

LEGISLATIVE COUNCIL AND LEGISLATIVE ASSEMBLY

Monday 20 June 2011

JOINT SITTING TO ELECT A MEMBER OF THE LEGISLATIVE COUNCIL

The two Houses met in the Legislative Council Chamber at 3.35 p.m. to elect a member of the Legislative Council in the place of the Hon. Anthony Bernard Kelly, resigned.

The Clerk of the Parliaments read the message from the Governor convening the joint sitting.

The PRESIDENT: I am now prepared to receive proposals with regard to an eligible person to fill the vacant seat in the Legislative Council caused by the resignation of the Hon. Anthony Bernard Kelly.

Mr JOHN ROBERTSON: I propose Steven James Robert Whan as an eligible person to fill the vacant seat of the Hon. Anthony Bernard Kelly in the Legislative Council, for which purpose this joint sitting was convened. I propose that Steven James Robert Whan be elected as a member of the Legislative Council to fill the vacancy in the Legislative Council caused by the resignation of the Hon. Anthony Bernard Kelly. I indicate to the joint sitting that if Steven James Robert Whan were a member of the Legislative Council, he would not be disqualified from sitting or voting as such a member, and that he is a member of the same party, the Australian Labor Party, as the Hon. Anthony Bernard Kelly was publicly recognised by as an endorsed candidate of that party and who publicly represented himself to be such a candidate at the time of his election at the Tenth Periodic Council Election, which was held on 26 March 2011. I further indicate that the person being proposed would be willing to hold the vacant place if chosen.

Ms LINDA BURNEY: I second the nomination.

The PRESIDENT: Does any other member desire to propose any other eligible person to fill the vacancy? As only one eligible person has been proposed and seconded, I hereby declare that Steven James Robert Whan is elected as a member of the Legislative Council to fill the seat vacated by the Hon. Anthony Bernard Kelly. I declare the joint sitting closed.

The joint sitting closed at 3.44 p.m.

LEGISLATIVE COUNCIL

Monday 20 June 2011

The President (The Hon. Donald Thomas Harwin) took the chair at 2.30 p.m.

The President read the Prayers.

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

ASSENT TO BILLS

Assent to the following bill reported:

Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011

LEGISLATIVE COUNCIL VACANCY

Joint Sitting

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

MARIE BASHIR
Governor

Office of the Governor
Sydney 2000

MESSAGE

I, Professor Marie BASHIR. AC, in pursuance of the power and authority vested in me as Governor of the State of New South Wales, do hereby convene a joint sitting of the Members of the Legislative Council and the Legislative Assembly for the purpose of the election of a person to fill the seat in the Legislative Council vacated by the Honourable Anthony Bernard Kelly, and I do hereby announce and declare that such Members shall assemble for such purpose on Monday the twentieth day of June 2011 at 3.30 p.m. in the building known as the Legislative Council Chamber situated in Macquarie Street in the City of Sydney; and the Members of the Legislative Council and the Members of the Legislative Assembly are hereby required to give their attendance at the said time and place accordingly.

In order that the Members of both Houses of Parliament may be duly informed of the convening of the joint sitting, I have this day addressed a like message to the Speaker of the Legislative Assembly.

20 June 2011

CONDUCT OF MAGISTRATE BRIAN MALONEY

The PRESIDENT: I report the receipt of the following correspondence from Greg Walsh & Co, legal representatives for Magistrate Brian Maloney, dated 20 June 2011:

20 June 2011

The Honourable Don Harwin MLC
President
Legislative Council

Dear Sir,

RE: MAGISTRATE BRIAN MALONEY

I thank you for your letter of 17 June 2011.

I confirm that the House has granted leave for Magistrate Brian Maloney to attend the Bar of the House on Tuesday, 21 June 2011 at 3.30 p.m. to show cause why he should not be removed from office on the grounds of that in the report of the Conduct Division.

I confirm that Magistrate Brian Maloney will accept the invitation and be in attendance of the Bar of the House tomorrow, Tuesday, 21 June 2011 at 3.30 p.m.

Magistrate Maloney appreciates the assistance and courtesy extended to him by the President and the House and Ms Lynn Lovelock, Clerk of the Parliaments.

Yours faithfully,
GREG WALSH & CO
G A Walsh

CONDUCT OF MAGISTRATE JENNIFER BETTS

The PRESIDENT: I report the receipt of the following correspondence from McLachlan Thorpe Partners, legal representative for Magistrate Jennifer Betts, dated 20 June 2011:

20 June 2011

The President Legislative Council, the Hon. Don Harwin MLC

Dear Mr President,

RE: MAGISTRATE BETTS

I acted for Magistrate Jennifer Betts who recently addressed the bar of the House in response to the report of a Conduct Division of the Judicial Commission of New South Wales.

I am writing on behalf of my client to express her gratitude to all members of the Legislative Council for dealing with her matter so expeditiously. My client had not expected that the motion, debate and vote could be resolved so quickly. It afforded her immense relief that they could.

It was evident from the various speeches during the debate that members had spent a lot of time considering the material and adopting their positions in a short period of time. It is also appreciated that the major political parties conducted the vote on a conscience basis.

Finally, my client also thanks the staff of the Legislative Council, including the Clerk, the Usher of the Black Rod and Mr Blunt, for their professionalism and compassion in the performance of their duties. It was of great comfort to her to have procedures thoroughly explained and demystified, and to have been shown personal kindness throughout this process.

I extend my client's thanks, as well as mine and Mr Boulten's, to all members and staff of the Legislative Council.

Yours faithfully,
MCLACHLAN THORPE PARTNERS
Hamish Cockburn
Senior Associate

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 121 outside the Order of Precedence objected to as being taken as formal business.

PROFESSOR DEBRA PICONE

Motion by the Hon. Amanda Fazio agreed to:

1. That this House notes that:
 - (a) Professor Debra Picone, AM, served with distinction as the Director General of NSW Health from 2007 to April 2011, and
 - (b) Professor Picone was the first nurse to hold the position of Director General of Health and brought with her an understanding of the experience of nursing gained from her 36-year career in the public health system, which commenced in 1975 as a student nurse at Prince Henry Hospital.
2. That this House acknowledges the contribution of Professor Picone to the improvement of patient care and safety and wishes her well in the future.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 124 outside the Order of Precedence objected to as being taken as formal business.

AMNESTY INTERNATIONAL

Motion by the Hon. Amanda Fazio agreed to:

That this House:

- (a) notes that on Saturday 28 May 2011 Amnesty International celebrated its 50th anniversary,
- (b) congratulates Amnesty International on reaching this significant milestone,
- (c) commends Amnesty International for its ongoing campaign to promote human rights and freedom and to expose injustice, repression and oppression, and
- (d) wishes every success to Amnesty International in its objectives to improve global values such as dignity, freedom, justice, equality and a fair go for all.

PRIVILEGES COMMITTEE

Report

The Hon. Trevor Khan tabled, as Chair, a report entitled "Citizen's Right of Reply (Mr Mike Rayner)", dated June 2011.

Ordered to be printed on motion by the Hon. Trevor Khan.

LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL 2011

Second Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [2.50 p.m.]: I move:

That this bill be now read a second time.

This bill was introduced in the other place on Wednesday 15 June 2011. This is an important bill for New South Wales. The bill fulfils the Government's commitment to return autonomy to local councils by giving them back the powers they enjoyed in the past to conduct their own elections. The Local Government Amendment (Elections) Bill 2011 reflects the Government's commitment to provide a transparent and effective legislative framework for the administration of local government in New South Wales. The bill also ensures that councils in certain circumstances do not need to fill casual vacancies by way of by-elections, with resultant significant savings on the costs of holding those by-elections.

The bill also provides a window of opportunity to those councils that wish to reduce their councillor numbers and abolish wards without the need to hold a constitutional referendum. These proposals will also save councils considerable expenses. The proposals in the bill have been developed to address recurring and significant issues identified in the review of local government election provisions conducted following the last council ordinary elections. The bill will address concerns raised by the public, councils and the Local Government and Shires Associations of New South Wales regarding the conduct and cost of local government elections. I seek leave to have the balance of the second reading speech incorporated in *Hansard*.

Leave granted.

I will now turn to the detail of the Local Government Act amendments.

The first proposal is designed to transfer the conduct of local council elections, constitutional referendums and polls to councils while maintaining the option of contracting their conduct to the Electoral Commissioner.

The bill makes it clear that where a council decides to conduct its own elections, referendums and polls the general manager is responsible for their conduct. However, where a council decides to contract the conduct of its elections, referendums and polls to the New South Wales Electoral Commissioner, the Electoral Commissioner is responsible for their conduct.

Currently, the Local Government Act provides that the Electoral Commissioner is responsible for the conduct of all local Government elections (ie, ordinary elections, by-elections, elections of mayors elected by the public) constitutional referendums and polls.

The expenses incurred in conducting these elections, referendums and polls are met by the councils for which they are conducted.

The Electoral Commissioner has been conducting local government elections and referendums since 1987. The Local Government (Elections) Amendment Act 1987 transferred this responsibility from Town and Shire Clerks to the Electoral Commissioner.

Prior to 1987 all councils in New South Wales had conducted their respective elections independently. This arrangement had been in place since 1867.

The transfer of the conduct of council elections to the Electoral Commissioner occurred as a result of a commitment made by the then Labor Government that the Electoral Commissioner would assume responsibility for the conduct of all council elections and referendums, commencing with the ordinary elections held in September 1987. This was to reflect the arrangements at Commonwealth and State level.

In 2008, following a review of local government election pricing by the Council on the Cost and Quality of Government, the New South Wales Electoral Commission, for the first time, conducted the September 2008 ordinary elections on a full cost recovery basis.

The sudden increase in costs for those elections caused a dramatic number of complaints from councils. Those complaints were supported by the Local Government and Shires Associations of New South Wales [LGSA].

Thus, in its publication titled "NSW Election Priorities 2011" the Local Government and Shires Associations of New South Wales stated that the increase in costs and "the cost shift from the New South Wales Government to councils totalling \$9,050,150 made it clear that the responsibility of conducting local government elections should stay within individual councils should the council wish to do so."

The Local Government and Shires Associations of New South Wales further stated that councils are better placed to conduct their own elections with more efficient use of council staff and revenue.

The Government accepts the Local Government and Shires Associations of New South Wales's position.

The Government is of the view that returning the conduct of elections to councils would see council revenue better spent on community infrastructure and services, restore community involvement in the local government election process and provide speedier results for candidates and communities.

While providing for the powers for council general managers to conduct council elections, the bill also ensures that councils may decide to continue to have their elections conducted by the Electoral Commissioner. Thus the proposal is flexible enough to cater for those councils that choose not to conduct their own elections.

Where a council determines to conduct its own elections, the responsibilities of the general manager will include the appointment of a suitably qualified independent returning officer and a substitute returning officer for the council's area, appoint the polling places and determine the fees payable to the returning officer, substitute returning officer and electoral officials.

A returning officer may be sourced from a neighbouring council or another council in New South Wales. This could be an experienced member of senior staff of that councillor a suitable member of the public.

Importantly, the general manager will not be able to be appointed as a returning officer to conduct an election of a neighbouring council because they are charged with the responsibility for the administration of their own council's election.

The general manager will also be responsible for managing the relevant election costs and prepare, for the Minister, a report on the conduct of each election. The report will disclose, among other things, full and transparent costings for that election. This is already the practice of the Electoral Commissioner to report to the Government on the outcome of council ordinary elections.

While the latter requirement is not included in this bill, it is intended that it will form part of the new regulation or guidelines proposed to be developed by the Division of Local Government in conjunction with the New South Wales Electoral Commission [NSWEC].

The guidelines will assist councils to clearly understand the level of service and accountability required of them so that they can make an informed choice whether to conduct their elections.

It is important that councils do not make a final decision on who is to conduct their 2012 elections until they have considered the guidelines.

It is also important that any savings and efficiencies in the conduct of elections and referendums by councils do not come at the expense of the principles of openness, transparency and accountability that underpin the arrangements of elections for the other tiers of Government.

The Local Government and Shires Associations of New South Wales expects that the proposed amendments not only will substantially reduce the costs of council elections but will also result in more prompt reporting of the results of elections.

Those councils that wish to have their elections, referendums and polls conducted by the Electoral Commissioner may by resolution decide to do so by entering into appropriate contractual arrangements with the NSWEC.

To this end, a council will need to resolve within 12 months after the ordinary election that the council is to enter into a contract or make arrangements with the NSWEC to administer all council elections (other than the elections of a mayor by councillors), referendums and polls for the balance of a term of a council including the following ordinary election. This will provide the necessary certainty required.

However, in the event a council and the NSWEC cannot agree on the terms of a contract, the bill provides that the general manager is responsible for the conduct of elections, referendums and polls of the council concerned.

The bill has a number of transitional provisions that ensure that councils may retain the services of the Electoral Commissioner to administer their elections, referendums and polls until the conclusion of the September 2012 ordinary elections.

Where a council chooses to use the NSWEC to conduct its ordinary elections in 2012, the council must pass a resolution to this effect before 31 October 2011 or before a later date specified in the regulation.

The council must also notify the NSWEC and the Division of Local Government of its decision as soon as possible to enable the NSWEC to commence the necessary preparations for the election.

The expenses incurred by the Electoral Commissioner in connection with any such election are to be met by the council for which it is conducted.

After the 2012 ordinary elections but before the expiry of a 12 month period councils will be able to make a further decision whether their elections, referendums and polls are to be conducted by the NSWEC or by the councils.

Another important aspect of this proposal covers allegations of maladministration of elections, referendums and polls conducted by councils.

Some complaints alleging maladministration would require review and possible formal investigation by the Division of Local Government. If such an investigation is warranted the Act already provides powers to the chief executive to authorise an investigation of a council under section 430.

The bill additionally provides that the expenses associated with the preparation of a report under section 430 arising out of the conduct of elections, referendums and polls by a council can be recovered by the division from the council.

Other complaints, depending on their nature, will be dealt with by the Independent Commission Against Corruption, the police or the Ombudsman.

Candidates aggrieved about an election result, qualifications of candidates, etc will continue to avail themselves of the jurisdiction of the New South Wales Administrative Decisions Tribunal and the Supreme Court of New South Wales.

The proposal ensures that the Government's promise to return autonomy to councils to enable them to conduct their own elections is fulfilled.

The proposal will enhance autonomy of local government and is likely to achieve savings of election costs to councils.

The second and third proposals in the bill will offer opportunities, for a limited time only, to those councils that wish to reduce their councillor numbers or abolish all wards without the need for approval at a constitutional referendum.

Honourable members may be aware that in 2005 a scheme was introduced allowing councils, for a limited time, to reduce their councillor numbers without having to first obtain approval to do so at a constitutional referendum.

The scheme was introduced following requests from a number of councils to reduce their councillor numbers without the need to hold costly referendums.

The total savings from this initiative, across New South Wales, are between \$298,600 and \$589,000 or approximately \$15,000 to \$27,000 per council area. The reductions took effect from the ordinary elections on 13 September 2008.

In 2008 a bill was introduced into the Parliament which contained among other things a proposal for a one-off reduction of councillor numbers.

The bill was however withdrawn for a number of reasons including that due to the passing of time it no longer had any utility as it was designed specifically for the 2008 ordinary elections.

The proposal in this bill therefore offers councils a further opportunity to reduce their councillor numbers.

It also responds to the interest shown by several other councils that missed the closing date for applications under the previous scheme.

As with the 2005 proposal, the councillor reduction opportunity is proposed to be available to those councils that will have three or more councillors per ward upon reduction.

However, a council will not be permitted to reduce its numbers to less than five councillors per council which is the minimum set under the Act.

The steps in the application process will generally be the same as those under the previous scheme.

A resolution must first be passed by a council indicating its intention to apply to the Minister for approval to reduce the number of councillors on the council. The council must allow a period of 42 days public notice during which submissions can be made to it about the draft resolution. This consultation period is more generous than the previous scheme.

An applicant council that decides to proceed to apply for a reduction will be required to provide the Minister with a summary of the submissions and relevant comments received during the public consultation.

An application period will apply during which councils may seek my approval as Minister to reduce councillor numbers. The application may be made only within the five months from the commencement of the proposed amendments. The period is necessary as the proposal will impact on the New South Wales Electoral Commission's preparations for the 2012 ordinary elections.

I want to stress that this opportunity to reduce the number of councillors without a constitutional referendum is for a limited time only, and the process will be driven by the councils themselves and their communities.

Successful applications will take effect at the 2012 ordinary council elections.

As was the case under the previous councillor reduction scheme, the bill again provides that a casual vacancy in the office of a councillor is not to be filled before the reduction takes effect (unless the vacancy will result in the council having less councillors than the approved reduction).

The third proposal in the bill will allow councils to abolish all wards without the need for approval at a constitutional referendum. Similar to the second proposal, councils will be able to apply to me as Minister for approval to abolish all wards for a limited period of five months starting on the commencement of the proposed amendment. The council must also allow an extended consultation period of 42 days.

The Local Government Act provides that a council must not divide an area into wards or abolish all wards unless it has obtained approval to do so at a constitutional referendum.

In New South Wales 62 local councils are divided into wards. Many of those councils work effectively and efficiently and are regarded as proven leaders in community engagement and service delivery.

However the functioning of other councils may be impeded or even compromised because their governance structure is not appropriate.

The Local Government Act provides that if a council is divided into wards, the same number of councillors is to be elected for each ward and the mayor is to be excluded when determining that number if the mayor is to be elected by all the electors for the area.

The above qualification means that if a legislative proposal to allow councils a one-off opportunity to reduce their councillor numbers without the need to hold a constitutional referendum is implemented, those councils that have wards and a popularly elected mayor will be necessarily restricted in determining the number of councillors that would best represent their community.

If a proposal to allow councils a one-off opportunity to reduce their councillor numbers without the need to hold a constitutional referendum is implemented, a number of councils consisting of fewer than three councillors per ward will not be able to benefit from it. This is despite the fact that those councils were keen to reduce their councillor numbers in the past.

The steps in the application process are proposed to be similar to those suggested for a council application to reduce councillor numbers.

For those councils that have a one or two councillor per ward structure, the proposed amendments will mean that the method of electing councillors will change from optional preferential to proportional representation. This is because the Act provides that the voting system in a contested election is to be:

- optional preferential, if the number of councillors to be elected is one or two; or
- proportional, if the number of councillors to be elected is three or more.

The proportional voting system is generally used across all levels of Government in multi-member electorates because it is designed to allocate seats or offices in proportion to the overall number of votes obtained by the candidates.

The abolition of wards in any given local government area will lead to a lower quota which is expected to encourage more people to stand for office and, therefore, enhance the democratic process. The second and third proposals therefore complement each other and are in line with the Government's commitment to provide a legislative framework that would enhance councils' ability to engage in structural reform.

The proposed amendments will introduce the necessary flexibility and will enhance councils' ability to determine the best possible governance structure without impediments that currently exist in the Act.

Finally, as with the proposal to reduce councillor numbers, the opportunity to abolish all wards without a constitutional referendum is for a limited time only, and the process will be driven by the councils themselves and their communities.

The next proposal in the bill is to provide that where a casual vacancy occurs in the office of a councillor (but not a mayor elected by the electors) the council need not fill that vacancy if it has obtained approval to reduce councillor numbers at a constitutional referendum and the reduction has not yet taken place. The Act provides that a decision made at a constitutional referendum binds the council until changed by a subsequent constitutional referendum.

The Act further provides however that such a decision does not apply to a by-election held after the constitutional referendum and before the next ordinary election.

This means that if a constitutional referendum decides that the number of councillors of a council is to be reduced, the decision will take effect only after the next ordinary election and the requirement to fill any casual vacancy within three months of the vacancy occurring stands.

Honourable Members are no doubt aware that the cost of holding a by-election is significant.

Where a council is divided into wards it is only the electors in the ward in respect of which the casual vacancy arises who must vote. Consequently the cost to such a council will be less than that for an ordinary election.

However where a council is not divided into wards, the cost of holding a by-election may be as high as the cost of an ordinary election. This is because all the electors of the council's area must vote. Approximately 60 per cent of local councils in New South Wales are not divided into wards. Therefore the cost of holding a by-election for such councils is considerable.

The situation became worse in 2008.

Following a review of local government election pricing, the New South Wales Electoral Commission from 2008 has been conducting council elections by applying State wide consistent standards with full cost recovery. This change in approach resulted in many councils experiencing significantly increased costs from previous elections.

To give you an idea, in its report on the Local Government Elections 2008 the New South Wales Electoral Commission advised that the average cost of conducting the 2008 ordinary election for a metropolitan council was \$369,550 and for a rural council was \$92,796.

As the Act stands, each of these councils must hold a by-election to fill any casual vacancy that may arise prior to the September 2012 ordinary elections except if the vacancy occurs within 12 months immediately preceding the election. In this latter case the council may apply to the Minister under section 294 of the Act for approval not to conduct a by-election and allow the vacancy to be filled at the forthcoming ordinary election.

This proposal is aimed at providing councils with an option where they can decide for themselves whether or not they need to fill a casual vacancy where the electors of the area have already approved the reduction in councillor numbers at a constitutional referendum but the reduction has not yet taken place.

The proposal responds to numerous concerns regarding the cost of holding by-elections expressed by councils and their peak industry bodies, the Local Government and Shires Associations of New South Wales.

It is expected that the proposal will result in cost savings for those councils that decide not to fill a casual vacancy in these circumstances.

The last proposal is also about the dispensing with by-elections to fill casual vacancies within the certain timeframes.

Honourable members would be aware that an ordinary election of the councillors for an area is to be held every fourth year on the second Saturday after the September 2008 election.

The Act provides that if a casual vacancy occurs in a civic office, the office is to be filled by a by-election within three months.

As the Act stands now, if a casual vacancy in a civic office occurs within the last twelve months of a four year term, a council may resolve to apply to the Minister for approval not to conduct a by-election but allow the casual vacancy to be filled at the next ordinary election. This relieves a council from having to hold two elections within a 12 month period.

Casual vacancies in a civic office may occur for different reasons. For example, a vacancy may occur as a result of the resignation, disqualification or death of a councillor.

As previously noted, the cost of holding a by-election may be significant.

The size of the by-election can vary greatly. The variables that apply with respect to the cost of by-elections include:

- whether the election is for a ward/council area;
- number of electors for a particular ward/area; and
- geographical size of the electorate

These factors determine, among other things, the number of polling places that need to be declared, number of staff required to conduct the election, number of postal votes that need to be processed and other matters.

In the current financial year 2010-2011, 14 by-elections were held as at April 2011 with a range in cost of \$1,790 (Urana-A Ward) (the smallest Council in the State by population) to \$126,720 (Hawkesbury).

A number of issues were identified and considered during a review of the election provisions in the Act by the former Department of Local Government in 2007.

Of particular relevance were:

- the cost to councils of a by-election to fill casual vacancies; and
- the impact on communities where newly elected first-term councillors find themselves unable or unwilling to make the necessary commitment to their communities to be effective elected representatives, but who refrain from resigning because the resulting vacancy would trigger a costly by-election.

The bill proposes to extend the time during which councils need not fill casual vacancies from 12 months to 18 months.

This measure is also introduced in response to numerous concerns regarding the cost of holding by-elections expressed by councils and their peak industry bodies, the Local Government and Shires Associations of New South Wales.

It is intended that the proposed amendment apply to any casual vacancy that occurred before or after the amendment is enacted. This will assist those councils that may be facing a by-election between now and when the amendment becomes operational.

At present, the Division of Local Government is aware of one council (Lake Macquarie City Council) that must hold a by-election to fill a casual vacancy within the three months period. The Council is not divided into wards. This means that Council's costs associated with the conduct of that by-election will be significant.

The proposal will result in significant cost savings for a council that decides to apply to the Minister for an order that a casual vacancy in the office of a councillor not be filled.

In closing, I would reinforce that all proposals in this bill demonstrate the Government's continued commitment to support the local Government sector by returning autonomy and promoting good governance.

I commend the bill to the House.

The Hon. SOPHIE COTSIS [2.51 p.m.]: As the shadow Minister for Local Government, I lead for the Opposition on the Local Government Amendment (Elections) Bill 2011. Last week some of my colleagues raised a number of issues and concerns in debate on this bill in the other place. Local councils have undergone various incarnations and role changes over time. Local councils are major community service providers and local government has evolved to be a more active participant in community life. Today local councils play a vital, if not sometimes under recognised, role in providing basic services—from ensuring that the roads are well maintained and lighted, to maintaining services for water and waste to and from our homes, to keeping our public gardens free of noxious weeds and vermin. Local government is one of the most direct and inclusive forms of democratic participation. As councils and councillors often have an immediate connection with members of the local community they are often more familiar with their constituents.

The Local Government Act 1993, the Act to be amended by this bill, has been in operation since 1 July 1993. It is the principal Act for local government. That Act contains a charter that provides councils with guidance as to their obligations. More than 50,000 people in New South Wales are employed by local councils. These employees are engaged in proving delivery of services on a daily basis, and they have been doing so for more than 100 years. They ensure that services are delivered to the community on time and within budget constraints in the following, but not limited to, vocations: children's services, sports and leisure, recreational services, town planning, engineering, construction, parks and reserves maintenance and development, library services, lifeguards, meals on wheels, plant operation, regulatory services, park rangers, parking officers, health services, social services, community services and education, youth workers, health surveying, finance administration, public relations, carpentry, metal and mechanical trades, plumbing, horticulture, sewerage treatment, water cleaners, theatres and hospitality, pools, stores and bricklaying, just to name a few.

I place on record that I sought a briefing from Minister Page and his staff on this bill, which they were very willing to provide me with and I thank them for that. But while I appreciate their efforts, I still hold serious concerns as to the time frame for the introduction of this bill and to various aspects of it. The New South Wales Labor Opposition is committed to local government and local democracy. It is committed to ensuring that local democracy remains accountable, independent and transparent. If the Opposition had been given the opportunity it would have worked with the Government prior to the introduction of the bill. Local government elections are an important form of democracy. In the 2008 local government election, 4,620 people contested for the right to represent their communities. This figure is five times the number of people who contested the 2007 New South Wales State election. This number reflects the accessibility of councils as a representative forum for their citizens, and demonstrates the strong level of interest and the will of residents to be active participants in local democracy.

It reminds all members of the importance of ensuring that the conduct of local government elections is impartial, professional and transparent. Yet, the Government has once again chosen to ram the bill through Parliament without properly considering all of the consequences. The Minister for Local Government has indicated this bill has come about in response to a commitment provided to the Local Government and Shires Associations of New South Wales. However, it is not contained in the Government's 100 Day Action Plan, it was not contained in the Coalition's "Start the Change" document and it was not contained in the contract entered into with the people of New South Wales. Legislation such as this, which proposes far-reaching changes to the way local democracy works, should have been taken to the people during the election campaign.

I understand that the Local Government and Shires Associations of New South Wales had a written commitment from the Coalition prior to the election as part of its election commitments document. The Opposition respects the Local Government and Shires Associations of New South Wales and applauds its members on their hard work. It is grateful for the enormous contribution its members make to local government. I find it extraordinary that the Government wants to introduce this legislation without proper consideration of the report prepared by the Joint Standing Committee on Electoral Matters following its inquiry into the 2008 local government elections. The report was tabled in June 2010. The chairman of that committee was Mr Robert Furolo and the committee was comprised of representatives from all political parties. Consideration of the report would arm the Government with proper understanding and analysis in preparing for the 2012 local government elections. The report contains 16 key recommendations, which could assist in the conduct of future local government elections. Recommendation 7 states:

The NSW Electoral Commission consider formulating a "Service Charter for local government elections ... modelled on the Commonwealth and State Government Service Charters for departments and agencies dealing with the public.

Recommendation 4 states:

The Committee recommends that the NSW Electoral Commissioner ensure that detailed information about the budgeted and actual costs for the 2012 local government elections be provided to all council General Managers. Such detailed information should provide explanations as to what each line item covers, and how it has been calculated and allocated.

The committee report states:

But while the Committee has identified a number of areas where improvements can be made in the management of services by the Electoral Commission, the Committee was not critical of the conduct of the elections overall.

In fact, the Committee acknowledged that the Electoral Commission's conduct of the 2008 local government elections provided a comprehensive, transparent and impartial service to Councils.

Not all the objectives of this bill are controversial. Opposition members are supportive of parts of the bill. However, we have serious concerns about the content of this bill as it relates to local councils running their own elections. Our primary concern is with the first provision of the bill, which returns to a situation where general managers once again will run elections locally rather than elections being run by the Electoral Commission. Prior to the 2011 election the former Premier wrote to the Local Government and Shires Associations. The letter provided responses to various issues raised by that body. One of the questions asked related to better local governance. Another issue that it raised was, "Create the option for councils to run their elections locally with an independent returning officer to save money and restore local confidence." New South Wales Labor's response was:

Believes that the community has a right to expect that council elections are run to the same high standards as those for State and Federal elections.

For the 2008 local government elections the New South Wales Electoral Commission successfully conducted 332 individual elections in more than 140 council areas across New South Wales. For councils that had concerns relating to the cost of these elections, the Electoral Commission on a case-by-case basis considered a request to spread payment of those costs over two financial years. It is understood that the majority of those requests were granted. Furthermore, New South Wales Labor Opposition policy regarding the Electoral Commission is consistent with Labor Party policy since 1987. I will outline the history of this issue because it is important in understanding that the Government's proposal is unnecessary at this stage. In 1987 the then Minister for Local Government, Janice Crosio, introduced the Local Government (Elections) Amendment Bill. Her comments 24 years ago are important. Former Minister Crosio said:

The primary object of the bill is to give effect to government policy by transferring the responsibility for the conduct of local government elections to the State Electoral Commissioner. In that regard, the bill provides that the Electoral Commissioner shall assume ultimate responsibility for the conduct of all council elections and polls at which voting is compulsory for resident electors. Over the years it has become apparent that although most councils in the State have conducted their respective council elections responsibly and capably, there have been noticeable differences of interpretation and administration of the electoral provisions of the Local Government Act and ordinances among councils. The bill seeks to remedy this situation in two ways. First the bill charges the State Electoral Commissioner with overall responsibility for the running of council elections. Secondly it will bring the actual conduct of council elections, so far as is practicable, into uniformity with the procedures provided for in the Parliamentary Electorates and Elections Act, 1912.

Former Minister Crosio went on to state:

The actual conduct of local government elections will, in future, be carried out by returning officers appointed by the Electoral Commissioner. The bill requires the Electoral Commissioner to appoint a returning officer for each local government area for the purpose of conducting, in the area and under the direction of the Electoral Commissioner, the relevant elections and polls. The

bill also requires the Electoral Commissioner to appoint polling places and determine the fees payable to returning officers and other electoral officers. To facilitate voter convenience and to achieve uniformity, where practicable, with the procedures for State elections, the bill makes various changes to the law relating to the conduct of and preparation for local government elections.

The member who led for the Opposition in debate in 1987 was Mr Robert Webster, member for Goulburn. From what I understand—correct me if I am wrong—he was a National Party member.

The Hon. Charlie Lynn: He was a very good one.

The Hon. SOPHIE COTSIS: At the time the National Party supported the transferring of responsibilities, according to the research I have done of *Hansard*.

The Hon. Melinda Pavey: You are doing a good job there, Soph.

The Hon. SOPHIE COTSIS: Now the Government wants to revert to a situation of 25 years ago.

The Hon. Dr Peter Phelps: You are doing a good job on the research, not the speech.

The Hon. SOPHIE COTSIS: My speech is important because we are going back to the future.

The Hon. Michael Gallacher: You must be the only one who does library research.

The Hon. SOPHIE COTSIS: No, all 34 of us. At the time the National Party supported the transferring of responsibilities for the conduct of local government elections to the State Electoral Commissioner.

The Hon. Michael Gallacher: You have got to encourage the young.

The Hon. SOPHIE COTSIS: This is important. Government members should be asking questions about this. The Government is going back to the future to 1987. Is that when the Minister for Police and Emergency Services got his police ticket?

The Hon. Michael Gallacher: No, many years before that.

The Hon. SOPHIE COTSIS: Without any strong foundation, even the National Party at the time was forward looking and supported good legislation. In 1993 the New South Wales Coalition Government introduced the Local Government Act. The Act followed changes introduced in 1987 and was the result of bipartisan work over five or six years to develop a comprehensive Act to replace the original Act of 1912. Over five years there were consultations, submissions and many hearings. Both sides worked hard to get the bill through and were involved in many hours of debate. Since then numerous changes have been made to the way local government elections have been conducted.

In 1987 the Electoral Commission was made responsible for the conduct of council elections and polls. Prior to the 1993 Local Government Act, in 1991 the Electoral Commissioner became responsible for the preparation of residential rolls for council elections. Further changes occurred in 1993 with the number of councillors limited to 15 for each local government area. In 1993 further changes included restriction on council general managers or employees acting as the returning officer or substitute returning officer for an election in his or her council area. In 1998 the Electoral Commissioner was made responsible for all electoral rolls for the city of Sydney. As a result, the general manager of the city of Sydney no longer prepared the non-residential roll and the roll of occupiers and rate-paying lessees.

In 2008 the Electoral Commission took over completely the running of local government elections. The Electoral Commissioner, rather than the council, became responsible for statutory election advertising. As well, other electoral functions were transferred from the council to the Electoral Commissioner, including the returning officer. Access to pre-poll voting was increased for certain groups. Pre-poll voting was made available at mobile booths in remote local government areas and ballot papers were issued in braille format. All these improvements demonstrate the independent role the Electoral Commission plays in local government elections. It should be allowed to continue to play this role for local council elections in 2012.

In the time available to me I have researched and consulted widely. I am not satisfied with the bill's objectives. An issue of costs is involved, to which I will refer. However, we are going back on 20 years of

progress. I have serious concerns about this bill. I have read the report of the Joint Standing Committee on Electoral Matters on the 2008 local government elections and accept that there were issues concerning those council elections. Rather than seeking to address those issues the Government has chosen to ignore completely some of its good recommendations and it has opted to ram this bill through the House.

As I indicated earlier, since the introduction of the bill, in my capacity as shadow Minister for Local Government, I have spoken to many councillors, stakeholders and industry representatives to gain a better understanding of the variables. Each council has its own variables and its own issues, but underlining them is the fundamental principle that the Electoral Commissioner should continue to conduct local council elections. It is important for the community to have faith in the process of the conduct of local council elections and that process must be accountable, open and transparent. I understand that the Minister indicated in his agreement in principle speech that some guidelines were being drafted. We have not seen those guidelines. A number of assurances were given in the Minister's agreement in principle speech and also in his speech in reply, but I believe that removing the Electoral Commissioner because of cost creates an issue in the whole democratic process at the local level.

The legislation is complex and its consequences are far reaching and its content requires a thorough examination. I have not had one ratepayer or one council banging down my door demanding that the Opposition support this bill. I have had a number of conversations on this matter and a number of views have been strongly canvassed with me in support of this bill. However, I again go back to the fundamental principle of having the Electoral Commissioner conduct local council elections. I listened to the speeches by Government members in the other place about the reason for this change but I have not heard one good argument for it. I understand that it was a commitment to the Local Government and Shires Associations, but it is not in the Government's 100 Day Action Plan.

The Government referred to cost. In a democracy transparency and openness cost, and this legislation sets a frightening precedent. If democracy is too expensive where do we draw the line? Do we say that State elections are pretty expensive? Would the Government support a proposal to hold elections only in seats that are considered marginal? I know that will not happen and it is not possible—

The Hon. Catherine Cusack: That would have been every seat.

The Hon. SOPHIE COTSIS: Is the Hon. Catherine Cusack saying that she does not want to have elections? Is that what she is saying? I am not 100 per cent satisfied that this legislation, which will stop the Electoral Commissioner conducting local council elections, is the right thing to do. I believe that the Government should withdraw the bill, seek further submissions, survey ratepayers and consult with relevant councils that have raised issues relating to the current system. A number of councils raised concerns through the public hearings that were held—23 councils came forward and provided submissions. As I said, I have read the report on the 2008 local government elections and I noted that a number of issues that were raised related to costs.

The committee made a number of recommendations relating to a consultation process for the 2012 local council elections in which the Electoral Commissioner and councils would have an opportunity to consult and to be provided with a detailed analysis of costs upfront. The key argument that was raised related to the prohibitive costs that were charged by the commission. As I have said, democracy costs. The integrity of the process and transparency also cost but I submit that these costs are worth it if the community is confident about the electoral process. I have spoken to councils that are concerned about costs, in particular, councils in rural New South Wales. I have had a number of conversations with rural councillors—

The Hon. Rick Colless: What did you ask them?

The Hon. SOPHIE COTSIS: It is in the report. Solutions and options to address these issues are available to the Government. This consultation process should be carried out. The legislation is not the answer.

[Business interrupted.]

LEGISLATIVE COUNCIL VACANCY

Joint Sitting

The PRESIDENT: I shall now leave the chair. The business of the House will be suspended during the joint sitting. The House will resume at the conclusion of the joint sitting following the ringing of the bells.

[The President left the chair at 3.15 p.m. The House resumed at 3.44 p.m.]

The PRESIDENT: I report that at a joint sitting this day Steven James Robert Whan, was elected to fill the vacant seat in the Legislative Council caused by the resignation of the Hon. Anthony Bernard Kelly. I table the minutes of proceedings of the joint sitting.

Ordered to be printed on motion by the Hon. Greg Pearce.

LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL 2011

Second Reading

[Business resumed.]

The Hon. SOPHIE COTSIS [3.45 p.m.]: On 13 September 2008, 4.5 million people across New South Wales cast their votes for the individuals they wished to be their local government representatives for the next four years. Ratepayers' expectations of local democracy are high, and they are active participants in the process. It is imperative that the integrity of elections is maintained and that they are conducted at arm's length from general managers and others, apart from the New South Wales Electoral Commission. The Opposition is not satisfied that council-run elections will give the community faith in the integrity of the process.

The New South Wales Government has a responsibility to ensure that the public is confident about the processes used for the election of local government representatives. Residents and ratepayers have a right to expect that council elections are run to the same high standards as State and Federal elections. Elections involve complex processes and should be assessed regularly to identify opportunities for refinement and improvement. To ensure that the quality of local council elections is maintained we have a responsibility to look at what improvements can be made to their future conduct and administration.

General managers should not be put in a difficult position. Negotiations should begin immediately between the Electoral Commission and the councils that have raised costs and other issues. I understand that the Electoral Commission has, on a case-by-case basis, considered requests from councils suffering financial stress to spread the payment of their election costs over two financial years. I also understand it is important to councils, particularly rural councils that have raised these concerns, that there is a process of consultation so they can discuss their concerns immediately. I am not casting aspersions on any one person, but just one bad example can cause anxiety about the integrity of the process. Will general managers who conduct local council elections be provided with indemnity for the purposes of administering an election? This is important as we need to consider what will happen if something goes wrong and the general manager is accused of wrongdoing or allegations are made about his or her reputation.

What will happen if a general manager does not get along with certain councillors and allegations are made against him? What avenue does the manager have to fight a case of defamation? A parallel can be drawn in the recent case against the Electoral Commission by Pauline Hanson. It is not unreasonable to suggest that similar things could occur in local government elections. How, then, would a local council handle the resulting drain on its resources from the legal processes associated with such a challenge? This is one of the many reasons why the commission—an independent professional body responsible for the conduct of elections in the State—should remain responsible for local government elections.

Government reassurances are not good enough. I have not seen the safeguards or the guarantees. How are we to support a bill that provides so little information about the roles of general managers and the processes that will be put in place to protect them? The Minister mentioned guidelines being prepared by the Division of Local Government and the Electoral Commissioner. This change is far reaching, and I advise councils to seek advice before they attempt to alter their system of holding local government elections. The Opposition has another key concern about the content of the bill. The New South Wales Labor Opposition does not support the following proposal. The bill seeks to enable the Minister:

... on application by a council, to approve the abolition of all wards of the council's area. At least 42 days' public notice of the council's proposal is required to be given and submissions made to the council by interested members of the public must be forwarded to the Minister. An application for approval of such an abolition may be made by a council only within the period of 5 months after the commencement of the proposed Act.

Currently approximately 89 councils and shires have no wards. The rest of the councils have wards of varying numbers with different representations of councillors in each. Each council system is unique, and changes to the

way in which those systems operate should be undertaken only after careful consideration and active community participation. This power should not be given to the Minister; the power should remain in the hands of the community. Ratepayers expect local council decisions to be undertaken in a public and transparent way.

Abolishing wards is a major development in local council democracy. Serving the community is paramount and voters, not councillors, should make the decision through a constitutional referendum. Wards exist for a reason. In many councils, those in the city and in the regions, it is imperative to ensure that certain groups and communities' voices are heard through their ward councillors, who know their issues. I ask: Has the Minister or the Division of Local Government sought advice from the Independent Commission Against Corruption regarding general managers conducting local council elections? I seek advice on that issue. I foreshadow that I will move an amendment to the bill in Committee.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.55 p.m.]: My contribution is not nearly as well researched as that of the Hon. Sophie Cotsis, but I share her concern about the potential impact on the integrity and transparency of the electoral process. I do not see any reason for a root and branch rethink of the independent Electoral Commissioner's oversight of the process. Why are State and Federal elections overseen by an independent, specialised statutory body created for the purpose, but local government is considered a poor relation that can put up with a lower standard of integrity and transparency?

One of the stated rationales for the proposed change is the cost impact from the last election, when the switch from local to Electoral Commission oversight occurred. However, the Joint Standing Committee on Electoral Matters indicated that in the move to a fuller cost recovery system a number of the hidden costs associated with running council elections that had previously been absorbed both by local councils and by the Electoral Commission became apparent and were then identified and accounted for properly. In some cases, that increased the costs to councils and to local communities of running the elections.

My council of Blue Mountains, which I still serve as a councillor, was one of those affected. I accept and understand that, while some of the additional costs were a result of the Electoral Commission employing people to do the work that had previously been done by council staff, a lot of the costs had been hidden previously. We now have a more transparent system through which the community—it does not matter for present purposes whether they are termed ratepayers or local citizens—has better, more accurate figures regarding the cost of running local elections. That is a good step for transparency because it is important that we understand all the work that goes into running a council election. But it is equally important to acknowledge that these costs cannot be skimmed over and that some of the apparent benefits of returning to local oversight and local control may well prove to be overstated.

As I indicated, there are broader concerns going to integrity and transparency. Most local authorities will no doubt conduct themselves appropriately, but the question is: What safeguards that? I do not see any safeguards in the bill. What are the safeguards to ensure that only suitably qualified and appropriate persons are considered for appointment and it is not merely left to a local general manager or to a particular ruling elite in any existing council area? Leaving it to a local ruling elite is obviously fraught with difficulties. Hopefully, the process will be free from incident in most cases but there is the potential for difficulty.

In addition, leaving it to the general manager puts that general manager, who is an employee of the council, in an invidious position—particularly if there is a bitter or closely fought election campaign or, worse still, a disputed election outcome. Not only are ratepayers exposed to the costs, but the general manager is put in the position of in effect defending the council against at least one of the persons who may be overseeing his or her employment. So I think there are some difficulties here.

The second area of concern in the bill is the ability to allow a local council by resolution to approach the Minister to abolish wards. Minds may legitimately differ about whether wards are a good or a bad thing, and some council areas have changed between the two. In my locality we have wards but there is often debate about whether we should retain them or move to an open ward system. Part of the difficulty is that in open ward systems the likely outcome is that smaller communities will be overlooked and councillors will, by and large, be drawn from larger town centres and populations. This means that small communities, such as Bullaburra, where I live, could well be overlooked if they do not have a local councillor to address their interests.

While minds may legitimately differ about which model is appropriate to which local council area, it should be left in the hands of local residents to decide at an electoral referendum before the Minister approves the abolition of wards. The proposal in the current bill provides for a most undemocratic process whereby a

majority—which may be a transient majority or a majority of convenience for only one meeting—can make a far-reaching decision about local accountability and democracy. Then, with the stroke of a pen, that system is gone. The Opposition holds very grave concerns about local democracy and local accountability if the bill is passed as it stands. As the Hon. Sophie Cotsis indicated, the Labor Party will move some amendments in Committee to address those concerns.

The Hon. Matthew Mason-Cox: Perhaps you could reflect on those amendments for a moment.

The Hon. ADAM SEARLE: Indeed.

The Hon. Mick Veitch: Point of order: I am unable to hear the Deputy Leader of the Opposition's contribution due to the noise in the Chamber. I ask that you draw all members' attention to his contribution and direct them to keep their noise to a minimum.

The Hon. Matthew Mason-Cox: To the point of order: I had great trouble hearing the Deputy Leader of the Opposition's contribution. In fact, the last comments I heard were from the other side of the Chamber. I ask you to call members opposite to order. I bring to members' attention the fact that the wall of noise is back for question time. It is about time we had some decorum in this place from the other side of the House.

Mr David Shoebridge: To the point of order: The Hon. Matthew Mason-Cox has an absolute misunderstanding of where the disorder was coming from. The disorder was principally coming from the Government frontbench. Again, the Hon. David Clarke was making his constant, loud interjections, egging on the Hon. Matthew Mason-Cox. The two of them should be called to order.

The PRESIDENT: Order! I remind members that it is difficult for the Chair to hear members' contributions if there is too much interjection.

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

Item of business set down as an order of the day for a later hour.

QUESTIONS WITHOUT NOTICE

POLICE RESOURCES AUDIT

The Hon. LUKE FOLEY: My question is directed to the Minister for Police and Emergency Services. Will the Minister commit to adopting all recommendations of his audit of police resources? Will he commit to making all the findings of this audit public?

The Hon. MICHAEL GALLACHER: I thank the Leader of the Opposition for his question. It really is remarkable that the Opposition now finds some solace in the audit that was commissioned by me in relation to police resources. The Opposition wants to forget that Labor was in government for more than 16 years and it was not prepared to look at its own mismanagement and incompetence when dealing with the Police Force. But now somehow there is an audit and the Opposition wants to know about it. The fact is that we have not received a report on the audit.

The Hon. Luke Foley: I didn't say you had.

The Hon. MICHAEL GALLACHER: We have not received the audit in relation to police resources. But we will guarantee to take every opportunity possible to expose in this House the incompetence and mishandling by the mob opposite of the New South Wales Police portfolio. I can assure the Opposition it will have every opportunity in this House to try to defend its incompetence when it comes to the issue of handling police. The Opposition should not think for one moment that it will be denied an opportunity to apologise to the people of New South Wales and to the Police Force for its incompetence. I guarantee to the Leader of the Opposition that he will have ample time to apologise.

MID NORTH COAST FLOODS

The Hon. MARIE FICARRA: My question is directed to the Minister for Police and Emergency Services. Will the Minister update the House about flooding on the North Coast?

The Hon. MICHAEL GALLACHER: I thank the Hon. Marie Ficarra for her timely and serious question. As I said in the House last week, a destructive weather pattern saw winds of up to 100 kilometres per hour and rainfall in excess of 200 millimetres wreak havoc on parts of the Upper Hunter and mid North Coast last week. Last Friday I took leave from Parliament to see firsthand the destruction that had occurred and to meet the fine, hardworking and commendable people of the State Emergency Service and other emergency agencies who have worked around the clock to repair damage and to make local communities safe. Over the course of last Friday I visited Maitland, Taree, Kempsey and Coffs Harbour, and toured the surrounding areas that were the hardest hit by the severe weather conditions.

Last week I gave the House a commitment that I would try to get to Red Rock. I travelled to Red Rock before dawn last Saturday morning and had a look at the damage caused by the mini tornado that wreaked havoc through the town. In each location I met with local State Emergency Service workers and volunteers, and I was incredibly impressed by the dedication of all workers and the level of firsthand detail they were able to provide to me as Minister.

The improved weather across the region over the past few days has been a very welcome relief, but as the water recedes it reveals the true extent of the damage. I have continued to monitor the situation since Friday, and although the weather has settled there remains an enormous damage bill and the clean-up efforts that have now commenced are extensive and in many cases costly. As of this afternoon, I can confirm four new local government areas have been added to those declared natural disaster zones from last week's flooding on the North Coast and in the Hunter Valley.

Today I am adding Singleton, Walcha, Armidale-Dumaresq and Guyra shire councils to the list of local government areas declared to be natural disaster affected. This brings to 18 the number of councils that have been natural disaster declared since 15 June. These councils cover large areas of the coast and inland New South Wales, and have many kilometres of gravel roads and dozens of bridges impacted by the heavy rain and flooding. Guyra shire, which is very close to the heart of one of our members, has been included, as the New England Highway has suffered significant deterioration from the rain and flooding and from the vastly increased volume of traffic diverted from the Pacific Highway.

Since 15 June the Government has announced that 18 local government areas are now classified as natural disaster zones. Apart from the areas announced today, the Government has already announced the following local government areas as disaster zones: Clarence Valley, Bellingen, Kempsey shire, Upper Hunter, Greater Taree shire, Port Stephens, Nambucca shire, Dungog shire, Port Macquarie-Hastings, Coffs Harbour, Gloucester shire, Cessnock, Muswellbrook, and Glen Innes-Severn shire. As mentioned before, these declarations make financial support available to people directly affected. This is an important safety net for families, local businesses and primary producers. I take this opportunity to thank the State Emergency Service and the many volunteers for their tireless efforts and support of other police and emergency services over the past week. The State Emergency Service has responded to around 1,600 requests for assistance, which is simply extraordinary.

When I was in Taree I met with State Emergency Service volunteers who had travelled from Wentworth—as far to the south-west as one can go in New South Wales. Those volunteers were there backing up their coastal colleagues. On my visit we spoke about resilience. As a nation, we often pride ourselves on our ability to see through these tough times. I put it to the House that the reason we are so resilient as a State and a nation is because of the efforts of people like the State Emergency Service, the Rural Fire Service and other emergency services personnel. As I continue to say, as the rest of us flee from danger these people meet it head on.

GREY NURSE SHARK DISCUSSION PAPER

The Hon. ROBERT BROWN: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries, and is in relation to the recently released grey nurse shark discussion paper. Is the Minister aware of the widespread discontent about the paper among fishing and other groups who are upset by a perception of bias in the paper prepared by the fisheries department? Does the paper promote research work by NSW Fisheries that has previously been discredited in the Administrative Appeals Tribunal? Will the Minister personally review the paper with a view to having it withdrawn and rewritten?

The Hon. DUNCAN GAY: I thank the Hon. Robert Brown for his question. I am not aware of the concerns to which he refers, but if there are concerns I would certainly take them seriously—as I know would the Minister for Primary Industries. I will refer the question to the Minister for her response.

POLICE RESOURCES AUDIT

The Hon. ADAM SEARLE: My question is directed to the Minister for Police and Emergency Services. Is the Minister aware that on 22 February this year the now Premier committed to building five new police stations? Can the Minister assure this House that no existing police station will be closed as a result of his audit?

The Hon. MICHAEL GALLACHER: There is no limit to the depths of the Opposition's hypocrisy. Given the number of police stations the former Government closed in such a short time—more than 60—it is the height of hypocrisy that this new caring and sharing Opposition implies in its questions that it somehow supports police. I refer the Deputy Leader of the Opposition to my earlier answer, in which I advised that when the audit is available and we have had a chance to discuss it the Opposition will have ample opportunity to explain the decisions Labor made in relation to policing resources—not only in the metropolitan area but also in country and regional areas of New South Wales.

I look forward to hearing from the Hon. Mick Veitch, who prides himself on standing up for Country Labor, when we start to talk about the neglect of country police in New South Wales. I expect him to be one of the first speakers on his feet trying to explain the former Government's years of neglect of not only police but also country communities, which it stripped of resources and never bothered to explain why. Now members opposite imply that they are all clean, that they are without sin, and that they want us to keep police stations open. We have been very vocal in our support for country police and country police stations. Members opposite need to explain their actions.

RAILWAY CROSSING SAFETY

The Hon. SARAH MITCHELL: I address my question without notice to the Minister for Roads and Ports. Will the Minister update the House on the railway crossing safety campaign?

The Hon. DUNCAN GAY: The recent Roads and Traffic Authority crash data has shown an increase in railway level crossing crashes in New South Wales, particularly in rural and regional areas, where railway level crossings are common. The potential for serious injuries or fatalities is significant in these types of crashes and, sadly, many incidents occur at crossings close to areas where people live. Residents have increasingly become complacent of the danger at these crossings. Recently I announced the start of the second phase of \$170,000 railway safety campaign, which targets rural motorists, who use the 3,000 crossings across the State.

The campaign with the appropriate tagline "Some things are worth waiting for" focuses on the high-risk country areas using television, outdoor, newspaper and magazine advertising. This campaign is a very important reminder to people living in rural areas always to take extra care at railway crossings. The advertisements to increase driver awareness will run in June to coincide with a time of the year when, for some unknown reason, traditionally there is a spike in these types of incidents. The Roads and Traffic Authority's portable electronic message signs will also be used to remind motorists to take extra care at railway crossings.

The Hon. Robert Brown: Where there is poor visibility.

The Hon. DUNCAN GAY: That is part of it. It is very clear given the increasing number of crashes at railway crossings that this important message must be highlighted. I thank the Country Rail Infrastructure Authority, RailCorp and Australian Rail Track Corp for their contribution to this important initiative. Too many people have lost their lives at rail crossings. Certainly, in the southern part of the State we are all too aware of such tragedies, which have affected many families. On Friday last week an XPT train and a motor vehicle collided at the Sheraton Road crossing at East Dubbo. The occupants of the car were very lucky; they survived and were taken to hospital in a stable condition. That accident highlights the need for initiatives such as this; it is so important for drivers to heed the safety message of this campaign. I remind residents in rural and regional areas to be careful when crossing railway lines.

Interestingly, for some reason June seems to be the month when there is a spike in rail crossing crashes. People's awareness and level of concern appear to drop when a length of time elapses between fatalities. It is important to renew that level of consciousness and concern in the people of regional and rural New South Wales, and this campaign will do that. Quite often crashes occur at rail crossings that are located on farms or local roads. People often become complacent when using their own crossing or one familiar to them; it only takes a minor lapse in concentration for something to happen.

Concern has also been raised about right-angle approaches to railway crossings rather a diagonal approach to give one a better idea of whether anything is approaching the crossing. I almost lost my life many years ago while driving a wheat train at twilight. At that time reflectors were not displayed on the sides train carriages. On this occasion a long train had gone through a crossing and the engine was a kilometre up the line. Until the last moment I thought the train had passed and I nearly drove under the carriages following the engine. Thankfully reflectors are now displayed on the sides of carriages. [*Time expired.*]

COAL SEAM GAS EXPLORATION

The Hon. JEREMY BUCKINGHAM: I direct my question without notice to the Minister for Roads and Ports, representing the Minister for Resources and Energy. Is the Minister aware of media reports on the weekend quoting John Anderson, the former Nationals leader and now chairman of Eastern Star Gas, in relation to the coal seam gas industry as saying, "I do think the industry is going to be very important for Australian agriculture in the future." Will the Minister confirm whether the Minister for Resources and Energy or his department has had any meetings with John Anderson since taking office in relation to coal seam gas generally or the Eastern Star Gas project specifically?

The Hon. DUNCAN GAY: The member asked whether I was aware of those media reports. No, I was not. The member went on to state that John Anderson had said that gas was important for New South Wales agriculture. It is important for agriculture, but it is also important for the State. It is one of a number of industries that one does not rule out in isolation. The trouble with The Greens is that they pick winners and losers.

The Hon. Jeremy Buckingham: Point of order: My point of order relates to relevance. We are not here for a diatribe about The Greens. My question is about coal seam gas. The Hon. Duncan Gay should be directed to the leave of the question.

The PRESIDENT: Order! That is not a point of order.

The Hon. Michael Gallacher: Is he the winner or the loser?

The Hon. DUNCAN GAY: I am not sure whether he is a winner or loser on this one. But he wants to put the black hat on particular industries in this State and he is pretty loose with the truth when he comes to doing it.

The Hon. Jeremy Buckingham: The Hon. Duncan Gay is reflecting—

The PRESIDENT: Order! The Hon. Jeremy Buckingham will wait until he is given the call before he takes his point of order. He will now state his point of order.

The Hon. Jeremy Buckingham: Point of order: The Hon. Duncan Gay is reflecting on my character as to whether I am a winner or loser. I am definitely a winner. He is also reflecting on the fact that I am loose with the truth.

The PRESIDENT: Order! Has the Hon. Jeremy Buckingham taken offence at the remark "loose with the truth"?

The Hon. Jeremy Buckingham: Yes, I have.

The PRESIDENT: Order! I rule that the term is offensive. I ask the Minister to withdraw the comment.

The Hon. DUNCAN GAY: As the Hon. Jeremy Buckingham has taken offence, I withdraw the comment. I hasten to add that he is also modest.

The Hon. Luke Foley: He has learnt from Greg Pearce.

The Hon. DUNCAN GAY: The Leader of the Opposition should stop trying to make me feel inadequate; I know what tricks he is up to. Each day in this place the Hon. Jeremy Buckingham has a question loaded towards a particular point of view—

The Hon. Greg Pearce: Shenhua.

The Hon. DUNCAN GAY: Xie xie, which is Chinese Mandarin for "thank you". The Hon. Jeremy Buckingham asserts that certain industries are acceptable in New South Wales and certain industries are not. For a diverse economy we need a broad brush of industries provided we have proper safeguards in place to ensure that one industry does not interfere adversely with other industries. The Government is continuing to put those proper safeguards in place. John Anderson is an eminent former Deputy Prime Minister of this country. To try to infer improper motives on anyone who meets with John Anderson is, quite frankly, pretty damn low. I hear Walt Secord bleating on the other side; I would take 10 John Anderson's before I took one former chief of staff in a Labor Government. *[Time expired.]*

The PRESIDENT: Order! I remind the Minister for Roads and Ports he should refer to the Hon. Walt Secord by his correct title.

The Hon. JEREMY BUCKINGHAM: I ask a supplementary question of the Minister for Roads and Ports. My question asked whether John Anderson had met with those relevant departments.

The Hon. DUNCAN GAY: I could ask that the question be ruled out of order as a supplementary question but I am more than happy to answer it. I have no idea.

CYBERBULLYING

The Hon. MICK VEITCH: My question without notice is directed to the Minister for Police and Emergency Services. Is the Minister aware that New South Wales Police Force has had to instruct Facebook to shut down the page "Young Goss"? Is he aware that a number of similar Facebook pages, such as Coota Goss, Wagga Goss, and more recently "Juicier Young Goss" have since been established? What action will he take to address cyberbullying in light of the recent disturbing events regarding Facebook in Young?

The Hon. MICHAEL GALLACHER: I am pleased that the Hon. Mick Veitch has asked a question on this issue, which he raised with me last week. All members would agree that cyberbullying in our society is most concerning. Advice I have received since my discussions with the member early last week indicates that this form of bullying has expanded in Young. As so many young people use social networking on the internet, some feel that they can intimidate and bully others with little chance of being caught. It is not like the traditional face-to-face bullying that took place some years ago in the schoolyard or other public place. The internet enables the bullying of children on a much larger scale.

The Hon. Mick Veitch: It is cowardly.

The Hon. MICHAEL GALLACHER: It is not only cowardly, it is also stupid because those who engage in such activity can easily be tracked by police. A major concern is that cyberbullying is not contained to a small group as bullying in a schoolyard or public place was in the past. The internet provides a medium to enable the bullying of children on a worldwide scale. The moment words are placed on the internet they are there for all to see. Members of both Houses of Parliament and from all sides of politics must seriously consider how to address this issue, not only legislatively but also getting the message to schoolchildren, particularly young schoolchildren.

The previous strategy was to have police focus on interacting principally with high school students. I do not criticise the previous Government for that; I suspect the reason for the limited focus was because of limited resources. Today primary school children can access vast amounts of information on the internet and they have the ability to intimidate and bully other children through social networking on mobile phones and other media. It goes far beyond the experience that any member of this House had when growing up.

Our community must endeavour to educate our children about these matters in their early years. Many of us cannot come to terms with their rapid maturity in aspects of today's world nor understand their need to socially network and be in constant contact with hundreds, if not thousands, of people. Information on the social network is dispersed across the internet. It is of great concern also when cyberbullying happens in small communities such as Young. Social networking can spiral out of control and feed the rumour mill in such small communities, with serious consequences for those who are the subject of the bullying and their families, as well as for those who foolishly participate in the activity thinking that it is a bit of fun. It is not funny; it can have serious consequences. We all know what can happen when children are subject to bullying and humiliation. We understand fully the extreme ramifications.

Together with the Hon. Mick Veitch, the local member and representatives of local government, I am more than happy to talk with the Minister for Education and police in Young about this issue to ensure there is an understanding at every level of government about what is happening in Young and to send a positive message to the schools in an attempt to nip the problem in the bud locally. Equally, as a Parliament we must think more broadly in terms of protecting and educating our young people about the potential damage that can be caused by this foolish activity.

BONNYRIGG LIVING COMMUNITIES PROJECT

The Hon. DAVID CLARKE: My question without notice is addressed to the Minister for Finance and Services, and Minister for the Illawarra. Can the Minister update the House on his visit to the Bonnyrigg Living Communities Project?

The Hon. GREG PEARCE: I thank the Hon. David Clarke for his pertinent question. I note that we are almost halfway through question time and we have not received one pertinent question from the Opposition. Last week 1,000 or so of their mates and relatives were outside Parliament playing tambourines—

The Hon. Eric Roozendaal: Point of order: I have been listening intently to the Minister's answer. I understand the question was about communities in Bonnyrigg. The Minister has gone on yet another tangential stream of consciousness about occurrences last week. His answer is not relevant to the question. I ask that he be brought back to the question and directed to be relevant.

The PRESIDENT: Order! While the Minister may make some general comments, I ask him to ensure that the majority of his answer is generally relevant.

The Hon. GREG PEARCE: I thank the President for his ruling and I thank the tangentially challenged member.

The Hon. Eric Roozendaal: Point of order: I take offence at that remark by the Minister and I ask that he withdraw it.

The Hon. Matthew Mason-Cox: To the point of order: I ask the Hon. Eric Roozendaal why he takes offence at that term?

The PRESIDENT: Order! I advise that I will later rule on whether "tangentially challenged" is an offensive term. If I rule it to be offensive, I will ask the Minister to withdraw it.

The Hon. GREG PEARCE: On Wednesday 8 June 2011 I was privileged to visit the Bonnyrigg Living Communities Project and meet with key project representatives, as well as to be conducted on a tour of the site. The Bonnyrigg Living Communities Project is a public-private partnership involving the renewal and redevelopment of the Bonnyrigg public housing area, combined with the outsourced delivery of facilities and tenancy services.

The Hon. Eric Roozendaal: Outsourcing.

The Hon. GREG PEARCE: The Bonnyrigg Living Communities Project is a public-private partnership entered into by the previous Government. I was going to acknowledge that the previous Government did have one good project—and it involved outsourcing. The Bonnyrigg public housing area is in the Fairfield local government area in western Sydney, four kilometres north-west of Liverpool.

The Hon. Penny Sharpe: Do you have photos?

The Hon. GREG PEARCE: I do have photographs and I am happy to share them with the member; they will appear in Housing NSW's monthly newsletter. I will make sure that it is brought to the attention of each member of the Opposition. At the inception of the public-private partnership procurement process there were 933 dwellings within the area, of which 833 were social housing and 100 were private dwellings. The social housing is a mix of freestanding cottages, villas and two-storey townhouses. Much of the social housing stock is run down or life expired. Engaging and involving the community has been fundamental to the success of the project because it ensured that the issues of importance to the community were recognised and respected.

The emphasis on a partnership approach led to the establishment of advisory groups, including the Bonnyrigg Community Reference Group and the Bonnyrigg Network. The Bonnyrigg Public Tenants Group also has provided support. [*Time expired.*]

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

The Hon. GREG PEARCE: I would be delighted to. The Bonnyrigg public-private partnership company, Bonnyrigg Partnerships, now called Newleaf Communities, is responsible for all redevelopment and will deliver a number of services over the 30-year contract term including tenancy management, facility management, communications and consultation—all outsourced. Bonnyrigg Partnerships, now Newleaf Communities, is a consortium of Westpac Banking Corporation Limited, Becton Property Group Limited, St George Community Housing and Spotless. Westpac is responsible for providing the debt finance for the project.

The Becton Property Group is responsible for the redesign, planning and redevelopment of the estate, including the construction of social and private dwellings and the sales of private dwellings. Tenancy management and rehousing services are being provided by St George Community Housing—a registered community housing provider—and facilities management services are being provided by Spotless as subcontractors to the public-private partnership company. The consortium was selected following an exhaustive competitive process in which two consortia ultimately bid for the right to redevelop the former public housing estate.

The project involves the replacement of the 833 existing social housing dwellings, many of which were in poor repair, over 18 stages, with 2,330 new homes. Of these, 699 will be social housing homes and the balance of 1,531 homes will be sold to home buyers. The project also involved the building or purchase of 134 dwellings off-site to ensure the stock of 833 social houses is maintained. The cost is expected to be \$733 million, which will be funded through both public and private investment.

Bonnyrigg Partnerships, or Newleaf Communities, is responsible for the planning, financing and delivery of the redevelopment of the estate to 2021 and for all tenancy management, facility management and community renewal activities required until 2037. Having visited the site I can say that I was very impressed with the dwellings that are being built there and I believe that this will be a model for public-private partnerships in social housing going forward.

CYCLING INFRASTRUCTURE

The Hon. CATE FAEHRMANN: My question is directed to the Minister for Roads and Ports. I note the Minister's comments in Saturday's *Sydney Morning Herald* in which he suggested that the Roads and Traffic Authority had alternative routes for the Sydney central business district cycleways that would better connect with outside routes and be less of a problem with traffic congestion. Who or which group within the Roads and Traffic Authority has provided that advice and what is their expertise in providing and planning for cycling infrastructure?

The Hon. DUNCAN GAY: Who has provided this advice? The Roads and Traffic Authority. Are they better than others? Are they better than Clover Moore? Let us have a good round of *Kumbaya* and we will talk to our friends—

The Hon. Michael Gallacher: You should get Eric there. He would be in the lotus position.

The Hon. DUNCAN GAY: That could be offensive. No-one is better at judging these matters than I am. This week I am meeting with the Hon. Cate Faehrmann—or is it next week?

The Hon. Cate Faehrmann: Friday.

The Hon. DUNCAN GAY: On Friday morning at 7.00 a.m.

The Hon. Michael Gallacher: Will you be in lycra?

The Hon. DUNCAN GAY: No, I will not be in lycra. Some things just should not happen.

The Hon. Eric Roozendaal: That would be offensive.

The Hon. DUNCAN GAY: It would be offensive. I would take offence at myself. We are meeting to look at cycleways. If I were to choose the worst road in Sydney on which to put a bike lane—

The Hon. Trevor Khan: It would be College Street.

The Hon. DUNCAN GAY: The Hon. Trevor Khan is correct: the worst road in Sydney on which to put a bike lane is College Street, given that it links various parts of the city and the problems associated with that. A large amount of money has been spent on the bike lane and just about anyone will tell you that no-one uses it.

The Hon. Cate Faehrmann: Point of order: The question was in relation to whom within the Roads and Traffic Authority had provided the advice on cycling infrastructure. The question had nothing to do with good or bad routes within the central business district. I ask the Minister to be relevant to the question.

The PRESIDENT: Order! May I see the original question? Having read the question I rule that there is no point of order. The Minister may continue.

The Hon. DUNCAN GAY: It was one of the experts, any one of whom would be better than whoever gave the advice to put a bike lane along College Street—indeed, I am told that cyclists do not even use it. On a daily basis cyclists are still jockeying with cars on College Street in the lane next to the bike lane, putting themselves at risk. It is a very silly thing for them to do. As the member knows, I am a great fan of bike lanes and I believe that wherever possible motor vehicles should be kept separate from cycles. Clover Moore has written to me about numerous issues and one matter she raised recently I thought was a pretty good idea. She wrote to me on behalf of a constituent who asked whether cycles should be registered. I had not thought of that and I thought it was a good idea because when I am interviewed on radio listeners often ask why we do not register cycles so that we can remove them from—

The Hon. Greg Pearce: And license the cycle riders.

The Hon. DUNCAN GAY: Yes, and license the riders. If we were to do that, those who do the wrong thing can be identified. I congratulate the Lord Mayor of Sydney on giving me such a good idea. That would be a great reference to one of our parliamentary committees. The cyclists of Sydney can thank their friend Clover Moore for planting that seed in my mind. There is no-one better than the cyclists' friend, Clover Moore—

The Hon. Lynda Voltz: Point of order, Mr President.

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

POLITICAL LOBBYING

The Hon. AMANDA FAZIO: My question is directed to the Minister for Finance and Services. Given that eight out of 18 members of the Minister's State Executive are lobbyists and that these individuals exert influence over Liberal Party preselections, including the Minister's, can the Minister demonstrate his commitment to accountability by informing the House of the number of meetings and contacts that the Minister and his staff have had with these lobbyists and/or their clients since taking office?

The Hon. Eric Roozendaal: I am advised?

The Hon. GREG PEARCE: I am advised—

[Interruption]

Let us cut to the chase. I know Michael Photios and I note that he is named in the article. I am sure that Michael works very hard. The previous Government perfected the art of influence peddling. Let us take a look at a few of them: Ryan Park was awarded the job of deputy director general—

The Hon. Amanda Fazio: Point of order: My point of order is relevance. I ask the Minister to demonstrate his commitment to accountability by telling the House about his and his staff's meetings with these lobbyists and their clients. I did not ask the Minister for a history lesson other than to tell us what his history is on this matter. Mr President, I ask you to direct the Minister to be relevant.

The PRESIDENT: Order! I remind the Minister to be generally relevant in his response.

The Hon. GREG PEARCE: The question was about staff and lobbyists, so let us have a look at some of them. Scott Gartrell worked for Carmel Tebbutt and was appointed chief executive of the consortium leading the failed redevelopment of Royal North Shore Hospital.

The Hon. Amanda Fazio: Point of order: My point of order relates again to relevance, and I am also concerned that the Minister is flouting your previous ruling by continuing to read out his answer and by not being generally relevant.

The Hon. Duncan Gay: To the point of order: The Hon. Amanda Fazio could well have used the name Walt Secord and it would have been entirely in order; he is someone who has worked in these areas.

The PRESIDENT: Order! The Minister had uttered less than a sentence when a further point of order was taken. Consequently it is not possible for me to determine whether the Minister was flouting my ruling. The Minister may continue.

The Hon. GREG PEARCE: The standard response from my office to lobbyists is, "Ask your client to contact us directly." My office does not work on the basis that a lobbyist is necessary to put a view to the Minister. Mike Kaiser was rewarded with a \$450,000—

The Hon. Eric Roozendaal: Point of order: This question was very clearly about members of the Liberal executive in New South Wales who are all lobbyists lobbying this State Government. Why is this Minister covering up—

The PRESIDENT: Order! The Hon. Eric Roozendaal should state his point of order, not debate the matter.

The Hon. Eric Roozendaal: The issue is relevance.

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

[Time expired.]

UNSOLVED HOMICIDES

The Hon. TREVOR KHAN: My question is directed to the Minister for Police and Emergency Services. Will the Minister update the House on the efforts of the New South Wales Police Force in relation to unsolved homicide cases?

The Hon. MICHAEL GALLACHER: This Government is committed to ensuring justice is served and that criminals are convicted for their crimes. That is why I have today announced a \$200,000 reward for information leading to the arrest and conviction of the person or persons responsible for the murder of Maureen McLaughlin. Ms McLaughlin was reported missing on 3 April 1982 by her late father, Raymond McLaughlin, after not being seen since 30 March. It is believed that the 23-year-old Leura woman was last seen at a hotel on Main Street, Lithgow. Previously Ms McLaughlin attended an RSL club on Lurline Street, Katoomba, on 30 March, where she made three separate ATM withdrawals, the last being at 4.37 p.m. She then caught a taxi home to Leura before leaving again a short time later.

Investigations were launched by local police into Ms McLaughlin's disappearance before police received a report from a bushwalker on 13 April 1992 who discovered a body at Lithgow. The body was found in a shallow grave off State Mine Gully Road, with a number of injuries to the head and body. The deceased was later identified as Maureen McLaughlin. A \$100,000 reward was offered in 1994 for 12 months, but in that time no-one came forward. Ms McLaughlin's family has been hoping for justice for nearly 20 years. That is why today I have announced this \$200,000 reward in the hope it will provide enough of an incentive for someone with information to come forward and to help solve this case.

Detectives involved in this case are committed to conducting a thorough investigation and have dedicated necessary resources in an effort to find closure for Ms McLaughlin's family. Today I met with Jane and Paul McLaughlin, the sister and brother of Maureen McLaughlin. They told me of the heartache they live

with every day not knowing what happened to their sister. The McLaughlin's father, Raymond, passed away last year never knowing the fate of his daughter. Today Jane and Paul McLaughlin renewed their promise to their late father to find out what happened to Maureen so that he and she can finally rest in peace. It is my hope that this reward offer will entice members of the public with information about what happened to Maureen McLaughlin to come forward so her family can have closure.

The officers of the New South Wales Police Force's unsolved homicide squad are working hard to reconsider all unsolved homicides referred to it. Once an unsolved homicide investigation commences investigators seek to obtain all relevant documentation at the earliest opportunity. This will include things such as email, banking and telecommunication records. In the majority of cases this type of material will have been obtained in the original investigation and are included in investigation documents. In a small number of cases new information is located and is added to the vast array of information being considered with a fresh set of eyes.

There are 40 active strike force investigations into unsolved homicides in New South Wales, involving six metropolitan and regional unsolved homicide teams totalling 30 investigators. One of the notable achievements of these teams is Strike Force Strathnook, which investigated the 1995 murder of Donna Hicks, a 35-year-old found deceased at Minchinbury with a gunshot wound to the head. In November 2010 a man was charged with her murder.

In another case, detectives from the Western Region Unsolved Homicide Team recently visited Mildura to conduct ongoing investigations into the suspicious death of a man in 1986. Ali Somnez, then aged 44, was last seen alive at a post office in Victoria on 23 January 1986. Three days later fishermen found his body in the Darling River about 20 kilometres north of Wentworth. I think it is fair to say that all members of this House congratulate these officers on the work they are doing and continue to give them total support.

WATER SAFETY

The Hon. PAUL GREEN: My question is directed to the Minister for Roads and Ports, representing the Minister for Education. According to the Royal Life Saving's National Drowning Report 2010, in the past two years the overall number of drowning deaths has increased a staggering 20 per cent. The report states that 56 children under the age of 17 years drowned from July 2009 to June 2010. Royal Life Saving estimates that one in five children will leave primary school without being able to swim the length of an Olympic-sized swimming pool. Given these findings, is there a provision in the New South Wales primary school syllabus to ensure that all primary school children are taught to swim? If not, why not?

The Hon. DUNCAN GAY: What a good question. One of the best things we can do for our children is to waterproof them and the best way to do that is to teach them how to swim. I was not aware of the numbers, but 56 children under 17 years of age drowning between July 2009 and June 2010 and one in five not being able to swim are dramatic figures. I do not have the answer to this question, but I know that my colleague the Minister for Education will. I will refer the matter to him for an answer.

MEMBERS OF PARLIAMENT REMUNERATION

The Hon. SHAOQUETT MOSELMANE: My question is directed to the Leader of the Government in the Legislative Council. Why has this Government awarded 16 out of the 19 members of this House with additionally paid positions?

The Hon. MICHAEL GALLACHER: This question gives me an opportunity to clear the record. The new Government has the same number of Parliamentary Secretaries as the former Labor Government. The proposition that has been peddled by the Opposition is wrong. This Government has also abolished a number of positions in the Legislative Assembly. Therefore, there will be no additional cost to taxpayers in New South Wales. Quite simply, the proposition being put by the Opposition today is fallacious.

The Hon. SHAOQUETT MOSELMANE: I have a supplementary question. Will the Leader of the Government name those 16 members with additionally paid positions?

The Hon. John Ajaka: Point of order: That is not a supplementary question.

The PRESIDENT: Order! That is not a supplementary question. It is a new question.

MOTORCYCLE SAFETY

The Hon. CHARLIE LYNN: My question is directed to the Minister for Roads and Ports. Will the Minister inform the House of motorcycle safety initiatives?

The Hon. DUNCAN GAY: This is an important question and I thank the Hon. Charlie Lynn for asking it. As everyone knows, the Hon. Charlie Lynn is a great enthusiast and one of the most active advocates for motorcyclists that this Parliament has seen. In recognition of the strong growth in motorcycling in New South Wales, the Roads and Traffic Authority is developing a New South Wales motorcycle safety strategy. While the full strategy is being further developed, I am pleased to report that early initiatives are being implemented immediately.

These initiatives include adopting the VicRoads training package for road designers, operators and maintenance crews, expanding the helmet evaluation and rating program to assess more helmet types, distributing the Good Gear Guide safer clothing pamphlets to New South Wales motorcycle training centres, and other opportunities to reach the broader motor rider community. We are also expanding the Check Twice for Bikes road safety campaign about sharing the road and carrying out research programs in areas such as fatigue, motorcycle helmets and motorcycle crash studies.

These early initiatives have been developed through consultation workshops with the NRMA, the New South Wales Police Force, the Motorcycle Council of New South Wales, the Federal Chamber of Automotive Industries, the Motor Accidents Authority and the Australian Motorcycle Council. The New South Wales Government understands the importance of consulting with stakeholders when implementing a plan such as this. For 16 years key organisations such as the NRMA were ignored by the previous Government; the arrogant Labor Government went ahead with whatever ridiculous idea it had at the time. It showed, as project after project was poorly planned and poorly implemented, leaving the taxpayers of New South Wales to foot the bill—like half a billion dollars for a metro that went nowhere.

The Hon. Eric Roozendaal: Point of order: I am interested in motorcycle safety and the improvements that have been made in this area. I do not see the connection with that topic and where the Minister is taking his answer. He is talking about previous infrastructure projects, which have nothing to do motorcycle safety. I ask you to draw him back to the question and instruct him to stay relevant to the question.

The PRESIDENT: Order! The Minister was being generally relevant.

The Hon. DUNCAN GAY: The Hon. Eric Roozendaal has four days left in this House and he has dropped his guard. If there was ever a subject that a bloke should have been quiet on it was the Rozelle metro. This is the bloke who personally wasted half a billion dollars of taxpayer's money—

The Hon. Eric Roozendaal: Point of order: I understand that the old man over there spent 16 years—

[*Interruption*]

However, I will not accept—

[*Interruption*]

The PRESIDENT: Order! The Minister will continue his answer. I do not believe he has personally reflected on a member. However, he should ensure that his answer does not personally reflect on a member.

The Hon. DUNCAN GAY: In contrast to that lot, the New South Wales Government values the contribution of stakeholders. That is reflected in our work on motorcycle safety initiatives. [*Time expired.*]

SCHOOL FUNDING

Dr JOHN KAYE: My question is to the Minister for Roads and Ports, representing the Minister for Education. Will the Minister confirm that the Government will no longer pay public schools a supplementary amount to their global budgets when they exceed their budget allocation for utilities or relief teachers? Given that power bills for some schools have increased by more than 40 per cent, what advice is the department providing to schools that face either turning heating off or cutting other global budget expenditure such as literacy programs, sports, equipment, maintenance and basic supplies such as toilet paper?

The Hon. DUNCAN GAY: This question, which contains a great deal of detail, is destined for the Minister for Education. I will certainly pass it on to him for an answer. However, I might have some information here, some late-breaking mail. The colleague of the honourable member, his coalition partner, the Labor Party—the junior partner—is responsible for this huge increase in the cost of electricity. Probably no-one is more responsible than the Hon. Walt Secord and the Hon. Eric Roozendaal for that spike in the cost of electricity. The department pays supplementation to schools that exceed their budget for power bills and other utility costs. Supplementation has never been automatic. Principals have always had to provide supporting evidence before supplementation was paid. As this question contains a great deal of detail, I know that the honourable member would appreciate my passing it on to the Minister for a response.

AUSTRALIAN HOTELS ASSOCIATION AND MR MICHAEL PHOTIOS

The Hon. PETER PRIMROSE: My question is directed to the Minister for Police and Emergency Services. On how many occasions has the Minister or any of his staff met with Mr Michael Photios in his capacity as a lobbyist or consultant for the Australian Hotels Association?

The Hon. MICHAEL GALLACHER: None.

WORKPLACE HEALTH AND SAFETY

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Finance and Services. Will the Minister update the House on WorkCover's preventative strategies?

The Hon. GREG PEARCE: The Liberal-Nationals Government believes that preventing workplace incidents and accidents is better than having to deal with the consequences after such incidents occur. That is why we see WorkCover having a key role in assisting employers in complying with their work health and safety and workers compensation obligations. Part of this is WorkCover's prevention program. The prevention program, which targets 10 priority industry segments to reduce health and safety risks, is a major flagship program identified as part of WorkCover's review of its corporate plan. WorkCover undertook a review of data and other relevant information to identify priority industry segments for the flagship corporate program to target reduced workplace fatalities, injuries, illnesses and improved return to work.

The dataset for the analysis included workers compensation claims, prosecutions and investigations, and emerging issues raised in industry consultation. The 10 industries currently proposed are site preparation services, including demolition; building structure services; landscaping and hire of heavy machinery; heavy construction—that is, construction and maintenance of bridges and roads; building construction, including residential construction; manufacturing of wooden building components, for example, timber frames and windows; plastic product manufacturing; grain, sheep and beef cattle farming; horticulture and fruit growing; and road transport. The proposed approach is to work with each of these industries to focus on the key injuries and illnesses and their causes relevant to that industry segment.

WorkCover will take a multidisciplinary and holistic approach to work health and safety, injury management and return to work. Programs will be developed in partnership with peak industry groups and stakeholders at local regional level to ensure improvements are achieved on a statewide basis. This targeted approach will establish safety goals and key performance indicators to ensure success in driving down the overall incidence of workplace injury and illness, where earlier gains are starting to slow.

WorkCover is currently testing this approach with the demolition industry. The demolition industry program is focusing on hotspot issues such as falls from heights, housekeeping on sites, and working with plant and machinery. A safety guide for planning demolition work is being developed and WorkCover is working with the industry to improve injury management and return to work rates for injured workers. The prevention program targeting 10 priority industry segments to reduce health and safety risks is an important program.

ILLAWARRA TOURISM

The Hon. LYNDIA VOLTZ: My question is to the Minister for Finance and Services, and Minister for the Illawarra. On 31 May, in response to a question regarding where the Illawarra was featured in the new Matilda Brown films, the Minister stated it was included in the adventure film that had "Skydiving the Beach Stanwell Tops" and "Just Cruisin' Harley-Davidson Motorcycle Tours" through Stanwell Park. Will the Minister inform the House why this video is not included on the Visit NSW website when one hits the "view all videos" button?

The Hon. GREG PEARCE: I compliment the Hon. Lynda Voltz on her diligent research. I was not aware of that. I will get someone to look into it.

AUSTRALIAN POLICE MEDALS

The Hon. MATTHEW MASON-COX: My question is directed to the Minister for Police and Emergency Services. Will the Minister advise the House about the latest recipients of Australian Police Medals in the Queen's Birthday Honours List?

The Hon. MICHAEL GALLACHER: On Monday of last week eight members of the New South Wales Police Force were awarded the prestigious Australian Police Medal as part of the Queen's Birthday Honours List. Each recipient has been recognised for their long-time service to the community. The recipients included Detective Inspector Wayne Hayes, Coordinator of the Gangs Squad, State Crime Command. Detective Inspector Hayes is widely recognised as one of the State's most experienced criminal investigators. Primarily while serving with the State Crime Command's Homicide Squad, he was at the forefront of investigations, including the murder of New South Wales Police Constable Peter Forsyth in 1998 and the inquiry into the death of Dianne Brimble in 2002. Detective Inspector Hayes was awarded the Commissioner's Certificate of Merit for the investigation into the death of Private Jake Kovco in Iraq.

Another recipient was Detective Superintendent Matt Appleton, General Manager—Workforce Safety, Human Resources Command. Superintendent Appleton's wide experience included areas such as the former Gaming Squad and the South-West Major Crime Squad. He spent a number of years as a criminal investigator and led a team of detectives responsible for the arrest of Lindsay Robert Rose, a Sydney contract murderer who was ordered "never to be released". Superintendent Appleton was also the lead detective in the successful investigation into the 1997 murder of Liverpool nurse Asha Khanna. Superintendent Appleton received bravery awards with respect to a fatal plane crash at Camden in 2003 and the 2005 Macquarie Fields riot.

Superintendent Patrick Paroz, Commander, Drug & Alcohol Coordination, Major Events & Incidents Group was also a recipient of the award. He has served in no less than eight different commands. As a Local Area Commander at Camden, Parramatta, Blue Mountains and Macquarie Fields, Superintendent Paroz demonstrated a strong commitment to his local communities, particularly assisting disadvantaged youths and their families. Superintendent Paroz is now responsible for the coordination, development and implementation of drug and alcohol strategies and initiatives within the police force.

Inspector Ross Wilkinson, Duty Officer, Chifley Local Area Command was also a recipient of the award. Inspector Wilkinson has spent most of his career in regional New South Wales. He previously served with the Tactical Response Group, South Region and the Tactical Operations Unit, State Protection Group. He has received recognition for his outstanding negotiation and operational skills, which were shown during the so-called "Cangai siege". He was also awarded the prestigious Commissioner's Valour Award for bravery displayed during the arrest of an armed offender during a hostage incident at Burwood.

Inspector Edward Billett, Duty Officer—Marrickville Local Area Command was also a recipient of the award. Inspector Billett has played an invaluable role in dealing with youth and indigenous communities, particularly in Brewarrina. He has sought grants to allow children in remote areas to come to Sydney to experience the beach and surf. He has often assisted the disadvantaged while off duty. He is considered a mentor for many junior police and has produced an entire generation of community-focused general duties officers.

Senior Sergeant Peter Davis, Team Leader, Weapons and Tactics, Policy and Review—Operational Skills Command; Education and Training was also a recipient of the award. Senior Sergeant Davis has been a weapons instructor for more than 20 years and is considered an expert in weapons and tactical training. He has overseen many major tactical and equipment innovations within the force, from the transition to Glocks to the implementation of Tasers.

Detective Sergeant Cynthia Donovan, Police Prosecutions, Western Courts—North West was also a recipient of the award. As the leader of the Child Protection Investigation Team, later named the Joint Investigation Response Team, in Tamworth from 1998 to 2009 she oversaw 3,000 investigations into child abuse, resulting in charges against more than 400 people. She served with distinction, planning and implementing strategies concerning the welfare of children at Toomelah and Boggabilla. Sergeant Donovan is regarded as being at the forefront of highly specialised criminal investigation services in the area of child protection for the entire north-west of New South Wales.

The Hon. Matthew Mason-Cox: I ask a supplementary question. Will the Minister elucidate his answer in respect to these important awards?

The Hon. MICHAEL GALLACHER: I thank the honourable member for the invitation to elucidate on my answer. Senior Constable Justine Housego, General Duties, Newtown Local Area Command is a very special case. She has spent her entire career in Newton. All members would know that Newtown is not an easy area to police, and she has been there for her entire career. When I spoke to her the other day she said, "I would like to spend the rest of my career working in Newtown." Senior Constable Housego has received the Commissioner's Commendation for Courage while responding to an armed robbery at a hotel in Newtown, exchanging gunfire with several offenders. In 2005 Senior Constable Housego received additional awards for performing CPR on a person who had collapsed on a footpath. She has also received a number of accolades for the advancement of women in policing and for diligent and ethical service. I congratulate each of these award recipients on their service to our community and I am sure all members would join me in that.

As the time for question time has expired, I suggest that members place any further questions on notice.

CYBERBULLYING

The Hon. MICHAEL GALLACHER: I have some further information in relation to a question asked of me by the Hon. Mick Veitch earlier in question time. The New South Wales Government acknowledges that bullying and cyberbullying among young people are areas of concern. In 2009 the Australian Covert Bullying Prevalence Study commissioned by the Federal Government found that 26.7 per cent of children aged four to nine were being bullied. At present each school within New South Wales is required to have an anti-bullying policy. School liaison police, in conjunction with teaching staff, play an educative role by delivering workshops on cybercrime. I would like to see a focus on implementing these initiatives in primary schools. If one looks at that national study one sees that one has to get in contact with these children much earlier.

However, schools do not have the resources to provide adequate professional help for students with mental health issues arising from bullying. Under our Supporting Students Plan the New South Wales Coalition will trial 50 new counselling and student support positions in New South Wales schools at the beginning of the 2012 school year. As bullying matters are usually dealt with internally by schools, the Supporting Students Plan will be implemented by my colleague the Minister for Education. A bullying incident becomes the responsibility of the New South Wales police if it involves a criminal offence. I encourage schools to report any incidents they believe are criminal offences to their local area commands for investigation.

Questions without notice concluded.

MINISTER FOR FINANCE AND SERVICES, AND MINISTER FOR THE ILLAWARRA COMMENTS

The PRESIDENT: Order! During question time the Hon. Eric Roozendaal took a point of order in relation to a term that was used about him by the Minister for Finance and Services, and Minister for the Illawarra during the course of an answer. I asked the Hon. Eric Roozendaal whether he considered the term to be offensive and he replied that he did. I said that I would take some time to consider whether the term is offensive. The term that was used does not have a plain meaning that would be generally understood in the House or elsewhere. Accordingly, I cannot rule it to be offensive. I remind the Hon. Eric Roozendaal of a ruling made by a learned former President, the Hon. Peter Primrose:

... when a person is in public life and a Member of Parliament, the risk of being criticised in a political way must be taken. Politics is not an area for sensitive persons. In the course of debate when Members canvass the opinions and conduct of their opponents, they must expect criticism.

There is no point of order.

Pursuant to sessional orders debate on committee reports given precedence.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by the Hon. Jan Barham agreed to:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members Business item No. 70 outside the Order of Precedence relating to report No. 44 of the Standing Committee on Social Issues be called on forthwith.

Order of Business

Motion by the Hon. Jan Barham agreed to:

That Private Members' Business item No. 70 outside the Order of Precedence be called on forthwith.

STANDING COMMITTEE ON SOCIAL ISSUES

Report: Inquiry into services provided or funded by the Department of Ageing, Disability and Home Care

The Hon. JAN BARHAM [5.10 p.m.]: I move:

That this House take note of report No. 44 of the Standing Committee on Social Issues entitled "Inquiry into services provided or funded by the Department of Ageing, Disability and Home Care", dated November 2010.

I make a contribution to debate on the Standing Committee on Social Issues inquiry into services provided or funded by the Department of Ageing, Disability and Home Care. I commence by acknowledging the House for supporting the referral to this committee. All parties—Labor, Liberal, The Greens, the Shooters and Fishers, and the Christian Democratic Party—saw the value of the social issues committee undertaking this inquiry. It will be an invaluable body of work as this Parliament moves forward in considering how to greatly improve disability services. I acknowledge the work of the members who sat on the committee and I note that the committee unanimously supported the report. Committee members were the Hon. Ian West, the Hon. Trevor Khan, the Hon. Greg Donnelly, the Hon. Marie Ficarra, the Hon. Helen Westwood and Dr John Kaye. I also acknowledge the committee secretariat, which has done an exceptional job in delivering this important report. I applaud the many families and people with disabilities who made submissions to the inquiry.

Sometimes users of Department of Ageing, Disability and Home Care funded and provided services face further difficulties in accessing services when they raise concerns or make complaints. In the face of such fears, many still came before the committee to tell their stories—often very personal and difficult stories to share with strangers, let alone parliamentary committees. This was a very important inquiry to New South Wales and it was long overdue. The inquiry represented a broad examination of ageing and disability services in New South Wales. The inquiry was particularly pertinent, given the investigation by the Productivity Commission into disability care and support, and the potential architecture of the National Disability Insurance Scheme.

In New South Wales we have an opportunity to overhaul the delivery of disability services. We have a chance to ensure a greater number of people have improved access to services that enable them to live their lives more fully. This will require months and months of consultation, political and personal vision, and a commitment to acknowledge that there is no silver bullet, just people with diverse needs who want a chance to be a part of society. We must have robust debate and honesty about our priorities in New South Wales. The inquiry was in part a response to the deficiencies in our disability service. While there has been great improvement in the first five years of Stronger Together, and the funding commitment for Stronger Together II will build on this improvement, there are still holes in our crisis-driven system. Unmet and undermet need, lack of person-centred service delivery, gaps in planning and service evaluation, asymmetry in regional service delivery, and deficiencies in complaints and compliance management are all characteristic of elements in our disability services.

The 55 recommendations of this inquiry traverse a wide range of areas within disability services. While time does not permit a full discussion of each recommendation, I wish to discuss a few key themes in the report. As I have already placed on record my thoughts on complaints and grievance handling and compliance, I will not cover those aspects of the report. Recommendation 1 cuts to the very core of identifying, acknowledging and managing unmet and undermet need. I strongly support amending the Disability Services Act 1993 to require the biannual disclosure of data on unmet and undermet need and the conducting of service user and carer surveys every three years.

Our communities want a clear picture on whether people are having basic human rights fulfilled, rather than having to wade through oblique department doublespeak and bureaucratic mazes. We need honesty and transparency about the level of unmet and undermet need to encourage prioritisation of disability services and fulfilment of human rights. I am encouraged by the work of the department and the Minister in taking the first steps towards gathering this data, and I look forward to the New South Wales Parliament starting a dialogue on how individuals and families can get the most out of the underinvestment in disability and ageing services.

Stronger Together has in part addressed the gross underinvestment in disability and ageing services. It has started to bridge the gulf between borderline neglect at one end of the service picture and service delivery enabling full social inclusion and real livelihoods. However, where we fall on that spectrum is a matter of debate. The Executive Officer of the Disability Council of New South Wales notes that things have improved but "we still have an awful long way to go". Ms Christine Regan, Senior Policy Officer with the Council of Social Service of New South Wales, pointed out to the committee that a doubling of the Department of Ageing, Disability and Home Care budget only created a 19 per cent increase in the number of people using disability supported accommodation.

There remains a strong consensus in the sector, from the Director General of the Department of Ageing, Disability and Home Care and peak organisations down to small specialist non-government organisations and advocacy groups, that there is unmet need in our disability services. The implication one can draw from this consensus is that our disability and ageing services remain underfunded and inefficient, leading to the predominance of crisis-based intervention. Damian Griffiths, Executive Officer of the Aboriginal Disability Network, pointed out that the level of unmet need for disability services in Aboriginal communities is even more acute, particularly beyond Newcastle, Wollongong and the Blue Mountains where half the New South Wales Aboriginal population live. Support for recommendations 8 and 31 to 34 is an important first step to opening up greater access to disability services for Aboriginal people. Recommendation 33 refers to provided and funded services for cultural competency training, to enable people to work more effectively with Aboriginal and Torres Strait Islander people and people from a non-English speaking background. A theme that seems to be running through many reports is that we need cultural training in so many areas.

According to the Deputy Director General of the Department of Ageing, Disability and Home Care, more than 8,000 people do not have access to a disability service which they require, although 50 per cent of those 8,000 have received another type of service from the department. This demonstrates that approximately 4,000 people in New South Wales have undermet need. Importantly, of that group of people approximately 780 had received no service at all, and of those who received no service at all approximately 50 per cent waited longer than six months to receive a service. Some may brush this aside as a small minority of people not receiving adequate services, but if we think about the implications of plunging whole families into crisis or exposing them to the intense pressure of non-provision of service, we can see the significance for human rights in New South Wales.

Characterising the full extent of unmet and undermet need remains a live point of debate. The Department of Ageing, Disability and Home Care suggests there is a lack of reliable data to measure unmet need, yet organisations such as the Council of Social Service of New South Wales dispute this and suggest the problem lies in Department of Ageing, Disability and Home Care processing and analysis of data. Recently I received a response to a question I placed on notice for the Minister for Disability Services, and from the response I am inclined to support the assertion of the Council of Social Service of New South Wales that the Department of Ageing, Disability and Home Care does not sufficiently analyse the data it collects. At the end of the day, the committee acknowledged that there was evidence of significant unmet need in a number of key service delivery streams.

One potential measure of unmet need is waiting lists or service request registers. The committee examined the issue of waiting lists and heard evidence about Home Care Service NSW not maintaining waiting lists despite a 2005-06 New South Wales Public Accounts Committee inquiry recommendation to maintain them. The idea that people are required to call back on a daily basis to check whether a service is available is demeaning and ludicrous. Further, the lack of transparency around prioritisation criteria creates a high level of mistrust. However, I accept some of the problems associated with waiting lists and the disincentive to leave services. Recommendation 29 is a sensible way forward in developing a consistent policy on waiting lists. The Minister should adopt a presumption in favour of waiting lists and have only a small set of circumstances in which waiting lists will be not be used.

Another important theme of the inquiry was discussion of a person-centred approach to disability services. A number of recommendations are geared to refocusing how the Department of Ageing, Disability and Home Care structures its services. When we talk about a person-centred approach to disability services we are talking about designing services around individuals, their families and their needs rather than a one-size-fits-all approach. Roz Armstrong, an official community visitor in northern New South Wales, suggested to the committee that New South Wales is yet to deliver any really good examples of person-centred planning, especially by Department of Ageing, Disability and Home Care service providers. Ms Armstrong told the committee:

... individual planning goals are more about meeting service objectives rather than focusing on individual support needs. This occurs in both ADHC funded and ADHC provided services.

Service users, carers and service providers provided anecdotal evidence about the lack of person-centred approaches being implemented by the Department of Aging, Disability and Home Care. Carolyn Mason, a mother and primary carer, stated in relation to a person-centred approach:

It should never be accepted practice to physically and/or chemically restrain as a substitute for professional care and treatment or to simply make the job easier for poorly trained, inexperienced or unprofessional staff or in the absence of quality care and service provision and person-centred planning.

Janice Marshall, another mother and carer, made a similar point that service delivery is crisis driven, which in turn restricts the ability for future planning around the needs of individuals. She said:

Parents have to die, be seriously ill or abandon their loved one to even get into the system. This crisis-driven scheme causes widespread mental and physical illness within the families and often leads to family breakdowns, which ends up costing the State and ADHC even more money than if they actually funded the accommodation in the first place.

Recommendations 7 to 10 make important suggestions for reform and development of planning approaches. Importantly, we can see this focus on data collection and research and analysis even in the context of improving person-centred approaches. Greater planning focus on person-centred approaches inevitably leads us to the dialogue on individualised funding. While the New South Wales Disability Service Standards and the United Nations Convention on the Rights of People with Disabilities articulate a vision of supporting individual needs with responsive services to remove social barriers, the practical reality of service delivery historically has allowed very little room for individualised funding packages. Individualised funding has the potential of increasing flexibility in service delivery and encouraging greater choice in services.

From the report it is clear that the committee spent a deal of effort considering how individualised funding may work in New South Wales and the benefits and pitfalls of such an approach. Other jurisdictions are much more advanced in disability service provision and delivery than New South Wales, and we need to draw on their experiences. The current Minister for Disability Services, the Hon. Andrew Constance, and the former Minister, the Hon. Peter Primrose, both made it clear that we must move ahead and modernise disability services to give a voice to essential human rights. I look forward to working with all members, all stakeholders and all people with disabilities on reforming our disability services.

Moving away from the big picture themes of the inquiry, the committee spent a considerable amount of time considering a number of key challenges in the disabilities portfolio. Devolution from large residential centres, lack of funding and efficient management of the Home Modification and Maintenance scheme, vacancy management in supported accommodation and monitoring effectiveness for licensed boarding houses are just some of the ongoing policy changes that New South Wales needs to confront. The New South Wales Parliament needs to ensure ongoing discussion and consultation to address specific issues. In conclusion, I express my support for and appreciation of those committed to enabling people with disabilities to live their lives with their families, carers or sector workers.

Recommendations 51 to 54 focus on ways to improve workforce capacity and skills so as not to overlook those on the service front line. We should encourage those who are considering a career in the disability service sector and give them a real career pathway rather than shifting them up to middle management positions where they are totally alienated from front-line care roles. I encourage all members to read the report. As we move ahead with the reform pathway, which the Minister for Disability Services has aptly started to outline, we should remember some of the lessons unveiled by this report. I commend the report to the House.

The Hon. MARIE FICARRA (Parliamentary Secretary) [5.25 p.m.]: The Standing Committee on Social Issues had the privilege of examining the quality, effectiveness and delivery of the Department of Aging, Disability and Home Care services, the extent of unmet need, flexibility in client funding arrangements, the need for improved individualised service delivery, compliance with disability service standards and the adequacy of complaint handling, grievance mechanisms and Department of Aging, Disability and Home Care funded advocacy services. Throughout the inquiry we heard evidence that solidly established the need for disability services to be delivered in a person-centred manner. I am happy that Minister Andrew Constance, in a Liberal-Nationals Government, has followed that path, as clearly it was not happening in many cases. Individualised funding provides improved choice, flexibility and control for service users, especially in the area of supported accommodation where, sadly, people had to reach crisis point before action was taken.

Planning, service delivery, support and quality of care from the Department of Aging, Disability and Home Care and related agencies must be improved. It is essential for the disabilities service system to recognise and support the contribution of so many unpaid carers on which the system depends—at least 750,000 carers

that we know about. Processes must be established to prevent carers from reaching breaking point before they receive assistance. I acknowledge the work of Andrew Constance, the current Minister for Ageing and Disabilities, in driving the carers' recognition legislation through this Parliament when in opposition. I thank him also for his consultation with people with disabilities and carers in paving a way forward in particular with individualised assessment and funding packages. This inquiry benefited greatly from the 120 submissions received and gained an insight into unmet need in metropolitan, regional and rural New South Wales. Service users, carers and families depend on respite and advocacy services. Pressure will only increase with our ageing population and the proportion of persons with disabilities living longer.

This committee recommended that an increase of \$2.5 billion be provided for the effective implementation of Stronger Together II, including the committee's recommendations. Navigating the disability service system and its poorly communicated eligibility criteria, intake and assessment rules, together with inconsistency across and within the Department of Ageing, Disability and Home Care regions, with no tracking system for referrals and frequent repetition of assessments, is demoralising and physically exhausting for people with disabilities and their families. Lengthy delays cause duplication of administrative processes adding cost, especially when referring professionals are involved. The committee recommended a review of intake and assessment processes to improve eligibility, fairness and consistency. Transition policies and the associated planning should be reviewed to ensure that better accommodation and service delivery options are provided. To alleviate disadvantage in the current system the committee recommended that the means testing currently used to assess eligibility include expenses across multiple services provision to better reflect actual financial need.

Too many people continue to live in government-operated large residential centres with congregate care provision not complying with New South Wales disability service standards. Devolution with individualised planning, as has happened in many non-government organisation settings in New South Wales, along with disability accommodation interstate and overseas are vital. Home modification and maintenance services allow people with disabilities to live with dignity. The lack of occupational therapists and underfunding has caused delays in assessments. Poor quality work as a result of unlicensed building work must be stopped immediately. The Committee recommended an annual compliance return by service providers to ensure clients are not being disadvantaged and a review, including consultation with stakeholders, to address non-compliance with the Home Building Act 1989, waiting lists and improved streamlining of application processes.

Although 36 per cent of people from non-English speaking backgrounds have a disability, only 5 per cent access Ageing, Disability and Home Care services. The lack of culturally appropriate information and services is not the sole reason for this. Many ethnic groups have a strong belief that they alone should look after their family members with disabilities. We must do a better job of informing them of their rights to ask for help. Likewise, we must do more to address the provision of culturally appropriate services for Indigenous people. There has been a commitment by Ageing, Disability and Home Care to employ and train more Indigenous staff, together with improved culturally sensitive training. Ageing, Disability and Home Care should incorporate diverse measures and outcomes in all program guidelines, together with making available free interpreter services.

Concern for persons with disabilities living in substandard unlicensed boarding houses has led to a recommendation that these people receive person-centred planning and services that comply with New South Wales disability services standards. Many such places may be operating illegally and the most vulnerable in our society need better care. Feedback on the provision of aids and equipment by Ageing, Disability and Home Care and NSW Health tells us that delays of up to two years are occurring, together with a huge amount of unmet need. This has a devastating impact on peoples' quality of life. The committee recommended that interest-free loans for equipment be investigated. Clearly, this area of service provision needs increased funding.

It became clear from many witnesses that Ageing, Disability and Home Care has been unable to monitor and act quickly with regard to breaches of standards. Staff training on New South Wales disability services standards and the complaints handling processes need improvement. The committee supported the recommendation made years ago by the New South Wales Law Commission that an independent organisation be established to accredit and monitor disability services and to undertake complaint handling in order to eliminate the conflict of Ageing, Disability and Home Care being both the funder and regulator of services. The committee also found that Ageing, Disability and Home Care had a conflict in relation to advocacy services. We recommended that this service be transferred to a department independent of disability services.

The high turnover in disabilities staff has been of concern for many years. The committee recommended that funding for the Ageing, Disability and Home Care Workforce Recruitment Strategy be

extended for a further two years. Further, the committee recommended that a cross-sector working party be convened to develop a workforce retention strategy. The challenges of rural and remote area recruitment and retention may need increased funding. Equal pay principles for government and non-government disability sector workers are supported. Much client feedback led the committee to recommend that training, reporting and accountability processes need to be improved for homecare workers. A three-year survey of users, carers and their families is recommended to be undertaken by Ageing, Disability and Home Care to better plan and cater for unmet need throughout New South Wales.

I thank our chair, the Hon. Ian West, who is no longer a member, for his sensitivity and professionalism in the management of the diverse personalities of his committee members. I thank the committee secretariat, Rachel Simpson, Emily Nagle, Kate Mihaljek and Lynn Race, for their management of the inquiry process and preparation of the committee's report. In particular, I acknowledge the incredibly valuable and heartfelt contributions of the service users, those with disabilities and their carers, who shared with us some of their most personal and difficult circumstances which highlighted the inadequacies of the disability system. I look forward to the Government moving forward to Stronger Together II to improve the standard of disability service delivery and to ensure a quality person-centred approach is taken that assists people to live fulfilling and healthy lives, both physically and socially.

Dr JOHN KAYE [5.34 p.m.]: I echo the remarks made by the previous two speakers, in particular, my colleague Jan Barham, on the report of the Standing Committee on Social Issues dated November 2010 on services provided or funded by the Department of Ageing, Disability and Home Care, known as ADHC. Serving on this committee and interacting with people who have disabilities, the people who represent them, service providers and policymakers in relation to one of the most complex activities of government, that is, providing services and quality of life for people with disabilities, was both an emotional and uplifting experience. This report is important because it goes to the heart of a difficult problem. How, within a budget, do we provide quality services to people with disabilities? More importantly, how do we provide services in a way that enhances their self-respect and sense of self?

It is fair to say we are dealing with the most vulnerable people in society. It is important that we provide quality services that recognise their essential humanity and human rights. Some progress has occurred at a policy level in the area of spending. I pay particular respect to former Minister John Della Bosca, who took disability services through a quantum change both in funding commitments and a policy change that began to focus on individuals and the rights of the aged, the disabled and homecare clients. However, we still have a long way to go, particularly at the point of delivery. I echo the comments of Jan Barham and the Hon. Marie Ficarra in identifying some of those key areas. Words and money are well and good, but if services are not delivered in a way that specifically address the needs and human rights of individuals we are largely wasting our time.

I strongly support the findings of the report. It identifies a number of ways forward in order to begin the process of improving service delivery. In particular, I pay tribute to the chair of the committee, former member Ian West, who put a lot of emphasis on the United Nations Convention on the Rights of Persons with Disabilities. In framing our report, the questions we asked and the outcomes we achieved were at the centre of our deliberations. Too often, that United Nations convention is honoured in the breach rather than in its fulfilment. It is time we made that the centre of all policymaking.

In the time that I have left to me I want to focus on the issues of transition for people with disabilities to school, from school to work, from hospital to home and into group housing. In each of those areas we heard a similar story. We received evidence from government, service providers, doctors, educators, housing providers, clients and client representatives. While the policy viewed in a vacuum looked attractive and seemed to achieve the right outcomes, when it came to delivery there were holes. A great deal still needs to be done in order to mend those holes. In the transition to school, for example, while the Department of Education and Communities does a great deal of excellent work in educating children with special needs and providing support opportunities, it is clear that in many circumstances parents find it extremely difficult to find an appropriate placement for their child. An array of opportunities exist. What seems to be missing in this area, as in so many other areas, is to make people aware of the options available and what those options mean to them.

We need to create a knowledge space for people with disabilities and their carers to understand the availability and significance of the options available to them. Coordination between agencies is crucial, particularly in the education area, between the Department of Education and Communities and Ageing, Disability and Home Care; in the transition from hospital, between the Department of Health and Ageing, Disability and Home Care; and in transition to housing, between the Department of Housing and Ageing,

Disability and Home Care. Early planning for transition is also important. As the Hon. Marie Ficarra alluded to, too often the transition situation is allowed to reach crisis point and then there is a crisis solution. Well-planned solutions are always superior.

Recommendations 11 to 17 are important, and I urge the Government to take a very close look at them and develop plans for implementing them, particularly with respect to education. We heard heart-rending stories about the inappropriate outsourcing of children's placement. In one case, the Spastic Centre had responsibility for the placement of children with special needs, including children with intellectual disabilities, which created a total mismatch between the agency and the sorts of people it served. In the transition from home to hospital there is great concern about a lack of clarity regarding responsibilities exercised by hospital social workers and by Ageing, Disability and Home Care caseworkers. The situation needs to be clarified as soon as possible so that one or other of the agencies has responsibility. The report's recommendations suggest that the responsibility go to Ageing, Disability and Home Care, which has a better understanding of the environment outside hospitals.

In the case of accommodation, it is very important that appropriate accommodation be identified and people placed in it. We heard a heart-rending story of a 50-year-old woman with Down syndrome who was living happily in accommodation and then a man with inappropriate behaviours was placed there, which effectively drove her out. The housing provider did not respond in a sensitive or people-centred way; it responded in the old-fashioned systems-oriented way and said, "That is where this person goes." The outcome was that a woman who was comfortably settled with a number of friends and who was doing very well was driven out of her accommodation.

The last area I will address briefly is transition from hospital and the need for better data sharing between the Department of Health and Ageing, Disability and Home Care. Obviously data privacy should be protected. However, the current interpretations of data privacy differ between the Department of Health and Ageing, Disability and Home Care, creating conflict and reducing the opportunities for individuals to have their case files transferred in a way that would assist their transition from hospital into housing and the health service. These recommendations provide a sensible way forward.

I conclude by thanking my colleagues, particularly the chair of the committee, the Hon. Ian West. I miss him a lot. He was a great member of this House who, particularly in his role as the chair of the Standing Committee on Social Issues, provided dignified leadership. He steered the committee through some very difficult hearings and treated with dignity the individuals who came before the committee. Trevor Khan, Greg Donnelly, Marie Ficarra and Helen Westwood were able colleagues on the committee. As we always should and always do, I finish by thanking the secretariat staff, who did a remarkable job. The indefatigable Rachel Simpson, Emily Nagle, Kate Mihaljek and Lynn Race kept us going through the inquiry and wrote a rather astounding report, which I hope the Government takes seriously and implements.

Debate adjourned on motion by Dr John Kaye and set down as an order of the day for a future day.

Pursuant to sessional orders Government Business given precedence.

LOCAL GOVERNMENT AMENDMENT (ELECTIONS) BILL 2011

Second Reading

Debate resumed from an earlier hour.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.44 p.m.]: The final area of concern that I will address tonight is in relation to dispensing with by-elections in some circumstances. Schedule 1 [7] to the bill would enable councils to dispense with by-elections some 18 months before the next ordinary election. Currently there is a provision that permits that when a vacancy arises 12 months or less prior to a council election a council may dispense with holding a by-election. The bill would expand that time frame to some 18 months. While that, of course, may be a great convenience to councils or councillors faced with that situation, it runs the significant risk of eroding local representation and local democracy.

In many councils, not just across Sydney but throughout the State, election results are often complex—representing as they do the wishes of the people in those communities on that day—and the outcome is finely balanced. For example, Blue Mountains City Council has three Labor councillors, three Liberal councillors,

three Greens councillors and three Independents. If there were to be a by-election there is a significant risk that the result might upset the delicate balance within the council as well as occasioning the reasonably significant expenditure of resources to run the by-election. I well understand the reasoning behind this part of the bill, which aims to reduce the potential burden that a by-election may cause the council and the local community.

The difficulty with the solution proposed is that it has two effects. First, it creates a situation where wards may be underrepresented for a time—and 18 months is not an insignificant period—and, secondly, it has the effect of pushing the constituency and representation work onto the remaining councillors. Neither effect is a positive development. As I said, while I understand the reasoning behind this part of the bill—and obviously it is an area that warrants further consideration as to the appropriate policy response when vacancies arise, often unexpectedly, in councils—with this proposal we are in danger of throwing the baby out with the bathwater. This is perhaps just one of the products of the Government's rushing this bill through Parliament rather than taking some time to consult more broadly with stakeholders and to consider public policy challenges arising from local government elections.

The Hon. SCOT MacDONALD [5.48 p.m.]: I make a brief contribution to the Local Government Amendment (Elections) Bill 2011 from the viewpoint and experience of some of the smaller shires and councils around New South Wales that might have 5,000, 6,000 or 7,000 constituents. When a vacancy occurs between 12 and 18 months before a scheduled council election, a by-election is a considerable financial impost for a council that does not have many resources or much fat in its budget. Over the years I have heard many councillors say that it is an issue for them. Quite often a vacancy is created not necessarily because a councillor has died but because someone moves on to another job outside the shire and is no longer able to attend council meetings. I commend this legislation as a very sensible financial move on the Government's part. I do not think it is a diminution of democracy, and I support it.

The Hon. SHAOQUETT MOSELMANE [5.50 p.m.]: From the outset, like my colleagues the Hon. Sophie Cotsis and the member for Lakemba, who led for the Opposition in debate on the Local Government Amendment (Elections) Bill 2011 in the other place, I indicate that the Opposition is still undertaking consultation with members and local government stakeholders. This Government failed to engage in that consultation process. It appears that lack of consultation is becoming the hallmark of this Government. Its approach is to do little, to talk as little as possible and to ram through legislation.

We saw that with the Occupational Health and Safety Amendment Bill 2011 and the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011, which will adversely impact on the lives of more than 400,000 people and many others whose lives depend on public sector employees. If each had one partner and one child then the Government's decision to reduce the wages and conditions of nurses, police officers, firefighters and other public sector workers will impact on 1.2 million people. That cannot be excused or dismissed lightly and public sector workers should never forgive and forget the Liberal-Nationals and the Christian Democratic Party. The Christian Democrats, in particular, should never be forgiven for willingly and without regret lining up behind the Government to impact on what public sector workers put on their dinner table.

This bill has been before the Parliament for only a few days, but the Government is attempting to ram it through without allowing appropriate time for consultation. If it were transparent and consultative it would have taken this legislation to the Future of Local Government National Summit that is now being held in Canberra for consultation and discussion. This bill is complex and it will have far-reaching consequences. It will affect the entire population of New South Wales and every local government authority. The Opposition will take the appropriate time to consult and to arrive at a considered position.

The Hon. Matthew Mason-Cox: What about Rockdale?

The Hon. SHAOQUETT MOSELMANE: I will talk about Rockdale. This legislation will make considerable changes to the operation of local government. I support change for the better and some aspects of this bill may result in improvements. However, the Government did not provide appropriate notice nor did it consult. I would like local government issues put on the table and reviewed, with particular emphasis on local government constitutional recognition, rate pegging, amalgamations, changes in population growth, greater planning and operational independence, full-time and fully paid councillors and the election of mayors—that is, rather than mayors being elected by their fellow councillors to serve one year, their term should be two years. These are my suggestions that the Government could consider in consultation with local government authorities.

Local government has been suffering for the past few decades and if we do not do something, like anything, it will fall behind and more authorities could collapse. I am a devout believer in and supporter of local government. I have been a Rockdale councillor for the past 16 years and I have been elected a number of times as deputy mayor and four times as mayor. I know how significant local government is for local communities. Local government and the community I represent at Rockdale were never consulted about this legislation, and it should not be passed. If it is passed, it should first be amended to mitigate some of the adverse impacts it will have on local government throughout New South Wales.

Once again, this Government has introduced far-reaching legislation without taking it to the people who matter. It is not clear why the Government has taken this stance. What was the trigger for introducing this legislation with such haste? What are the underlying reasons and the impetus for introducing these reforms? Is the legislation designed to give the many councillors recently elected to Parliament a way out without causing too much mischief in local government circles and thereby save the Government some pain? An examination of the objectives of the bill might shed some light on that. They are:

- (a) to provide that councils, in general, are to administer council elections, council polls and constitutional referendums rather than the New South Wales Electoral Commissioner (the Electoral Commissioner),
- (b) to enable a council in certain circumstances to make an application to the Minister for Local Government (the Minister) for approval to reduce the number of its councillors without the need for approval at a constitutional referendum,
- (c) to enable a council in certain circumstances to make an application to the Minister for approval to abolish all wards in the council's area without the need for approval at a constitutional referendum,
- (d) to provide that a by-election need not be held to fill a casual vacancy in the office of a councillor (but not a mayor elected by the electors) if a constitutional referendum has approved a reduction in the number of councillors for the council area but the reduction has not yet taken effect,
- (e) to increase the period before the next ordinary election of the councillors during which a council may apply to the Minister to dispense with the requirement to hold a by-election for a casual vacancy in the office of a councillor (including a mayor elected by the electors of an area) from the current effective 12 months to 18 months,
- (f) to make amendments of a consequential, savings and transitional nature.

The Minister said in his agreement in principle speech in the other place that the bill reflects the Government's commitment to provide a transparent and effective legislative framework for the administration of local government in New South Wales. He further stated that the bill fulfils the Government's commitment to return autonomy to local government by restoring to it the power it enjoyed in the past to conduct council elections. My immediate reaction is to ask how this bill, about which no council or local government authority was informed, provides a transparent and effective legislative framework for administration. The Government should at least demonstrate to Parliament that consultation was carried out, that the community wants these amendments and that they have attracted widespread community support. The people of this State may well support this legislation, but the Government is yet to provide evidence of that support.

As a Rockdale councillor I have not received any material from the directors, the general manager or anyone else associated with local government about this legislation, let alone had an opportunity to discuss or argue for or against it. Given my background in local government I can certainly put a position. However, because we represent the people of the State, I will have to consider the views of the people who matter. The way this bill is being pushed through this place denies the people of New South Wales—the people who count—an opportunity to contribute to the debate and to support the proposals it contains or to make suggestions to improve it. That lack of consultation does not help me to form an opinion. I am always in favour of progressive reform, but it must be reform with which I am comfortable and that will improve the delivery of services and management at the local government level.

The Minister said that the bill reflects the Government's commitment to provide a transparent and effective legislative framework. That is a remarkable statement; it smacks of incompetence and a lack not only of knowledge but also of common sense. How will removing the Electoral Commission from the election process improve transparency? It does not make sense. How will it assist councils in conducting elections? How will it improve on the integrity of what is the most important aspect of democracy—open and transparent elections conducted using an open and transparent process overseen by an impartial and independent body? It simply does not make sense to remove a process that was endorsed by the Labor Government and the Coalition Opposition in 1995 when the Local Government Act was amended to give the Electoral Commission the authority to conduct local government elections.

This is yet another attempt by the Government to destroy the effective role of another commission—as it did with the Industrial Relations Commission—that was established by the previous Labor Government following consultation and consideration to ensure transparency and, importantly, fairness. The Government's approach smacks of a drive for ideological neo-conservatism, smashing the institutions of the State. For the conservatives—and this Government is conservative—the lesser the role of the State, the better. In smashing institutions of adjudication and independence, institutions of arbitration and conciliation—such as the Industrial Relations Commission—and institutions of transparency, stability and certainty in delivering democratic processes and outcomes, this Government is taking over their roles and dictating to the people of New South Wales.

The Government wants to take away the role of a successful independent body that has a consistent and proven track record, a body that has the capacity and the professional staff. In its place it seeks to put councils, which are already struggling under financial burdens, to take on the role. Government members may argue that the purpose of the bill is to give the running of elections to councils so they can save on costs. The reality is different. The reality is that the costs will not be less. The time council employees spend preparing for elections is not factored into the overall costs; as a result, it gives the impression that councils can do it cheaper.

Imagine if the O'Farrell Government decides to tell the Electoral Commission, "Thank you for your services, we want to run our own election campaign." Imagine the outcry, the mud throwing and allegations of impropriety that would result if it were to happen. It does not make sense to remove a professional institution that has the capacity, knowledge and knowhow to conduct independent, arms-length elections and give the job to councils, which in some cases are politically run, and destroy the whole notion of a democratic and free election outcome. This is a retrograde step and it should not be allowed to proceed. I cannot see what improvements to the system could flow from preventing the independent Electoral Commission from conducting elections. I fail to see how removing the independence of the Electoral Commissioner improves the system and provides an effective and transparent legislative framework for the administration of local government in New South Wales.

Perhaps one reason the Government is not telling us is that it is seeking to sack Electoral Commission staff. After councils have run their own elections the Government will come back to us and say that there is no need for X and Y at the commission. It will start running the razor through the commission, forcing hardworking public servants to lose their livelihoods. If this is not the intention, why do it in the first place? My colleague in the other place Robert Furolo, the member for Lakemba, rightly asked:

If the process of having an independent Electoral Commissioner conducting elections in New South Wales is good enough for the people of New South Wales, if the process of having an independent Electoral Commissioner conducting the elections of every State election in every jurisdiction in the country is good enough for them, and if it is good enough for the Australian Government to have an independent electoral commissioner conduct its elections, why is it not good enough to have an independent Electoral Commissioner conduct local government elections? Why should councils have to suffer a second-rate system, with less transparency and less independence, simply because members opposite are trying to save money? What price do we put on integrity? What price do we put on transparency?

I could not agree more with those questions. If the Government was fair dinkum about transparency, it would have put this proposal to the people. The people will ask the Government many more questions.

The Hon. Niall Blair: Did Robert ask this?

The Hon. SHAOQUETT MOSELMANE: No, I am asking this. I for one will be reminding the electorate of the Government's incompetence and trickery, and I will remind it that the Government took the people for granted. It ignored the people and failed to show them the decency of consulting them about such dramatic changes.

The Hon. Rick Colless: Yes, we did.

The Hon. SHAOQUETT MOSELMANE: This was not in the 100 Day Action Plan, was it?

The Hon. Rick Colless: It was.

The Hon. SHAOQUETT MOSELMANE: No, it was not. Like all my Labor colleagues, I do not recall receiving, in my role as a councillor on Rockdale council, any correspondence from the Minister or his Parliamentary Secretary before or since the election asking me whether I would support the idea of councils running or administering council elections. Apart from the obvious, my immediate reaction would be to ask:

Why end the successful role of an independent professional body such as the Electoral Commission and pass that responsibility on to a general manager—with respect to our general managers and staff? My answer would be a comprehensive no; I would not support the proposal because it is not the smart thing to do. If the Government wants to overhaul local government because it is worried about how it is run, let us overhaul the Local Government Act and the way in which councils run things. I have a few ideas. But let us do it in a measured, considered way in consultation with all local government stakeholders so they can be part and parcel of the change that comes about as a result of the process.

I cannot see the need to push this bill through Parliament. I oppose it as it does not make sense and, in my view, is not in the best interests of the constituency. Once again, it is an indication of the Government's arrogance that it has introduced such complex and far-reaching legislation without taking it to the people. While I do not expect the Government's entire legislative agenda to be outlined prior to the election, serious reforms such as this, proposed in the first months of its term, should have been flagged. If the Government has only come to the decision to implement these changes since taking office, one has a right to ask: What are the reasons for the reforms? The Government needs to prove to Parliament there is community demand or far-reaching support for the changes.

It may well be that the people of the State are supportive of the legislation but the Government has yet to provide evidence of this, and I have seen none. This is clearly an abuse of parliamentary procedure. As with the Industrial Relations Commission debate—or lack thereof—the Government has proved that it is all too willing to take this House and the other place for granted. The Government set a shameful precedent with its reckless and arrogant behaviour in passing the industrial relations legislation. Bills such as these should be considered in greater detail rather than slapping them onto the agenda and not giving the Opposition, let alone Government members, an opportunity to consider them. There should be wide-ranging community consultation with individuals and stakeholders. Once again, the Government has failed to do this and has broken its promise to the people of New South Wales to deliver honest and accountable government.

The Hon. PAUL GREEN [6.08 p.m.]: On behalf of the Christian Democratic Party I will speak briefly on the Local Government Amendment (Elections) Bill 2011. I also speak as a current local government mayor of an area that has faced many of the issues the bill addresses. The object of the bill is to amend the Local Government Act 1993—the principal Act—regarding local government elections in order to provide that local councils are responsible for the conduct of their respective elections and referendums while maintaining the option of contracting the conduct of elections and referendums to the New South Wales Electoral Commission; to provide local councils with a further limited opportunity to reduce councillor numbers without the need to hold a constitutional referendum; to provide local councils with a limited opportunity to abolish wards without the need to hold a constitutional referendum; and to enable local councils to apply to the Minister for Local Government for an order that a casual vacancy occurring in the civic office of a councillor, including the mayor elected by the electors of the area, may be filled during the period of 18 months prior to a local government election.

Simply put, the Local Government Amendment (Elections) Bill 2011 would amend the Act to give councils the power to run their own elections—instead of going through the Electoral Commission—and to return local power and responsibility to local councils and local communities. The Electoral Commission recently reported that the average estimated cost of conducting an ordinary election for the last election was \$369,550 for a metropolitan council and \$92,796 for a rural council. Local councils have expressed the view that this money would have been much better spent on roads, parks or other local infrastructure. In consultation with the Government, the Local Government and Shires Associations stated that councils are far better placed to conduct their own elections, with more efficient use of council staff, revenue and resources. Councillor Bruce Miller from the Local Government and Shires Associations recently stated:

The substantial increase in costs for councils and decrease in transparency and standards since the New South Wales Electoral Commission took over Local Government elections in 2008 is simply not acceptable. The New South Wales Electoral Commission lacked transparency in its accounting procedures and reporting of budgetary items. We believe councils are best placed to deliver this service and should be given the opportunity to choose whether they run it in-house or outsource this service.

I agree with Councillor Miller. It is essential for local councils to make local decisions. Returning council elections to local councils would see council revenue better spent. A council may resolve that the Electoral Commissioner is to administer elections, polls and referendums for the council. This will enable a local council to make the choice of running the election itself or reverting back to the Electoral Commission. If the local council chooses to run the election itself, this bill proposes that the council election, polls and constitutional referendums will be administered by the general manager, who is responsible for appointing a returning officer and a substitute returning officer. The returning officer is to appoint one or more electoral officials.

An employee of a council for an area cannot be appointed as a returning officer or a substitute returning officer in that area. Nor may a general manager be appointed as a returning officer or substitute returning officer for any local government area. The general manager will be responsible for a report into the conduct of each election—that is, the general manager will be responsible for reporting on all preparations and costs. I believe that this will create transparency and accountability in local councils. Unfortunately, the previous view was that one size fits all. It does not. There are 152 local government areas and one size does not fit all. Every local government area should have the autonomy to determine its finances and processes in alignment with government policy.

The Christian Democratic Party supports the bill. It believes that the bill is another good step towards returning local management to local councils and local communities. There is no doubt that this will help local governments to stay financially sustainable. It will allow transparency at a local level. It will allow local communities, who know their local electorate, to operate these particular elections. It will reduce some of the problems we saw in the 2008 election where it seemed that local knowledge was lost, which caused a lot of inconvenience for a lot of people across the community. After the number of elections we have had in New South Wales, one would think we would have it right by now.

The Hon. RICK COLLESS [6.15 p.m.]: I am surprised that Opposition members are saying that there has been no consultation in relation to the Local Government Amendment (Elections) Bill 2011. That is not the case. Prior to the election the Coalition gave a firm commitment to the Local Government and Shires Associations that when in government it would give power back to local councils to run their own elections. I have had many discussions with New South Wales councils about the problems with the Electoral Commission running elections on their behalf.

I support the bill. The principal purpose of the bill is to return responsibility for the conduct of local government elections to local councils. The bill provides for the administration of local government elections, polls and constitutional referenda by councils rather than the Electoral Commissioner. It also provides for councils being able to apply to the Minister for Local Government for approval to reduce the number of councillors without the need for a referendum. The bill will enable a council to seek approval from the Minister to abolish wards within the council area. If a by-election is required to fill a casual vacancy on the council, the bill allows for the waiving of that by-election if a referendum has authorised a reduction in the number of councillors on that council. The final provision of the bill is to increase the period that a by-election must be held from 12 to 18 months in the case of a casual vacancy.

The shadow Minister described these amendments as being back to the future. However, the reality is that in the past general managers—and before that shire clerks—filled the role of returning officers in local government elections. As the shadow Minister correctly pointed out, the Electoral Commissioner has been responsible for local government elections since 1987. After 1987 the Electoral Commission allowed general managers to act as returning officers for local government elections until 2008, when the Electoral Commissioner assumed absolute control of local government elections on a full cost recovery basis. As a result, the cost of local government elections went through the roof.

The Hon. Niall Blair: They skyrocketed.

The Hon. RICK COLLESS: Yes, they skyrocketed. Many councils lodged complaints as a result. In many cases the cost increased from a few thousand dollars to a few hundred thousand dollars. Small councils simply do not have that sort of money to spend on local government elections. In regional areas that money is much better spent on providing the services that the communities expect from their local government bodies. It is different for highly urbanised local government areas—as we heard from the Hon. Shaoquett Moselmane. They are highly urbanised, they have small geographical areas and they have lots of ratepayers. It is all very well for them to accept that they could pay those increased costs.

However, in large rural council areas we find that those councils cover large geographical areas and they have small rate bases per geographical area. It is far more expensive for those people to pay for these elections on a per head basis than it is in a highly urbanised area. When the Electoral Commission takes charge of these elections in large rural council areas it conducts them on a cost recovery basis. Therefore, per head of population it is a lot more expensive. There are a lot more polling booths and higher transport costs to move the ballot papers to and from the polling booths. All the little things such as that add considerably to the cost in rural areas. That is the problem that people in rural areas face.

The shadow Minister can correct me if I am wrong, but she seemed not to realise that this bill does not allow for general managers to act as returning officers. In fact, the general manager cannot be a substitute returning officer or even a polling official under this bill. The general manager must appoint a returning officer and that returning officer cannot be an officer of the council, nor can it be an officer of an adjoining council. The returning officer must be somebody remote from the individual council.

Councils that do not feel they have the capacity to fully supervise their own elections can then contract the Electoral Commission to undertake the election on their behalf if they so desire. Overall the amendment allows councils to resume responsibility for conducting their own elections but prevents the general manager from acting as the returning officer. I do not want to take up more of the time of the House on this issue, other than to indicate that the Local Government and Shires Associations support these changes. A lot of consultation has taken place with that body. The vast majority of individual councils and councillors in regional areas with whom I have spoken over the last 10 years, since my time on Inverell Shire Council, clearly support this approach as well. The key plank of the legislation is flexibility and returning the decision-making process for running council elections to the local community—that is, local councils. I support the bill.

Mr DAVID SHOEBRIDGE [6.21 p.m.]: On behalf The Greens I support the Local Government Amendment (Elections) Bill 2011. The bill makes a number of amendments, and I will deal with them in turn. First, the bill provides that councils in general are to administer council elections, council polls and constitutional referendums, rather than having the New South Wales Electoral Commissioner undertake that role. For more than 20 years the New South Wales Electoral Commission has undertaken the role, effectively, of running local council elections. That was put in place in 1987 because of the way in which local government elections had been conducted in a number of councils up to that point.

A number of councils had notoriously "rotten" electoral rolls—in some cases, electoral rolls that had on them the names of more residents in the local cemetery than those of residents in some of the council's major streets. With regard to a number of councils, the notorious rotting of local council elections had got to such a point that it had brought much of local government into disrepute and had delivered an outcome whereby many residents believed that they were not getting a fair and open democratic outcome from their local council elections. From 1987—and it was a positive reform when it was introduced—the New South Wales Electoral Commission took over not only maintaining the electoral rolls but also the conduct of elections.

For much of the time there was a positive relationship between the New South Wales Electoral Commission and local government because the New South Wales Electoral Commission charged relatively modest fees for the conduct of local council elections, conducted open, accountable and rigorous local government elections, and did so in such a way that residents felt comfortable that they were getting a positive democratic outcome. The roll was maintained with integrity, and it was done at a cost that allowed for a fair payment by local government but did not go to the point of penalising local councils, particularly small local councils, with extraordinary bills for running local council elections.

In 2008, in a deeply mistaken change of policy, there was a move for the New South Wales Electoral Commission to have full cost recovery from local councils. That full cost recovery was first felt in the 2008 elections. The Hon. Rick Colless, the Hon. Paul Green and other members have read accurately onto the record the level of anger that that produced in the local government sector. Councils such as Blacktown council were faced with bills for literally hundreds and hundreds of thousands of dollars for undertaking a local council election. The fee that some modest regional councils were faced with was a significant proportion of their annual budget in any given year, such that the cost of council elections had to be amortised, in some cases over an election term that went beyond the four-year electoral cycle.

From my experience as a councillor on Woollahra council I am aware that the additional cost to that council of conducting the election in 2008, given the full cost recovery model of the New South Wales Electoral Commission, was extraordinary—it was almost double the cost of conducting the previous council election. If it had been met with a doubling in the level of service, there may have been some argument for it. But the level of service provided by the New South Wales Electoral Commission in matters such as the selection of polling booths, particularly for pre-poll voting, was extraordinarily low. Indeed, the pre-poll voting in my local council area involved residents who wanted to vote being confronted with three flights of stairs. I spent a significant period of time at that pre-poll voting centre and on many occasions when local residents came to vote they could not confront the three flights of stairs and they were faced with the indignity of casting their vote on the street when the Electoral Commissioner came to provide them with assistance.

Not only did the Electoral Commission not cover itself with glory in the conduct of the 2008 elections; the full cost recovery model imposed by the former Government in many ways produced a level of anger and animosity in the local government sector that The Greens well understand. As a result of that, we now see this composite proposal being put forward by the Coalition, which retains some key roles for the New South Wales Electoral Commission, such as maintaining the roll and the integrity of it. There will no longer be disinterring of residents from Rookwood Cemetery so their names can be added to local council electoral rolls, because the electoral roll will continue to be maintained by the New South Wales Electoral Commission.

The Hon. Rick Colless: That's been the case since 1987.

Mr DAVID SHOEBRIDGE: That has been the position since 1987. The point I make is that the bill maintains the integrity of the electoral roll. The electoral roll will be maintained by the Electoral Commission, and will be provided to the local council for the purpose of the election. The local council will then conduct the election and mark off the names of residents who did or did not vote, as well as the names of residents who voted more than once according to the Electoral Commission's records. The local council will then send the roll to the New South Wales Electoral Commission at the end of the council election in order for the crosschecking to be undertaken, any penalty notices to be issued, and the integrity of the role to be maintained. I note that the bill maintains the integrity of the electoral roll via those safeguards.

I also note that the bill does not allow a general manager to act as a returning officer. That was one of the great ills of the system before 1987. Having the general manager—who is clearly subject to the political whims of a majority on council—as the returning officer was an obvious flaw in the system before 1987. The bill does not put the general manager in as the returning officer.

The Hon. Rick Colless: It prevents it.

Mr DAVID SHOEBRIDGE: I note the interjection of the Hon. Rick Colless that the bill prevents that from occurring. That is correct. The bill says that neither the general manager nor any employee of council may be the returning officer. I am not sure what is the intent of excluding only officers of adjoining councils from that. One would have thought a more elegant proposal would have been to exclude any person employed in the local government sector from being a returning officer. I will be interested to hear the Minister's views on the rationale behind excluding only officers of adjoining councils from that. The bill requires what looks to be a relatively independent returning officer to be appointed.

The bill allows for continual supervision by the Administrative Decisions Tribunal and the Supreme Court in cases where there is an allegation of electoral fraud or inappropriate electoral conduct, as well as allowing for the complaints process with the Department of Local Government. Given that this aspect of the bill has the almost unanimous support of local councils—some 152 local councils across New South Wales—and that the full cost recovery model that has been imposed by the New South Wales Electoral Commission is clearly severely hurting local councils financially, on balance The Greens can see some merit in this aspect of the Government's bill but would be interested to hear the Minister's comments on aspects such as excluding any council officer from being a returning officer and having further safeguards in relation to the role of the returning officer.

Pursuant to sessional orders business interrupted to permit a motion to adjourn the House if desired.

The House continued to sit.

Mr DAVID SHOEBRIDGE: The Greens would like to have seen the guidelines the Minister spoke about. In many ways the checks and balances are not to be found in the bill but are said to be found in the guidelines as to how local councils will undertake their elections. Those guidelines have not been fully drafted as yet but I understand the New South Wales Electoral Commission will continue to have a substantial role in advising the Department of Local Government about the guidelines. The Greens would have been more comfortable in supporting this bill if the guidelines had been tabled at the same time as the bill. It is unfortunate that this is happening in a piecemeal process and that The Greens hold a reservation as to that aspect of the bill in the absence of having seen the guidelines.

[The Deputy-President left the chair at 6.31p.m. The House resumed at 7.30 p.m.]

Mr DAVID SHOEBRIDGE [7.30 p.m.]: The second object of the bill enables a council in certain circumstances to make an application to the Minister for Local Government for approval to reduce the number of its councillors without the need for approval at a constitutional referendum. Under the current Act—and it is retained in this bill—the minimum number of councillors is to be five and the maximum number is to be 15 councillors on a council. The capacity to reduce the number of councillors without a constitutional referendum is a matter of substantial concern to The Greens, and is opposed. It encourages councillors to pay attention to their short-term political interests, perhaps of a dominant group of councillors, as opposed to the long-term political and democratic interests of the local community.

Under the current system, without this one-off ability within the next five months to make an application to reduce the number of councillors, if the bill is not approved the councillors need to go through a five-year process to reduce the number of councillors. That means if the current administration in a local council area considers it to be in the best interests to reduce or even increase councillors then it needs to put that to a referendum in the September 2012 elections, and if that referendum were passed the changes would not take place until 2016. That would mean those councillors are compelled to think about the long-term democratic interests of the municipality as opposed to how they might think given the current state of local politics as to how their representation might play out in 18 months time.

For example, by allowing a reduction from nine to five councillors on those councils dominated by a group of councillors who might think they will get 45 per cent of the vote, they might go from having four out of nine councillors to having three out of five councillors. Therefore, they would go from an uneasy majority with some independents to a relatively easy domination of their local council area. It is those kinds of actions with a short-term political interest that are open to abuse by allowing the councillors to approach the Minister to reduce councillor numbers without having to go through a referendum. It also bypasses the ability of the local community to have its say about the form of the makeup of their local councils.

The salvage in this bill, which is a 42-day consultation period, is no alternative to a full constitutional referendum. As members know, particularly those experienced in local government, the advertisement goes into the local paper, the resolution is passed at the local council, and maybe the three usual suspects turn up to make a submission about it—

The Hon. Jan Barham: Five.

Mr DAVID SHOEBRIDGE: I acknowledge the interjection of the Hon. Jan Barham as to maybe the five usual suspects—that is the community input at Byron Bay. As a general rule, the broader community does not get excited about the fairly abstruse concepts of the democratic representation of a local council unless it is done in the context of an election. That is why encouraging broad participation at a constitutional referendum is an essential safeguard, and this bill fails that democratic test.

The third object of the bill enables a council in certain circumstances to make an application to the Minister for approval to abolish all wards in the council's area without the need for approval at a constitutional referendum. The Greens oppose this for the same reason as we oppose the second object of the bill. On many councils a particular group may have electoral representation in one ward and that might enable it to get one or two councillors elected in a particular ward. However, if all the wards are abolished and at the same time the number of councillors is reduced, one may find the circumstance where the voice that used to have a representation through the ward structure is removed. The group will not have sufficient support across the whole of the municipality to enable it to elect a councillor and the amount of diversity would be reduced. Without a constitutional referendum and without that five-year lead time the system is clearly open to a majority of councillors seeking to impose their will and obtain electoral advantage from changes. The Greens will be moving amendments during the Committee stage to have that provision removed from the bill.

The fourth object of the bill provides that a by-election need not be held to fill a casual vacancy in the office of a councillor, but not a mayor elected by the electors, if a constitutional referendum has approved a reduction in the number of councillors for the council area but the reduction has not yet taken effect. If there has been a resolution to reduce the number of councillors at a constitutional referendum, but it will not take effect until the next election, and a councillor were to resign, that position would not be not filled in the interim. That fails the test of genuine democratic balance in the local council area. If one player elected at a general election is taken out it may well mean that the remaining councillors are not generally representative of all the interests in the local council area. Even though it may be intended at some later point to reduce councillors it still means that

there is an undemocratic representation in the interim. If there is more than 12 months of the term to go the better option for having democratic representation at the local council level is to hold a by-election to fill the position to allow all parts of the community to have their say.

The fifth and last substantive object of the bill is to increase the period before the next ordinary election of the councillors during which a council may apply to the Minister to dispense with the requirement to hold a by-election for a casual vacancy in the office of a councillor, including a mayor elected by the electors of an area, from the current effective 12 months to 18 months. This represents a get-out-of-jail-free card for the many councillors who were elected principally into the lower House at the most recent general election. From my analysis some 16 of the current Government members in the lower House also hold the position of mayor or councillor.

Greens members do not see an inherent conflict between being a councillor and a member of Parliament. In many instances, having a detailed and intimate knowledge of our local council area, the workings of local government and our local community can greatly assist us in our role as members of Parliament. We have seen an influx of local councillors on the Government benches. Indeed, my colleagues Jan Barham and Jeremy Buckingham and I are local councillors as well as Greens members in this Chamber, and Jamie Parker is a councillor as well as a member of Parliament representing The Greens in the Legislative Assembly. Hopefully, this will lead to a greater respect for local government. Local government suffered from a great deal of disrespect shown by the previous Government. I hear a sigh from the Hon. Sophie Cotsis, the shadow Minister for Local Government.

The last administration showed little genuine regard for local councils. It took away their planning powers. It maintained rigid rate capping and strangled local council finances. It imposed the model code of conduct, which has operated in a poor fashion and cost local councils a vast amount of money. I would look to any new administration to show greater respect for local government. The Hon. Adam Searle and the Hon. Shaoquett Moselmane respect local government. I hope the influx of councillors to Parliament will lead to greater respect for local government. Local government deserves respect. It is the level closest to grassroots and it is the level that makes decisions that most often impact greatly on people's local environment. If the local council is not competent the local park is not cared for and local roads are not repaired. If the local council does not have a broad sense of the services that should be provided, the area does not have a council-run childcare centre. In my local municipality it is an indictment on my fellow councillors that we do not have a council-run childcare facility in Woollahra.

The Hon. Sophie Cotsis: You should propose it.

Mr DAVID SHOEBRIDGE: The Hon. Sophie Cotsis asks why we have not done it. It is a great indictment that my local council does not have a council-run childcare centre.

The Hon. Dr Peter Phelps: They have better garages in Woollahra than—

Mr DAVID SHOEBRIDGE: I also look forward to the support of the Hon. Dr Peter Phelps in the establishment of a council-run childcare centre in Woollahra. Council childcare centres provide a quality service. My children have benefited from attending the childcare centre run by Waverley Council. It is a wonderful facility run by a council that understands that to be an effective local authority it needs to do more than just roads, rates and rubbish. Waverley Council has proudly done more. This bill will allow many of the 16 Coalition councillors who are also members of Parliament in the lower House to stage a mass resignation. They will walk away from the task they were elected to do. They will walk away from the position of trust they were given by the community 2½ years ago. They will resign from local council rather than face the onerous task of being both a member of Parliament and a local councillor. It means reading council papers on the weekend. It means attending council meetings in the limited time off from being a member of Parliament. It means working hard for the local community.

If a person has been elected to the position of local councillor, it is a position of trust that should not be cast aside just because it is inconvenient and some family time has to be devoted to councillor duties. This provision in the bill will allow many of the newly elected Coalition members of Parliament to resign from their position on local government. It would be a great indictment on them if they did resign simply for the reason they have been elected as members of Parliament. Wherever possible, they should complete their service to their local community, which they were elected to do. I would be greatly disturbed if this aspect of the bill is passed and we see a mass resignation, a mass stepping back from their positions of elected accountability, which they were entrusted with some 2½ years ago.

The Hon. HELEN WESTWOOD [7.44 p.m.]: I am pleased to have the opportunity to speak in debate on the Local Government Amendment (Elections) Bill 2011. At the risk of being repetitive, I will go through various aspects of the bill and also talk to some of the issues that have been raised by previous speakers. This bill, which is largely cosmetic, does not address the major issues that are high on local government's reform agenda. Local government will be disappointed with it as well. Previous speakers have referred to the Local Government and Shires Associations of New South Wales' NSW Election Priorities 2011. Many of the provisions in this bill are not mentioned at all on the priority list and they were not raised at the recent Local Government and Shires Associations conference. Many members in the other House are involved in local government and attended the conference. They would be well aware of local government's reform agenda and its priorities.

A number of elements in this bill are absent from local government's reform agenda. One questions the motivation of the Government to introduce this bill. This is the first bill on local government from the Government. This is its first attempt to amend the Local Government Act. As I said, the bill is largely cosmetic. After 16 years in opposition, the Government should have been able to present a bill that addresses the issues that are important to local government. Clearly, it has not. When we look at the priorities of the Local Government and Shires Associations we have to go some way down the list before we find the ability of councils to administer their own general elections rather than the Electoral Commission. It is on the list, but it is way down that list.

The main issues the Local Government and Shires Associations raise are: abolish rate pegging, cease the practice of cost shifting, and provide \$6 million to improve local government's capacity to undertake financial planning and asset management to support community strategic plans. Those are the main issues. Local government has called also for a review of the planning laws. We have already seen what the Government had in store in that regard. It is not at all what local government called for. The Government talked about abolishing part 3A. All it did was create parts 4 and 5 and to move it around. It has not abolished the joint regional planning panels. It has not listened to local government. It has not addressed local government's reform agenda. It has ignored local government's wishes. One questions the motive of this Government. As other speakers have said, its motive is purely political.

The first object of the bill is to provide that councils, in general, are to administer council elections, council polls and constitutional referendums rather than the New South Wales Electoral Commissioner. I accept the criticisms that have been made about the costs associated with the Electoral Commission running local government elections. My experience is that they are excessive. That message was heard by the previous Government and the Joint Standing Committee on Electoral Matters.

Former Opposition members supported some of the recommendations in the committee's report that addressed this issue. There were alternatives to what has been proposed in this bill. My concern about what has been proposed is that it risks the integrity and independence of the election process. I suggest also that general managers did not seek this power. In his second reading speech the Minister said that the bill would provide council general managers with the power to conduct council elections. I suggest that many general managers would not want that because it would put many of them in a very difficult position. Government members clearly have very short memories if they do not recall the sorts of concerns that were raised in the past when general managers had that power. I doubt whether the organisation Local Government Managers Association would be supportive of this legislation.

I believe there are alternatives that protect the integrity and independence of the administration of local government elections that could go some way towards addressing councils' cost concerns. This legislation is the easy way out. The Government is trying to send a message to local government that it is about reform and that it is listening to them when in fact it is not. It will not take local government very long at all to wake up to the fact that this Government has not listened to it. This Government has not delivered on its plan to provide in those areas of reform that local government is loudest about and has been seeking for some time. The second object of the bill states:

... to enable a council in certain circumstances to make an application to the Minister for Local Government for approval to reduce the number of its councillors without the need for approval at a constitutional referendum.

I am concerned about how undemocratic that is. In my experience this is not an issue that constituents take to their local members. I have spoken with many of my colleagues who have been on councils, as I have been, and none of them have said that they have been lobbied by their ratepayers or residents to reduce the number of councillors. That is not something that has come from the community. Regrettably, the provision will be used

for political purposes. There is no doubt that some councils—the group that happens to have control currently—will decide it is in their short-term interests to reduce the number of councillors so that they obtain a political advantage. Again, this is not something that local government has called for; it is something the Government has chosen to do, clearly because it is trying to mislead local government into believing that it is about reforming local government when clearly it is not. I make the same arguments against the next object of the bill, which states:

... to enable a council in certain circumstances to make an application to the Minister for approval to abolish all wards in the Council's area without the need for approval at a constitutional referendum.

As other speakers have said, currently that provision is available to councils. But local government needs to go to the people and seek their view on this. I can see no justification at all for those aspects of the bill. The next object of the bill states:

... to provide that a by-election need not be held to fill a casual vacancy in the office of a councillor (but not a mayor elected by the electors) if a constitutional referendum has approved a reduction in the number of councillors for the council area but the reduction has not yet taken effect.

I do not have any problem with that; I can see that it would be quite sensible to do that. The next object of the bill states:

... to increase the period before the next ordinary election of the councillors during which a council may apply to the Minister to dispense with the requirement to hold a by-election for a casual vacancy in the office of a councillor (including a mayor elected by the electors of an area) from the current effective 12 months to 18 months.

I fail to see the reason for this change. Again, there has been no call for it and I would argue that it is because it suits the current Government. An article in the *Daily Telegraph* headed "Tackling double-dip MPs—Barry O'Farrell out to roll Clover Moore" is what this legislation is about. As Mr Shoebridge said, there are 16 councillors sitting on the Government benches—more than 31 per cent of Liberal members of Parliament are current serving councillors or mayors. Clearly, that is presenting political problems for the Government so this legislation is its easy way out: it is a way of getting rid of those political problems without considering its impact on councils. Three councillors on a council consisting of seven councillors may decide to enter Parliament. I do not think the implications of such a situation have been discussed. In fact, a couple of councils have two councillors who are also members of Parliament. There is no consideration of the impact of that on the good governance of those councils. For 18 months a council that consists of seven councillors could be down to four.

There does not seem to have been any consultation or consideration of that aspect of the bill. It is clear to me that this is not about the good governance of local councils and it is not about democracy; it is about suiting the Government's current political agenda. This Government should be ashamed. It is absurd to suggest that members of Parliament cannot also carry out their duties as councillors. It shows a lack of understanding of the importance of local government and the need for good governance on those councils. It also shows a lack of understanding of the role of a councillor and the importance of having councillors who have some continuity and some understanding of the council's strategic plan—councillors who have a commitment to the council, who share its vision and who love seeing it through to the end of its term. That is important for the good governance of councils and it is also important in the provision of good quality services to communities.

Councils need a team of people who share a vision and who work towards it. This Government clearly does not believe that is a priority. It is willing to risk that good governance and the quality of the services that are delivered to local communities in accordance with councils' strategic plans for its short-term political gain. Once these people leave, the Government will be able to bag people like Clover Moore. It will be able to criticise Greens members of Parliament who are also local councillors. There are some areas of real concern in this bill which I will not support.

It is important to note the significant issues for local government, some of which are in its 2011 list of priorities. The sorts of issues that came up at the last local government elections were things such as section 94 matters. They were the major issues for local government. Councils were concerned about a reduction in funding, through section 94, for them to invest in local infrastructure. They are concerned about alternative sources of revenue, which is a significant issue for local government. Again none of those issues have been addressed. One of the big issues for local government is constitutional recognition. All those key priority areas have been ignored by this Government in this ill-considered and poorly drafted, piecemeal bill. I hope that other members in this place do not support this bill.

The Hon. JAN BARHAM [8.00 p.m.]: I speak in debate on the Local Government Amendment (Elections) Bill 2011 and in so doing acknowledge that I have been a councillor on Byron Shire Council for more than a decade and have been popularly elected as mayor on two occasions.

The Hon. Matthew Mason-Cox: Congratulations. Well done.

The Hon. JAN BARHAM: I am very proud of that. I am also proud to be here because this Parliament needs more members from local government to ensure that it gets something right and that it is aware of its impact on real communities.

The Hon. Sophie Cotsis: And we need more women.

The Hon. JAN BARHAM: Yes, there should be more women.

The Hon. Matthew Mason-Cox: Everyone is a councillor here.

The Hon. JAN BARHAM: Yes, that is correct. I have concerns about this legislation. I can speak from experience because in 1993 the reverse amendment was made to the Local Government Act. A once-only opportunity was provided for councils to be split into wards. I stand to be corrected, but I think that Ted Pickering was Minister for Local Government at the time. Members opposite might remember.

The Hon. Lynda Voltz: They are all too young to remember.

The Hon. Trevor Khan: I was in year 11.

The Hon. JAN BARHAM: That amendment bill contained a once-only provision allowing councils to revert from being open electorates to the more modern arrangement of having wards. The Byron community was outraged that the council supported that move. People were angry because the legislation represented a change in the process they knew and with which they were comfortable. That was despite a lengthy and comprehensive community education campaign. There are still two cars in Byron shire bearing "No ward" stickers.

The Hon. Trevor Khan: I bet they are old kombi vans.

The Hon. JAN BARHAM: No. People realised that this would change the way they voted and the style of their representation. It makes a big difference going from an open electorate to a ward-based electorate and vice versa. Removing that right from the people without their understanding what it means is disrespectful. It is not fair to make a change like that and impact on people's democratic rights without their knowing it is happening or understanding it. The Hon. Helen Westwood and Mr Shoebridge made the point that in campaigns like that it is very rare that people will fully understand and get involved. It is not until something changes that they realise what is happening. That is why we need a comprehensive consultation and education program. Voting for candidates in a local ward is different from voting for candidates from across the entire local government area. Serious concerns have been raised about wards. The two-member ward proposal has attracted strong resistance from local communities. Many people have also raised objections about non-resident property owners being able to vote at local government elections. They find it abhorrent.

I do not deny that restoring the right of councils to conduct their own elections is recognition of a concern raised by local government authorities. However, those issues could have been dealt with differently. Councils also raised concerns about the potential doubling—and, in some cases, tripling—of costs. That situation arose because of a lack of consultation. There were too many booths, not enough people manning them, and not enough staff in the right areas at the right time. If local government had been properly consulted it could have provided advice that would have saved a lot of money. The Electoral Commission also provided a great deal of unnecessary paperwork. The whole process must be examined. If the Government wanted to reduce the costs it could have found an alternative to imposing a blanket legislative framework.

Members also raised the casual vacancy situation. Problems could arise if two or three councillors are missing from a local government area. In response to the media coverage of this issue I have had an extraordinary number of people in my community tell me that they think it is fine that I am both a local councillor and a member of the Legislative Council. They appreciate that, given our modern technology, I can

effectively keep in contact with constituents and deal with phone calls, emails and so on. Many councillors have faith in and trust their fellow councillors, and if in their absence a decision is made with which they do not agree they can move a rescission motion.

The Hon. Matthew Mason-Cox: So you are not relevant.

The Hon. JAN BARHAM: No, I am not talking about being irrelevant or unnecessary. However, other mechanisms are available to local government. I must agree with the previous speakers that the passage of this bill has been rushed, it has not been subject to proper consultation, and the Government has not taken on board the important matters raised by the Local Government and Shires Associations. The fact that cost was a major issue does not override the importance of ensuring that councils achieve a good outcome after an election and that the process was transparent and accountable. This legislation is an overreaction: it goes too far in one direction after having gone too far in the other direction. There are alternative ways to deal with the cost of elections. I hoped that the previous Government would make a funding concession available for local government, but it did not. This Government could have resolved the cost issue by implementing other measures rather than introducing this legislation. I look forward to seeing the proposed amendments before deciding whether they can be supported.

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [8.08 p.m.], in reply: I thank honourable members for participating in this debate on the Local Government Amendment (Elections) Bill 2011. They have raised many issues, the first of which is whether the Government made a commitment to introduce these amendments during the election campaign. I refer members to the agreement in principle speech in the other place in which the Minister quoted at some length from the Local Government and Shires Associations' list of priorities and the then Coalition Opposition's commitment to introduce this very legislation. The Minister also quoted the Local Government and Shires Associations in relation to what the then Labor Government had to say when asked to comment. The President of the associations, Keith Rhoades, stated:

We're disappointed that we haven't yet received a response from the Premier. It only highlights the Labor Government's neglect of Local Government in recent years.

A number of members mentioned the guidelines. I am advised that in accordance with administrative processes the guidelines were not prepared in advance of the introduction of the legislation because if it were not passed it would have been a waste of time and effort. The guidelines are being prepared now in consultation with the Electoral Commission and will be available well in advance of the date that councils have to make decisions on these matters. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

The Hon. SOPHIE COTSIS [8.12 p.m.]: I move Opposition amendment No. 1 on sheet C2011-051:

No. 1 Pages 3 and 4, schedule 1 [1]–[6], line 3 on page 3 to line 20 on page 4. Omit all words on those lines.

This amendment will completely remove the provision to abolish all wards in a council area without a referendum. I spoke about this in detail in my speech on the second reading and do not wish to spend too much time on the matter now. The New South Wales Labor Opposition is committed to ensuring that communities have a say in the way their local councils are constituted.

The Hon. Trevor Khan: This is from the Labor Party?

The Hon. SOPHIE COTSIS: Yes. We believe local government does an excellent job; my colleagues and I are big supporters of local government, local councils and local councillors. They make an enormous contribution to communities.

The Hon. John Ajaka: That is why we are giving them a say.

The Hon. SOPHIE COTSIS: But abolishing wards without going to the people is not the right way to go about it. We should go to the people. The people should make the decision and vote in a constitutional referendum.

The Hon. John Ajaka: You do not have confidence in the people.

The Hon. SOPHIE COTSIS: That is absolutely wrong.

The Hon. Charlie Lynn: Your Federal colleagues just voted against a plebiscite.

The Hon. SOPHIE COTSIS: It means that a majority of councillors who may not represent the majority opinion of the local government area will decide to drastically reconfigure a council area to suit their own needs. As I indicated in my speech on the second reading, each council is unique and each council has its own character. It is important that the people vote through a constitutional referendum.

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [8.14 p.m.]: I will not say that this amendment, which proposes to remove a major slab of the legislation, and the other Opposition amendments that propose to take out basically 99 per cent of the bill are an abuse of the Committee system, but the Opposition is stating that it is opposed to the legislation. Frankly, it should just vote against the bill rather than moving amendments that remove almost all of it. I was almost moved to seek advice as to whether the amendments are contrary to the standing orders and are out of order. We will not be supporting the amendment. I note that The Greens amendment No. 1 relates partly to what the Opposition is seeking to remove through this amendment. Accordingly, I assume that The Greens amendment No. 1 will fall.

Mr DAVID SHOEBRIDGE [8.16 p.m.]: I see the Minister is already predicting the outcome of the consideration of Opposition amendment No. 1, but I agree with him to the extent that this amendment mirrors amendment No. 1 that was circulated by The Greens. The Greens support the amendment moved by the Opposition. I noted that the Hon. Charlie Lynn made a contribution from the bleachers to the effect that the Opposition does not support plebiscites.

The Hon. Charlie Lynn: No; we do.

Mr DAVID SHOEBRIDGE: The Hon. Charlie Lynn seems to have misunderstood the argument. He has misunderstood a number of things. First, for clarity, this side is the Opposition, down there are the crossbenchers, and the Hon. Charlie Lynn is on the Government benches. That is the first point—so we know the parameters of the debate.

The Hon. Charlie Lynn: Do you support the plebiscite?

Mr DAVID SHOEBRIDGE: Most definitely.

The Hon. Charlie Lynn: Do you support the plebiscite? Your Federal colleagues just knocked it back.

Mr DAVID SHOEBRIDGE: Again, I acknowledge the rather irrational interjection of the Hon. Charlie Lynn. To make it clear, I am not saying that the Hon. Charlie Lynn is irrational; merely that his interjection is irrational.

The Hon. Charlie Lynn: You speak with forked tongue.

Mr DAVID SHOEBRIDGE: I will let his interjections fill *Hansard*. On the one hand, his Federal colleagues are crying tears about the need for a plebiscite, weeping crocodile tears about how they want a plebiscite on carbon tax. They do not want an actual plebiscite that involves putting the ridiculous direct action policy of Tony Abbott—which no man or his dog would support—against a rational carbon tax. They do not want a plebiscite about that, but they want this big plebiscite federally. Yet Coalition members are dead against a plebiscite at local council level. The Hon. Charlie Lynn talks of a forked tongue from a position of knowledge because, federally, Coalition members are weeping tears about the need for a plebiscite but when they have the capacity to hold one—they are in government in New South Wales and they can decide whether to have a plebiscite—they are suddenly against it.

When Coalition members are in opposition and not getting their way they suddenly want a plebiscite. But when they are in government—the Hon. Charlie Lynn sits there on the lofty heights of the Government backbench; I hope he has worked out where he is—they do not want a plebiscite. They have one position when they are in opposition and do not have control but as soon as they are in government the idea of having lovely openness—a plebiscite—fades away. That is what they are doing here. They are not supporting a plebiscite on important matters, such as the ward structure and ongoing democratic representation in local government. Once again, it is crocodile tears in opposition but as soon as they get into power there are no more plebiscites, no more public scrutiny, and they know what is best from those lofty heights of the Government benches.

The Hon. Dr Peter Phelps: Point of order: Some weeks ago I was asked to withdraw "crocodile tears" because it is disorderly. I ask that the reference to insincerity expressed in that form also be withdrawn.

The CHAIR (The Hon. Jennifer Gardiner): Order! That is not a point of order. The remarks were made in a general sense; they were not directed at a particular member. Members will cease interjecting and allow the member with the call to be heard. I am having difficulty following the debate.

Question—That Opposition amendment No. 1 [C2011-051] be agreed to—put.

The Committee divided.

Ayes, 16

Ms Barham	Dr Kaye	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Westwood
Ms Cotsis	Mr Roozendaal	
Mr Donnelly	Mr Searle	<i>Tellers,</i>
Ms Faehrmann	Ms Sharpe	Mr Secord
Mr Foley	Mr Shoebridge	Ms Voltz

Noes, 19

Mr Ajaka	Mr Gay	Mrs Mitchell
Mr Blair	Mr Green	Mrs Pavey
Mr Borsak	Mr Khan	Mr Pearce
Mr Brown	Mr Lynn	
Mr Clarke	Mr MacDonald	<i>Tellers,</i>
Ms Ficarra	Mrs Maclaren-Jones	Mr Colless
Mr Gallacher	Mr Mason-Cox	Dr Phelps

Pairs

Ms Fazio	Ms Cusack
Mr Moselmane	Mr Harwin

Question resolved in the negative.

Opposition amendment No. 1 [C2011-051] negatived.

Mr DAVID SHOEBRIDGE [8.30 p.m.], by leave: I move Greens amendments Nos 2 and 3 on sheet 2011-049 in globo:

No. 2 Pages 4 and 5, schedule 1 [7] and [8], line 21 on page 4 to line 7 on page 5. Omit all words on those lines.

No. 3 Page 10, schedule 1 [17], lines 19–21. Omit all words on those lines.

As Greens amendment No. 1 is in the same terms as Opposition amendment No. 1, we will not now move Greens amendment No. 1. I spoke to the substance of these amendments in my contribution to the second reading debate. The amendments remove from the bill the provisions that increase the period at the end of a councillor's term from 12 to 18 months where the councillor's resignation does not trigger a by-election. That applies to both a popularly elected mayor and a councillor. Clearly, members of this House and in the other place are in a position to be able to function effectively as members of Parliament and also as local councillors

or mayors. There is a long history of that occurring. Members have been able to contribute at both a local level and a State level, bringing the knowledge and skills they acquire at a local level to their job as a member of Parliament.

This appears to be a get-out-of-jail-free card for the many Coalition members of Parliament in the lower House so that they can resign as local councillors, with 18 months of their term still to go, basically betray the people who elected them and not fulfil the duties that they were elected to perform as local councillors, and do so without triggering a by-election. A cogent argument has not been advanced as to why those people, having put forward their names for election and having been given the trust of their local community in being elected as local councillors, should be allowed to exit from that role so easily, to betray the trust they have been given and to not exercise the important civic duty to which they have been elected, as a councillor or a mayor, simply because they have been elected as a member of Parliament. Many people hold extremely demanding day jobs—for example, in professions, in businesses—

The Hon. Eric Roozendaal: And the rest of them are lawyers.

Mr DAVID SHOEBRIDGE: —and in demanding manual jobs, but many are also able to hold down the position of local councillor. Undoubtedly, people can hold down the demanding job of member of Parliament as well as the difficult position of local councillor. I can hear the rather random mutterings of the Hon. Eric Roozendaal on the backbench. He is one of those—

The Hon. Eric Roozendaal: Point of order: They are not random mutterings; they are very specific interjections.

The Hon. Greg Pearce: To the point of order. I believe Mr David Shoebridge was speaking about the capacity of people to hold jobs. The Hon. Eric Roozendaal is looking desperately for a job. So it is no surprise that he takes a point of order.

The CHAIR (The Hon. Jennifer Gardiner): Order! There is no point of order. I remind members that interjections are disorderly at all times, random or otherwise.

Mr DAVID SHOEBRIDGE: I am grateful to hear a resident of Woollahra making a contribution from the backbench.

The Hon. Eric Roozendaal: I'm in Waverley, you idiot!

Mr DAVID SHOEBRIDGE: He lives in Waverley, does he? That explains the problems they are having in Waverley. That kind of resident would not find a happy home in the green fields of Woollahra. Clearly there has been a long history of people being members of Parliament and councillors at the same time. Clearly a person can function effectively as both a member of Parliament and a councillor—just as a person can function effectively as a busy lawyer, a busy architect or a hardworking manual labourer and also perform his or her tasks as a councillor. This is a get-out-of-jail-free card for some 16 Coalition members of Parliament who want to be able to betray the trust put in them as local councillors.

The Hon. Dr Peter Phelps: Did Lee Rhiannon step down?

Mr DAVID SHOEBRIDGE: I note yet another irrational interjection from the Government Whip. Lee Rhiannon was never elected as a councillor. Indeed, if the Hon. Dr Peter Phelps had been able to engage both his brain and his mouth at the same time as engaging his ears, he would have realised that I was speaking in support of people being councillors as well as holding down a busy day job. I recommend that the Hon. Dr Peter Phelps listen to the debate instead of concentrating on the partisan vitriol that he throws into his irrational interjections from time to time.

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [8.36 p.m.]: I point out that here we have a prime example of the Labor-Greens coalition ganging up to abuse the processes of this House. Let me explain that. The first Opposition amendment sought to remove from schedule 1 items [1], [2], [3], [4], [5] and [6]. Now we have the first of the Greens amendments, which removes from schedule 1 items [7] and [8]. Opposition amendment No. 2 removes from schedule 1 item [9], which goes for three pages, followed by items [10], [11], [12]—

Mr David Shoebridge: Point of order: The Minister is misleading the House. Greens amendment No. 2 dealt with items [7] and [8]. Indeed, The Greens amendments are relatively modest in nature given the extent of the bill.

The CHAIR (The Hon. Jennifer Gardiner): Order! I think the Minister corrected himself. There is no point of order.

The Hon. GREG PEARCE: I did correct myself. I was going through the Opposition's amendments, which seek to remove every subsequent item of schedule 1—items [9], [10], [11], [12], [13], [14] and [15]. Then we come back to the amendments of The Greens tag team, which remove item [17]. I will come back to item [16]. Then we have the Opposition amendment to remove the balance of the bill. Between them, the Opposition and The Greens are playing tag, trying to remove the entire bill.

The Hon. Sophie Cotsis: What's left?

The Hon. GREG PEARCE: What is left is the name of the Act, the commencement, and that portion of item [17] of schedule 1 that reads:

Schedule 8

Insert at the end of the Schedule, with appropriate numbering:

Part Provisions consequent on enactment of Local Government Amendment (Elections) Act 2011

Definition

In this Part, *amending Act* means the *Local Government Amendment (Elections) Act 2011*.

The people of this State recognise—

The Hon. Sophie Cotsis: Point of order: We have yet to state our position on The Greens amendments and on the bill. I think the Minister is getting ahead of himself.

The CHAIR (The Hon. Jennifer Gardiner): Order! The comments of the Minister are in order.

The Hon. GREG PEARCE: Taken together, this is a grubby little exercise on the part of The Greens and the Opposition to hold up this House again, to do what they did with their six-hour speeches—and the people rejected it. The Opposition and The Greens think they have been very clever. Because they have tag-teamed it they have not breached Standing Order 109, which provides that an amendment must be relevant to the question it is proposed to amend and must not be a direct negative of the question. What we have here is a grubby little exercise from this Labor-Greens coalition. They do not formalise their coalition, but here is proof of their working together, tag-teaming all the way through this. The people of New South Wales will recognise the Labor-Greens coalition. The Government opposes The Greens amendments.

The Hon. SOPHIE COTSIS [8.40 p.m.]: The Opposition opposes The Greens amendments and accepts the Government's argument as to 18 months for an election instead of 12 months.

Mr DAVID SHOEBRIDGE [8.40 p.m.]: Nostradamus over there got it all wrong. He looked in his clouded crystal ball and got it all wrong.

The Hon. Catherine Cusack: He was very convincing.

Mr DAVID SHOEBRIDGE: I note the interjection from the Hon. Catherine Cusack. Now this is a super cunning double bluff from The Greens. We will do a triple somersault next and be super cunning here—we might even change our position. The Minister is obviously troubled by the fact that The Greens can take an independent position. The Opposition is absolutely misguided and wrong on this. It is most unfortunate that the Opposition is supporting the intent of the Government to allow for greater resignation by local councillors but it disproves the grand theory of Nostradamus about coalitions.

Question—That Greens amendments Nos 2 and 3 [C2011-049] be agreed to—put and resolved in the negative.

Greens amendments Nos 2 and 3 [C2011-049] negatived.

The Hon. SOPHIE COTSIS [8.41 p.m.], by leave: I move Opposition amendments Nos 2 and 3 on sheet C2011-051 in globo:

No. 2 Pages 5–10, schedule 1 [9]–[15], line 8 on page 5 to line 6 on page 10. Omit all words on those lines.

No. 3 Pages 10 and 11, schedule 1 [17], line 22 on page 10 to line 12 on page 11. Omit all words on those lines.

This will remove the provision for general managers to run local government elections. The Opposition does not consider it to be in the best interests of local democracy for general managers to run local government elections—I made my arguments as to that in the second reading debate. The Minister claimed that the Opposition did not respond to the Local Government and Shires Associations of New South Wales. I refute that claim. In March this year the Opposition did—

The Hon. Greg Pearce: After the election?

The Hon. SOPHIE COTSIS: No, before the election. As I stated earlier, the Local Government and Shires Associations of New South Wales raised the question with the Opposition of the option for councils to run their elections locally with an independent returning officer to save money and restore local confidence. The Opposition replied, and I quote:

New South Wales Labor believes the community has a right to expect that council elections are run to the same high standards as those for State and Federal elections.

Earlier I referred to the report of the Joint Standing Committee on Electoral Matters on its inquiry into the 2008 local government elections. In that report I read of the concerns held by a number of councils as to costs, which was new to everyone. If the Government had read that report and implemented some of its recommendations it would have been saved a lot of trouble. Recommendation No. 4 states:

The Committee recommends that the NSW Electoral Commissioner ensure that detailed information about the budgeted and actual costs for the 2012 local government elections be provided to all council General Managers. Such detailed information should provide explanations as to what each line item covers, and how it has been calculated and allocated.

The Hon. John Ajaka: But it still does not give them a choice.

The Hon. SOPHIE COTSIS: One should sit down and consult.

The Hon. John Ajaka: It still gives them no choice. This gives them a choice.

The Hon. SOPHIE COTSIS: In the hearing some of the councils, including Baulkham Hills shire council, expressed gratitude for:

... the capture of, and accounting for, all costs of the elections. Baulkham Hills Shire Council submitted that in previous elections they had provided "in-kind" assistance, such as accommodation and administrative assistance, at a substantial cost to council.

A number of councils indicated that they had provided in-kind assistance in the 2004 elections. The report states further:

The costs had not been accurately accounted for as they generally took the form of a reallocation of existing council resources. The General Manager of Baulkham Hills Shire Council, Mr David Walker, also argued that while there were extra costs to council, these were worthwhile for the independence and transparency associated with NSWEC centralised administration.

The Hon. John Ajaka: But you are missing the point: they had a choice.

The Hon. SOPHIE COTSIS: You are missing the point.

The Hon. John Ajaka: Is the problem that you do not trust councils?

The Hon. SOPHIE COTSIS: Absolutely not, but you need to have an independent—

The Hon. John Ajaka: You need to have a choice.

The Hon. SOPHIE COTSIS: For 24 years the Electoral Commissioner has conducted local council elections. Now we are going to revert back 25 years. The Opposition is urging Government members to sit down with the councils. I listened to the comments of the Hon. Rick Colless about rural councils. I concede that a number of issues were raised about rural councils, but Government members should go through the recommendations contained in the report. The Electoral Commission is prepared to sit down with the rural

councils in particular. With all the resources of government those opposite should be able find a way forward to support, by financial and other means, rural councils to ensure transparency and for the community to have continued faith in the conduct of local council elections—as they do in State and Federal elections. The same standard should apply to all three tiers of government. When voting on these amendments I urge all members to consider the precedent it will set.

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [8.47 p.m.]: The Government does not support Opposition amendments Nos 2 and 3 to the bill. They will reverse the commitment given by the Government prior to the election.

Mr DAVID SHOEBRIDGE [8.47 p.m.]: The Greens do not support Opposition amendments Nos 2 and 3 for the reasons given in the second reading debate. However, we acknowledge some of the concerns raised by the Opposition. A substantial role continues to exist for the New South Wales Electoral Commission. The general manager will not become the returning officer but he or she will appoint a returning officer who will have an independent role not subject to the oversight of the general manager. The Greens will take a close interest in looking at the guidelines to be issued by the director general. The Greens respect the almost unanimous voice from local councils and the local government sector in support of this bill. It is really out of respect for the local government sector and the unanimity of voices we have received from that sector that The Greens on balance do not support the Opposition's amendments.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.49 p.m.]: The Opposition considers that even if general managers will be appointing independent returning officers, it will place them in the invidious position of effectively having to choose who will run elections for the employers of those general managers. It also runs the significant risk of exposing local ratepayers to the cost of defending disputed electoral outcomes. The Hon. Scot MacDonald articulated the concerns of rural councils. Those concerns go to the cost recovery model used at the last election, not to whether there should be independent oversight of the process by the specialist independent body charged by New South Wales law to conduct elections in this State.

Again we ask, perhaps rhetorically: If Federal and State elections are to be run by an independent electoral authority, why should local government be the poor relation? We say that there is no cogent or principled reason that has been articulated so far. The concerns we have heard about the cost of the Electoral Commission running local government elections really go to the cost recovery formula and we say that is really a matter that could and ought to be dealt with separately. The independent oversight of the Electoral Commission could be retained while still addressing the issue of the cost recovery model in parallel in a way that maintains the highest standards of integrity and transparency for local government elections without re-running some of the unfortunate effects of what occurred in 2008. We think there is a way of moving forward that meets everyone's concerns. This is a very blunt instrument; it is really using a hammer to crack a walnut.

Question—That Opposition amendments Nos 2 and 3 [C2011-051] be agreed to—put.

The House divided.

Ayes, 11

Ms Cotsis	Mr Roozendaal	Ms Westwood
Mr Donnelly	Mr Searle	<i>Tellers,</i>
Mr Foley	Ms Sharpe	Mr Secord
Mr Primrose	Mr Veitch	Ms Voltz

Noes, 24

Ms Barham	Ms Ficarra	Mrs Mitchell
Mr Blair	Mr Gallacher	Mrs Pavey
Mr Borsak	Mr Gay	Mr Pearce
Mr Brown	Mr Green	Mr Shoebridge
Mr Buckingham	Mr Khan	
Mr Clarke	Mr Lynn	
Mr Colless	Mr MacDonald	<i>Tellers,</i>
Ms Cusack	Mrs Maclaren-Jones	Dr Kaye
Ms Faehrmann	Mr Mason-Cox	Dr Phelps

Pairs

Ms Fazio	Mr Ajaka
Mr Moselmane	Mr Harwin

Question resolved in the negative.

Opposition amendments Nos 2 and 3 [C2011-051] negatived.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Greg Pearce agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra)
[9.00 p.m.]: I move:

That this bill be now read a third time.

Question put.

The House divided.

Ayes, 19

Mr Ajaka	Mr Gay	Mrs Mitchell
Mr Borsak	Mr Green	Mrs Pavey
Mr Brown	Mr Khan	Mr Pearce
Mr Clarke	Mr Lynn	
Ms Cusack	Mr MacDonald	<i>Tellers,</i>
Ms Ficarra	Mrs Maclaren-Jones	Mr Colless
Miss Gardiner	Mr Mason-Cox	Dr Phelps

Noes, 16

Ms Barham	Dr Kaye	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Westwood
Ms Cotsis	Mr Roozendaal	
Mr Donnelly	Mr Searle	<i>Tellers,</i>
Ms Faehrmann	Ms Sharpe	Mr Secord
Mr Foley	Mr Shoebridge	Ms Voltz

Pairs

Mr Blair	Ms Fazio
Mr Gallacher	Mr Moselmane

Question resolved in the affirmative.

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

CRIMES AMENDMENT (MURDER OF POLICE OFFICERS) BILL 2011

Message received from the Legislative Assembly returning the bill without amendment.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (PART 3A REPEAL) BILL 2011**Second Reading**

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra)
[9.08 p.m.]: I move:

That this bill be now read a second time.

Today I implement one of the major election commitments of the Liberal-Nationals Government, that is, to repeal part 3A of the Environmental Planning and Assessment Act 1979. In repealing part 3A the Liberal-Nationals Government is honouring two of its commitments on the New South Wales planning system: returning a broad range of decision-making powers to local communities; and providing a planning framework for genuinely State significant development that provides certainty for investment and the efficiency needed to get this State moving again. The Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011 is a first step in the comprehensive review of the New South Wales planning system. In that sense, the bill I bring forward today is an interim but necessary measure to rebuild confidence in a new planning system for New South Wales—a planning system based on the public interest, not private interests; a planning system that is transparent, where planning rules are certain and decisions are taken on merit and in a timely way.

The Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011 provides the framework to correct the imbalance in the New South Wales planning system, delivering the balance between the decisions that should be made by local communities and the decisions that are genuinely of State significance. Unlike part 3A, the bill provides that local environmental plans and council development standards will be an important consideration in the comprehensive environmental assessment of State significant development proposals. At the same time the bill will honour the Liberal-Nationals Government's commitment to place the provision of major infrastructure at the centre of our program. The bill provides for a dedicated, comprehensive and independent environmental assessment regime for infrastructure that is genuinely of State significance.

I wish to address some issues which were not covered in the Minister's speech in the other place. I now foreshadow an amendment to correct an omission in the bill with respect to section 89J (1) (g) and section 115ZG (1) (g), which will be moved by the Government. It has always been the Government's intention that State significant development and State significant infrastructure approvals require an approval under the new aquifer interference legislation being introduced by the Government, where relevant. This is consistent with the strategic regional land use policy announced in opposition and now being delivered by the Government.

The bill, as drafted, provides for an exemption from this legislation. Following representation from the New South Wales Farmers Association, an amendment will be moved by the Government which will remove this exemption and provide that a separate approval for aquifer interference activities will be required where relevant. The Government has also received representation from the New South Wales Minerals Council regarding two issues. Accordingly, the Government will move an amendment to section 83, which will allow development consent to remain in force during objector merit appeal proceedings. This applies specifically to the designated development class proposed under part 4 of the legislation.

The second issue will result in the Government moving an amendment to section 89F to remove the requirement to re-exhibit a preferred project report when environmental impacts are being minimised. Preferred project reports are submitted in response to agency and stakeholder comments on the environmental impact statement. Under the proposed section 89F, if the director general determines that a preferred project report substantially differs from the original application, it must be placed on public exhibition for a minimum of 30 days and submissions can again be made. While the report should always be made publicly available, re-exhibition and submissions should not be required where the preferred project report minimises environmental impacts and therefore improves the environmental outcomes of the original application. The Government thanks Sue-Ern Tan for communicating these issues to us on behalf of the Minerals Council.

The bill will repeal part 3A in its entirety and replace it with an open, transparent and fair assessment process to deal exclusively with genuinely State significant development and infrastructure. As the balance of my speech has already been presented in the other place, I seek leave to incorporate the remainder of my speech in *Hansard*, at the conclusion of which I will table four documents referred to in that speech.

Leave granted.

This assessment process for State significant proposals will be an interim measure until the comprehensive review and rewriting of the planning laws has been completed.

Before I turn to the bill I must point out that the bill is merely the principal measure in a package of measures to give effect to the repeal of Part 3A.

The parts of the package include:

- major amendments to State Environmental Planning Policy (Major Development) 2005 to remove all references to Part 3A of the planning legislation;
- a new State Environmental Planning Policy for State Significant Development;
- necessary changes to the Environmental Planning & Assessment Regulation 2000;
- delegation of the Minister for Planning & Infrastructure's determination role to the Planning Assessment Commission and new more transparent procedures for the Planning Assessment Commission; and
- consequential changes to State Environmental Planning Policy (Infrastructure) 2007.

The explanatory note to the bill sets out the effect of the provisions of the bill in some detail and will assist members in understanding its provisions.

The bill itself comprises two schedules. Schedule 1 contains amendments to the Environmental Planning & Assessment Act 1979, while schedule 2 contains consequential and other amendments to other Acts.

Schedule 1.1 repeals Part 3A of the Act in its entirety.

Schedule 1.2 amends existing Act provisions and inserts a new Division 4.1 under Part 4 of the Act to establish the new assessment pathway for State significant development.

These amendments set out a clear, accountable, and transparent assessment process for determining projects that have been classed as State significant development.

New Division 4.1 to be inserted by the bill, provides that State significant development applications will be assessed under Part 4 of the Act with the Minister for Planning and Infrastructure as the consent authority.

The bill allows for classes or descriptions of development to be declared State significant development by a State environmental planning policy.

The bill also provides that the Minister may declare by order other specified development on specified land as State significant development. This will only occur after the Minister has obtained, and made publicly available, advice from the Planning Assessment Commission about the State or regional significance of the development.

I table here a policy statement which outlines the proposed classes of State significant development.

It is proposed these classes be listed in a State Environmental Planning Policy to be entitled the State Environmental Planning Policy (State and Regional Development) 2011 to provide both transparency and certainty for the development industry councils and the public.

As has traditionally been the case with part 4 applications, these developments are predominantly by private developers and will include types of major employment generating industrial development that were previously determined by the Minister for Planning under part 4 prior to the introduction of part 3A.

This includes coal mining and other large scale mining resource and primary industry projects such as petroleum and extractive industries. It includes projects such as: timber milling, intensive livestock industries, aquaculture, agricultural and food processing, as well as metal and chemical processing and major industrial manufacturing, storage and distribution facilities.

Development involving category 1 remediation of contaminated land will also be dealt with as State significant development.

State significant development will also pick up major social infrastructure projects valued over \$30 million. Including such projects as large scale hospitals and medical facilities, correctional centres, schools, TAFEs and universities, major sporting facilities, and cultural facilities such as performing arts centres, museums and exhibition and convention centres.

State significant development will also include certain infrastructure projects over \$30 Million—mainly undertaken by private proponents such as electricity generation, port and wharf facilities, water supply works, sewage and wastewater treatment plants, private road and bridge projects, industrial heavy rail lines, rail freight and intermodal terminals and related rail corridor developments.

Certain infrastructure such as electricity generation, sewage treatment, water supply works and resource recovery and waste facilities such as landfills will also be listed as State significant development depending on their scale and whether they are located in environmentally sensitive areas.

For some classes of development we have removed employment-generating numbers and significantly increased financial thresholds. For example from \$15 million to \$30 million for health facilities and from \$20 million to \$50 million for large warehouse and distribution centres to cut back on the number of medium-scale or less-significant proposals that would otherwise have been dealt with by the State.

We have also continued to honour our commitment to exclude residential, commercial, retail and coastal subdivision projects from being specific classes as State significant development. And we have expanded the exclusions to cover marinas as well.

These types of part 3A proposals have caused significant community concern over the last six (6) years and will no longer be considered State significant development, regardless of their scale.

The removal of these classes of development and increasing the capital investment value thresholds for remaining classes will result in around a 50 per cent reduction in the number of matters that will be considered State significant when compared with projects previously assessed under part 3A.

The new SEPP will also include a schedule for listing specified sites and will initially carry across several sites from the Major Development State Environmental Planning Policy.

These specified sites are of major significance in terms of delivering the Government planning agenda and will continue to be dealt with by the Minister but under the new State significant development provisions in part 4 of the Act.

These sites include the Sydney Opera House, Luna Park, Barangaroo, Sydney Olympic Park, the Bays Precinct, Honeysuckle, Warnervale, The Rocks, Darling Harbour, Taronga Zoo, Fox Studios, Moore Park and Sydney Sports Stadiums, Redfern Waterloo sites and Penrith Lakes.

While as Minister for Planning and Infrastructure I will be the consent authority for State significant development, I will delegate these functions to the Planning Assessment Commission for example for proposals by private developers.

As State significant development will largely be undertaken by private developers, it is anticipated that the majority of these projects (over 80 percent of State significant development) will not be determined by the Minister.

For public authority projects such as schools, hospitals and other public infrastructure, it would be appropriate for the Minister to retain the consent authority function. However I will delegate my approval role to senior officers of the Department of Planning and Infrastructure where appropriate, especially for minor or non-controversial matters which the relevant local council does not oppose the proposal.

In addition to making the Minister for Planning and Infrastructure the consent authority, the bill also allows the Minister to return the assessment of subsequent stages of a development to the relevant council.

The Minister for Planning will not be able to grant consent to development that is wholly prohibited by an environmental planning instrument, but consent for partly prohibited development may be granted.

In instances where a proposed development is wholly or partly prohibited, a development application may be considered in conjunction with a proposed environmental planning instrument to remove the prohibition—for example a rezoning by a local environmental plan.

In such instances, the Director General of the Department of Planning and Infrastructure will become the relevant planning authority under part 3 of the Act and where the proposed LEP relates to a State significant development that is wholly prohibited, only the Planning Assessment Commission can make the proposed LEP and determine the related development application.

I table here a policy statement which provides additional information about the ministerial call-in process, including how the concurrent rezoning process will work for proposals dealing with prohibited development.

All State significant development applications will be subject to a mandatory minimum 30-day public exhibition period which will be extended in the regulations to a minimum of 45 days during school holiday periods.

The bill also provides that if a State significant development application amended following public exhibition, substituted or replaced by a later application, and the Director General determines that it substantially differs from the original application, then the application must be placed on further public exhibition.

One of the main features of the State significant development system will be heightened transparency and disclosure of decision-making. This will include requiring the Department of Planning and Infrastructure to publish on its website:

- State significant development applications
- environmental assessment requirements
- environmental impacts statements
- public submissions
- and other related documents and reports relevant to the proposal as soon as they become available.

The bill also provides that an environmental impact statement will be required to be submitted with a State significant development application even if it is not designated development.

Environmental impact statements provide a clear and comprehensive framework for assessing the impacts of proposed development and have been a widely accepted tool used in New South Wales other jurisdictions and internationally to assist in improving environmental outcomes stemming from development.

A key feature of environmental impact statements is the need for proponents to assess potential impacts, identify and evaluate options and alternative solutions and outline ways in which the proposal can be modified to avoid, minimise and mitigate those impacts.

The submission requirements for a State significant development application and the accompanying environmental impact statement will be outlined in the regulations so that the standard of assessment and reporting is made clear up front to proponents and other stakeholders.

The preparation of each environmental impact statement will be informed by whole-of-government input into the assessment requirements. This will ensure that a coordinated, strategic and holistic approach is taken to addressing the myriad of issues that might arise with large, complex, multi-faceted development proposals.

All relevant State agencies will be consulted early in the process about the assessment requirements for the environmental impact statements and their views will be sought on the proposal at inception, rather than later down the track.

Furthermore, seeking local council feedback early on, including inviting input into assessment requirements, will be an important tool for State significant development. This is particularly important where proposals raise particular local issues that should inform the preparation of the environmental impact statement—including developing any strategies to avoid, manage or mitigate impacts on local communities.

By applying a coordinated and holistic assessment process, including involvement of all relevant government agencies at the early stages of the process, the need for separate individual approvals from those agencies further down the track can be reduced.

As such, additional and separate consultation and concurrence requirements such as for threatened species, from other State agencies will not apply for State significant development.

Also, the current provisions relating to the application of approvals under other legislation to part 3A projects have been brought across into the new division 4.1 of part 4 of the Act for State significant development to assist in integrating approvals for State significant development. The provisions mean that certain integrated approvals and other authorisations will continue to not apply while some other approvals will need to be consistent with the consent issued by the Minister.

In addition, the bill applies the current regime for biobanking for part 3A projects to State significant development, so that biobanking remains an optional requirement for dealing with the impact of proposals on biodiversity for these projects.

The primary purpose of coordinating State agency input early in the assessment process and removing individual and separate approvals by different agencies is to enable one comprehensive assessment of environmental impacts to ensure they are properly mitigated together, rather than piecemeal and sequentially. This also enables the reduction of the bureaucratic red tape associated with major, complex, multifaceted projects that would otherwise trigger requirements under multiple pieces of legislation.

Coordinating and stream-lining the services that Government provides through strategic, comprehensive and holistic assessments gives industry and investors greater certainty and will help get the State moving again.

Such an approach will also give the community certainty at a much earlier stage about whether a project can go ahead and provide greater confidence that a comprehensive suite of measures will be put in place to minimise and mitigate off site environmental impacts.

As with local development, State significant development will be assessed under section 79C of the Act and therefore relevant planning controls and development standards in council local environmental plans will apply.

As with local development applications, development standards can be varied where appropriate under State Environmental Planning Policy 1. However, there is reduced latitude to do so than under part 3A, where local development standards and controls could be completely ignored or contradicted.

It is also proposed that the State and Regional Development SEPP will include a provision to exclude the application of development control plans to State significant development and allow for relevant planning issues to be assessed taking into account site-specific factors and the individual merits of each proposal.

Development control plans are typically not prepared with major complex classes of development in mind and often do not provide appropriate planning provisions for the types of proposals that would come under State significant development. As such, detailed and meaningful planning controls need to be tailored to specific proposals as they arise.

Furthermore, other provisions in development control plans covering matters such as notification, advertising and procedural matters related to the handling of development applications will be unnecessary given that the new Act and regulation provisions will provide consistent statewide procedures for the State significant development application process.

An important feature of State significant development that builds and improves on the regular part 4 process is the power for the Minister to require modifications to the proposal before approving it. This new process encourages proponents to address and respond to concerns raised in submissions by the public and this may include modifying the final proposal to mitigate impacts or to otherwise deliver improved outcomes for the community.

In respect of appeal rights, standard section 123 appeals will apply—those being judicial reviews on points of law.

Existing third party appeal rights will also apply.

The process for modifying State significant development consents will be the same as that for other development modified under section 96 of part 4 of the Act. That is, proposed modifications need to be substantially the same as the original approved development.

Significant changes to these developments would require lodging of a new development application, with full assessment and public scrutiny like any other development application.

Another important feature for State significant development will be to re-instate general rules related to the lapsing of development consents.

Under part 3A, the Minister has complete discretion about whether to require developers to commence work by a certain date, potentially leading to proposed development sites laying untouched for indefinite periods without recourse.

Under State significant development however, as with other development applications, consents will lapse after a maximum of five (5) years—thereby encouraging developers to physically commence works including construction of buildings on sites so that the benefits of these approvals are realised sooner.

The bill also includes regulation making powers in respect of State significant development including:

- for the preparation of environmental impact statements;
- consulting with government agencies and other affected parties;
- making orders for declaring specified development as State significant development;
- making application and determination information publicly available; and
- requiring applicants to provide responses to submissions.

I table here a policy statement which provides additional information about the State significant development process including provisions to be included in the regulations.

Schedule 1.3 amends existing Act provisions and inserts a new part—part 5.1 to establish the new assessment pathway for State significant infrastructure.

New part 5.1, to be inserted by the bill, provides that State significant infrastructure must not be carried out without the approval of the Minister for Planning and Infrastructure.

The process for assessing State significant infrastructure, as with State significant development, aims to provide coordinated and strategic assessment by the State for large-scale projects.

However it is necessary to ensure that the process for assessing State significant infrastructure proposals of direct and great public benefit to the community, including critical infrastructure projects, is comprehensive, efficient, and with minimal red tape.

The bill provides that classes or descriptions of development may be declared State significant infrastructure by a State environmental planning policy.

The bill restricts such declarations however:

- to only development that is permitted to be carried out without consent under a State environmental planning policy; and
- only to infrastructure (as defined under the new part 5.1) or to other activities permitted without consent where the proponent is also the determining authority and where an environmental impact statement would otherwise be required under part 5 of the Act.

The bill also provides that the Minister may declare by a State environmental planning policy or by an order other specified development on specified land to be State significant infrastructure.

The bill also includes a provision that allows such declarations to be made on recommendation from Infrastructure NSW or the Planning Assessment Commission.

I draw your attention to the policy statement which I previously tabled outlining proposed classes of State significant development. This statement also outlines the proposed classes of State significant infrastructure to be listed in the proposed State and Regional Development SEPP.

State significant infrastructure largely includes classes of development undertaken by or for public authorities.

We have tried to match, as much as possible, the underlying structure of the Act so that most large development proposals, including by private developers, are dealt with under part 4 of the Act. While public infrastructure projects are dealt with in a similar manner to that as under part 5 of the Act.

The proposed classes of State significant infrastructure include transport and public utility works undertaken by or for State public authorities and that would otherwise require an environmental impact statement under part 5 of the Act.

These works were traditionally determined by the Government under part 5 of the Act, before part 3A was introduced, and include among other things,

- major road and rail projects;
- electricity transmission and distribution;
- telecommunications;
- water and sewerage systems; and
- storm water management and flood mitigation works.

In addition, major public water supply works, public port and wharf facilities and Australian Rail Track Corporation rail infrastructure will also be captured if the works are valued above \$30 million.

State significant infrastructure will also include submarine telecommunication cables and licensed pipeline projects.

The bill provides that if a development meets the description of a class of State significant infrastructure and also a class of State significant development under the SEPP, then the development is to be assessed as State significant development. This will ensure that there is one comprehensive, rigorous and transparent assessment process by the Department of Planning and Infrastructure, rather than a piecemeal approach.

The bill also sets out provisions for staged infrastructure applications and outlines the application and assessment process for State significant infrastructure. This includes application lodgement requirements and the Director General issuing the proponent environmental assessment requirements following consultation with relevant public authorities.

All State significant infrastructures will undergo comprehensive assessment including preparation of an environmental impact statement, with State agencies consulted early in the process about the assessment requirements for the environmental impact statements.

As with State significant development, by applying a coordinated and holistic assessment process, including involvement of all relevant State agencies at the early stages of the process, there is a reduced need for separate individual approvals from those agencies further down the track.

Similarly, additional and separate consultation and concurrence requirements such as for threatened species from other State agencies will not apply for State significant infrastructure.

Also, the current provisions relating to biobanking and the application of approvals under other legislation to part 3A projects have been brought across State significant infrastructure to assist in integrating the approval.

As State significant infrastructure will almost exclusively deal with proposals delivering important and high priority community infrastructure, it is essential that a comprehensive and coordinated whole-of-government approach is taken to assessing these proposals, rather than requiring piecemeal and separate approvals from different agencies.

The bill requires the Director General to provide submissions or a report on issues raised in submissions to the proponent and the Director General may require the proponent to submit a response to issues raised in the submissions.

The Director General may also require the proponent to submit a preferred infrastructure report that outlines any changes to the proposal to minimise its environmental impact or to deal with any other issue raised during the assessment of the infrastructure proposal.

This is an important feature that ensures public comments are duly considered and encourages proponents to seek better solutions by modifying the final proposal to mitigate impacts or to otherwise deliver improved on-ground outcomes for the community.

The bill includes provisions regarding the preparation of the Director General's report to the Minister and the considerations the Minister is to take into account when deciding whether to approve or refuse consent for the carrying out of the State significant infrastructure.

The bill also provides that any State significant infrastructure may also be declared critical infrastructure if the Minister is of the opinion that it is essential for the State for economic, environmental or social reasons.

The concept of critical infrastructure was first introduced in 2005 to ensure that there was a straightforward and quicker way to assess and approve infrastructure projects of high importance to delivering Government infrastructure priorities to the public.

Today there is still a need to have in place a way to speed up the assessment and determination of high priority public infrastructure proposals.

It is important to note however, that future critical infrastructure declarations will be far more restrictive and will only apply to certain major public infrastructure projects that are not State significant developments.

This means that in future, development proposals such as power stations, wind farms and biodiesel projects will no longer be listed as critical infrastructure hence significantly restricting the application of the critical infrastructure provisions.

The main distinction between State significant infrastructure and critical infrastructure is that for State significant infrastructure an assessment is undertaken to determine whether the development should proceed. However, for critical infrastructure the proposal will generally already be recognised as a priority to proceed and the assessment process assists in determining the details of how it will proceed.

Once an approval has been given only the Minister for Planning and Infrastructure will be empowered to ensure the environmental protections built into every critical infrastructure approval are complied with.

As currently applies under part 3A it will not be possible for any person, interest group, or other entity, including local councils or other government agencies, to commence legal proceedings under the Environmental Planning and Assessment Act 1979, or any other environmental legislation in this State, or to issue stop work orders to prevent the government agency, or public private partnership, or private infrastructure provider from carrying out the project.

The critical infrastructure provisions of this bill will not prevent interest groups and communities going to court to seek judicial review about whether a proposal has been assessed and determined in accordance with the law. In line with the principles recognised last year by the High Court in the case of *Kirk v Industrial Court of NSW*. However, the bill ensures that there are no additional rights to seek judicial review of a decision on critical infrastructure, statutory or otherwise, beyond those recognised in *Kirk*.

The provisions for critical infrastructure strike the appropriate balance between the rule of law and the role of the courts in reviewing the decisions of public officials, and the need for certainty for investors, and the imperative that these projects be delivered speedily and without interference for the benefit of all the people of New South Wales.

The bill does however, include a three- month time limit for the bringing of any such judicial review proceedings in regard to any State significant infrastructure project, not just those declared critical infrastructure. This three-month period is consistent with other provisions limiting the bringing of judicial review proceedings that already exist in the Act, in relation to the making of environmental planning instruments under part 3, and for the granting of development consents under part 4 of the Act, including those for State significant development.

These provisions limiting the time for judicial review proceedings are important in providing certainty for investors and the community alike. Including this provision in the bill strikes the appropriate balance between the need to allow the courts to supervise the decision making of public officials and the need for the government and infrastructure providers to get on with delivering these projects for the benefit of all the people of New South Wales.

The bill also includes a range of machinery provisions dealing with State significant infrastructure including allowing for modification and conditioning of approvals.

As with State significant development, another main feature of State significant infrastructure will be heightened transparency and disclosure of decision making, including requiring the Department of Planning and Infrastructure to publish on its website:

- environmental assessment requirements
- environmental impacts statements
- all public submissions and other related documents and reports relevant to the State significant infrastructure proposals.

The bill also includes regulation making powers in respect of State significant infrastructure for:

- land owners consent
- amending applications ...
- application fees ...
- and public exhibition, notification and public registers of applications and determinations.

Schedule 1.4 amends part 2A and schedule 3 of the Act in relation to the Planning Assessment Commission.

The bill sets out revised functions for the Planning Assessment Commission. This includes any functions delegated to it under the Act and allows the Director General of the Department of Planning (in addition to the Minister) to request the Planning Assessment Commission to provide advice, to review certain matters, or to hold public hearings.

The bill also amends schedule 3 of the Act to clarify that the chairperson is a member of the Planning Assessment Commission and that membership of the Commission can range from four (4) to nine (9) members, including the chairperson.

The bill also includes amendments to the membership of the Planning Assessment Commission so that members may not hold office for more than six years in total to strengthen the independence of the commission.

The amendments also include allowing for Planning Assessment Commission members to be appointed on either a full-time or part-time basis and allowing the Minister to change the basis of the appointment during the member's term of office.

With the establishment of State significant development and increased delegation of ministerial determination functions to the Planning Assessment Commission, there is a strong need to ensure that the membership and operation of the commission is optimal for undertaking its heightened role.

The bill provisions relating to the Planning Assessment Commission membership and functions are part of a broader suite of measures to improve transparency, independence and the professional operation of the Planning Assessment Commission.

Other measures will include providing more resources to assist the Planning Assessment Commission in carrying out its expanded role. As Minister I will require the commission to publish new operational procedures and protocols which outline how the commission will undertake its day to day functions in a more open and transparent way.

Meetings where determinations of development applications are made will generally be open to the public to give opportunities to communities, local councils and proponents to address the Planning Assessment Commission directly.

There will also be an increase in Planning Assessment Commission public meetings in rural and regional New South Wales—where there is significant community interest in a proposal.

As well as making determinations in public and holding public briefing meetings for contentious proposals, the Minister for Planning and Infrastructure will still be able to direct the Planning Assessment Commission to hold an inquiry into a proposal by way of a full scale public hearing and report back to the Minister with the results of that hearing. In this case the commission will also ask for written submissions from interested parties before asking them to make submissions to the commission in person.

Consistent with the current provisions of the Act, if the Planning Assessment Commission determines a development application after conducting a public hearing at the Minister's request, with an opportunity for the community to make submissions and participate in the investigation of the proposal, then there will be no appeal rights for applicants and third parties for applications under part 4 of the Act.

This will ensure that the public's participation in the process cannot be undermined either by an applicant or third party following the report of the Planning Assessment Commission, merely because they did not agree with the report of the independent umpire.

Let me make it clear however that appeal rights will only be affected if the Planning Assessment Commission holds a public hearing at the request of the Minister. Appeal rights will not be affected if the commission merely holds a public briefing or public determination meeting.

Schedule 1.5 amends part 2A and schedule 4 to the Act and inserts a new schedule: schedule 4A—in relation to joint regional planning panels.

As with the Planning Assessment Commission at the State level, joint regional planning panels will have an important role in determining large-scale projects, particularly those residential, commercial, retail and coastal projects that were previously dealt with by the Government.

It is therefore essential to ensure that the membership and operation of the regional panels is also optimal for performing its functions.

The bill will give local government more of a say in the selection of the chairperson of each regional panel by requiring the Minister to obtain the concurrence of the Local Government and Shires Associations of the proposed appointment.

The Association's concurrence will not be required if they do not respond to the request within 21 days, or if they refuse concurrence on two (2) occasions with respect to the same appointment.

To provide transparency and to ensure the best possible appointments are made, I propose to establish a panel with representatives from:

- the Local Government and Shires Associations;
- the development industry;
- the Department of Planning;
- and the Public Service Commission to advise me not only on suitable chairperson candidates, but also on future appointments of other members of the regional panels.

These proposed changes to rebalance how regional panel members are nominated and appointed, will help to strengthen relationships with our council partners, ensure members are of the highest calibre and possess appropriate skills, and improve public confidence in the way decisions are made regarding regional development.

It has been two years since the joint regional planning panels were first introduced to determine development proposals of regional significance.

We have an opportunity now to also put in place administrative and procedural measures to respond to the lessons learnt over that time.

As with the Planning Assessment Commission, changes to regional panel membership are part of a broader suite of measures to improve transparency, independence and the professional operation of the regional panels to help build community confidence in the system.

The operational procedures for the regional panels will also be revised and published and will include improved systems for addressing key issues such as complaints handling and additional measures to remove instances where there may be potential conflicts of interest.

The bill also inserts a new schedule, schedule 4A, which outlines the classes of regional development to which the joint regional planning panels will be the consent authority. This will provide ongoing certainty to industry, the community and local councils about what applications will be determined by councils and what will be determined by the regional panels.

These classes of regional development have largely come across from the State Environmental Planning Policy (Major Development) 2005, with some changes.

It is proposed in the bill that applications for certain classes of regional development currently determined by regional panels be handed back to councils to determine instead. This includes most designated development proposals, certain types of coastal development and large subdivisions.

It is also proposed to increase the capital investment value threshold for the general development category determined by joint regional panels from \$10 million to \$20 million (with the exception of council and crown applications). Other classes of development applications determined by the panels will not materially change.

These changes will return around 55 per cent of development applications back to councils and will allow regional panels to concentrate on the determination of truly regionally significant development.

With the return of the determination of those development applications to local councils, it will be important that councils continue to meet the performance benchmarks for those development applications within the range of \$10 million to \$20 million so that the improved assessment times achieved by the regional panels and the flow on savings to industry can be maintained.

Accordingly, the bill includes a provision to give applicants the right to refer these development applications to the regional panel if they remain undetermined by the local council after more than 120 days, unless the chair of the regional panel considers the delay was caused by the applicant.

The referral of a delayed development application will not be automatic. The proponent will have the choice of pursuing determination by the local council after the 120 days expires or referring it to the regional panel.

Council assessment officers will remain responsible for the assessment of the proposal at all times and a proponent's existing appeal rights will also be maintained.

At the same time, it is proposed to require regular quarterly reporting from local councils on their performance in processing these applications. Performance measures will include timeliness, consistency with assessment officer reports and appeals against decisions.

To respond to instances of repeated or systemic poor performance in determining development applications, the bill also allows the Minister to designate additional classes of development back to the regional panels if the Minister deems the council's performance in dealing with those development proposals to have been unsatisfactory.

Schedule 1.6 includes miscellaneous consequential amendments to Act provisions in relation to the repeal of part 3A, the Planning Assessment Commission and joint regional planning panels and the introduction of State significant development and State significant infrastructure.

Importantly the bill will allow the independent Planning Assessment Commission to recommend that a planning proposal be submitted to the Minister for a gateway determination.

This will enable rezoning proposals that have planning merit or are consistent with local, sub regional and regional planning strategies to be progressed even if a local council is unwilling, or does not have the resources to pursue the rezoning at the time. In such a case the Minister can make the Director General of the Department of Planning and Infrastructure the relevant planning authority for the planning proposal to carry it forward.

Schedule 1.7 inserts a new schedule in the Act schedule 6A to provide transitional arrangements for existing part 3A project applications and concept plan applications.

I am advised that there were over 500 pending part 3A projects worth over \$60 billion that were caught in the part 3A system when the Government took office and will need to either:

- continue under part 3A until determined ...
- be transitioned to new assessment processes ...
- or be returned to proponents and will need to be relogged with councils

Transitional arrangements have already been determined for around 165 residential, retail, commercial and coastal subdivision projects.

It is proposed in the bill that the remaining part 3A projects for other classes of development currently in the system be subject to the following savings and transitional arrangements:

- part 3A projects that also fall within the new categories for State significant infrastructure will be assessed under the new State significance infrastructure regime including State agency projects that meet certain criteria
- other part 3A projects will be finalised under the existing part 3A regime where Director General's requirements have already been issued by the time part 3A is repealed.
- projects that have not reached that stage of assessment yet will be assessed under the new State significant development regime if they also come within the new classes of State significant development.

- and finally, certain projects will be removed from the State assessment system entirely if they do not match the new State significant development and State significant infrastructure classes and no director general's requirements are issued when the new legislation commences, or where director general's requirements have been issued over two years previously and the proponent has not submitted an environmental assessment by the time the part 3A repeal is effective.

These provisions strike an effective balance between the need to provide security for investors and so deliver jobs and housing for the people of New South Wales by facilitating the assessment of genuinely State significant proposals at a State level. The provisions also ensure that communities are able to have a real say at a local level about projects that should be determined at a local level.

It is important to note that around a quarter of the pending part 3A proposals will leave the State assessment process entirely and be returned to the local level to be dealt with appropriately.

Schedule 2 of the bill outlines consequential amendments to 22 other Acts, six (6) regulations and six (6) water sharing plans to build on existing references to part 3A by referring to State significant development or State significant infrastructure where relevant.

Schedule 2 also amends the *Statutory and Other Offices Remuneration Act 1975* to make reference to full-time members of the Planning Assessment Commission under the schedule of public offices.

Finally, schedule 2 also amends the Subordinate Legislation Act 1989 to ensure that the Environmental Planning and Assessment Regulation 2000 can remain in force for another two (2) years until 1 September 2013 as an interim measure while a broader review of the planning system is been undertaken.

In conclusion, this bill offers an opportunity to wind back much of the layering and complexity introduced by the former Labor Government when it first introduced part 3A of the Act in 2005.

The time has come to give planning powers back to communities.

The majority of that task will be achieved through the outcomes we seek as part of the broad review of the planning system which will be an inclusive review in partnership with councils and the community.

However, in the interim, this bill will assist in slashing the number of development proposals dealt with by the State and depoliticising the determination of the remaining State significant proposals by handing them to the Planning Assessment Commission or the Director General of the Department Planning for determination.

This bill provides an opportunity to re-instate transparency, integrity and propriety into the way we assess and determine major developments of significance to the State of New South Wales.

I commend the bill to the House.

I seek leave to table the following documents by the Department of Planning and Infrastructure regarding the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011:

- Policy statement entitled "Proposed State significant development and infrastructure classes", dated June 2011.
- Policy statement entitled "Ministerial 'call in' for State significant development", dated June 2011.
- Policy statement entitled "State significant development – procedures", dated June 2011.
- Fact sheet entitled "Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011: an overview", dated June 2011.

Leave granted.

Documents tabled.

The Hon. LUKE FOLEY (Leader of the Opposition) [9.14 p.m.]: I lead for the Opposition in debate on the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011. Today the Government moves to repeal part 3A of the Environmental Planning and Assessment Act. The Labor Opposition takes seriously the role that planning plays in the lives of our communities and the role that planning plays in our State's economic growth. I state at the outset that the Opposition recognises that the repeal of part 3A was an election commitment by the Liberal-Nationals Coalition. We accept that. I also accept that there was a widespread feeling in the community that planning processes in this State were tilted perhaps in favour of developer interests. I acknowledge that.

I want to make a number of observations about what this bill does and what it does not do. Given the Government's commitments prior to the election, the record should reflect exactly what this legislation delivers and what it does not deliver. Members may recall the release of the document "Start the Change" from the

Liberal-Nationals Coalition prior to the election. It came out last year. I do not believe it is available on the Liberal Party website, so let me quote from the document. On page 59 of the "Start the Change" document we can see what the New South Wales Liberal-Nationals Coalition was promising to the people of this State:

The NSW Liberal and National Parties are committed to returning local planning powers to local communities (through their councils). We believe that local residents—through councils—are best placed to make local planning decisions affecting their suburbs.

Members may recall the great fanfare that accompanied the New South Wales Liberal-Nationals Coalition "Contract with New South Wales". Barry O'Farrell's personally signed contract tells us, on its final page:

We will return planning powers to the community.

It also states:

We will scrap Part 3A and rewrite the Planning Act to give communities a say again in the shape of their neighbourhood.

Local communities and local councils could be forgiven for thinking that the election of the O'Farrell Government was going to herald a new era for them, where they were empowered by the State Government to take planning decisions into their own hands. They could be forgiven for thinking that the scrapping of part 3A by the O'Farrell Government was going to mean that State significant residential development would no longer take place, that ministerial discretion was no longer going to exist and that bodies such as the joint regional planning panels would no longer make decisions. They could be forgiven for thinking these things, but, as this bill shows, they are mistaken also in thinking that is what the O'Farrell Government will do. One needs only to look at the explanatory note of the bill to see:

Development that is State significant development will be dealt with under Part 4 by the Minister ...

Development that is State significant infrastructure will be dealt with under a new Part 5.1 by the Minister.

This bill does not scrap part 3A and return planning powers to local communities; this bill scraps part 3A and simply renames it part 4 and part 5.1. Under this bill the Minister still retains discretion in calling in State significant development. The Minister would say that he has to get advice first from the Planning Assessment Commission. Fine, so he seeks advice but he retains the call-in discretionary powers. Under this bill the Minister still retains the decision-making power he currently enjoys under part 3A; he just relocates it to part 4 and to part 5.1. The Minister will say he will delegate his decision-making power to the Planning Assessment Commission, but a Labor government set up the Planning Assessment Commission. The O'Farrell Government will retain it, make it more powerful and not return the powers of the Planning Assessment Commission to local communities. Let us be clear: The Minister is not giving the powers of the Planning Assessment Commission back to local councils; he is retaining those powers and he will delegate them to the Planning Assessment Commission for private projects.

Under this bill State significant development still includes residential development. The bill stipulates that State significant development includes major developments such as mines, large chemical and manufacturing plants, large warehouses and distribution centres, hospitals, some port facilities, electricity generation projects, large waste management facilities and urban renewal sites. So the communities of Randwick, the City of Sydney, Granville, Leichhardt and even Ku-ring-gai, who thought that the O'Farrell promise to scrap part 3A would mean that State significant urban renewal sites in their areas would be returned to them for determination, have been deceived. All those people who rallied against part 3A will be back rallying against the O'Farrell Government because this bill leaves the door wide open for the Minister to call in and declare pretty much any development he wants under the guise of urban renewal.

Under this bill joint regional planning panels still exist. Joint regional planning panels were established by the previous Government in 2009. The Liberal-Nationals Government will not be returning planning decisions to local councils through this bill; it will be retaining joint regional planning panels. I say to all those councillors out there who believed Barry O'Farrell when he pledged he would return planning powers to them that the proof is in the pudding—it is in this bill. Barry O'Farrell is not honouring that commitment. As I stated at the outset, the Opposition recognises that the Liberal-Nationals Coalition made a clear election commitment to scrap part 3A of the Environmental Planning and Assessment Act. We accept that it campaigned clearly on that issue; therefore, the Opposition will not oppose this bill.

However, I state for the record that we believe this bill is a far cry from the commitments made by Mr O'Farrell and by the Liberal-Nationals Coalition in the lead-up to the election. When we look at this bill in

detail we find that it does nothing other than rename part 3A to part 4 and part 5.1. As such we believe that the Premier has not been faithful to his election commitment—to the promises he made to local communities. With this bill the proof of the pudding will be in the eating over the months and years to come. This bill is a far cry from the election commitment made by Mr O'Farrell. Opposition members will make additional comments in the Committee stage.

The Hon. JOHN AJAKA (Parliamentary Secretary) [9.24 p.m.]: I am pleased to speak in support of the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011 and congratulate the Minister on introducing the bill as part of his commitment prior to the election. One of the important features of the new planning system will be an expanded role of the independent Planning Assessment Commission. The bill seeks to build on this by strengthening and expanding the role of the independent Planning Assessment Commission whilst also increasing transparency and accountability in the way in which the commission operates. The commission will now have an expanded role in determining applications for State significant development. The bill provides for this by allowing the Minister to delegate a broader range of functions to the commission. It is proposed that the commission will determine all private State significant development applications other than those involving minor, non-controversial proposals with limited objections. In addition, the commission will have a new role in respect of State significant development that has been called in by the Minister.

Development will be able to be called in only when the Minister has obtained, and made publicly available, advice from the Planning Assessment Commission on the State or regional planning significance of the development. This means there will be an appropriate gateway before development can be declared to be State significant development, rather than the unfettered discretion that was available to call in development under part 3A. When called-in development is prohibited the commission will oversee the concurrent rezoning and development application process to ensure the proposal is appropriate having regard to existing planning controls and stakeholder concerns. In recognition of its increased role, the bill includes provisions to increase transparency in the way in which the commission operates, to strengthen its procedures and to improve the process for appointing Planning Assessment Commission members.

In particular, the bill and its associated regulations strengthen the Planning Assessment Commission's capability by having a mix of full-time and part-time members as well as an additional pool of long-term casual members to increase the breadth and depth of experience needed for its expanded role; provides that Planning Assessment Commission members terms be limited to a maximum of six years, in line with the recommendations of the Independent Commission Against Corruption; and provides for the Planning Assessment Commission's procedures to be formalised, including a requirement for significant Planning Assessment Commission determinations to be held in public and for all Planning Assessment Commission advice to be made publicly available.

In addition to the provisions included in the bill, other procedural changes will further strengthen the accountability and accessibility of the Planning Assessment Commission. For example, in future, members will be appointed to the commission by the Minister only after consideration of recommendations from an independent panel made up of stakeholder representatives and planning experts. The Planning Assessment Commission will hold more meetings in rural and regional New South Wales where there is significant community interest in a proposal. The commission will adopt a formal complaints handling procedure to deal with complaints involving non-compliance with the commission's procedures or breaches of the commission's code of conduct. Taken together, these measures will go a long way towards restoring the community's trust and confidence in the New South Wales planning system—a confidence the community did not have with part 3A, and a confidence that the community was promised to be given clearly at the last election.

The Hon. PAUL GREEN [9.29 p.m.]: On behalf of the Christian Democratic Party, I support the Environmental Planning and Assessment Amendment (Part 3A Repeal) Bill 2011. Part 3A, which was introduced by the former Labor Government in 2005, gave the Minister for Planning consent authority for major projects deemed to be of State or regional significance—a system that reportedly put the former Government at odds with local councils and communities. Following the repeal of part 3A, the bill will amend the Environmental Planning and Assessment Act to allow development which is not State significant development or State significant infrastructure to be dealt with under part 4 of the Environmental Planning and Assessment Act by councils or a joint regional planning panel. Development which is State significant development will be assessed by the Minister under new division 4.1 of part 4 of the Environmental Planning and Assessment Act, and development which is State significant infrastructure will be dealt with by the Minister under new part 5.1 of the Environmental Planning and Assessment Act.

The bill also makes a number of miscellaneous amendments to provisions of the principal Act relating to the Planning Assessment Commission and joint regional planning panels, including specifying in the principal Act the development that a regional planning panel may be authorised by a planning instrument to deal with in place of the local council. Part 3A no longer will apply to residential, commercial or retail development with a capital investment value that is greater than \$100 million, or to all coastal subdivisions. Part 3A projects that have been stripped of that status will be assessed by local councils and joint regional planning panels under other environmental impact assessment provisions of the Environmental Planning and Assessment Act. The department will establish a team to work with councils and proponents on this process. Proponents of any new developments of those types will be required to lodge a development application with their local councils under part 4. Likewise proponents of projects for which a concept plan has been proved will have to lodge a development application with the local council under part 4.

The effect of the major development State environmental planning policy [SEPP] will be that development within the terms of the concept plan can be carried out with consent; development standards in the concept plan will have effect; a consent authority must not grant consent unless the development is generally consistent with the provisions of the concept plan approval; and consent can be granted without complying with the requirements under any relevant environmental planning instrument or master plan. By referring the major projects to the Planning Assessment Commission, the bill will achieve a depoliticisation of the planning process while minimising the need for wholesale legislative changes to be made to the planning system. It also will enable local councils to make important decisions about local planning and allow for greater public consultation and community interaction in planning.

Our discussions with the Bega Valley Shire Council have brought to light that although it supports the transition of planning back to local government, matters of concern include the recognition that some developments may be outside the capabilities of a local council to assess and may need greater assistance from consultants. If that is so, the scale of development approval fees should be increased to recoup the costs. If development approvals still require determination by a joint regional planning panel or by the Planning Assessment Commission, local councils should be compensated for their assessment and advice in a manner similar to the way in which New South Wales agencies receive compensation for their advice. When developments of a certain scale or type, such as designated developments, are proposed by local council or are on local council land, those developments should be determined by a panel or another council.

Another issue of concern highlighted by the Bega Valley Shire Council is the 120-day rule for developments in the \$10 million to \$20 million category. The bill proposes that an applicant in this category will have the choice of referring undetermined applications to a regional panel if the application has been outstanding for more than 120 days. Councils may find it difficult to fulfil a determination within 120 days for reasons that are beyond their control. For example, there may be a delay in producing a certificate or report relating to the approval. The cause of delay is often that a consultant's report contains sufficient information to enable a council to make a determination. The delay rebounds on councils because it appears that delays are caused by councils being out of date or out of time with their processes whereas the real cause of delay is that insufficient information has been provided to the council by a consultant.

The Christian Democratic Party believes that the bill represents a great step forward. It is putting the capital L back in local, which had been taken away, and people have put the capital V back into vocal. The former Government sidelined communities. I sound a note of warning to the current Government that if it forgets about the "local" in local government, it will suffer the fate of the previous Government. The Christian Democratic Party supports the bill.

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

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads and Ports) [9.35 p.m.]: I move:

That this House do now adjourn.

COMMUNITY SPORT

The Hon. LYNDIA VOLTZ [9.35 p.m.]: Much is said about sport and its contribution, but quite often in parliaments the conversation centres round sporting events and what they contribute to the economy. While

we are pouring money into major events, governments are missing the opportunity to change the lives of our young people and improve their long-term health outcomes. Community sport is quickly moving away from the grasp of families and young people throughout New South Wales. At my local club at which I play soccer, a family where everybody plays—mum, dad and three children—costs \$1,360 in fees alone, and that is before all the cost and time of getting to games and training are taken into account. For busy families in our now more complicated world, quite often sport is one of the first items to fall from the family budget or agenda. Add to that the restricted availability of space on sporting fields and in sporting organisations, and the picture becomes even bleaker.

We know that the number of overweight children in Australia has doubled in recent years. A quarter of children are considered to be overweight or obese. While the causes of obesity in children include unhealthy food choices and family eating habits, a lack of physical activity also is a paramount cause. Obesity not only causes health problems but also leads to social problems among children. Overweight children are more likely to be teased by their peers or to develop low self-esteem or body image problems. Once children are overweight, it requires a lot of effort and commitment for them to return to a healthy weight. Children being overweight and obese are among the most important risks to children's long-term and short-term health. Yet, with the exception of the recent and much-needed Community Partnership Program, major spending announcements for sport have revolved round major sporting facilities—often for elite sports such as rugby league and soccer and often for the purpose of chasing the tourism dollar.

Although I do not have a problem with promoting events, the reality is that governments are missing the opportunity to change the lives of our young children, which is far more important. Sport teaches children teamwork, understanding each other, making friends and achieving goals, social inclusion, integration into the local community in both urban and rural districts, learning a sense of discipline about exercise and commitment to group events, mutual respect and fair play. Children who exercise generally are fitter and more alert, which assists with their academic achievement. Sport can divert children who may be at risk towards a better life. More importantly, sporting facilities provide the "green lungs" of many environments. Improvement of sports facilities and hosting sporting events can modernise an area's image and improve local pride. Our school facilities throughout the State stand at the forefront of providing opportunities for improving participation of children in sport.

As part of school programs, the Department of Education and Communities should engage with organisations that not only possess a wealth of experience but also provide some of the best sporting outcomes in improved health over the long term. While it is easy for the two big codes of Australian Football League and rugby league to run programs in schools owing to their significant commercial influence, which translates to staff who can attend schools, the reality is that many other sports have an army of trained referees, umpires and coaches and a greater number of participants comprising not only youth but also people in their later years.

Lifetime sporting activities should be encouraged. Of course, first among those is swimming. We should acknowledge the significant contribution local councils make to sport in school programs. The sports we should be offering assistance to within our schools include those that have the following participation rates: running, 6.5 per cent or 1.35 million people; cycling, 6.5 per cent; golf, 4.5 per cent; tennis, 4 per cent; indoor or outdoor soccer, 3.7 per cent; netball, 2.6 per cent; basketball, 1.9 per cent; cricket, 1.5 per cent; and touch football, 1.5 per cent.

Given the time constraints on working parents, serious consideration should be given to allowing clubs to run training and competitions on school sporting ovals both before and after school hours. Not only would this be a great help to mums and dads; it would improve school security because people would be at those facilities during those hours. The most important thing is that investing in the teaching of at least three or four of the major sports that people participate in during their lives, such as golf, cricket, soccer and netball will provide children with skills that will take them through their adult life and improve their education and their health and economic outcomes.

ROYAL FLYING DOCTOR SERVICE

The Hon. SARAH MITCHELL [9.40 p.m.]: I draw the attention of the House to the tremendous work of the Royal Flying Doctor Service and the crucial health services it provides to the people of rural, regional and remote New South Wales. The Royal Flying Doctor Service provides an invaluable and essential lifeline to those in the bush and the value of its service should be commended. The week before last I, along

with many of my fellow Nationals colleagues, had the privilege of visiting Broken Hill at the invitation of the local member, John Williams—an exceptionally popular and hardworking local member, who is well respected by his community.

During our visit to Broken Hill, my colleagues the Hon. Melinda Pavey, the Hon. Jennifer Gardiner and I were able to visit the Broken Hill base of the Royal Flying Doctor Service. We spoke to staff about the logistics that go hand in hand with operating such a service and toured the site, which included a first-hand look at aircraft used for clinics in remote areas. The visit reinforced to me just how much the people of New South Wales benefit from the hard work and dedication of these doctors, nurses, specialists, allied health professionals and administrators. It was truly a wonderful experience to see how these men and women constantly strive to improve access to healthcare for regional Australians. I wish to thank the executive director of the base, Clyde Thomson, and all those at the base for sparing the time to give us a tour of the operations. It was greatly appreciated by all.

The Royal Flying Doctor Service has come a long way since its humble beginnings 82 years ago. Reverend John Flynn envisaged that all Australians had a right, regardless of geography, to access to emergency medical services. Before the creation of the Royal Flying Doctor Service, it was estimated that only two doctors covered a two million square kilometre section of Australia. The Broken Hill base became operational in 1937 with only the basics of aeromedical services. However, today the base has changed dramatically with an increase in both staff and equipment and also the sheer quantity of patients. The 2009-10 year for the Royal Flying Doctor Service in the south-eastern section was extremely busy.

Medical staff flew about 5.9 million kilometres around New South Wales and treated thousands of patients. Total retrievals were up 54 per cent, with an increase of 6 per cent in patients treated. The service has similarly expanded its skill set and now also has a flying dentist, dietician and dermatologist in addition to its general and specialist health, mental, women's, children's, indigenous and emergency health services. The Broken Hill base in particular services an area of 640,000 square kilometres and has recently added a Fly Around Clinic to its fleet to take health care to a further 550 people in remote locations. Through all these changes, the Royal Flying Doctor Service has always kept its core premise: to take health care to where it is most sorely needed—country communities.

In my inaugural speech I spoke about the need for greater access to maternity and paediatric services for women and children in regional and remote New South Wales. A 2009 maternity services report found that health support for regional women and children was insufficient and was only exacerbated by the closure of facilities offering maternity services. The Royal Flying Doctor Service has recognised this problem and has employed nursing staff with a specific focus on health care for mothers and young children. The success of this service can be seen in the facts: 557 clinic patients were attended to in the past year in the south-eastern sector, which is an increase of 30 per cent from 2008-09. The service also works with midwifery services to help mothers to care for their newborn children and to provide the basic health needs for any new family.

In addition to paediatric and maternity services, I believe we must also focus on improving mental health facilities in both metropolitan and regional New South Wales. People in rural areas experience double the rate of suicide as compared to those in major capital cities and face issues of acute depression and anxiety. These problems often go unaddressed because of lack of support or geographical isolation. The Royal Flying Doctor Service mental health team is now entering its second year of service and counselled 240 patients in 2009-10. The team attends local meetings and hosts pub nights to identify and help those suffering from mental health issues within the community.

This is an important new initiative and I am confident that it will continue to be a crucial component in combating regional mental health issues. I am delighted to have this opportunity to thank all those involved in the Royal Flying Doctor Service. The doctors, nurses, pilots and health-care professionals do an outstanding job for people living in rural Australia and New South Wales. I acknowledge also the support staff and dedicated volunteers who help to make the Royal Flying Doctor Service such a success. It was an honour to visit the Broken Hill base and I am proud to be able to offer my support and gratitude to it in this House.

CHRIS ECCLES APPOINTMENT

Dr JOHN KAYE [9.45 p.m.]: The appointment of Chris Eccles as the head of the New South Wales Department of Premier and Cabinet signals a frightening new direction for the debate about the future of the TAFE sector in this State. Mr Eccles has been a consistent champion of contestability and competitive

neutrality in vocational education and training, arguing that a competitive market between TAFE and private providers will produce more efficient and targeted outcomes. Teachers and The Greens reject the use of competition with private providers, which would inevitably lead to lower standards, fewer opportunities for the most disadvantaged students and downwards pressure on education quality and teacher qualifications and pay.

From September 1997 to May 2000, Mr Eccles held the position of General Manager, Education, in the Australian National Training Authority. During his time with the authority, public funding of private providers increased substantially. In 1995 the total funding for non-TAFE providers was \$58.6 million and by 1999 it had increased to \$251.6 million. In 2007 Mr Eccles joined the Victorian Department of the Premier and Cabinet where he held the position of Deputy Secretary, Sector Improvement Group and later Deputy Secretary, National Reform and Climate Change Group. Within a year of his appointment, a discussion paper proposed sweeping reforms to the Victorian vocational education and training sector, which were subsequently introduced with devastating impacts on the public provider. The Victorian TAFE system is now at crisis point with record high fees, falling enrolments and cancelled courses.

The Eccles mantra of education markets has left TAFE competing with low-cost, low-quality private providers that have cherry-picked the most popular and cheapest-to-run courses such as community services and health. Mr Eccles oversaw the introduction of the voucher system in Victoria where government funds follow the student rather than being paid directly to the training provider. Struggling students now choose the quickest, cheapest method of gaining a qualification with the perverse outcome of private providers guaranteed funding from the Government. At the annual general meeting of the Australian Education Union TAFE council in January 2009 Mr Eccles defended the Victorian reforms. He told angry TAFE teachers that the reforms "were a natural end point when the system was reoriented around the needs of individual students". He went on to say:

I trust that 2009 can be the year when the VET sector finally recognises that additional funding is not the only answer. It needs to be accompanied by genuine and far-reaching reform, and one element of that is market design.

In March 2008 the Council of Australian Governments formed a working group to advance its so-called productivity agenda. The group was chaired by Chris Eccles. Its September 2008 discussion paper entitled "Skills and Workforce Development" contained a number of highly contentious proposals, including forcing TAFE to compete with private providers for all funds—that is, contestability. It also proposed removing any advantage TAFE might enjoy in competition for students with private providers and the application of national competition policies to the vocational education and training sector—the so-called competitive neutrality.

The *Sydney Morning Herald* obtained a copy of the paper and created a public storm when it released the details of Mr Eccles' market design. State and Federal Ministers subsequently dissociated themselves from the plan. In February 2009 Mr Eccles left his job in Victoria to take up the position of Chief Executive of the Department of Premier and Cabinet in South Australia. It appears that his vocational education and training reform agenda followed him. Within a year a discussion paper was released that was eerily similar to its Victorian predecessor. The "Skills for All" document recommends giving:

... purchasing power to clients (individual students and employers) so that public subsidies for VET are provided in accordance with their choice of training and provider. The supply of training would be demand driven and the public training subsidy would eventually be fully contestable.

Despite huge opposition from South Australian TAFE teachers, the proposed reforms are fast approaching the implementation stage. Chris Eccles' appointment in New South Wales is a clear signal that Premier Barry O'Farrell is looking at abandoning TAFE to a competitive market. Wherever Mr Eccles has been, TAFE has been sacrificed to the ideology of markets. He has been the chief advocate of contestability and competitive neutrality, which are code words for privatising the public funding of vocational education and training.

Mr Eccles and his market ideology are bad news for students and the future of the economy. He has presided over the demolition of TAFE in Victoria and has set in place the wholesale privatisation of funding in South Australia. New South Wales is the next cab off the rank in his brave new world of student vouchers, profit-making private providers and declining quality. Mr Eccles arrives in New South Wales at a time when the newly elected State Government has discovered a budget black hole and the Federal Government is itching to push ahead with the competitive market approach to skills training. The Boston Consulting report's prescription for TAFE still sits on the table. This is a perfect storm that could see Mr O'Farrell lead New South Wales down the Victorian and South Australian paths of abandoning TAFE to unfair competition with private providers.

ST VINCENT DE PAUL SOCIETY WINTER APPEAL

The Hon. PETER PRIMROSE [9.50 p.m.]: This evening I draw the attention of the House to the keynote address entitled "The Forgotten People" given by Dr John Falzon, Chief Executive Officer of the St Vincent de Paul Society National Council of Australia, at the launch of the 2011 St Vincent de Paul Society Winter Appeal in Perth on 25 May this year. The address is well titled. I shall quote some of Dr Falzon's meaningful comments directly and then comment on some particulars. Dr Falzon said:

I want to reflect with you today about some of the forgotten people in Australia today. This reflection will by no means be comprehensive or all-inclusive. It will simply be meant as a way of thinking together about what we are taught to forget.

The people who live on the edges of Australian society are not there through any fault of their own. They are there for reasons of history and social structure.

It was 1996 that saw the publication of a ground-breaking Social Justice Statement from the Australian Bishops. In that timely statement the following radical assertion was made:

"In the main, people are poor not because they are lazy or lacking in ability or because they are unlucky. They are poor because of the way society, including its economic system, is organised."

Dr Falzon continued:

We are taught to look at the condition of unemployment, for example, as if it were the fault of the person. The person themselves is actually forgotten. Their stories are not listened to. Only the fact of unemployment is remembered.

One could say the same thing about asylum seekers. The people themselves, ordinary women, men and children, are forgotten. Only their demonised status is remembered.

This is why leaders can get away with policies that make life harder for people who are already doing it tough.

Dr Falzon in a later part of his address said:

A strong, flexible social security system, one that actually delivers social *security* rather than insecurity and vilification, is essential if we are to build a fairer Australia. A good social security system, however, is not, in itself the answer. It should be a *means* to social, economic and political inclusion rather than an end in itself. "Welfare", as the Americans like to call it, is neither the problem nor the solution any more than hospitals are the primary cause of illness or, indeed, the creators of good health for society. But you wouldn't want to be without them, would you? And neither should we acquiesce to the whittling away of a robust social security system. Especially not under the guise of forcing people to learn and "be trained".

Later in his address Dr Falzon examines a work by Mark Considine from the University of Melbourne, Gavin Duffy from the St Vincent de Paul Society and Stephen Ziguras from the Brotherhood of St Laurence. Their research work is entitled "Much Obligated" and examines welfare-to-work measures. The research, which I think did not receive significant attention, demonstrated that increasing compliance measures under the hallowed banner of mutual obligation did little to actually facilitate employment participation. In their survey of the experience of disadvantaged jobseekers they found:

Contrary to the aims of active labour market policy, the emphasis on compulsory activities appears to generate avoidance and resentment. While people may comply, these requirements are in practice not a means to finding work, but rather a necessity for remaining eligible for benefits.

I urge members to read the speech of Dr Falzon, which puts forward a range of cogent arguments. I conclude with another quote from Dr Falzon. He said:

Another kind of world is possible because of the truth that is told by those who live on the margins. And if we look a little bit closer, we will see that the "margins" are actually at the heart of our society. It all depends on where you stand.

GLOBAL WARMING

The Hon. Dr PETER PHELPS [9.55 p.m.]: Tonight I plan once again to travel up the Congo of government largesse into the heart of darkness of anthropogenic global warming swindlers. Two weeks ago the Hon. Peter Primrose rather ill-advisedly repeated the outrageous claims that anthropogenic global warming scientists at the Australian National University [ANU] were subjected to death threats and had to be moved to high-security complexes. That has now been exposed as a complete and utter fabrication. I give full credit to Andrew Carswell from the *Daily Telegraph*, who wrote:

Claims prominent climate change scientists had recently received death threats have been revealed as an opportunistic ploy, with the Australian National University admitting that they occurred up to five years ago.

Only two of the ANU's climate change scientists allegedly received death threats, the first in a letter posted in 2006-2007 and the other an offhand remark made in person 12 months ago.

... Reports also suggested the threats had forced the ANU to lock away its climate change scientists and policy advisers in a high-security complex. *The Daily Telegraph* has discovered the nine scientists and staff in question were merely given keyless swipe cards—routine security measures taken last year.

... ANU communications director Catriona Jackson would not reveal the exact wording of the threats, but added: "Abusive emails are par for the course for most climate change scientists."

The poor petals—abusive emails! As I understand it, the scientists have tonight left their steel and concrete bunkers to emerge through the death threats and abusive emails to tell politicians that the campaign being run against scientific evidence of man-made climate change "is undermining the nation-building work of all scientists". The nation-building work of all scientists! What happened to neutral objectivity in science? Is this a bit of mission creep creeping in? Why would scientists need nation-building as part of their work unless they were instruments of the State? If the anthropogenic global warming disciples displayed more credibility and ceased their relentless Lysenkoism, perhaps they would not draw such ire from the community. If the science is settled, why do they keep lying about it?

In recent times we had reports that anthropogenic global warming scientists have artificially inflated sea rise by three centimetres. Why? Because it is not recording that the continents are actually rising up. They have had to fabricate a three-centimetre rise in water to give their ideas some credibility. The Intergovernmental Panel on Climate Change [IPCC] issued a report last month suggesting:

... renewable sources could provide 77 per cent of the world's energy supply by 2050. But in supporting documents released this week it emerged that the claim was based on a real-terms decline in worldwide energy consumption over the next 40 years, and that the lead author of the section concerned was an employee of Greenpeace. Not only that, but the modelling scenario used was the most optimistic of the 164 investigated by the Intergovernmental Panel on Climate Change.

That just about says it all about the Intergovernmental Panel on Climate Change and its reports. There is an unquestionable nexus between funding and political outcomes. I refer to Matt Ridley in today's *Australian*, who noted:

... the deep prejudice towards pessimism that dominates the intelligentsia.

... What is more, pessimism has become a hallmark of the Left, chiefly because it justifies activism.

... Today, infected by Malthusian ecology, the Left relentlessly preaches millennial doom and technological risk: ... A dramatic change in human stewardship of the planet is needed.

Members can guess who wants to be the steward, who wants to be in charge. The article continued:

There's a broad constituency for pessimism. No pressure group ever got donations by telling its donors calamity was unlikely; and no reporter ever got his editor's attention by saying that a scare was overblown; and no politician ever got on television by downplaying doom.

There is always a crisis in the great global warming swindle—water level rises of 100 metres, Sydney dams becoming empty, Perth having to be abandoned. There are always crises because crises demand government funding and government intervention. As Jonah Goldberg stated in his recent study on totalitarianism:

Crisis is routinely identified as a core mechanism of fascism because it short-circuits debate and democratic deliberation. Hence all fascist movements commit considerable energy to prolonging a heightened state of emergency.

[Time expired.]

SYNTHETIC CANNABIS

The Hon. PAUL GREEN [10.00 p.m.]: I speak tonight about synthetic cannabis—something my learned friends may know something of—its effects and the case for banning it in New South Wales. Synthetic cannabis, also known as Spice, K2, or Kronic, is a psychoactive herbal and chemical product that, when consumed, mimics the effects of cannabis. Synthetic cannabis is claimed by the manufacturers to contain a mixture of traditionally used medicinal herbs that supposedly produce mild effects resulting in a cannabis-like intoxication. Though currently widely available across all States and Territories of Australia, the product has become particularly prevalent in mining communities and does not show up in standard saliva or urine tests. Mr P. J. Millington, Chief Executive Officer, Chemistry Centre Western Australia, recently stated:

We started to become aware of this as a public health risk and we started to bring in the standards and also to undertake the necessary methods to test for it ... We found ourselves being overwhelmed by samples coming in the door from mining and other

sectors. Unfortunately, Kronik, the name by which this drug is marketed, has quite dangerous side effects for those using heavy machinery. It can cause hallucinations and tiredness et cetera. Naturally companies are concerned about it and are starting to ask us to test for it ... we have had up to a 30 per cent hit rate. Obviously, it is of great concern ...

This product, commonly sold as incense and often labelled as "not for human consumption," is being smoked by people seeking effects similar to those of cannabis and they are risking their health. Although its effects are not well documented, extremely large doses of synthetic cannabis may cause negative effects that generally are not noted in marijuana users, such as increased agitation and vomiting. The Australian Medical Association reported that side-effects have included severe paranoia, anxiety, high heart rates, agitation, restlessness and panic attacks while using the synthetic drug—or speaking about planning legislation!

Researchers at the Naval Medical Centre in San Diego examined the outcomes of 10 patients hospitalised for psychosis related to the use of synthetic cannabis. The 10 patients ranged in age from 21 to 25 and all experienced symptoms of psychosis after using synthetic cannabis. Some of the patients experienced ongoing psychotic symptoms. The symptoms included auditory and visual hallucinations, paranoid delusions, odd or flat affect, thought blocking, disorganised speech, thoughts of suicide, insomnia, slowed reaction times, agitation and anxiety. The study provides the first evidence of a connection between psychosis and synthetic cannabis, similar to results found for natural cannabis and psychotic episodes. However, further research is required to determine which chemicals cause different types of psychotic experiences in users of unregulated synthetic cannabis.

Synthetic cannabis, known as Spice, has already been banned in 16 countries, including Germany, France, Chile, Poland, Russia, South Korea, Sweden, Switzerland, Austria and the United Kingdom. The United States currently has no such ban on the drug. I applaud Western Australia, which has become one of the first States in Australia to ban the legal synthetic cannabis product known as Kronik. On Friday, South Australia's Attorney General, John Rau, banned the active ingredients of synthetic cannabis and set penalties of up to \$10,000 for people found guilty of selling the drug; Tasmania is moving to prohibit the product; and Victoria says it is investigating a ban. Queensland recently referred it to the Therapeutic Goods Administration and an intergovernmental committee on drugs. The intergovernmental committee and the Therapeutic Goods Administration are looking at what new approaches should be taken nationwide to deal with this issue with a view to having these substances scheduled so they can be regulated and effectively banned. I encourage the New South Wales Government to follow its counterparts in legislating to ban the active ingredients of synthetic cannabis, thus protecting New South Wales citizens' lives.

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

Motion agreed to.

The House adjourned at 10.05 p.m. until Tuesday 21 June 2011 at 11.00 a.m.
