial guard of like-minded supporters for this problem. It is a creation of the Carr and Keneally governments. Research as to the effectiveness of the centre has been undertaken at intervals principally for the purposes of legislative debate—not for clinical purposes to help the drug addicts but rather for political purposes to prolong the funding for the centre. The aim of the research is

to prove to Parliament that the centre is worthwhile and cost effective. By way of example, a statistic repeated by almost every speaker in favour of the bill is that ambulance call-outs have plummeted in the area since the establishment of a drug injecting room. Minister Tebbutt told Parliament:

The most recent evaluation for the centre also links its presence to a significant 44 per cent decline in ambulance call-outs to suspected overdoses in Kings Cross.

The centre's website has a document called, "Basic facts about the medically supervised injecting centre", stating:

Since the establishment of the MSIC there has been a dramatic 80 per cent reduction in the number of ambulances being called to drug overdose in the Kings Cross postcode.

The member for Swansea, Robert Coombs, said:

The findings are that the centre has saved lives and successfully managed 3,246 overdoses on site. Also, there has been a 44 per cent fall in ambulance attendances in Kings Cross during the opening hours of the Medically Supervised Injecting Centre.

The suggestion is that ambulance trips have been saved and a huge burden has been lifted from our health system. David Campbell stated:

Based on fact, rather than on entrenched emotion, it is obvious that there has been an improvement ... in the lot of front-line emergency service workers such as ambulance workers who are not in the back lanes day in and day out trying to revive people who have overdosed. Through all of that, clearly there has been a reduction in health costs. Obviously a reduction in health costs means an improvement in the overall health budget, because the money is redirected.

Mr Campbell insists his argument is "based on fact" but it is far from factual. It is downright spin. I have taken the trouble to find the report which is the source of these emphatic statistics, quoted with such confidence by proponents of the bill. It is a report called, "The impact of a supervised injecting facility on ambulance call-outs in Sydney, Australia", by Allison Salmon, Ingrid van Beek, Janaki Amin, John Kaldor and Lisa Maher. These authors are drawn from the National Centre HIV Epidemiology and Clinical Research, University of New South Wales and the drug injecting centre itself. It is not publically available. I had to purchase the source article from an American academic website and was given 24 hours access at a price, but it was worth the cost to be able to see the source data. Therefore, I advise the Parliament of the actual data and how it stacks up minus the Government spin.

In the three years prior to the opening of the injecting room there were 214 ambulance trips per month for all of New South Wales where the patient was treated with nalaxone. The Kings Cross postcode had 17, or 8 per cent share, of these ambulance trips. Following the opening of injecting room the report states there was "a nationwide reduction in the availability of heroin that prompted shifts in the patterns of drug use and a decline in heroin use." It is true that ambulance trips in Kings Cross fell by 76 per cent from 17 per month to four per month, but it is also true that the rest of New South Wales, which did not have the benefit of injecting rooms, saw a decline of 60 per cent, from 197 per month to 78. If the Kings Cross figures are brought into line with the rest of the State, it appears that the injecting room is saving 1.8 ambulance trips per month.

This seems very marginal in the overall workload of ambulances around the State and also in the inner city, and I question the way in which the ambulance call-outs have been brandished as some kind of success indicator. In the area immediately outside the Kings Cross postcode, the number of ambulance call-outs fell by less than the State average. The impact of the centre is very confined to the Kings Cross area, which caters to less than 8 per cent of addicts; as I said, the impact has been very marginal. That is a factual statement. It alarms me that the truth about ambulance call-outs has been distorted to suit the argument. I find it dishonest and disappointing that such a misleading argument has been given such standing and credibility in this debate.

One statistic that baffles me is the claim that the centre is treating 30 overdoses a month. That is more than all the overdoses attended by ambulance officers at the height of the heroin crisis, which was prior to the opening of the centre. I can only assume that those figures have been grossly inflated through a loose definition of the term "overdose". Again, that disappoints and angers me because I have enormous faith in science and the professionalism of our health system. The self-serving use of these statistics to baffle and bulldoze through this bill is very disappointing. I would liken it almost to a cheap con.

I have a large number of questions and concerns about the centre's operation which I will not go into, except to say that it does not accept people under 18 or pregnant women. These are the two groups I would like

to see assisted most in terms of this addiction, but they are rejected and I do not understand why. The hours of operation of the centre do not coincide with the times of drug use. It closes at 7.00 p.m. on Saturday night. Page 141 of the KPMG evaluation report states:

In relation to the location of injecting outside of the MSIC opening hours, most clients interviewed (19 of 23 clients)—

I reiterate the point made by Reverend the Hon. Fred Nile that a total of 23 clients interviewed for the entire evaluation do not seem to be very many—

reported that they injected outside of opening hours. Most commonly reported injecting in their own or at a friend's home, although public injecting was still reported.

The Kings Cross injecting centre is a tourist attraction for overseas visitors who are drug users. If they were visiting a hospital they would have to pay, but drug users availing themselves of the drug injecting facilities at Kings Cross may do so for free. I respect the professionalism and non-judgmental way in which care is offered by the dedicated doctors and nurses of our health system. I am not surprised that staff at the drug injecting centre are passionate about their service and that they care deeply for their clients. Of course they want funding; of course they want to continue. We are not questioning that. I cannot respect the Keneally Labor Government for using this issue as a political wedge or as a distraction.

This issue should be debated after the election in a cool and considered environment and not in a high temperature controversy quagmire and controversy of this decaying and discredited State Government, which is desperate to demonstrate that it is doing something. That is why I say that this legislation is a farce. There has been no outcome that genuinely assists addicts and we have not gained further knowledge. Indeed, to the contrary, the desperation to justify the centre has obscured research and discussion on significant trends that have occurred in drug abuse in the past 10 years. All are overlooked; none of the issues are being addressed. The whole issue is being seen through the political prism of the drug injecting room and I believe this is counterproductive to the larger issues involving drug abuse in this State. I vehemently oppose this bill.

The Hon. IAN COHEN [10.08 p.m.]: On behalf of the Greens I support the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010. This is an issue that is close to my heart and I am very proud to be able to bear witness to the debate and hopefully the passage of this bill in what is my last parliamentary term. It closes a chapter that was begun more than 12 years ago when the Joint Select Committee into Safe Injecting Rooms was established. As a member of that committee I was involved in reviewing submissions, interviewing witnesses and visiting international examples of safe injecting rooms that had been established to help address the distressing issue of intravenous drug addiction.

I participated in the Drug Summit and it was a time of great debate, with both sides being very adequately put. It was a time when the issue was brought to the fore and showed clearly what could be done with the support of Parliament to actually move attitudes. We established a certain level of debate during that summit, which was admirably chaired by Ian Sinclair. I well remember sitting in this Chamber when then Premier Bob Carr came to speak. I acknowledge his input, commitment and bravery as the Premier of the State in standing up, making pioneering statements and pushing the issue—excuse the pun—in a way that gave legitimacy to arguments that had been put for some time. I credit his action and that of his Government with a significant saving of life in this State. The Carr Labor Government and now the Keneally Labor Government deserve to be acknowledged for moving forward, despite the vehement opposition and distracting misuse of information. It has been a significant step forward.

I acknowledge also a former member of this Chamber, the Hon. Ann Symonds, who eventually went on to become the Chair of the safe injecting room inquiry. Ann, the other committee members and I travelled to a significant number of places, both in Australia and in Europe, where we visited supervised safe injecting centres in places such as Switzerland, Frankfurt in Germany and The Netherlands.

We saw the various levels of oversight in those centres and spoke to many people who were working hard to keep drug addicts alive and supported and using clean equipment, which is the most important aspect. In the debates we have had periodically in this House many people have not recognised that there are many levels of addiction and, as I have said before, that addiction itself is as complex as the human personality. There are those who respond to religious support or to naltrexone or various other alternative treatments to get them off their particular drug of addiction, but there are also those who do not respond. It is often those people who are using drugs and are most down and out who need to be kept alive, reasonably healthy and free of blood-borne diseases until they get to the point where they can recognise the gateway and move forward. It is a matter of keeping them in that condition until they reach the point where they say, "Right, I want to get off this."

Perhaps I was a little disrespectful earlier, but let us not lose sight of the fact that the greatest cause of avoidable death in Australia today is tobacco. It is a legal drug, but does that somehow make it better? It is a hard drug. It is physically and psychologically highly addictive. Many people I have spoken to have said that getting off tobacco is harder than getting off heroin. There are so many people—friends of mine that I have known for many years—who have tried to kick the habit but cannot. That is a tragedy in itself that society attempts to deal with but somehow, because heroin is illegal, it is viewed differently. I suggest we need to keep encouraging people, whatever the drug or the situation, to free themselves from it. However, we need to recognise that people have various levels of ability to free themselves and we need to be patient with them. That is what makes medically supervised injection rooms so essential. They are one part of a suite of tools to use against a terribly abusive scourge that exists in all societies. Drug issues are rampant in all societies.

It was interesting on the European tour to see the drug situation in Switzerland. A previous speaker said, "It is terrible. The government supplied heroin to addicts in certain circumstances." I went into the safe injection rooms there and they were inspirational. They were very well run. That was part of the information we brought back from that tour, and I know that people who were starting the injecting centre in Sydney had similar experiences. The injection rooms in Switzerland were very well run by concerned people. It allowed addicts to inject in a clean environment while at the same time staff were available to give them support at whatever level they could. It got people out of the gutter and off the streets. In Frankfurt, for example, an old gasworks had been completely converted into a rehabilitation centre with every level of treatment—doctors, clinics, work and activity centres, a fantastic laundry, and a canteen where addicts worked and tried to rehabilitate themselves. It had everything.

The Hon. Rick Colless: It doesn't happen here, though.

Reverend the Hon. Fred Nile: What about Sweden? Did you go to Sweden?

The Hon. IAN COHEN: It is interesting that if I interject it is somehow a terrible thing.

The Hon. Marie Ficarra: You did your share. You are no angel.

The Hon. IAN COHEN: I draw interjections from all over the Chamber. I thank members for their interjections because it adds to the communication. In Sweden many young people with drug problems were leaving the country and escaping from a very draconian situation. Sweden was actually losing many of its youth because of its policies. I suggest the system was not working even though the figures might look good. It amounted to a refugee situation. Young people went across the border to a more liberal system where they did not feel so oppressed. I do not accept that Sweden has somehow achieved a glorious result in the way it dealt with the drug situation. It was extremely repressive and draconian.

Reverend the Hon. Fred Nile: They saved their young people.

The Hon. IAN COHEN: They were not saving their young people, because those people were running away.

The Hon. Marie Ficarra: Rubbish!

The Hon. IAN COHEN: They were going to other countries. I was there and I spoke to those people. I suggest to Reverend the Hon. Fred Nile that he sees what he wants to see. That is fine but he should not presume that he has some sort of monopoly on reality in this or any other debate. It is fair enough that he sees things that way but it is not the case. Sweden drove a lot of those young people away. Its policies were not working and they were not reducing the problem.

As I was saying, in Frankfurt I went out onto the streets in the middle of the city late at night. Because of the population, the huge pressures, the proximity to the source of drugs in the Middle East and the ease of running drugs—I do not know the exact reason—at about 12 o'clock at night there were one or two dozen people sitting in the gutter with upturned empty aluminium drink cans mixing their fixes. Those are the sorts of problems that society was facing. That is why they were pioneering the medically supervised injecting rooms, and it was working.

To go back to the point I was making about Switzerland, it is easy for people to be judgemental and say that people should not be injecting drugs. They claim that injection rooms just encourage young people to inject

drugs. I disagree with that. Lo and behold, the comment was made that it was a terrible thing that the government in Switzerland supplied heroin to people. Again, there are various stages of addiction and people have different personalities. Some people are so hopelessly addicted that consumption of the drug is not necessarily the greatest problem; it is the lifestyle that goes with it. They are living in the back streets and the gutters and are forced to prostitute themselves and sell drugs to keep their habit going. It is an absolutely desperate situation, which takes me back to what happens to people who come into the medically supervised injection centres. Sometimes that it is the only time in their day that is not absolutely chaotic, when they are not running themselves ragged, desperately avoiding police and just trying to survive. They come to one point in the day when they can talk to someone in a white coat who can give them some intelligent support and show them some sympathy. That is where the importance of these injecting centres lies.

In Switzerland, which has a very tolerant attitude, they experimented a lot with supplying heroin to certain people who they recognised would not get off the drug easily. I met those people. They were holding down jobs and were actually productive members of society. They did not get off their heroin addiction although they wanted to, and they would one day, but they were relatively healthy and functioning. They were holding down jobs with the support of the government through this process. I do not see that as something that should be vilified. I think that government acted in a very commendable and highly responsible way to deal with an extremely difficult situation.

It is fantastic that the Drug Summit was a move towards the introduction of a trial of the safe injecting room. I well remember the debates and the position of Major Watters of the Salvation Army. His name has been mentioned in the debate tonight. Many Salvation Army people came up to me and said, "He does not represent the point of view of the organisation. He represents a certain sector." He had the ear of then Prime Minister John Howard, and he accrued immense power from that relationship. But many senior people in the Salvation Army who attended the Drug Summit and other activities spoke to me and clearly said they did not agree with Major Watters. I heard what was said by Reverend the Hon. Fred Nile, but am yet to hear from Reverend the Hon. Dr Gordon Moyes, yet Reverend Harry Herbert, who has been a significant supporter of medically supervised injecting room trials, has been an advocate of these facilities for a long time. That is another aspect of the Uniting Church that is to be greatly admired, and it is a humane aspect at that.

I recognise the vital work done by Dr Ingrid van Beek, who worked tirelessly to promote the public health advantages that could be gained from establishing the Medically Supervised Injecting Centre. Dr van Beek went on to become the foundation Medical Supervisor, and has contributed substantially to our medical understanding of the benefits that a safe injecting room can provide. The Royal Commission into the New South Wales Police Force, also known as the Wood royal commission, was a turning point in our State's history for a number of reasons. Critically, in my mind, it saw the birth of the idea that we could provide a compassionate, safe and effective public health service to people struggling with drug addiction while also helping to eradicate the corrupt relationship between the police and the owners and operators of illegal and unsafe intravenous drug shooting galleries.

Commissioner Wood found that, while the way in which the police were implicitly approving the ongoing use of shooting galleries was corrupt and not in the best interests of rehabilitation, licensed injection rooms in high-risk areas could actually help to reduce the spread of infectious diseases and reduce the rate of theft and violence associated with drug use. Australia, and New South Wales in particular, lead the world in the fight against infectious diseases, because at a very early stage the needle exchange program was introduced. Some members have said how terrible it is that an insulin-dependent person must pay for a needle—and I agree, it is terrible—yet addicts are able to get them for free. However, the needle exchange program has saved many, many lives and has stopped the spread of HIV and HCV through the injecting user population, and their subsequent spread to a wider population in Sydney and Australia. Sydney is a leader in that very effective public medical facility.

The Hon. Christine Robertson: New South Wales, not just Sydney.

The Hon. IAN COHEN: I acknowledge the interjection, which is true, because needle exchanges are available throughout New South Wales. I was thinking of my experience when I visited the Kirkton Road Centre very early on and seeing the number and type of people who were coming to the centre to obtain syringes. They were not just drugged hippies; they were executives and other very ordinary people, a wide cross-section of the population. That needle exchange program brought a reduction in the spread of infectious diseases. At the same time it reduced the rate of theft and violence associated with drug use. The injecting centre established a venue for the drug-addicted to seek treatment and provided safety in the case of overdoses.

Friends and other people I have known in my life have overdosed. I do not want to mention names, but I have said in this House before that a young friend overdosed in toilets at Nimbin, hit his head on a dispenser and died in the toilets. What a way to go! That would not happen in a medically supervised injection room, because someone would see what is happening and quickly do something to bring that person round. Commissioner Wood saw licensed injecting rooms as a natural extension of the successful implementation of the Needle and Syringe Exchange Program. Of course, he supported the Medically Supervised Injecting Centre.

The establishment of the Joint Select Committee on Safe Injecting Rooms was a direct response by the Government to this finding. The committee was charged with investigating the costs and benefits of establishing a safe, sanitary injecting room and recommending whether or not the Parliament should proceed with establishing this service. More than 100 submissions were received by the committee, and almost 90 witnesses were interviewed, with views both in support of and in opposition to the idea of licensed injecting rooms. There were widely held fears that instituting a legal injecting room would condone drug use that is destructive to the user, their family and friends and society in general, and would increase the use of drugs. There were concerns that this would in turn lead to inconsistencies within the law where drug use is legal in one setting but outlawed in all other settings. Additionally, it was feared that drug dealing and property crimes would increase.

The committee visited a number of locations within New South Wales to speak directly with members of the community, health workers and drug users about their experiences, and a subcommittee travelled to a number of injecting rooms in four European countries—Great Britain, the Netherlands, Switzerland and Germany—to see how they were working and operating, in what context they had been established and whether their experiences could be extrapolated to an Australian setting. We learnt from these European visits that, despite the differences, all injecting rooms had been established with harm reduction in mind. It also provided us with an early warning of the impact of ice addiction and reliance on that drug. That was a completely different situation, with often agitated and violent people being dealt with in those centres. It was even more difficult for those running the centres to deal with those people than it was to deal with relatively passive heroin addicts. At the conclusion of the inquiry the majority of the committee recommended that an injecting room not be established—a view that I, along with Ann Symonds, John Mills and Clover Moore disagreed with. I am happy to say that the Government disagreed with the majority recommendation, as we saw with the subsequent establishment of the Kings Cross medically supervised injecting facility.

To my mind, there was another dimension to investigating safe injecting rooms that went beyond the Woods recommendations and the inquiry. It relates to our perception of people who use illicit drugs and the growing understanding of the role harm minimisation plays in reducing the impacts of illicit drug use on our society. In 2006 a joint study between the Washington University School of Medicine and Queensland Institute of Medical Research investigated the link between childhood sexual abuse and risks for licit and illicit drug-related outcomes through semi-structured psychiatric interviews conducted with 6,050 Australian adult twins. The study highlights:

A history of CSA [child sexual assault] was associated with significant risk for subsequently occurring regular smoking and use of each illicit drug class. In same-sex discordant pairs, significant risk for regular smoking and illicit drug use was found in twins with a history of CSA compared to their non-abused co-twins.

I would like to go through some facts set out in a table produced by the study. It shows a comparison of prevalence, expressed as a percentage, of licit and illicit substance outcomes by gender and childhood sexual abuse status gained from interviewing those twins. With opioids users, 11.5 per cent of women had been subjected to child sexual abuse, while 4.2 per cent had not. For men, 23 per cent of users had been sexually abused as children, and 6.8 per cent had not. For sedative users, 18 per cent of women had been subjected to child sexual abuse and 6.9 per cent had not. For stimulants users, 29.2 per cent of women had been subjected to child sexual abuse and 13.8 per cent had not.

We are looking at a doubling of those figures for people who were sexually abused as children. I am happy to show the statistics to members outside this Chamber, but the likelihood of drug use roughly doubles among people who were sexually abused as children. People often condemn drug users without looking outside the box and without taking into account all the reasons for their drug use. I am sure that all members followed the recent canonisation of Mary MacKillop. One of the great things she did throughout her amazing career was to stand up against priests who abused children. Her path to sainthood was paved with great social worth and she was a wonderful worker for the causes in which she believed. She was prepared to stand up against paedophilia in the church to the point where she was almost ex-communicated.

Reverend the Hon. Fred Nile: She was ex-communicated.

The Hon. IAN COHEN: I thank Reverend the Hon. Fred Nile for his interjection.

Reverend the Hon. Fred Nile: And she was restored.

The Hon. IAN COHEN: And she was restored. People victimise drug users without considering the reasons for their problems—which, in some cases, include terrible childhoods and the role played by the Catholic Church, which has been pretty well established. It played a role in destroying people's lives. However, some members continue to condemn things such as non-violent erotica without recognising the level of child sexual abuse perpetrated by pillars of our society—in this case the Catholic Church. In many instances the likelihood of drug-dependence and illicit drug use doubled if people were sexually abused as children, at a young and vulnerable stage of their lives. Those members who oppose the medically supervised injecting room trial should examine the drug-dependence problems exhibited by people later in life. If they did so they would find that those people have often suffered various types of personal abuse.

Other studies have shown a strong correlation between child abuse and neglect, including childhood sexual abuse, and the later onset of drug and alcohol addiction patterns. A 2002 study by Frederick S. Cohen and Judianne Densen-Gerber examined 178 patients with drug addiction problems and found that 84 per cent had a history of child abuse and neglect. We must be mindful of the prevalence of childhood sexual abuse histories of those in our society who have a dependence on illicit drugs. Whether occurring in the family home, in sporting clubs, in schools or in our churches, childhood sexual abuse can often lead to drug use or dependency.

During the inquiry we met with, and we were impressed by, dedicated workers from Wollongong to Frankfurt who were involved in running clean facilities. It is a credit to Australia that we have been recognised as a world leader in needle exchange—for example, at the Kirketon Road exchange in Kings Cross—and that we had the courage to follow it up with the injecting room trial. However, the inquiry experience was not without some personal cost. Typically, members of the media were looking for a salacious story to print and followed us around taking photographs. When I was leaving Porky's I was a few steps behind Anne Symonds and Ingrid van Beek, which afforded me some protection. Unfortunately, my picture was taken when I was out the front of a—

The Hon. Lynda Voltz: A doubtful establishment!

The Hon. IAN COHEN: A doubtful establishment to say the least. I went over and talked to those members of the media and made it clear that if they used the picture they would be facing legal action. Fortunately, those gratuitous photos were never printed. That type of thing can happen and the real story can be easily misconstrued. In the report published in January 1998 by the Joint Select Committee on Safe Injecting Rooms there was an observation that the weight given to arguments for and against establishing a safe injecting room ultimately was a matter of personal perspective. Ten years on, the same thing cannot be said as it is now clear that the evidence is overwhelmingly in support of a continuation of this vital service.

Since the facility opened, nearly 3,500 overdoses have been managed. Perhaps I am living on another planet, but I do not understand how so many overdoses have been successfully managed since the facility opened and people still cannot see the worth of that facility. To date, 3,500 overdoses have been managed and there have been no fatalities. Surely those figures speak for themselves. If those overdoses had occurred on the streets it is likely that a number of deaths would have occurred, or at least medical intervention from emergency service personnel would have been required. I am not referring only to the endgame of death; if people are not treated quickly when they overdose, in many circumstances significant brain damage occurs. They will be affected before their acute situation can be resolved. All those factors should be taken into account.

Centre personnel are present when an overdose occurs and a person collapses, and he or she can be treated. As well as providing a safe place for drug users to inject, the centre provides a critical avenue for referring clients to drug and other types of medical and social treatment. This system increased the number of people following through and turning up to treatment services. Statistics published in 2007 show that more than one-third of those referred had not previously sought drug treatment—a clear example of the benefits to overall drug treatment and rehabilitation aims. The basic lesson missed by the anti-drug zealots is that we have to keep them alive so that each complex individual can find the will and desire to seek rehabilitation. No magic bullet works for all people at all times.

But not just medical evidence is on the side of the permanent continuation of the injecting room: work done by the New South Wales Bureau of Crime Statistics and Research shows that, despite howls of outrage to

the contrary when the injecting room was proposed, there is no evidence that the injecting room impacted negatively on crime in the area. This applies not just to drug offences but also to theft, robbery and property crimes. We established that the real dangers were deaths in alleyways and dirty syringes on the streets and in our school grounds. Local residents and businesses increasingly are supporting the safe injecting centre, as they see the evidence on their streets. It is an important component in addressing issues relating to intravenous drug use.

Removing the barrier to permanency for this public health service will have a positive impact on the morale of staff members who work at the centre and it will serve also to depoliticise the role and function of the centre. It is important for all workers to feel some level of certainty in their employment. When they are engaged in a technically and socially complex environment such as the injecting room it becomes even more critical that their needs are being catered for. When we have all the evidence that the licensed injecting room model works, it is farcical that it remains on trial status. This can be explained only as being a function of lingering moral doubts about the validity of the Government's allowing such a service to exist. It politicises something that should simply be a matter of public health policy.

I have visited the medically supervised injecting centre at Kings Cross and I have been impressed by its cleanliness and efficiency, and the educational material and support available—all aspects that provide further evidence of why we should support removing the centre's trial status. Within this context, the amendments in this bill are relatively uncontroversial as they seek to change part 2 of the Drug Misuse and Trafficking Act 1985 so that the licensed medically supervised injecting centre that will be established by that part is no longer limited to trial status. I turn now to the key amendments. The first key amendment makes it clear, through the introduction of objects in new section 36B, that the objects of the injecting room will be:

- (a) to reduce the number of deaths from drug overdoses
- (b) to provide a gateway to treatment and counselling for clients of the licensed injecting centre
- (c) to reduce the number of discarded needles and syringes and the incidence of drug injecting in public places
- (d) to assist in reducing the spread of blood-borne diseases such as HIV infection or Hepatitis C.

These objects are supported by the evidence collected during the injecting room's 10-year trial, which has shown us that these aims are not just aspirational but achievable in a concrete sense. However, these proposed objects do not acknowledge the impact that the establishment of the injecting room has had, and will continue to have, on reducing reliance on other medical services such as ambulances. Research by Salmon et al. at the National Centre in HIV Epidemiology and Clinical Research at the University of New South Wales and the Sydney medically supervised injecting centre in New South Wales found that having a medically supervised centre for intravenous drug users to inject drugs safely reduced the need for ambulance call-outs to overdoses.

This reduction in the use of ambulance services has positive flow-on effects for the wider community, as it frees up services for other medical emergencies. It is therefore clear that the Kings Cross injecting room not only provides services for drug-addicted people but also offers an essential public health service that we can all benefit from. I am certainly pleased about that. When my father had a stroke and broke his hip, and I found him on the floor of his flat after a late-night sitting of Parliament, he received fantastic service from ambulance officers within a very short time. It happened at about four o'clock in the morning—a time when one presumes that, without an injecting centre, there would have been many ambulance call-outs to drug overdoses on the streets.

New section 36C will establish a statutory review period of this part five years after commencement, bringing it into line with other statutory review periods. This will ensure that appropriate oversight is maintained when the service becomes permanent. One area in which the Act will be strengthened is under what circumstances a licence can be revoked. As well as continuing to allow for revocation in situations where the centre is not economically viable, the service level activity drops below 75 per cent or a range of situations where offences are committed or fines are unpaid, new section 36KA will allow for revocation when authorities believe it is better for the licence to be issued to another premises, that the licence holder is not a fit and proper person, or such other reasons as may be covered by the regulations. The Commissioner of Police and the director general of the Department of Health, as the regulated responsible authorities, will retain the power to review the operations of the centre and revoke a licence within the parameters in the Act. The tragedy is that, even when we know that a safe injecting centre in Kings Cross has had such significant benefits for the community, the bill allows for only one such facility to operate at any one time in New South Wales. I am hopeful that one day we will see this vital service rolled out to other areas of our State where there is a similar need. With pride, I commend the bill to the House.

The Hon. MARIE FICARRA [10.42 p.m.]: I oppose the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010 and note that the Liberal Party has conferred upon its members the right to a conscience vote. My conscience, experience and knowledge as a scientist involved with healthcare for many years dictate to me that the drug injecting room has been a failure and should not continue, and certainly should not be made permanent. The objects of the bill are to amend the Drug Misuse and Trafficking Act 1985 to enable the medically supervised injecting centre in Kings Cross to operate on an ongoing basis and to repeal the Drug Summit Legislative Response Act 1999, which contains spent provisions relating to the Drug Offensive Council, foundation and fund.

Harm minimisation has been around since 1985, and yet the number of deaths continues to increase. Harm minimisation puts little or no emphasis on the prevention of illicit drug use. So, after nearly 23 years of failed harm minimisation policy in Australia, I again ask: Why are we continuing this farce? According to the United Nations Office of Drug Control and Crime Prevention, Australia's statistics indicate the highest level of illicit drug abuse amongst OECD countries, due to our inappropriate harm minimisation policies predominating over drug prevention policies. Australia has the highest levels of cannabis and amphetamine use and the fifth highest level of cocaine use. Harm minimisation places little emphasis on the prevention of drug use. Prevention and early intervention programs send a clear message that the harmful effects of drug use are too great for drug use to be socially acceptable, and that Australians support a drug-free society.

What are we doing to help heroin addicts now? Studies show that up to 45 per cent of methadone patients still use illegal heroin, and that many stay on methadone for decades. I believe the legislation is just another step in the eventual decriminalisation of drugs in this State. That is what certain members would like to see—I have no doubt about that. I believe the New South Wales Government should investigate the Swedish model and its restrictive drug policies, as outlined by Reverend the Hon. Fred Nile. This includes the adoption of a strong anti-street selling program, a replica of the Cabramatta model, which resulted in significantly lowered overdose rates and excellent social outcomes for that Sydney region, expressing community desires.

The New South Wales Government should examine abstinence-based rehabilitation programs that have shown considerable success, including Australian programs such as those operated by the Salvation Army and DrugBeat from South Australia, as well as international programs such as Hassela from Sweden, San Patrignano from Italy, and Daytop International and Phoenix House from the United States of America. All these programs have shown great statistical results over the past few years. The statistics are on the website for all members to look at.

The injecting room has been a failure, with loads of community opinion and feedback aired on most of our talkback radio programs, including that of my great mate Alan Jones on 2GB—which I listen to regularly. The issue of referral into rehabilitation and detox treatment schemes is a major case in point. One caller stated that, of the 16,000 drug users who used the Kings Cross injecting room, only six in the past few months had re-diverted themselves into treatment. I am aware that Reverend the Hon. Fred Nile has asked the Government to confirm that only 11 per cent of the drug injecting room's clients are referred to maintenance treatment when 66 per cent were referred prior to the trial, and whether only 3.5 per cent of clients are referred to detox and only 1 per cent are referred to rehabilitation. These questions have not been answered by the Keneally Labor Government.

I have not been presented with any evidence from those lobbying to make the injecting room permanent that shows there has been any major positive effect on referrals to treatment and holistic rehabilitation. Some have argued that ambulance attendance in Kings Cross has been reduced. This is due not to the injecting room but, more to the point, to the fact that fortunately there has been a heroin drought and tougher policing, with the introduction of sniffer dogs since 2002. This is what is needed: a tougher stance on traffickers and dealers, and proper referral for treatment and rehabilitation, rather than facilitated legalisation.

While the Keneally Labor Government and its predecessors have wasted millions of dollars on the failed injecting room, government and non-government rehabilitation programs are suffering from a lack of resourcing and funding. The drug injecting room should be closed and the funding redirected to the establishment of more beds in rehabilitation centres that will focus on abstinence from the use of illicit drugs. The injecting room costs this State \$2.5 million a year to operate. That is enough to fund 109 drug rehabilitation beds, or to supply more than 700 heroin-dependent users with life-saving naltrexone implants for an entire year.

As I have stated in this place previously, the injecting room trial should have been completed four years ago, considering the publication of the 2003 government-funded evaluation. At that time the evaluation should

have been sent to the International Narcotics Control Board and the centre should have been closed. In 2001 the International Narcotics Control Board declared the trial to be a breach of the United Nations drug treaties. The ongoing operation of the facility, under the guise of a trial, enabled this farce to continue. Some members have spoken about the level of support for the injecting room from Kings Cross residents and shopkeepers. However, an article by Kate Sikora in the *Daily Telegraph* of 22 October this year reads:

But residents and shopkeepers are upset, saying Kings Cross will forever remain degraded by the injecting centre, which is a "honeypot" for addicts.

Local businessman Andrew Strauss told The Daily Telegraph lawyers were engaged for possible action against the Government.

"They have lied. They say the centre is wanted by businesses but it's not," he said.

"The addicts use the centre and then they don't leave. They sit outside and stay.

"It's unfair to residents, to the shopkeepers and to the school students who are forbidden to walk along Darlinghurst Rd.

The centre always has been a vehicle for illegal drug consumption and has not been successful in helping drug users kick their addiction. Addicts are given assistance to continue their deadly lifestyle. Clearly, the injecting room is a facility that does not meet its publicised reason for existence. Implants of naltrexone—a substance similar to narceine in that it blocks the opioid receptors from responding to opiates—last up to six months and feed naltrexone into the bloodstream, reducing cravings for opiates and preventing any chance of overdose. Trials with more than 2,000 naltrexone implants thus far have had excellent long-term and short-term success. Such programs need increased government priority, resourcing and funding. Drug Free Australia found that the overdose rate in the injecting room is 36 times higher than on the streets of Kings Cross, at least 40 times higher than the clients' previous history and 49 times higher than the estimated national overdose averages.

Why was this high overdose rate not analysed in the government-funded evaluation report? The local heroin overdose rates in Kings Cross are one overdose per 3,820 injections compared with one overdose per 106 injections in the centre—a staggering 36 times more overdoses in the so-called safe injecting room than on the streets of Kings Cross. The report also could have used a comparison with drug overdose rates of the clients before they started using the injecting room facilities, and comparisons with Australian national rates. None of these statistics was reported or examined. Why are so many overdoses associated with this injecting room? The line of thought is that clients may be using this facility to safely experiment with high doses of heroin as well as combinations with alcohol, other opiates and benzodiazepines—a lethal mix. I quote the injecting room's own evaluation:

In this study of the Sydney injecting room there were 9.2 heroin overdoses per 1,000 heroin injections in the centre. This rate of overdose is higher than amongst heroin injectors generally. The injecting room clients seem to have been a high-risk group with a higher rate of heroin injections than others not using the injection room facilities. They were more often injecting on the streets and they appear to have taken greater risks and used more heroin whilst in the injecting room.

High doses of injected heroin and more injections in general mean more heroin sold by Kings Cross drug dealers. The injecting room did not, as was promised, improve the local public amenity. It has been and remains a focal point for drug dealers. The reduction in needles and actual injections on Kings Cross streets was due to the heroin drought. Already this trend is reversing as more heroin hits the black market. The owner of the store next to the drug injecting room has attested to this on many occasions. I reiterate that failure to invest in rehabilitation programs that help break the drug-abuse cycle with whole-of-family treatment will continue to have cumulative adverse effects on our younger generation.

Reports indicate that children in families where one or both parents use illicit drugs are subject to domestic violence, neglect, abuse, high stress levels, lack of routine, absence from school and, in general, a negative social environment. The Australian National Council on Drugs states that more than 230,000 Australian children aged two to 12 years are being raised by adults who abuse alcohol, cannabis or methamphetamines. The total figure equates to 13 per cent of Australian children, higher than international estimates of 10 per cent of the world's young, living in these conditions. The council said that worse figures could be expected when its data collection methods improve and teenagers and infants are included in its estimates.

The Australian National Council on Drugs said that fewer than 50 per cent of addicts sought treatment and programs were so stretched that people would not get sufficient help to kick their habits. As often quoted by the Drug Advisory Council of Australia, the best way to deal with abuse of children is to deal with the problems of the parents by using our courts to direct the addictive parent into family-friendly detoxification and

rehabilitation programs to get them drug free and give them the social support needed to get their lives back in order. Whatever funding it takes, governments should give these social issues top priority because we are investing in the future of our children, the adults of tomorrow. To break the chain of generational abuse, programs need to include entire families and address problems faced at home, school and in the workplace.

The Howard Government allocated \$79.5 million to expand the non-government organisation treatment grants program to ensure more treatment places and services, particularly therapy and detoxification, for families struggling with drug addiction. It sought also to provide \$23 million to better equip organisations to deliver effective treatment for methamphetamine users and \$74 million over four years to improve non-government services for people with alcohol and other drug-related mental illness. As legislators, we should be encouraging and promoting programs and initiatives such as these, not facilitating the legalisation of drugs.

I refer briefly to the Drug Policy Modelling Program that was distributed to all members of Parliament by the director of the program, Associate Professor Alison Ritter of the University of New South Wales. She provides information on four areas: focus on dependent drug users, increase investment in treatment and harm reduction services, expand diversionary policies for drug offenders, and increase treatment places and reduce dispensing costs for clients. The report is incredibly short-sighted because nowhere in it is the word "rehabilitation" mentioned. Possession, use, cultivation and trafficking in illicit drugs—including ice, heroin and ecstasy—must remain illegal in New South Wales.

As legislators, we should send the right message on drug usage: The heroin drug injecting room should be closed as it facilitates illicit drug use and does nothing to prevent drug use or properly help drug users to get their lives back. This Government has neglected the real issue for the past 15½ years. If we really care, we will pump more resources into getting drug addicts out of the clutches of the dealers for good, put the money into proven rehabilitation, and social, educational, vocational and family support. The Keneally Labor Government and its drug injecting room are a con and a failure!

Ms CATE FAEHRMANN [10.57 p.m.]: I am pleased to be speaking in the debate on the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010 in what, hopefully, will be the final stages of an extremely long campaign for a compassionate, reasoned and harm minimisation approach to a very complex problem. It is important to properly acknowledge the medically supervised injecting centre with permanency and security because it is an essential step towards ending the hysteria that has characterised the debate for nearly a decade. As a Parliament, we should finally reject the last-century ideas, which deny the evidence, and declare the centre a success. As a Parliament, we should recognise the centre as the legitimate and essential health service that it is.

I personally acknowledge the incredible work of all those involved with the centre. Ten years is a long time to work tirelessly on a project with very little recognition and often outright attacks. It must have been hard and no doubt stressful for the staff and volunteers of the centre to remain focussed on the task at hand in the face of excessive and unwarranted political aggression in some cases. This is difficult work regardless of such attention. To all of those at UnitingCare, at the centre itself and to all its advocates, thank you and congratulations. You have had a positive influence on the lives of not just those drug users that have used the service, but the wider community as well. I hope with this important piece of legislation you will find some acknowledgment and appreciation for your work and the important contribution you have made.

I also acknowledge my colleague Ian Cohen, whose work on this issue has been significant. He has been a champion for the centre and a critic of the panic-stricken campaign against it. Why, despite an incredible record of achievement, has the medically supervised injecting centre been denied ongoing status for so long? Initially its trial status was understandable. Then, it was a near world first; a controversial project. In 2010, the value of the centre has been clear for many years. An exhaustive series of evaluations, citing impressive results, have piled up at the feet of our political leaders. With more than 500,000 supervised visits by 12,000 individuals up until April of this year, the centre has successfully managed 3,500 overdoses without a single fatality, and some 8,500 referrals have been made to other health and social welfare agencies. Tonight I have heard some members say the centre has no benefit. How can the centre have no benefit with 8,500 referrals to other health and welfare agencies?

With the resulting 80 per cent drop in ambulance call-outs, 50 per cent drop in discarded syringes, and impressive cost-benefit figures, the benefits of the centre are unmistakably clear. But a moral crusade against the medically supervised injecting centre has been waged in the media, and in this place, by those driven more

by ideological-value judgements rather than by the facts and the reality of drug use in our community. This facility is run by a team of health professionals with the support of law enforcement agencies, as well as experts from a variety of fields, residents and business—

[Interruption]

These are the facts, Reverend the Hon. Fred Nile. This is not a rogue band of extremist social engineers bent on corrupting the moral fabric of society and supporting organised crime. Yet this is what we might be led to believe from much of the commentary and debate over the last decade.

This service is designed to support some of the most marginalised and underprivileged in society; a service which similarly benefits society at large, minimising the harm injecting drug users can do to themselves and the impact they have on the community. The moral panic invoked by the term "harm minimisation" is a tired and outdated reaction to a proven evidence-based approach. Services such as needle exchanges and supervised injecting rooms are fundamental examples of harm minimisation, and they work. But successive governments have been frightened off from doing the right thing, despite the overwhelming evidence in its favour. They were scared of losing popular support or the support, though minority, of the powerful extreme Right interests in New South Wales.

I congratulate the Premier and Minister for Health on finally bringing forward this long-overdue legislation. I hope that Reverend Graham Long of the Wayside Chapel will not mind my finishing with some borrowed remarks:

I long for a day when we help those who are suffering rather than blame and punish them.

The MSIC has proven many times its worth in terms of lives saved; families spared the heartache of a needless death.

More importantly, the MSIC stands as a reminder that people who suffer addiction are part of our community; they are our brothers and sisters and they deserve dignity and a helping hand to better days.

How long does doing good have to remain "a trial" for New South Wales?

Hopefully, it will no longer be a trial. I fervently support the bill.

The Hon. RICK COLLESS [11.03 p.m.]: Tonight I offer my thoughts on the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010. This bill will effectively make the Kings Cross injecting room a permanent feature of the landscape of King Cross, and repeals the Drug Summit Legislative Response Act 1999. The Minister for Health commented in her agreement in principle speech:

... we will not give up on anyone with a drug dependency problem who needs help to get his or her life back on track.

She outlined the case for keeping the centre open. She quoted substantially from the KPMG report, which gave statistical figures on the operation of the centre, and gave an anecdotal assessment of the success of the centre. The Minister said:

... it is reasonable to assume a proportion of those over-dose related events would have led to serious injury or death had they occurred in another location

Another side to this argument needs to be explored, particularly in light of the anecdotal nature of the statements made by KPMG, which appear to have been taken as factual truth by the Minister. I am aware of two organisations that are campaigning against this bill, rather than campaigning against the injecting centre remaining open on a permanent basis.

Drug Free Australia is a peak body representing organisations and individuals who value the health and wellbeing of all Australians. It strives to ensure that a clear message of healthy, drug-free lifestyles is assured for all Australians for generations to come. It has the primary tenet of harm prevention rather than the widely-adopted catch phrase of harm minimisation. In 2006 it published a document entitled "The Case for Closure", which questioned many of the statistical results offered by the pro-injecting centre organisations. The injecting centre is managed by Dr van Beek. In 2002 Dr van Beek claimed there were 2,729 registered clients and 250 overdoses. She claimed that 250 lives had been saved. The reality is that only one in 25 overdoses is ever fatal—overstating the results by a factor of 10.

Drug Free Australia has listed 10 crucial things that the public needs to know when assessing the success or otherwise of this centre. First, in 2006, 38 per cent of administered injections were heroin; the

remainder were cocaine, ice and prescription morphine. Second, the International Narcotics Control Board has singled this centre out as being in breach of international conventions against illicit drug use, as the centre does not use medical-grade legal heroin but relies on its clients to provide their own illegally procured street heroin, which has been illegally imported, illegally transported and illegally traded within Australia. The operation of this centre supports an illegal industry; as such the centre is illegal.

Third, the public is told that every heroin injection is potentially fatal, yet only one out of every 35 injections per user was administered in the medically supervised injecting centre. The centre is only operating at about 60 per cent capacity. Fourth, figures released by the centre show that the injecting room overdose rate was 36 times higher than on the streets of Kings Cross. Fifth, this higher overdose rate, according to the centre's own reports, was due to clients taking more risks than they would be game to do on the street. More heroin being injected means more heroin being sold on the street, which means more illegal money being made on the streets of Kings Cross. Sixth, 1.6 per cent of Australians use heroin, yet the survey shows that 3.6 per cent would become users if an injecting room was available to them—most of whom would be first-time users—doubling the number of heroin users.

Seventh, the Government estimate of four lives saved per year does not take into account the enormously increased overdose rate. If this were taken into consideration, the injecting room statistically saved 0.18 lives in the first 18 months of the evaluation period. Eighth, very few clients have been referred to maintenance, detoxification or rehabilitation. Of the 11 per cent who were referred, 3.5 per cent were referred to detoxification and 1 per cent referred to rehabilitation. None of Sydney's major rehabilitation centres have ever sighted one of those referrals from the injecting centre. Ninth, despite the claims that the injecting centre improved public amenity, it clearly did not. The injecting centre did draw drug dealers to its doors, with more recent reports indicating increases in publicly discarded needles following the end of the heroin drought. Tenth, the July 2003 "independent" evaluation of the centre was completed by a research team of five, three of whom were medical school colleagues of the medical director and a fourth who was instrumental in shaping the proposed injecting centre trial. The independence of the evaluation team is questioned.

Concerns are still held about the way in which the centre is being managed, not only from the science of administering a successful drug room but also from the view of the public spin that emanates from the government of the day. Drug Free Australia also issued an analysis of the KPMG valuation in 2010 in which it looked specifically at decreasing overdose deaths, the provision of a gateway to drug treatment, the reduction of discarded needles, and the spread of diseases, such as HIV and hepatitis C. It was not good news for the pro injecting room people. I do not intend to go through it in detail. Suffice it to say that it would be reflected the findings of the 2006 review.

The second organisation that has campaigned against this bill is the No-Way Campaign, which has called on all Legislative Council members to vote against the bill until the full four-year review period is complete. One of these statistics to which the group points is the most recent numbers of needles and syringes issued this quarter—10,488—compared to the number of referrals to detoxification programs of 14 and just 6 referred to rehabilitation programs. In fact there was a total of just 136 who were referred to various programs out of the 10,488 injections. It appears to me that the spin doctors are hard at work in promoting what the centre is actually achieving. It is very apparent that much more needs to be done to ensure that those at risk are directed to the right type of help, rather than simply providing somewhere for those who unfortunately are addicted to drugs to safely inject themselves.

I have spoken to many people throughout regional New South Wales about this issue. There is a divergence of views about the injection centre. Most people are sympathetic to the humanitarian aspects of providing to those less fortunate, but many are concerned about the lack of direction addicts are given to help them kick the habit and become drug free. It is for the reasons I have stated, not that I am totally opposed to the concept of a safe haven in which addicts may safely administer their drugs, that I do not support the bill. Moreover, the positive spin-off that should accrue from the centre, that will help addicts to kick the habit, is not an active part of the program. For those reasons, I will vote against the bill.

In conclusion, I found the figures cited by the member who preceded me in this debate difficult to comprehend. Of the 10,488 administrations that occurred in that quarter, only 136 were referred to any type of rehabilitation. That information comes from the quarterly report dated April 2010.

Reverend the Hon. Fred Nile: Did they arrive and go through the course?

The Hon. RICK COLLESS: They did not turn up.

Reverend the Hon. Dr GORDON MOYES [11.12 p.m.]: As the parliamentary leader of Family First, I participate in debate to discuss the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010, the object of which is to amend the Drug Misuse and Trafficking Act 1985 to enable the medically supervised injecting centre in Kings Cross to operate on an ongoing basis. At present, the centre is operating for a trial period that began on 1 May 2001 and is due to expire on 31 October 2011. The bill repeals the Drug Summit Legislative Response Act 1999, which contains only spent provisions relating to the Drug Offensive Council, foundation and fund.

During the 1970s the first professionally staffed service that accepted drug injection emerged in The Netherlands. It was provided by St Paul's Church in Rotterdam, and I visited the centre. Two centres began to operate, pioneering a needle exchange program as well as providing health care, food, and a laundry service. During the 1990s, additional legal injecting facilities emerged in other places, namely Switzerland, Germany and The Netherlands. In the decade following, facilities began to open in Spain, Luxembourg, Norway, Canada, and Australia.

The Sydney medically supervised injecting centre opened in May 2001. It was set up following a recommendation of the Wood royal commission to combat street crime in the area. It was also recommended by the 1999 New South Wales Drug Summit as recognition of arguments that the establishment of such facilities would decrease overdose deaths, provide a gateway to treatment, and reduce associated problems of discarded needles and syringes. I remember the Drug Summit well. As I was involved in providing rehabilitation services, I was most interested in the Summit. In 2003, the Insite supervised injecting centre commenced operation in Canada. This is the closest comparator to the Kings Cross centre.

The major difference between the supervised injecting centres and the unsupervised ones that are to be found in European countries is the more clinical nature of its service. Oxygen and Naloxone are administered in the case of opioid and heroin overdose. In early 2009, 92 facilities were already operating in 61 cities, including 30 cities in the Netherlands, 16 cities in Germany and 8 cities in Switzerland. The Uniting Church's UnitingCare has managed the Sydney Medically Supervised Injecting Centre since its opening and has been constantly fought by members and clergy of the Uniting Church ever since. It aims to reduce harm associated with illegal drug use by supervising injecting episodes that might otherwise occur in less safe circumstances, such as public places or alone in rooms.

Specifically, the centre believes supervising such injecting episodes will reduce the risk of morbidity and mortality associated with drug overdoses and the transmission of blood-borne infections while providing ready access to safe needle and syringe disposal. No drugs are supplied at the centre. Drug dealing is not supported, and staff assist people to overcome drug addiction. The centre is supported by many organisations, such as the Australian Drug Foundation, the Australian Medical Association, the Australian Parliamentary Group for Drug Law Reform, NSW Health, the New South Wales Police Force, the New South Wales Ambulance Service, the New South Wales Nurses Association as well as some local business in the area.

The injection centre boasts supervising an average of 200 injections a day, successful management of more than 3,500 drug overdoses without a single fatality—thanks to the nurses who work in this field—and approximately 8,500 referrals to health and social welfare agencies for drug treatments. Basically this consists usually of mentioning a name and perhaps giving a telephone number, but there is no follow-up to ensure that the persons concerned ever undertake any of that drug treatment or rehabilitation. As well as that, the number of publicly discarded needles or syringes virtually has been eliminated from the streets since the establishment of the centre.

With all the reported success of the centre it is hard to imagine there is anything we need to debate in continuing its operation. However, there are some crucial points to consider in making an educated determination as to whether the centre should remain as a permanent fixture. This is not nineteenth century ideology, as a member who preceded me in this debate suggested: it is a humanist ideology, which is just as objectionable to others who refuse to accept logical, scientifically based facts. In the late 1990s a number of studies were available about consumption rooms in European countries. The reviews concluded that the rooms contributed to improved public and client health and a reduction in public nuisance.

To that end, the two non-European injecting facilities, which were Sydney's centre and Vancouver's Insite supervised injection site have had more rigorous research designs as a part of their mandate to continue.

The New South Wales Government has provided extensive funding for ongoing evaluations of the injection centre with a formal comprehensive evaluation that was produced in 2003—18 months after the centre was opened. Other later evaluations studied various aspects of the operation, such as service provision in 2005, community attitudes in 2006, client health in 2007 and, in 2007, service operation and overdose-related events.

Unfortunately, more than any other issue that I can remember impacting upon society the statistics and reports have been subjected to a vast amount of government ideology and spin. In 2003 and 2006, a drug prevention advocacy group, Drug Free Australia, completed analyses of the Sydney MSIC 2003 evaluation that was based upon other evaluations by KPMG. The Drug Free Australia report, which was distributed to the media and to politicians, was written by a remarkable team including an epidemiologist, an addiction medicine practitioner, social researchers and senior welfare practitioners.

Three of the five Drug Free Australia analysts were authors of research and review articles in more than 20 peer-reviewed health journals collectively. I direct the House's attention to a report entitled "The Kings Cross Injecting Room—The Case for Closure". This publication contains comprehensive evidence that opposes the continuation of the centre. I have not heard one person who has argued for the continuation of the centre say that he or she has taken up the research results and verifiably refuted them in this debate. The report states:

Based on overdose figures published by the Medically Supervised Injecting Centre (MSIC) the overdose rate in the injecting room was 36 times higher than that on the streets of Kings Cross. The high overdose rate was attributed by the Centre's own evaluation report to clients taking more risks with higher doses of heroin in the injecting room. More injected heroin means [more heroin imported to Australia and] more heroin sold [in the locale of] Kings Cross by drug dealers.

The higher rates of overdose reported in the centre—9.6 overdoses for every 1,000 injections—failed to compare the injecting room overdose rates to other rates of overdose. For example, when compared to overdoses in the rest of Kings Cross, Darlinghurst, Parramatta or Cabramatta it is 36 times higher. A comparison of overdose rates of injecting room clients before they entered the medically supervised injecting centre makes it 40 times higher. A comparison with Australian estimates of national rates of overdose makes it 49 times higher than the estimated national overdose average. One can see that the centre has inadvertently contributed to increasing the illicit drug trade by reporting its clients to have taken more risks with higher doses of heroin in the injecting room. More injected heroin means more heroin sold by heroin dealers and more imported heroin to Australia. In doing so, 3.6 per cent of New South Wales survey respondents expressed that they would use heroin for the first time if an injecting room was available to them, resulting in a potential two-fold increase from the current 1 per cent of users.

The Drug Free Australia report states that this evidence "might suggest that injecting room clients are using nursing staff as insurance against the risks of experimenting with high doses of heroin". This creates a massive problem for which the injecting centre is not taking responsibility. We have a scenario where clients are increasing their heroin injections because of the safety of having nursing staff at the centre. But they take the same amount at home, where there is no-one to help them and they subsequently die. The increased fatality rate is on someone else's hands, not the injecting centre statistics. In this way, the injecting centre does not take responsibility for the death on its premises because it did not happen on its premises. It happened when the client went home. No-one seems to question where the habits came from. I encourage the House to acknowledge this predicament. In relation to treatment and encouragement to seek treatment, the Drug Free Australia report states:

Only 3.5% of injecting room clients were referred to detox maintenance and only 1% referred to rehabilitation.

I ask the House to note that the report states:

None of Sydney's major rehabs such as Odyssey House, WHOS, or the Salvation Army ever sighted one of the referrals.

Therefore, it seems to me that all the centre is doing is encouraging addiction, as opposed to focusing on rehabilitation. It is almost crazy to offer rehabilitation in a centre that so openly promotes drug use, provides the needles and syringes and offers the medical support if one overdoses. I ask the House: Why would a drug addict enter this centre and all of a sudden say, "Hey, I really want to give this up. I want to talk with someone"? On the contrary, I am more aligned to say that even if the drug user thought about giving up and using the rehabilitation services referred by the centre, the temptation would be too strong to just take the drugs, get high, recover and then leave.

In fact, the average time that a person spends in the centre is less than 30 minutes—one minute in reception, 14 minutes in the injecting room and 14 minutes in after care. Is 14 minutes in the after care unit

enough time to rehabilitate anyone? Over the years that I spent at Wesley Mission, we were always conscious of triggers for drug addicts. We would offer rehabilitation services far from places where drugs could be bought and sold. We shifted our rehabilitation services out of places such as Kings Cross and Darlinghurst and located them in areas where it was not easy to get drugs but accessible to the help that addicts needed. As has been mentioned by previous speakers, there is a need for a variety of approaches. For example, during my 30 years at the Wesley Mission I developed three psychiatric hospitals with over 72 psychiatrists on staff and six live-in rehabilitation centres with about 100 psychologists and counsellors. Many reputable organisations support the injecting centre. But how many of them are actually involved in rehabilitation? None of those on the list that I read earlier tonight was involved in rehabilitation.

The medically supervised injecting centre has openly expressed its successful decrease by almost half of needles and syringes discarded on the streets of Kings Cross. Of course, users do not have to discard them in the streets when they have syringe containers in every cubicle. The injecting room has not improved public amenity. The injecting room has drawn drug dealers into Kings Cross. They can be seen at the railway station and up near the fountain. They are not found in the street immediately outside the injecting room because, as an earlier speaker said, the police are prohibited from stopping and searching people in that area of Kings Cross. The heroin is available in the back streets and on the streets at both ends of Kings Cross. An issue that disturbs me, and I have raised it on previous occasions, is that free needles and syringes are given out by the thousands to these addicts. Diabetics pay for their syringes, while the Government pays for the cost of giving syringes free to drug addicts. Of even more importance is the questionable integrity of the so-called independent evaluations. Drug Free Australia's report states:

The "independent" government-funded evaluation of the injecting centre, released in 2003 and from which much of the data in this report is drawn, was done by a research team of five, three of whom were colleagues in the same NSW University medical faculty as the Medical Director [Dr van Beek] of the injecting room. A fourth researcher was one of those who, during the 1999 NSW Drug Summit, shaped the proposed injecting room trial. Drug Free Australia has questioned the independence of this evaluation team.

This is a disturbing fact. Are we able to recognise this lack of integrity or should we just sweep it under the carpet and agree that the centre is good for the State and good for the clients? In Australia one in every 100 heroin addicts dies every year from heroin overdose. The injecting centre says that it has successfully saved about four lives per year, but that fails to take into consideration the increase in overdoses as a result of the operation of the centre. The injecting room would need to host 300 injections per day—that is, enough injections for 100 addicts injecting three times a day—before it could claim it has saved one life of those 100 that would have died. In saying this, it took about \$5.4 million to save a single life. While I am not trying to quantify the value of a person's life, I want to indicate that if that money had been used in rehabilitation, to decrease fatalities, to increase the management and treatment of drug addiction and to take drugs off the streets, society would be much better off. Is there an alternative? The \$2.6 million spent on this one centre every year is enough to fund 109 additional drug rehabilitation beds. It is enough money to supply more than 700 heroin addicts with life-saving Naltrexone implants for an entire year. I believe it is essential for the Government to acknowledge these issues and I call upon my colleagues to consider them.

I also ask: Why is this service limited to one place in New South Wales? Why is the service not available at times when it can help the most desperate in society, young teenagers and pregnant women, and be open when people need to be helped on weekends, on Saturday nights and on Sunday nights? St Vincent's Hospital must run in order to pick up the casualties. If it is so successful why are we not providing such a service in hot spots such as Cabramatta, Parramatta and Newcastle?

I respect the fact that Kings Cross is a drug addiction centre in the heart of Sydney. One might ask: Why is the current injecting centre operating only to two-thirds of its capacity, with only 200 injections per day, when the Government funds the centre to cope with up to 330 injections per day? I also ask the House the age-old question: How is it possible that use, possession and dealing in a prohibited drug or drug implements are punishable by law, but we openly support a centre that encourages this same drug use? It is a matter of saying that we cannot stop their habit so we should just support their habit and get them off the streets. I respect the fact that some colleagues in this House may be thinking that drug use will occur anyway, and in saying so they may justify a centre that offers supervised injections.

However, I implore honourable members to weigh up these issues and concerns in the hope that we may adequately assess the continuation of the project. The controversy that we have heard tonight between people with different views, and the disagreement on what should be basic scientific facts indicate that the Government should work towards a commonly accepted position. Although many prominent organisations

support the continuation and success of the injecting centre, I believe the House needs to adequately consider the evidence, acknowledge the reported downfalls of the centre, and make an educated decision on this matter, rather than an ideological one. Perhaps it is in order to acknowledge and accept that the funding might be better spent on rehabilitating the clients, as opposed to supporting them in their dying habit.

Mr DAVID SHOEBRIDGE [11.32 p.m.]: I support the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010. I acknowledge the lengthy contributions of members, particularly those who spoke in detail about the history of the centre and the struggle it has taken to get to this position tonight. Among those I acknowledge is the indefatigable Ingrid van Beek, as well as the nurses and staff at the centre who have been working at the coalface over the past nine years to reduce harm, save lives and improve the community surrounding the injecting centre. In this Chamber I pay tribute to Ian Cohen for his hard work. In his contribution he recognised that it has taken 12 years from the start of this process—from his commencement on the committee, with other members of this House—to the point where we can finally end a nine-year trial.

After this nine-year trial—indeed, a number of trials—of detailed and extensive monitoring we can say clearly that this facility saves lives, helps drug users with their addiction and improves the living conditions for local residents, shop owners and visitors to Kings Cross. Of all the statistics we have heard bandied about tonight—and different people take different views of it—the most telling statistic, the one that speaks the loudest and most strongly in support of ending the trial and making the centre a permanent fixture, is the successful management of some 3,426 overdoses at the centre. As the independent evaluation report states, "It would be reasonable to assume that a proportion of those overdoses would have led to serious injury or death in the absence of the treatment that those drug users received at the centre."

Even if only a small fraction of those some 3,500 clients of the centre had been saved from serious injury or death, that statistic of itself is a telling and, indeed, compelling statistic to support the bill, end the trial and make this treatment centre permanent. A number of members used anecdotal evidence, letters to the editor and complaints to talkback radio as the evidence they mounted in the debate to oppose the centre and this bill. As its highest, the evidence opposing this bill put forward by the opponents is a non-peer reviewed paper from a lobby group, Drug Free Australia. Against that, there is a slew of peer-reviewed research in support of the centre. That research and the centre have the support of not only an array of experts in the field but also the kinds of organisations and institutions that have enormous and broad-reaching acceptance and support among the community.

That includes the New South Wales branch of the Australian Medical Association, which supports the centre, as well as the Royal Australasian College of Physicians. They are not just ginger groups; they are powerful institutions—indeed, they are nationally respected institutions—that speak in support of this centre and obviously would support this bill. I am proud to be a member of a party, the Greens, that is committed to assessing this kind of legislation and these kinds of social problems on the basis of rational peer-reviewed research, rather than letters to the editor, anecdotal evidence and reports from ginger groups. Legislation such as this bill is important for recognising that the drugs issue is best dealt with primarily as a health and social issue, rather than a criminal one. This bill is but one small step forward. It is a good step, and I am proud to support it.

The Hon. CHARLIE LYNN [11.36 p.m.]: I oppose the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill. Tonight I have heard a lot of statistics relating to harm minimisation and the heroin injecting room. Earlier I heard the Hon. Ian Cohen say that no deaths had been caused as a result of the heroin injecting room. I want to correct the record and add some other statistics to the debate. I have a copy of a letter from Mrs Shelly Bordian, which states:

My son died 3 years ago of a heroin overdose. He was only 23.

He was a client of the Injecting Centre and was turned away the day he overdosed because he was already intoxicated when he presented to the centre.

They have bizarre exclusion protocols and policies in place which exclude the most vulnerable of their patrons. And in my son's case, the investigation into his death and subsequent inquest revealed that he left the MSIC when refused entry and walked directly across the street into the Crest Hotel and proceeded to inject himself with heroin in the public toilet. He was found dead there a couple of hours later.

...they failed my son with respect to not referring him into treatment when he requested they do so and how he was a new and inexperienced IV drug user when he first started attending but they did nothing to direct him away from further use. In fact, their handwritten notes state that "his veins are beautiful and that he needs to be shown to inject properly the next time he attends as he is obviously an inexperienced user".

It would have been better to talk him out of using drugs, rather than showing him how to use drugs. Instead of preventing him from injecting they facilitated his entry into becoming a user. This is a good example of how harm minimisation failed by not preventing the death of Mrs Bordian's son. So it is not correct to assert that there have been no deaths because this is a matter of record—it is in a coroner's report.

A few years ago two suburbs were equally notorious; one of those suburbs was Cabramatta. The train that went out to Cabramatta was known as the "crack" express. One could go out there, look around any street corner, in any doorway, anywhere on the main street at any time of day and see people openly dealing and openly injecting drugs. It was not a nice place to be. Then there was a heroin drought, which reduced the number of overdoses and needles on the streets in Cabramatta. Cabramatta is a perfect example of prevention as a solution that is brought about by good preventative policies, strong policing and community support.

According to 2004 New South Wales Bureau of Crime Statistics and Research figures the number of overdoses in Cabramatta dramatically dropped after the onset of the heroin drought in January 2001 and that number has remained statistically lower than the New South Wales average ever since. Cabramatta does not have a heroin injecting room, it does not have any needle exchange and it does not have a methadone clinic. In a comparison by Drug Free Australia the number of heroin-related deaths in Cabramatta dropped from 24 in the period July to December 2000 to just five in the period July to December 2001, whereas for the same period heroin deaths in Kings Cross rose from 11 to 13. This decrease in the number of heroin-related deaths in Cabramatta has been brought about not by a heroin injecting room but by tough policing, which caused the heroin drought, and also by more resources being put into rehabilitation centres such as Corella Lodge.

Cabramatta has been hugely successful in battling heroin. I acknowledge that the one thing the previous State member Reba Meagher and the then Minister for Health Morris Iemma did for Cabramatta was oppose the Fisher Street needle exchange and any government-run methadone clinic in Cabramatta. Without an injecting room, without a needle exchange and without a methadone clinic, the number of local overdoses in Cabramatta has fallen dramatically.

If the injecting room effectively referred people into rehabilitation it would have much more support. But again, statistics show that only 1 per cent of users are referred to rehabilitation. In the first quarter of 2010 the centre had 16,614 visits, but only 828 referrals were made and only six of the referrals turned up to residential rehabilitation. Furthermore, only 11 per cent of clients were referred to maintenance treatment and of those only 1 per cent was referred to rehabilitation. None of Sydney's major rehabilitation centres, such as Odyssey House, WHOS or the Salvation Army, has ever sighted one of the referrals. Therefore, if referral to rehabilitation is the reason to support a heroin injecting room it is clearly based on a false premise.

Injector safety is one of the arguments for a heroin injecting room. Based on conservative estimates, heroin addicts inject at least three times a day, which works out to about 1,100 injections per year. But client visits are only an average of two to three visits per month. Therefore, this leaves addicts open to fatal overdoses for 34 of their 35 injections. One can hardly use the argument that injector safety is enhanced in a heroin injecting room when the statistics clearly show that the opposite is the case. The original intent of the centre to promote injector safety again is based on a false premise.

The centre has moved far beyond its original trial purposes and has become a safe haven for drug experimentation and self-harm after its decade-long trial. Only 4,480 of the total 16,640 clients were injecting heroin. The remaining clients were using other opioids and combinations of hard drugs, such as cocaine, amphetamines and benzodiazepines. This year oxycontin, also known as hillbilly heroin, and Fentanyl were injected twice as much as heroin. In February to April this year users injected other opiates 9,193 times—twice the rate of heroin. These powerful opiates are usually prescribed for final-stage cancer patients or others in severe pain, not for heroin addicts.

Based on the medically supervised injecting centre evaluation survey, the presence of the injecting room does not prevent and can encourage heroin use. The centre's own surveys show that 1.6 per cent of Australians have used heroin before. Respondents say that 3.6 per cent would use heroin if an injecting room were available. The safety of the room encourages users to go harder and to take more drugs. Drug addicts are using the injecting room to make experimentation safe. They are using the room to take bigger and bigger risks, because they know they can be brought back to life there. In a 2003 ABC documentary a former client of the injecting centre spoke of how he would take more and more doses to the point where he risked dying just for the high. The former client said:

We mix our drugs in ways, we don't really care what happens to our bodies as long as we're having our drugs ... quite a few times I've dropped in here and I've had Narcane to bring me back to life.

Based on the figures of the medically supervised injecting centre, overdoses inside the clinic are 36 times higher than those on the streets of Kings Cross. That is directly linked to the injecting centre's own report attributing that rate to clients taking higher risks inside the clinic.

According to a 2004 European report on drug consumption rooms, the cost of running the injecting rooms means it will cost \$5.4 million to save one life. I contend that this money would be far better spent supporting rehabilitation centres, which are seriously underfunded, because there is such little benefit for such a large cost to the community. There is an acute need for resources in after-care after users have been through detox successfully. Instead of money for the injecting room Corella Lodge, next to Fairfield Hospital, should be given extra funding for after-care, because the \$34 million spent on the injecting room would be better used to educate, detox and rehabilitate our young drug users.

Based on a recent KPMG report, Drug Free Australia's team found that the injecting room has saved only four lives in its nine years of operation, at a total cost of \$23 million. The injecting room is also in breach of the International Narcotics Control Board conventions because rather than using controlled or authorised heroin, the injecting room relies on clients illegally buying drugs, illegally transporting drugs and illegally using drugs. Another argument for the injecting room is that it improves public amenity, but it does not because it draws drug dealers to its doors and surrounds. Andrew Strauss, the owner of a local photo processing store on the street says:

You see drug dealers at the front of the injecting room every day ... it hasn't reduced illegal drug taking, it has encouraged it and the police are doing nothing.

A 2008 study found a growth in the rate of incidences near the medically supervised injecting centre and train station. A 2007 evaluation found no measurable impact on the number of overdoses and no impact on ambulance rates of overdoses. The injecting room has now become a honey pot for drug addicts. It is a space that enables the free and dangerous experimentation with drugs. In a 2007 report in the *Sunday Telegraph* a user said:

Hell yeah, bro, it's a proper sealed joint in there with security guards and all. You can do what you want. It's amnesty once you cross the door; cops can't touch you.

A recent KPMG evaluation on the injecting centre concludes that there was no positive impact on Kings Cross deaths or hospital presentations for overdose, and that there had been no measurable impact on HIV, hepatitis B or C transmissions. Even Premier Iemma said ice addiction was a serious problem and he was extremely concerned about the increased use of ice across the community, and the use of the drug at the Kings Cross facility was no exception. This is an absolute travesty.

While health professionals and law enforcement agencies on the front line are combating the growing ice epidemic within the community, the Keneally Labor Government is on the other side, not only condoning but also promoting the use of ice and many other drugs inside this centre. I believe that harm minimisation is a flawed and failed concept based on appeasement, which seems to be the basis of most of our issues these days. I believe the only solution for drugs is the Cabramatta solution: zero tolerance for drug users, life sentences for drug dealers and drug pushers and more funds for rehabilitation for young drug addicts. I oppose the bill.

The Hon. HELEN WESTWOOD [11.52 p.m.]: I support the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010. This has been a very long debate so I will not repeat much of the evidence and statistics to which other members have referred in support of this bill. I will focus on those aspects of harm minimisation that are a good outcome from this centre and why members of this House should support this legislation. In an ideal world there would be no addiction to tobacco, alcohol, prescription drugs or illicit drugs, but we do not live an ideal world. Governments in many jurisdictions around the world and over a long time have recognised that a punitive approach to significant and complex social and health issues is an approach that is destined for failure.

Most governments, realistic in their approach to this very serious social and health issue, believe they should reduce harm. Many members who have opposed this bill have demonstrated their ideological opposition to harm minimisation and nothing will convince them to change their attitude towards this centre. It does not matter what evidence is presented to them—whether they visit the centre and talk to people addicted to illicit drugs, to health workers and the medical profession, or whether they look at any of the research—it will not change their opposition to harm minimisation. However, it is important to focus on the positive elements of this centre, which has been in place long enough for us to see those benefits.

The entry point to broader service systems is very important. Again there has been dismissal of evidence in the latest assessment of the centre, particularly the referrals to which Reverend the Hon. Fred Nile referred. I refer him to page 28 of the trial that deals with the outcomes of referrals. It is also important to note that the Langton Centre has dedicated places for clients of the centre. In fact, it has had to increase the number of those dedicated positions to meet the demand. Again I doubt whether those members who oppose this legislation will even accept that evidence.

I want to speak about the way the centre works with clients to prevent HIV and hepatitis C, which is a very important element of the centre. A vital component of the information and advice provided by the centre to clients relates to the practice of injecting in a safer manner, to reduce the risk of the spread of blood-borne viruses such as HIV and hepatitis C. As part of its efforts to help reduce the spread of diseases like HIV and hepatitis C, the centre has provided vein care and safer injecting advice on more than 23,998 occasions, with 97 per cent of surveyed clients reporting that since going to the centre they now inject more safely. The centre has also dispensed more than 300,000 needles and syringes to clients exiting the centre to minimise health risks, including the spread of blood-borne disease. These achievements provide cost-effective public health benefits.

As members would be aware, all injections at the medically supervised injecting centre are conducted with a clean needle and syringe, under supervision and with no incidence of sharing. In the absence of the centre, however, it is likely a proportion of those injections would be made with shared needles and syringes. A direct result of this change in needle-sharing behaviour would, of course, be a potential increase in incidences of HIV and hepatitis C infection in the user population and, eventually, in the general population. It is important to note that the centre caters for vulnerable clients, that is, those who are marginalised. They are certainly at greater risk of blood-borne diseases, as many are already in poor health when they visit the centre and are able to be referred to other health care professionals.

The health care costs for HIV and hepatitis C infection are relatively large and incurred over a number of years. In any given year, the costs of HIV and hepatitis C treatment do not represent the total cost to government of a new infection. Therefore, when looking at the number of infections in a given year, a lifetime health care cost must be calculated. As noted in a previous independent evaluation by consultants SAHA International, for HIV the lifetime health care cost in Australia has been estimated at anywhere from \$150,000 to \$250,000 while hepatitis C costs have been estimated at approximately \$6,000 per infection. HIV has even been estimated to have lifetime health care costs as high as \$400,000.

Even when taking the midpoint of the more conservative estimates, the economic benefit in terms of savings to the health system is obvious and it allows considerable funds to be invested in other areas such as treatment services. The evidence indicates that the number of people who visit the centre is stabilising, with an average of 68 new registrations a month. The Government believes it is important to maintain the positive outcomes that have been identified to date for this marginalised group by continuing to operate the centre while at the same time striving to improve the likelihood of their accessing and remaining in drug treatment and associated social welfare support programs.

As the Premier has said elsewhere and as I have already said this evening, in an ideal world we would not need a supervised injecting centre. However, this is not an ideal world and as a government we have been prepared to face up to this difficult issue and to develop an appropriate policy response. As many members know, legislation was introduced in 2007 providing for a formal review of the centre to be undertaken should client attendance fall below 75 per cent of prescribed levels. The Government wanted a mechanism in place that would help it to determine whether there was a continuing need for this type of facility.

It is important to acknowledge those people who have been willing to support the centre, to ensure its continuation and who campaigned to have it made a permanent feature of our health care system. I acknowledge the Uniting Church, UnitingCare and Reverend Harry Herbert, who has been mentioned by other members this evening. He represents the best of humanity and his Christian faith ensures that he demonstrates a compassionate, humane and caring approach to his fellow human beings. He has a willingness to understand that there are many people in our society who face very serious psychological issues that lead them to make decisions that are not in their best interests, to fall foul of the law or to develop an addiction.

It is important we acknowledge that addiction is very complex and that it is not easily overcome. Members have said that people should simply stop using illicit drugs. If it were that easy for addicts to stop using illicit drugs they would do so. Anyone who has had contact with an illicit drug addict knows that he or she

does not live a great life; in fact, the life of a drug addict usually is miserable. Drug addicts often have very little income, they suffer ill health and some even resort to crime to sustain their addiction. It is a terrible life and it often results in tragedy.

I doubt whether any member really believes that people make a choice to become an addict and to live that sort of life. Perhaps because of childhood experiences, tragedies that have occurred in adulthood or mental illness some people become vulnerable and addicted to illicit drugs. It is those people whom governments must assist. As other members have said, as long as we keep them alive there is a chance that we can get them into effective drug treatment and for them eventually to overcome their addiction. I believe that all members hope for that outcome and for that reason they should support the continuation of the operations of the medically supervised injecting centre.

The funding for the centre's operations will continue to be sourced from the confiscated proceeds of crime and no funding will be diverted from treatment programs. Reaching this marginalised cohort is a significant achievement in itself, given that 40 per cent of clients have not sought drug treatment before using the centre. That is even more remarkable, given that it can take more than three years for a long-term marginalised drug addict to start to engage in the concept of treatment and rehabilitation. That underlines what I said. It is very rare—I do not know of many cases—that someone who is addicted to illicit drugs is referred to drug treatment and is immediately successful. Like people addicted tobacco, it takes many attempts for them to succeed. Many other support services and mechanisms need to be in place for them to be able to overcome their addiction. That is the reality of addiction. We should not gloss over that, pretend that the process is simple or expect people to be referred only once before succeeding. It is difficult to understand how members who do not support this legislation can believe that death is preferable to addiction. Obviously that is not my view. It is vital that we keep these people alive so that they have every—

[Interruption]

The PRESIDENT: Order! There have been few interjections thus far in this debate, and it would be inappropriate if their incidence were to increase at this time.

The Hon. HELEN WESTWOOD: I repeat: Death is not preferable to addiction. For that reason I will support this legislation. I sincerely hope that the people using the centre stay alive long enough to be referred for drug treatment that allows them to overcome their addiction. I commend the Premier, the Minister and the Government for having the courage to make this centre permanent and to ensure that lives are saved.

Dr JOHN KAYE [12.06 a.m.]: It is with a sense of pride in the political process that has taken us to this point that I support the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010. I first acknowledge and congratulate the medical staff at the medically supervised injecting centre. They work in an extraordinarily confronting area and daily face death and mortality, addiction and choice. They do so in a highly professional manner that also demonstrates massive courage and along the way have saved hundreds of lives. I will not repeat what has been said by other members who have spoken in support of this legislation. However, I acknowledge the detailed analysis by Cate Faehrmann, David Shoebridge, Robyn Parker, Linda Voltz and Helen Westwood. My colleague Ian Cohen's contribution to this debate did not begin this evening; it began 15 years ago. He has introduced a sense of humanity and has applied intellectual rigor to this issue. People like Ian Cohen and Ann Symonds have done the groundwork to ensure that we reach this point and that lives are saved.

Regardless of one's analysis, the evidence in support of continuing the centre's operations and making it a permanent feature of our health system is overwhelming. Whether one considers the 250 lives saved, the control of the spread of blood-borne diseases such as hepatitis C and HIV-AIDS or simply the reduction in harm done to drug users who access the centre, the data proves that it is making an important contribution to public health and to the welfare of our society.

Clearly, many statistics have been thrown around tonight. It has been shown that we can take a set of statistics and turn it one way or the other and get different answers. I invite members to use the test of the moral ethicist John Rawls—the veil of ignorance—and pretend for a minute when we are writing a law that we are not ourselves but the persons most affected by the law that we are writing. In this case it is helpful to imagine that we are the loved ones of a person who is heavily addicted—we are their partner, their mother, their father, their sister, their brother or their child—for whom most of the available rehabilitation services have not worked, who

will continue to inject drugs regardless, who has rejected treatment and who, partly as a result of the cause of his or her addiction in the first place and partly as a result of his or her addiction, continues to engage in high-risk behaviour.

The question that I think we should ask ourselves is this: What would we prefer? Would we prefer a policy that effectively states that our loved one's addiction is a matter of choice? Would we prefer a policy that is based on the myth that we can have a drug-free Australia? Would we prefer a policy that is based on and formed by the idea of zero tolerance and the mythology that preaching abstinence will reduce drug addiction? Would we prefer a policy that states there should not be needle exchange programs and there should not be safe injecting rooms, or would we prefer a policy based on the reality of the lives of our loved ones, the reality that preaching to them will not work and that most of the drug rehabilitation programs have failed to work? Would we prefer a policy that states that our society ought to create opportunities for our children, our partners or our siblings to inject in a safe and clean environment where there is medical help available, where they are less likely to die or to contract or spread blood-borne disease, or less likely to inflict harm on themselves and on others? I think the answer is clear when we are asked how we would feel in that situation. For those reasons and for the reasons explained by others I will be proudly supporting the legislation.

The Hon. DAVID CLARKE [12.13 a.m.]: I oppose the continuation of the Kings Cross heroin injecting centre and therefore I oppose the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010 which, if carried, will make the centre a permanent fixture in the heart of Kings Cross, thus sending a powerful message to young people that the taking of illicit and life-threatening drugs is morally and legally sanctioned by this Government in at least some situations. This is particularly telling when, as the *Australian* newspaper has editorialised, one in eight Australians who die between the ages of 15 and 24 are victims of drug overdoses. I believe that the medical and scientific evidence points overwhelmingly to the conclusion that drug rehabilitation programs have proved far more successful in saving lives than so-called harm minimisation programs. No wonder the United Nations International Narcotic Control Board in its 2001 report stated:

The operation of such facilities, where addicts inject themselves with illicit substances, condones illicit drug use and drug trafficking and runs counter to the provisions of the international drug treaties.

In 2007 a House of Representatives standing committee on the impact of illicit drugs recommended, after exhaustive study, restrictions on methadone programs and the ending of funding for harm minimisation programs. I believe that the taxpayers' funds that have been pumped into the Kings Cross injecting centre would have been far better spent on programs that have a proven track record of rehabilitating those addicted to illicit drugs. I believe that a far greater number of lives would have been saved from the scourge of drug abuse through rehabilitation programs operated by such reputable bodies as the Salvation Army rather than the Kings Cross injecting centre.

The great majority of Australians oppose the legalisation of illicit drugs and I believe that they oppose programs that legalise them through the back door, as the bill before us serves to do. In 2007, for instance, a Federal Government-initiated illicit drug strategy household survey found that 95 per cent of Australians opposed the legalisation of heroin, amphetamines and cocaine, and 79 per cent opposed the legalisation of cannabis. Last year in a news article headed "Injecting Rooms Fail Test" the *Daily Telegraph* highlighted statistics showing that the Kings Cross injecting centre made no difference at all to overdose death rates in its local area in its first five years of operation. It pointed out that death rates from drug overdoses in the area around the injecting room are no less than in other areas across New South Wales. The truth is that, based on autopsy reports supplied by the Division of Analytical Laboratories managed by the Sydney West Area Health Service, overdose deaths from heroin and other illicit drugs in the Kings Cross and surrounding area fell in line with rates elsewhere in Sydney where the injecting centre is not a factor.

Whilst the spokeswoman for the injecting centre did not dispute the autopsy statistics to which I have just referred, she maintained that ambulance overdose call-out statistics were "a more sensitive indicator of the centre's effectiveness". Well, let us look at the ambulance overdose call-out figures. Whilst the call-out figures for Kings Cross fell by a higher rate than for New South Wales as a whole, they fell in neighbouring Darlinghurst by a far, far lower rate than the State average, indicating a moving of drug users from Kings Cross to neighbouring Darlinghurst. The explanation for this difference can be found in the use of police sniffer dogs and a stronger police presence in Kings Cross. This explanation is supported by the fact that when police sniffer dogs and tougher police activity were introduced in Cabramatta, with no injecting centre, ambulance overdose

call-outs were reduced by a massive 83 per cent. It has been calculated that, had the money which has been spent on the injecting centre been invested into rehabilitation to cure people permanently of illicit drugs, some 3,000 rehabilitation places would have been made available in New South Wales.

Minister Carmel Tebbutt, in presenting this bill in the other place, confirmed that one of the objectives of the centre is to provide a gateway to treatment and counselling. Well, how successful has that gateway been? The figures produced by the Minister herself show that since its opening in 2001 the centre has referred 3,871 clients to drug dependence treatment out of a total number of visits by registered clients of over 609,000. This is a miniscule number and works out at a figure of just 0.6 per cent. But even with this pitiful number there is no confirmation of how many attended for treatment and whether or not the treatment was completed. Of those referred for treatment in 2007, for example, only one-third—0.2 per cent of visits—were referred for rehabilitation. Another objective of the centre, according to Minister Carmel Tebbutt, is to decrease overdose deaths, yet there is no clear evidence of such a decrease as a result of the presence of the injecting centre. Indeed, a study of the four official reports on the Kings Cross injecting centre establish that they have been unable to identify any unequivocal and clear evidence to that effect.

The evidence is very clear, however, of something else: the Kings Cross injecting centre has failed in what this Government said it was meant to achieve. From its very inception in 2001 it has failed. It should be closed and its funding diverted to genuine rehabilitation programs, to programs that seek to cure addicts of their drug dependency, rather than to the injecting centre, which does the very opposite by assisting them in continuing their addiction.

The Hon. DON HARWIN [12.09 a.m.]: In the lead-up to the Drug Misuse and Trafficking (Medically Supervised Injecting Centre) Bill 2010 I have had an opportunity to view the most recent, and it ought to be said the most thorough, research done on the centre, which has influenced my vote today. I have determined this vote on the same basis as previous conscience votes on this matter. At the Drug Summit I was open to giving the trial a fair go. I came to the Drug Summit, one of the first experiences I had as a member in 1999, with the perspective of a local resident, having lived at two places within one kilometre of Kings Cross in the past seven years. My experience was very personal. At both homes I had firsthand experience with public injecting within my backyard. I had to clean up the paraphernalia of drug use. On one occasion I had to call an ambulance for a drug taker who overdosed in my backyard. Perhaps because of that I have always had a pathological aversion to drugs and an acute awareness of their harm, and I was keen to explore avenues to avoid this harm.

I supported the Drug Summit Legislative Response Amendment (Trial Period Extension) Bill 2002 as I wanted enough time and research to see the evidence. There were some promising signs, although I had some concerns on the matter of successive referrals from the centre. In 2007 I was sufficiently concerned about the operation of the centre to vote against an extension to the trial. I was concerned that referral was insufficient. I was concerned by reports of greater use of drugs, such as ice, in the centre, and a rising use of the centre and I was not sufficiently confident of the methodology.

The main objectives of the centre are to reduce deaths from overdoses, to encourage referral to treatment, to reduce public injections and the spread of needles, and to reduce the spread of disease. I am now satisfied that judged on these aims, and on the allaying of other concerns I will detail later, this legislation can be supported. I think the contribution of eminent medical bodies in Australia, including the Australian Medical Association, to this debate highlights the successes of the project. These have been outlined by other members and I will not go over their recommendations. Their contribution is supported by the report of 14 September 2010 prepared for NSW Health by KPMG entitled "Further evaluation of the Medically Supervised Injecting Centre during its extended Trial period (2007-2011): Final Report". This report concludes that:

It is reasonable to assume that a proportion of those overdoses at the medically supervised injecting centre would have led to overdose injury or overdose death had the client not injected at the medically supervised injecting centre.

There is a reduction of overdoses in Kings Cross and the vicinity by up to 64 per cent at some times of the day since the operation of the centre. These reductions are greater than the trend. This has been accompanied by more immediate treatment of overdoses. One matter I was concerned about in 2007 was a lack of success in referral. I am glad that there has been an improvement on this. I quote the KPMG report:

After a steady decline to a low of 1,867 additional services ... provided in 2007-08, provision of these services increased to 3,130 in 2009-10.

That is on page 109 of the report. That is a significant change since the last occasion that we considered this matter. Currently just shy of 60 per cent of visits are undertaken by 7 per cent of clients. Of these, 80 per cent

have engaged some form of referral. The accrued trust and care at the centre seem to lead to greater referral rates, with 80 per cent of regular clients accepting referral. That is on page 136 of the KPMG report. Further, the success of these referrals seems to be higher than the State average. I note that the report suggests we can improve the service with better referral processes to more readily available treatment options, and I hope that will be seriously considered. Further, there seems to be a benefit to community safety by a reduction of discarded needles collected by the clean-up service from 28,231 in 2003-04 to just 8,941 in 2009-10 and reductions in public injecting.

These figures accord with anecdotal evidence from local residents, of whom I know a very large number. There is absolutely no doubt in their mind, and there never has been amongst local residents, that there has been a massive improvement in the public injecting problem since the opening of the centre. It is certainly the case that the branches of the Liberal Party in the Sydney State Electorate Conference [SEC], which are part of the provincial arrangements within the Liberal Party that are now in place, support members of the Legislative Council. Sydney SEC is in fact one of my SECs and it strongly recommends that I support this bill, mindful of the fact that in the past I have not always supported the trial, but it has certainly strongly lobbied me to support it. That is its view, that it should be supported. In relation to the final aim of the centre, the KPMG report suggests there is evidence of a reduction of HIV infections in the Kings Cross area and that is also important.

Before I conclude I state that there were three other considerations beyond the remit of the centre that I investigated before giving my support. Firstly, the centre seems to operate for the outcomes it is achieving in a way that gives value for money in reduced treatment costs and avoided treatment costs. I was interested when I visited the medically supervised injecting centre to discover—at least this is what I was told, so a Government member may feel free to correct me if I am wrong—that former Treasurer Michael Costa commissioned a report on an economic evaluation of the medically supervised injecting centre because he was looking to shut it and to defund it. The findings of that report are outlined in the report entitled "Economic Evaluation of the Medically Supervised Injecting Centre at Kings Cross", which was prepared in August 2008. It was prepared for NSW Health by the firm SAHA. I have had a look at that report and I understand after that report was done Treasury very quickly dropped the idea of defunding the medically supervised injecting centre.

Secondly, the centre does not seem to act as a gateway to drugs; 92 per cent of visits are undertaken by 33 per cent of clients. The average age of clients is increasing and smaller percentages are occasional users. This suggests to me that the centre services an existing cohort of addicts which is not growing. Further, the operating procedures of the centre seek to actively discourage new or prospective drug users, and I am satisfied that is the case. Finally, analysis by the New South Wales Bureau of Crime Statistics and Research has been unable to display a "honey-pot effect". The report in 2006 entitled "Recent trends in property and illicit drug-related crime in Kings Cross" concluded:

The continued operation of the medically supervised injecting centre has not at this stage had an adverse impact on crime in Kings Cross.

Two years later, in 2008, an updated report with the same title, prepared by the Bureau of Crime Statistics and Research, could not and did not ascribe any trends in crime in Kings Cross to the operation of the centre. The Drug Summit was one of the first matters I had to deal with upon entering this place. I was open to the concept then, as long as the evidence was there that it worked, that it was value for money, and that it would not lead to an increase in crime or act as a gateway to drugs. I think there is sufficiently strong evidence to justify the permanence of this centre, and the legislation will have my support.

The Hon. PENNY SHARPE (Parliamentary Secretary) [12.30 a.m.], in reply: I thank members for their thoughtful and passionate contributions to this debate. The New South Wales Government is committed to a comprehensive response to the complex problem of drug abuse. The medically supervised injecting centre is but one component of such a response. The Government shares the views of the Opposition members who believe drug strategies should be about more than keeping people alive. They should also be helping people to move towards treatment and rehabilitation. But there is no magic solution. Causes of drug addiction are varied and complex, and there can be no one answer to this problem. A sensible government must ensure a range of options to help people as they battle addiction, and to help them get treatment.

The medically supervised injecting centre plays a vital role, doing just that. It reaches out to the most marginalised and entrenched drug users in our communities, builds relationships and trust, and keeps them safe with direct clinical advice and support, bringing them to a point where they will accept a referral into drug

treatment. Drug treatment referrals from the centre are made to a range of facilities, including to the 20 dedicated places for medically supervised injecting centre clients at the Langton Centre. We will continue to support the centre in its efforts to engage more clients in ongoing treatment through the referral system.

Members opposed to the Drug Misuse and Trafficking Amendment (Medically Supervised Injecting Centre) Bill 2010 have raised a number of issues. I know that this has been a long debate, but I believe a number of issues need to be put on the record in response to some of the claims that were made tonight. Some members raised concerns that the centre sends a message condoning drug use. Nothing could be further from the truth. The New South Wales Government's support of the medically supervised injecting centre is just one component of a much broader drug policy, one that includes law enforcement, treatment, education and prevention. In fact, the Government has committed more than \$406 million in additional funding to drug-related law enforcement, treatment, education and prevention, including an additional \$296 million for treatment since the 1999 Drug Summit.

Our police force is taking strong action in the fight against illicit drug crime, which is shown in the \$262 million worth of drugs seized last year and in operations conducted this year. This includes the use of specialist State crime squads for more complex drug seizures such as clandestine lab investigations. In 2006 New South Wales police laid more than 20,000 drug-related charges, almost 1,000 of them related to heroin. No funding for the centre has been diverted from other drug response initiatives. The centre is fully funded from the Confiscated Proceeds of Crime Account.

Some members raised the idea that the medically supervised injecting centre acts as a honey pot for drug-related crime in the area. There is overwhelming evidence to the contrary. I refer members to the most recent report of the highly respected New South Wales Bureau of Crime Statistics and Research, which found no evidence that the centre has had an adverse impact on rates of drug-related crime. The bureau also found that the level of drug-related loitering has not increased. The truth is the centre has had a positive impact on its local area. Sixty-nine per cent of local businesses and 78 per cent of residents support the centre. The legislation also makes clear that the Government is committed to only one injecting centre. We recognise that Kings Cross is unique: it has a long history as an illicit drug centre, with high levels of drug overdose and a transient population.

The centre is also functioning well. Through its status as a trial it has had strong leaders as well as hardworking, well-trained and compassionate medical staff. The independent evaluation of the centre also found that its protocols are working well. The centre's qualified and highly professional staff assess all clients before they can register. As the legislation indicates, there will continue to be stringent monitoring of the centre. As many members may be aware, and as was noted in the debate tonight, Drug Free Australia has made a number of statements in relation to the findings of the recent independent evaluation of the medically supervised injecting centre by KPMG. I would like to address those issues.

It has been claimed that the medically supervised injecting centre has had low rates of utilisation, continually running at below two-thirds capacity throughout its nine years of operation. The trial of the medically supervised injecting centre has seen significant utilisation rates over the past nine years, providing an innovative and economically viable service to address the complex issue of drug addiction. When the trial was extended in 2007 the Government added to a new provision in the Drug Misuse and Trafficking Act that requires the responsible authorities to arrange for a review of the economic viability of the centre if its service activity falls to 75 per cent of the prescribed level of an average of 208 visits per day in each month. To date the centre continues to operate at well above 75 per cent of the prescribed level and to engage a highly dependent cohort of injecting drug users, many of whom have never previously sought treatment. I ask members to consider that because I believe this is one of the killer facts in relation to support of the centre.

It has been claimed that the 7 per cent of the centre's 12,050 clients who attended most often still injected 80 per cent of the time out of the centre. While it is improbable that these figures are correct, it is even more improbable that Drug Free Australia would have a method to ascertain how often clients are injecting away from the centre. However, it was never intended that the centre would provide a place where clients could inject 100 per cent of the time, noting that the clinical model was to provide clean needles and syringes and advice to encourage safe injecting practices and to lower the risk of spreading blood-borne viruses while people were away from the centre. The centre is not a shooting gallery. It is a health service that provides an entry point for a marginalised client group into the broader service system by affording multiple opportunities to engage clients and get them into drug treatment.

For many medically supervised injecting centre clients, attending the centre was the very first contact and referral point for any drug treatment or other support service. This highlights the unique position the centre holds to engage with a marginalised and vulnerable segment of the population that previously has not been successfully reached and support referral to drug treatment services, often over a multi-year period, and multiple referrals to drug treatment services. It has been claimed that the medically supervised injecting centre registrations show a clientele statistically less at risk of overdose than other studied groups of heroin users in Sydney and other States. This is clearly not supported by the large body of literature regarding specific risk factors for overdose. The ongoing consistency in the demographics of the centre's clients since it opened in 2001 confirms that the centre continues to engage successfully with the cohort of injecting drug users who are also at a higher risk of overdose, as intended by the Government.

Members may be aware that, typically, medically supervised injecting centre clients continue to be primarily male and have generally been injecting for more than a decade, with most injecting first at 19 years of age. They are an ageing cohort with an average age of around 33 years. Most clients have failed drug treatment on multiple occasions, with 40 per cent having never sought treatment before. About 70 per cent are on government benefits, with 30 per cent listing unstable accommodation in 2009-10. The rate of referral or admission to hospital for psychiatric assessment is steady at 15 to 17 per cent, with the majority being on medication. About 23 per cent have been imprisoned in the previous 12 months.

Studies show that it is this very demographic that is most at risk of overdose. It is well established that the average age for overdose death is around 30 and risk of overdose increases with duration of use. It is well established that males account for the majority of heroin-related deaths and that there is a relationship between mental health and drug overdose. It is well established that those re-entering the community after loss of opiate tolerance, either upon release from prison or after discharge from a treatment program, are at higher risk of overdose. It is well known that homelessness and public drug injecting carry additional risks. Quite simply, the centre sees clients who are most at risk of drug overdose death, and no amount of fancy footwork and misleading calculations can ignore this evidence.

It is claimed that the KPMG evaluation found no measurable impact on drug overdoses in Kings Cross or on nearby hospital presentations for drug overdose. Further, Drug Free Australia calculates that the injecting room statistically saved fewer than 0.5 lives per year—or four lives in nine years—at a cost of \$23 million. KPMG clearly found that the centre saves lives. Since opening, the medically supervised injecting centre has managed 3,426 overdose events with no deaths on site. It would be naive to think that a proportion of these overdose-related events managed at the medically supervised injecting centre would not have required hospitalisation or led to overdose injury or overdose death had they occurred in a location that did not have immediate medical supervision and intervention. This is also supported by a 2010 report by the European Monitoring Centre for Drugs and Drug Addiction, which states on page 315:

While it is impossible to ascertain how many emergencies would have occurred and been fatal in the absence of DCRs [drug consumption rooms], epidemiological and clinical data suggest that immediate staff interventions at emergencies occurring at DCRs, where millions of drug consumptions have taken place under supervision, has reduced the impact of overdose-related events, such as morbidity and death.

I note that the lead author of the report is Dagmar Hedrich, whom Drug Free Australia cites as an authority. In response to claims by Drug Free Australia that the centre is not cost-effective, a recent economic evaluation by independent consultants SAHA International, purposely employing conservative assumptions, found that the health outcomes provided by the centre come at a lower cost to government than the alternative—no medically supervised injecting centre. In other words, the centre is saving money and allowing funds to be spent elsewhere in the health system, such as on drug treatment. It has been claimed that overdoses in the facility were 32 times higher than the overdose histories of clients before they registered to use the medically supervised injecting centre. While it is unclear what evidence was referred to in relation to the "32 times higher" figure, I note that to April 2010 there were 604,022 medically supervised injections at the centre, with 3,426 overdose events, which is an overdose rate of 0.57 per cent.

It has been claimed that the reduction in ambulance call-outs in the Kings Cross postcode is an effect of the heroin drought and of sniffer dog policing. The partnership between the centre, police and Health has been a successful one that has contributed to the 80 per cent reduction in ambulance call-outs to drug overdoses in the Kings Cross area. While there has also been a heroin drought—and no-one denies this—the Kings Cross figures compare with a corresponding decline of only 45 per cent in adjoining suburbs. In addition, New South Wales Ambulance representatives interviewed during the recent KPMG evaluation also commented that when attending suspected opioid overdoses in the Kings Cross area they were no longer seeing typical medically supervised injecting centre clients.

The centre is undoubtedly saving lives and keeping people out of hospitals, out of ambulances and allowing police to dedicate more resources to drug dealing and addressing crime in the area—which, it should be noted, has not increased with the opening of the centre, as found in three consecutive reports by the Bureau of Crime Statistics and Research. Drug Free Australia claims that, by its calculations, the medically supervised injecting centre should be intervening in only 10 to 12 overdoses per year rather than 390 per year, and that clients may be taking higher risks with drugs in the safety of the room. Drug Free Australia has made simplistic calculations regarding lives saved, without understanding or making any reference to the large body of literature about specific risk factors for drug overdose. These simplistic calculations suggest that each and every injection by a drug user has an equal chance of resulting in overdose. This is simply untrue and ignores the scientific literature and high-risk indicators of the centre's clients, as referred to previously. However, given it is unclear how these figures were calculated, it is not possible to validate them objectively.

It has been claimed that the medically supervised injecting centre has had the opportunity to continuously assist its clients over a period of many years and so referrals to drug treatment should be significantly higher than 11 per cent. Once again, these claims show a lack of understanding about the nature of addiction and the long-stage process required to engage people in treatment. KPMG clearly identified the centre as a gateway to treatment, finding that 80 per cent of regular users of the medically supervised injecting centre accept referral—including 64 per cent who accept referral specifically into drug treatment. It has been shown repeatedly in the evaluations that regular clients of the medically supervised injecting centre are those most likely to accept a referral.

Further, in the recent KPMG report, it was found that rates of referrals tangibly increased with each and every visit to the centre. Two per cent of clients accept a referral after one or two visits, 7 per cent accept a referral after 3 to 10 visits, 28 per cent accept a referral after 11 to 98 visits, and 80 per cent accept a referral after 98 visits. These are impressive figures. They show that centre staff continually reach out to engage with this hard-to-reach population, continue to offer referrals, and to do so in an appropriate and sensitive manner towards all clients. So, rather than encouraging drug use, it is clearly shown that the more often you use the centre the more likely you are to be encouraged into drug treatment.

It has been claimed that reductions in the number of publicly discarded needles and related public injections were due to the heroin drought and that Kings Cross residents and businesses, who actually reported a reduction in discarded needles, could not be assumed to know of the existence of the heroin drought. While there was a heroin drought, the New South Wales Needle and Syringe Program has expanded significantly over the past six years. Yet data on discarded needles and syringes indicates a decline in the total number of needles and syringes collected during the period reported, from 2003-04 to 2008-09. Specifically, the number of needles and syringes collected more than halved, from 28,231 in 2003-04 to 12,646 in 2008-09, with the largest reductions having occurred within 500 metres of the medically supervised injecting centre.

As noted, the proportion of local residents who have seen discarded equipment in the previous month has also reduced substantially—from 66 per cent in 2000 to 46 per cent in 2010—with an even sharper decline for business operators, from 80 per cent in 2000 to 46 per cent in 2010. In fact, KPMG reports that all key local service system representatives interviewed who were working in the Kings Cross area prior to the opening of the centre reported they have noticed significantly fewer needles and syringes since the centre opened. These findings may also be viewed as a proxy measure and validation of evaluation findings whereby centre clients have reported improved behaviours that reduce public injecting.

I have been advised that there has been some criticism with regard to the methodology of a web-based community survey. However, further advice suggests that any community survey findings used were in fact based on a telephone survey, using the same methodology as previous surveys, which allowed KPMG to strengthen and build upon the results of previous evaluations. The internet survey was only undertaken to enable a comparison and establish a rationale for possible changes to the methodology for any future evaluations. It has been claimed that the KPMG evaluation did not attribute any impact on blood-borne virus transmissions in Kings Cross to the medically supervised injecting centre. KPMG noted that a key component of the information and advice provided by the centre to clients relates to the practice of injecting in a safer manner, which includes reducing the risk of spreading blood-borne viruses. Not only have clients reported behaviour changes that reflect safer injecting practices to minimise risks of spreading blood-borne viruses but, as noted, there has been a considerable reduction in the total number of needles and syringes. This has obvious implications for risks of spreading blood-borne viruses for both injecting drug users—public injecting is recognised as being higher risk—and the general public through the reduced risk of needlestick injuries.

While ongoing data is not collected at the centre on HIV or hepatitis C infections after registration, as an external indicator, there has been a downward trend in HIV notifications in the Kings Cross area since 2003 compared with a slight increase in the rest of New South Wales. This trend is the more powerful when it is noted that Kings Cross represents about 23 per cent of HIV notifications, although it is not possible to attribute any impact directly to the centre. The trends in hepatitis C infection notifications have also decreased since 1999 in New South Wales and Kings Cross, but the rate in Kings Cross is much lower and steadier than for the rest of the State, making it inconclusive in relation to the medically supervised injecting centre.

I conclude by noting that Drug Free Australia has publicly criticised respected organisations such as the Royal Australasian College of Physicians and the Australian Medical Association (AMA) of New South Wales, accusing them of "failing to look at the evidence" in relation to the centre. The Australian Medical Association and the Royal Australasian College of Physicians have publicly supported the centre and called for the removal of the trial status. Indeed, the list of medical and scientific organisations supporting the centre and calling for the trial status to be removed is long and impressive. These organisations represent many thousands of specialists and medical experts, physicians and psychiatrists around the country. They have all reviewed available evidence and come to the same conclusion. These organisations do not have a moral or ideological agenda in relation to the medically supervised injecting centre; their broad role is to review available medical evidence and make recommendations in relation to best practice and public health policy. They are clearly best placed to do this, given their extensive expertise and experience.

While abstinence is a valid goal, even a cursory look at history must acknowledge that police, customs and law enforcement have done all they can to reduce the availability of illicit drugs. Yet ongoing drug use is a reality. We know that people were dying from heroin overdose at record levels in Kings Cross despite the best efforts of our police. These people are our sons and our daughters, our sisters and our brothers. Ideology will not save them—a pragmatic and compassionate service will. 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

The Hon. PENNY SHARPE (Parliamentary Secretary) [12.50 a.m.]: I move:

That this bill be now read a third time.

Question put.

The House divided.

Ayes, 22

Mr Catanzariti	Mr Kelly	Ms Sharpe
Mr Cohen	Mr Moselmann	Mr Shoebridge
Ms Cotsis	Mr Obeid	Mr Veitch
Ms Faehrmann	Ms Parker	Ms Westwood
Mr Foley	Mr Primrose	
Ms Griffin	Mr Robertson	<i>Tellers,</i>
Mr Harwin	Ms Robertson	Ms Voltz
Dr Kaye	Mr Roozendaal	Mr West

Noes, 15

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Borsak	Mr Khan	
Mr Clarke	Mr Lynn	
Ms Cusack	Mr Mason-Cox	<i>Tellers,</i>
Ms Ficarra	Reverend Dr Moyes	Mr Colless
Mr Gallacher	Reverend Nile	Miss Gardiner

Question resolved in the affirmative.

Motion agreed to.

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

ADJOURNMENT

The Hon. TONY KELLY (Minister for Planning, Minister for Infrastructure, and Minister for Lands) [12.58 a.m.]: I move:

That this House do now adjourn.

MUNGINDI HOME AND COMMUNITY CARE CENTRE

The Hon. CHRISTINE ROBERTSON [12.58 a.m.]: Home and community care [HACC] is a joint Federal and State government initiative that provides a valuable service helping frail older people and people with a disability to live independently in their own homes. The 2010-11 New South Wales budget includes \$585.8 million for HACC services, which include domestic assistance, social support, meals, transport, case management and respite. Annual funding through this program now approaches \$16 million for the New England area alone. Several other aspects of the Government's Stronger Together package link into HACC services.

It was a great pleasure, therefore, to represent the Minister for Ageing and Disability Services, the Hon. Peter Primrose, at the opening of the Mungindi HACC office on Thursday 7 October. The facility in Mungindi, which is called Our House, is situated at 84 St George Street. This was a great opportunity to recognise the important work that Gwydir HACC Services Inc. performs for older people, people with a disability and their carers in Mungindi and Moree. Gwydir HACC Services Inc. has a strong history in Moree Plains Shire and the New South Wales Government provides it with more than \$328,000 in funding each year.

The New South Wales Government also provided a grant of \$50,000 towards the upgrade of the centre, to make it more accessible to clients. I might add that the committee raised more than \$30,000 in funding for the centre. The services offered by the Mungindi HACC centre include social support, centre-based day care, meals and transport, and contribute greatly to enabling people to remain living in their own homes and communities. Small communities such as Mungindi highly value community organisations, and the central role of a visible and accessible HACC centre such as this one.

I acknowledge the work of the committee and staff of Gwydir HACC Services in an area where long distances, isolation and social disadvantage present daily challenges. I was also pleased to be informed about a number of issues for the Mungindi HACC office and other issues in that region that I am seeking further Government assistance towards. It is also important to note the work of non-government agencies such as Gwydir HACC Services, and the continued growth of services to older people and people with a disability. Unfortunately, the media reporting of this event left a lot to be desired. I seek leave to table two documents: a media release from Kevin Humphries, MP, and an article from the *Moree Champion* titled "Mungindi HACC finds a home".

Leave granted.

Documents tabled.

I commend the recent speeches by my colleagues the Hon. Ian West and the Hon. Shaoquett Moselmane regarding media ethics, as they are continually relevant. Essential services such as Home and Community Care do not always achieve the media coverage they deserve. Then, at other times, certain people jump at the opportunity to gain reflected glory from the good work of carers in our community, and a great media splash turns up. This instance was slightly different. My parliamentary colleague in the other place the member for Barwon, Kevin Humphries, also attended the Mungindi HACC opening, as any good local member would. The issue I have is that, despite my issuing a detailed media release and sending it to the *Moree Champion*, it was not even acknowledged in the newspaper's story that I had attended the opening as a representative of the Minister for Ageing and Disability Services in the New South Wales Government.

Furthermore, as the tabled documents make clear by comparison, the *Moree Champion* took it upon itself to print verbatim the media release and exact photograph that were posted on the website of the member

for Barwon on 11 October 2010, some three days prior to the newspaper article. There is no acknowledgement of copyright, authorship, or even a photograph credit on either the member's website or the newspaper report. The only difference is that the title of the media release is "Mungindi HACC finds a place to call home", which must have been too long for the newspaper's header space "Mungindi HACC finds a home".

While the story and media release mention the \$50,000 New South Wales Government grant, when compared with community funds raised the newspaper may have had the opportunity in using my media release to balance its report to mention the \$328,000 annual funding that Gwydir HACC Services Inc. receives to run services such as the Mungindi HACC office. Of course, there is no mention of Federal funding in the report/release either. Is there a possibility that Mr Humphries' media officer is the *Moree Champion* reporter concerned? Quite possibly.

This is but one example, I am sorry to say, of the reporting standards of many newspapers, especially in the rural press stable, across New South Wales. That is what makes the efforts of small newspapers with few staff who seek comment in response in order to balance stories—and there are a lot out there—all the more impressive. Despite skewed reporting, I greatly enjoyed my time talking with the Mungindi HACC workers and clients, and local people who have helped to establish an excellent service for their community. I commend their efforts and their commitment to providing services for the aged and disabled into the future.

APOLOGY TO WAR VETERANS

The Hon. CHARLIE LYNN [1.03 a.m.]: If we are dinkum in our desire to say sorry for past wrongs, we should acknowledge one group we will forever be indebted to whilst we have control of our national destiny. I refer to our war veterans. There is no greater sacrifice a person can make for their country than to give their life in defence of our democratic freedom and ideals. Those who do should be honoured above all others. The Australian War Memorial is the custodian of our military history. The Returned Services League is the custodian of our national day of remembrance. Legacy ensures the torch of remembrance will never be extinguished. Many other ex-service organisations contribute to the memory of their members, and the ongoing welfare of surviving veterans and their dependents.

Our veterans have always enjoyed widespread public support for their service. However, there is no guarantee this will always be the case, as intellectuals from the left are quietly addressing the task of rewriting our wartime history. Their efforts were exposed in a recent series of articles in *Quadrant* magazine titled "The Intellectual Assault on Anzac" and "Gallipoli: Second Front in the History Wars". Today's *Daily Telegraph* reports that the new draft history curriculum will have students learning about "alleged controversies surrounding memorial sites and commemorative events". The radical left has its roots in the most oppressive and murderous ideologies the world has ever known: communism and socialism. Whilst the greatest mass murderers of all time—Stalin, Lenin and Chairman Mao—were, and are, revered by them, the fall of the Berlin Wall and the collapse of the Iron Curtain exposed the horror and oppression of these disgraced ideologies.

They have since re-emerged in a new cloak of environmentalism. Whilst their colours have changed from red to green, and their mantras from universal workers' rights to global warming, the organisers have their roots in the old socialist/communist movements. The only qualification needed to belong to the new movement of environmentalism is to harbour a deep-seated guilt complex over affluence or skin colour. Those who live close to city centres enjoy the full comforts and benefits of our affluent society. They are immune from the socioeconomic problems of our culturally diverse outer suburbs, the abject failures of welfare dependency in remote indigenous communities and the war against terror in Afghanistan. A recent mantra aimed towards easing urban middle class guilt is to acknowledge the traditional owners of the land.

The highlight of their existence thus far was the Sorry Statement for past injustices over which we had no control. It was akin to a collective confessional as they assembled around wine bars and coffee shops and rejoiced. I believe the acknowledgement of our traditional owners would be more meaningful and more acceptable if it included an acknowledgement of the sacrifices our veterans have made in defence of our democratic freedom and our Christian values. This is unlikely to happen though because our enemies, the imperialists, socialists, communists and terrorists whom our troops fought against, were ideological allies of the Left. Whilst this shameful betrayal does not feature in contemporary media and historical research into our wartime history, we cannot allow it to be airbrushed from our collective memory.

Therefore, I believe it is time we said sorry to the veterans who were betrayed by subversive elements within our society. We need to say sorry for the fact that more than four million working days were lost due to

union strike action in New South Wales during World War II whilst our troops were fighting on battlefields in Europe, the Middle East, Africa, South East Asia and the Pacific. We need to say sorry for the fact that our troops destined to fight along the Kokoda Trail had to load their ships because waterfront unions refused to support them. We need to say sorry for the fact that left-wing unions refused to load ships and deliver mail to support our troops during the Vietnam War. We need to say sorry to the Vietnam veterans who were spat on by left-wing protestors on their return to Australia after their tour of duty. We need to say sorry to our servicemen and women in Afghanistan over the fact that the New South Wales Labor Government refused to allow a motion of support for them in this Parliament.

Until these apologies for past betrayals are forthcoming, I ask that politicians from the Left refrain from making meaningless Anzac and Remembrance Day speeches, desist from placing condolence motions on the *Notice Paper* and stay away from military funerals. We must never allow the Left to replace the spirit of Anzac with the spirit of appeasement towards hostile ideologies and Islamic extremists. Lest We Forget.

LONGWALL MINING AND GROUNDWATER

Ms CATE FAEHRMANN [1.07 a.m.]: I share my grave concerns regarding the unexplained drying up of Thirlmere Lakes, south-west of Sydney. Thirlmere Lakes are part of the Greater Blue Mountains World Heritage Area and are also on the Register of the National Estate. Longwall mining has occurred adjacent to the historic Thirlmere Lakes and I am worried that such mining may have contributed to the dramatic drying up of the lakes experienced recently. It is believed that the lakes are fed by surface run-off and underground aquifers, yet have failed to fill despite the drought being declared over in the region since 2008 and recent rainfalls filling nearby bodies of water. Clearly, damage to such a precious natural asset is an issue worthy of attention by this Parliament. Longwall coalmining has taken place in recent years within 955 metres of Lake Werriberri, the largest lake in the group, and 700 metres of Lake Couridjah. This could be a contributing factor to the loss of water from the lakes.

The mining operation in question is Tahmoor colliery owned by Xstrata Coal. Longwall mining is an underground coalmining technique that involves removing a portion of an underground coal seam. Longwall mining can cause the land above the mined out coal seam to destabilise and collapse. This is known as subsidence. The extent of subsidence is influenced by various factors, including the width and depth of the longwall mine, topography, the type of overlying rock layers, the design of the mine and the location of the mine. These factors vary from site to site, so the amount of subsidence and its subsequent impacts also varies. Subsidence can cause river beds to crack and creeks to dry up.

Rivers SOS, an alliance of over 40 environmental and community groups, is calling on the New South Wales Government to mandate a safety zone of at least one kilometre around all rivers in the State. This is to protect aquifers, creeks and rivers from permanent damage by mining under or too close to them. Rivers SOS has been documenting the devastation of longwall mining activities on nearby watercourses. One example is the Lower Cataract Creek, which flows into the Nepean River at Douglas Park near Campbelltown. The following information is on the Rivers SOS website:

Ten longwall mines went underneath this stretch in the 1990s, at a depth of 430m beneath the river bed. As a result the rocky bed was badly cracked in hundreds of places. The water was polluted by ingress of saline and acidic groundwater and by ecotoxic chemicals leaching from fractured Hawkesbury sandstone. A massive fish kill was reported by a fisheries inspector. 50 per cent of the river's flow was lost down the cracks. Methane gas vents erupted along the river, which at one point measured at 20 litres per second—ten years later some vents are still active.

The river turned red in 1995-6, due to iron oxide reaction; ten years later it is a milky green colour except when flow is augmented by heavy rainfall. There are few fish, and algal blooms flourish while bacterial mats coat the rocky surfaces under water.

Photographs on the website show heartbreaking images of children swimming in areas in the 1970s that are now grossly polluted. The community has lost a much-loved river due to longwall mining. I strongly urge all members to visit the website and also to watch the organisation's 30-minute *Rivers of Shame* DVD.

At Thirlmere Lakes, the mining company Xstrata and the Department of Environment, Climate Change and Water have denied any association between longwall coalmining and the loss of water there. How this can be denied so unequivocally when the mining companies admit to their activities causing subsidence is beyond me. The Greens have joined Michael Banasik, the Mayor of Wollondilly Shire Council, and the Coalition in calling for an independent investigation to determine the cause or causes of the water loss. It is true that historically the lakes have dried out a couple of times during extreme periods of drought. However, the locals

say that the lakes would always fill quickly after rain. In fact, other water bodies in the area and now full as a result of recent heavy rains. Much of the beds of Thirlmere Lakes are now bone dry, with a muddy peat bog in their centre.

I have visited Thirlmere Lakes twice in recent weeks and met with members of the local community and council representatives. It is a depressing sight, particularly given that Thirlmere Lakes has been World Heritage listed because of its unique natural assets. New signs have been posted warning visitors of the dangers of the mud. It is time we found out what is causing this and who, if anyone, is responsible, so we can ensure that other water bodies do not meet the same fate. I support the local community and its efforts for an independent investigation into why the lakes are drying up. The State Government must agree to an investigation as soon as possible so it can be determined whether any nearby mining activity has caused the loss of this water. But we need more than an after-the-fact investigation. Tough regulation of longwall mining is urgently needed. Surely our rivers, lakes and aquifers are too precious to turn a blind eye to their destruction.

ISLAMIC STEREOTYPING

The Hon. LYNDIA VOLTZ [1.11 a.m.]: Recently I was performing my normal Saturday morning ritual, which involves getting out of bed early to read the papers before the house degenerates into mayhem. This is a leisurely pastime during which writers will anger me or outrage me. Some articles I read just for amusement. David Dale's Tribal Mind column normally falls into the latter category, but that morning I was particularly struck by his turn of phrase. He was making a point about when people conform to stereotypes—the penny pinching Scot, naive Irish, New Zealand sheep lover or a Muslim who sympathises with terrorism. That Muslims are suddenly not identified by their country but grouped together, that those from the Philippines share the same culture and civilisation as that of Muslims from Albania, Morocco, Bangladesh or Afghanistan, struck me as an extraordinary leap for a cultural commentator

David Dale professes to "meditate on patterns in popular culture", according to his webpage for the *Sydney Morning Herald*. It is extraordinary that David Dale has not kept abreast of the cultural move within the language and narrative on terrorism. Our fear of terrorism is cultural. We see it in television series, in stage plays and obliquely in novels. Pinning down the terrorist threat might be as much about reading our own fears as about understanding their plans. If David Dale is right and what we watch, listen to and read offers surprising insights into Australian attitudes, then we should also be assessing where this culture is taking us. In the debate on terrorism, to paraphrase Umberto Eco, only words count and the rest is mere chattering. Linguistic habits are frequently symptoms of underlying feelings. The narrative does matter.

Terms such as "Islamic extremism" and "Jihadism" succeed in combining terrorism with mainstream Islam, therefore casting all Muslims as potential terrorists. These terms become distorted and loaded with innuendo. Since his election as President of the United States of America, Barak Obama has shifted the narrative. To quote Barak Obama, "The language we use matters." He has further stated that he will be:

... very clear in distinguishing between organizations like Al Qaeda—that espouse violence, espouse terror and act on it—and people who may disagree with my administration and certain actions, or may have a particular viewpoint in terms of how their countries should develop. We can have legitimate disagreements but still be respectful.

The narrative of Islamic terrorism is profoundly unhelpful, not least because it is highly politicised, intellectually contestable, counter-productive and damaging. Like the other Abrahamic faiths—Judaism and Christianity—the fundamental tenets of Islam are rooted in compassion, kindness, forgiveness and social justice. Likewise the term "Jihad" literally means a "striving" and is often expressed in the context "Jihad fi sabil Allah", or striving in the path of God. Jihad consists of some act of piety and often refers to some act of social or personal improvement, such as raising money for a community project or the giving of alms. Islamic teachings often stress the importance of the greater spiritual jihad over the lesser physical jihad.

Nearly one-fourth of the world's population is Muslim, and Arabs comprise only 15 per cent of the Muslim population. As the rest of the world has moved on from the simplistic narrative of the Bush administration and conformist stereotypes, it is time that both the Australian media and members of this House also moved on, if they wish to remain relevant to the ongoing debate.

ITALIAN CHAMBER OF COMMERCE AND INDUSTRY BUSINESS AWARDS

The Hon. MARIE FICARRA [1.15 a.m.]: Tonight I pay tribute to the professionalism, business mentoring and charitable objectives of the Italian Chamber of Commerce and Industry of New South Wales as

exemplified in its most successful and enjoyable Thirty-Second Italian Chamber of Commerce and Industry Business Awards Gala Dinner held on Friday 8 October at the Westin Hotel in Sydney. I acknowledge the board of the Italian Chamber of Commerce and Industry, which is led by Nicholas Di Girolamo as Chairman and his Italian Chamber of Commerce and Industry team, with the effervescent Nicholas Care as the Chief Executive Officer. The hard work and dedication of other board members throughout 2010-11 should be noted: Nicky Scali, Paul Dovico, Muzio Cantarella, John Caputo, OAM, Joseph Carrozzi, Sara Delpopolo, David Di Pilla, Adrian Guido, Nicholas Martino, Ferdinando Scali, Nick Scali and Vittorio Tarchi.

The evening was a spectacular combination of worthy acknowledgements of business excellence in the form of awards, along with glamorous fashion parades all compared by 2GB's Jason Morrison. The principal sponsor of the evening was the Emirates Airline, along with major sponsors, such as the Camera di Commercio Catanzaro, Liondos Corporate Wear and VI.SA. Australia; event sponsors, such as Abigroup, Australian Water, Avion, Hill Rogers Spencer Steer, the Italian Opera Foundation, Curwoods Lawyers, Maserati, Nick Scali, Pirelli, PriceWaterhouseCoopers, Prysmian, Savino Del Bene Logistics, Vittoria Coffee, Westpac Business; and Italian Chamber of Commerce and Industry sponsors, such as Alliance, Duncan Dovico, Opera Australia, San Pellegrino; and supporters, such as Birra Moretti, Galella, Roses Only, Serafino Wines, Gulli Foods and JB Were.

The companies that excelled in business innovation, networking, planning and developing sustainable strategies along with fostering business relationships between Italy and Australia were recognised: Signorelli Gastronomia in the field of hospitality, accommodation and tourism; Prysmian Cables and Systems Australia in the category of manufacturing, construction, infrastructure and transport; Woodhead architects, interiors and planning in the category of professional and business services; and Formaggio Ocello in the category of retail, wholesale, import and export. Special tribute was paid to Nick Scali, who was the 2008 inductee into the Italian Chamber of Commerce and Industry Hall of Fame for his continuing mentoring, guidance and oversight. I was delighted to have Barry O'Farrell as Leader of the New South Wales Liberals express his support for the objectives and standards set by the Italian Chamber of Commerce and Industry.

Professor Tailoi Chan-Ling, who is the National Health and Medical Research Council's principal research fellow at the University of Sydney's retinal and developmental neurobiology laboratory, presented on the need for increased funding for research into retinopathy of prematurity as the leading cause of blindness in infants in both the developed and developing world. Uncontrolled growth of blood vessels results in scarring of the retina of premature infants and results in a lifetime of blindness. Globally 1.4 million children are born blind. Professor Chan-Ling's work aims to develop a non-invasive treatment for the disease, and to develop early detection and intervention before blinding occurs.

The Italian fashion catwalk, La Bella Figura, was capably directed by designer and stylist Donny Galella and his team. The Italian Chamber of Commerce and Industry is to be congratulated on its 88 years of dedication since 1922 and for its involvement in promoting business contacts, partnerships and networks across a wide range of industries between Australia and Italy. Business excellence, the promotion of trade and the building of successful reputations have contributed to the strong social resilience and economic prosperity of this city, state and nation.

Madam President, I am proud to be of Australian Italian heritage, as you are. Italian migrants have contributed so much in our society in so many ways. Clearly their business acumen has been a resounding success for so many of them. The New South Wales Liberals and Nationals wish the Italian Chamber of Commerce and Industry well in the future—so that New South Wales can continue to be the fortunate beneficiary of its members' great achievements.

WILD DOGS

The Hon. IAN COHEN [1.20 a.m.]: I raise an issue tonight about which I have received considerable complaint in the area where I live in the north of New South Wales: the widespread problem of wild dogs. Some are dingo cross but they are mainly domestic pets that have escaped and pig dogs, which often hunt in packs in the north-east of New South Wales, particularly in the Mullumbimby Valley. The national park areas of Nullum, Nightcap, Whian Whian and Yabbara have seen an increase in wild dogs. I raise this issue for a number of reasons. One is to look at the situation, where we have much debate in this House, about the Game Council and shooting feral animals as a way to control them. In fact, it seems to be more of a sport rather than an effective way of controlling these potentially dangerous pests. They are dangerous. There have been many reports that animals are being ripped apart. That has been reported across the State as a major problem for landowners and sheep graziers. In my area all sorts of events have happened with these wild dogs getting out of control.

The Livestock Health and Pest Authority is constructive in its work against these wild dogs. I want to raise tonight an effective method of control, in contrast to the claims that hunting is effective. In those areas under the Livestock Health and Pest Authority and National Parks, private individuals are using leg-hold traps. Trappers properly investigate the area, track down the wild dogs and set the leg-hold traps. These soft traps are relatively humane. I have seen pictures of dogs having been caught in these traps. They do not appear to be uncomfortable. They obviously have been caught in the trap but they are not in pain, as occurred in old-style traps. The trappers, who often work with landowners, are often under licence and are paid \$100. One person I know in Mullumbimby Valley gets paid \$100 for investigating and setting the traps. One of the conditions of this work is that they check the traps daily and shoot any captured dogs. It is a much more humane method than the spreading of 1080, which is often used in a wholesale manner and has a huge impact on other species, particularly quolls.

I am concerned about sufficient training and the use of professional trappers in Australia. It seems to me there is a lack of work by professional trappers to undertake constructive work to control the wild dog population. The use of leg-hold traps to capture wild dogs is a well accepted control method across Australia. Research into trap humaneness and remote trap monitoring systems, along with the provision of standard operating procedures for wild dog trapping programs, acknowledge the value of leg-hold traps as an effective wild dog management tool. In many cases, trapping programs and trappers themselves are supervised by managers. Many trapping operations are implemented as reactive programs in response to ongoing wild dog attacks upon domestic stock. Such programs often are challenging for trappers as they target wild dogs that have successfully evaded a number of control methods, which often include leg-hold traps set in good faith by parties but with limited expertise. In many cases, the effectiveness of reactive trapping operations is compromised due to restricted funding availability, which results in short-term trapping programs that provide limited opportunity for wild dog and trap interaction.

There is obviously a need for education and training. Meetings have been held in Mullumbimby about this issue. Baiting is the most commonly used tool for wild dog control across Australia. I encourage training, education, and the use of professional trappers so that we have an impact on the wild dog population. I see this as a humane, non-chemical method that is very valuable. I am supported by a number of people in the Mullumbimby area in the valleys. People have said that children have been in danger of being taken by these wild dogs, which run in packs and are very vicious. I recommend training for trapping as the way forward in dealing with this difficult situation.

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

Motion agreed to.

The House adjourned at 1.25 a.m. Wednesday 27 October 2010 until 11.00 a.m. on the same day.
