

LEGISLATIVE COUNCIL

Wednesday 22 February 2012

The President (The Hon. Donald Thomas Harwin) took the chair at 11.00 a.m.

The President read the Prayers.

PHOTOGRAPH OF LEGISLATIVE COUNCIL

The PRESIDENT: I advise members that before the House proceeds with business, an official photograph will be taken of members and officers of the Legislative Council. For this purpose, I ask members and officers to follow the instructions of the photographer.

CHILDREN (DETENTION CENTRES) AMENDMENT (SERIOUS YOUNG OFFENDERS REVIEW PANEL) BILL 2011

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

Motion by the Hon. Michael Gallacher agreed to:

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

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

PRIVILEGES COMMITTEE

Reference

Motion, by leave, by the Hon. Trevor Khan agreed to:

That Private Member's Business No. 406 outside the Order of Precedence be amended by omitting "April 2012" in paragraph 3 and inserting instead "June 2012".

Motion by the Hon. Trevor Khan agreed to:

1. That this House notes that:
 - (a) on 13 November 1997, this House adopted a right of reply procedure in a resolution of continuing effect, based on the right of reply procedure in the Australian Senate,
 - (b) this procedure was subsequently incorporated in the current Standing Orders 202 and 203 adopted on 5 May 2004, and
 - (c) since the adoption of the right of reply procedure, the Privileges Committee has presented 30 reports recommending the incorporation of a right of reply in *Hansard*.
2. That the Privileges Committee review the right of reply procedure including, but not limited to, the possible introduction of an appropriate time limit on requests for rights of reply.
3. That the committee report by the last sitting day in June 2012.

INTERNATIONAL ASPERGER'S DAY

Motion by Reverend the Hon. FRED NILE agreed to:

That this House:

- (a) recognise that International Asperger's Day will be held on Sunday 18 February 2012,
- (b) joins others in the community to celebrate the achievements of people with Asperger's Syndrome and show support for sufferers, their families and carers.

PURPLE DAY

Motion by Reverend the Hon. FRED NILE agreed to:

That this House:

- (a) recognise that 26 March 2012 is National Purple Day, a day intended to raise awareness about epilepsy and show support for sufferers and their families, and
- (b) encourages all citizens to become involved in supporting epilepsy sufferers by purchasing a purple ribbon or otherwise wearing something purple on 26 March.

OVARIAN CANCER

Motion by Reverend the Hon. FRED NILE agreed to:

That this House:

- (a) recognises that National Ovarian Cancer Awareness Month will be held throughout February,
- (b) acknowledges the success of the campaign in raising awareness of the symptoms of the disease, for raising funds for research and funds for support programs for afflicted women and their families, and
- (c) encourages all citizens to become involved in supporting the fight against ovarian cancer by purchasing a teal ribbon on 29 February or making a donation by visiting www.ovariancancer.net.au.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business items Nos 455, 458 and 461 outside the Order of Precedence objected to as being taken as formal business.

LIFE EDUCATION

Motion by the Hon. NATASHA MACLAREN-JONES agreed to:

1. That this House acknowledges the work of Life Education to:
 - (a) develop and implement innovative programs that educate, motivate and empower children and young people to make informed choices for a safe and healthy lifestyle, and
 - (b) build the capability of children and young people to challenge their attitudes, expand their knowledge and develop their skills and strategies for healthy lifestyle behaviour.
2. That this House notes:
 - (a) that Life Education engages with over 350,000 children and 30,000 students across New South Wales each year,
 - (b) the support the O'Farrell-Stoner Government provides to Life Education, and
 - (c) that Life Education's current campaign is the "Family Challenge", the seven-day challenge which aims to inspire families to become more active and improve nutrition while having fun together as a family.
3. That this House commends Life Education for its ongoing work of improving the health of the State's young people and students.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 475 outside the Order of Precedence objected to as being taken as formal business.

TRIBUTE TO PROFESSOR JOHN RASKO

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes:
 - (a) the pioneering work Professor John Rasko is undertaking in the application of adult stem cells and genetic therapy,
 - (b) Professor Rasko is currently the Director, Department of Cell and Molecular Therapies, Royal Prince Alfred Hospital, Sydney Local Health District, Sydney; Senior Staff Specialist in Gene Therapy and Haematology, Sydney Cancer Centre, The Chris O'Brien Lifehouse at Royal Prince Alfred Hospital; head of the Gene and Stem Cell Therapy Program, Centenary Institute; and Professor, Faculty of Medicine, University of Sydney, and
 - (c) Professor Rasko has also served on the Royal Prince Alfred Hospital Library Committee; Board of Directors, HutchKids Child Care, Fred Hutchinson Cancer Research Center, Seattle; co-convenor and executive organising committee, Australasian Gene Therapy Society Inaugural Meeting, Centenary Institute; Foundation Secretary, Australasian Gene Therapy Society Inc.; member, Ethics of Clinical Practice Subcommittee, Royal Prince Alfred Hospital, Human Ethics Review Committee; member, Sydney Cancer Centre; Research Committee; member, Research Strategy Committee, Department of Experimental Medicine, University of Sydney; member, Flow Cytometry Administrative Committee, Department of Experimental Medicine, University of Sydney; member, Clinical Trials Subcommittee, Royal Prince Alfred Hospital, Human Ethics Review Committee; Secretary, Royal Prince Alfred Hospital Institutional Biosafety Committee; Chairman, Integrated Cancer Programme Lecture Series organising committee; member, Cancer Therapeutics Research Group (a joint venture of the National University of Singapore and the Sydney Cancer Centre); foundation member, Gene Technology; Technical Advisory Committee, Office of the Gene Technology Regulator, Department of Health and Ageing, Australian Government; Chairman, Research Group, Greater Metropolitan Transition Taskforce, Bone Marrow Transplantation Services Working Party, New South Wales Department of Health; member, National Health and Medical Research Council, National Baboon Colony, Strategic Planning; and Management Committee; National Health and Medical Research Council Project Grant Review Genetics Discipline Panel; Chairman, Research Committee, Sydney Cancer Centre; examiner, Pathological Sciences, Royal College of Pathologists of Australasia; President, Australasian Gene Therapy Society Inc.; Executive Committee, Sydney Cancer Centre; Chairman, Research; Executive Committee, Bone Marrow Transplant Network NSW, Greater Metropolitan Transition Taskforce, Department of Health, New South Wales; Faculty Review Committee, Victor Chang Cardiac Research Institute; Cancer Institute (NSW) Research Committee; member judging panel, Royal Prince Alfred Hospital Research Prize; member, Committee to Consider Nominations for the Award of Research Titles, Faculty of Medicine; Research Fellowship Peer Review Advisory Panel Assessor, Research Fellowships Committee, National Health and Medical Research Council; Executive Committee, Bone Marrow Transplant Network NSW, Greater Metropolitan Transition Taskforce, Department of Health, New South Wales; Director, Cure the Future, Cell and Gene Trust Ltd; Chairman, Scientific Advisory Committee, Facioscapulohumeral Dystrophy [FSHD] Global Research Foundation; member, Award Advisory Committee, Sir Zelman Cowen Universities Fund Prize for Discovery in Medical Research; Regional Vice-President (Australia), International Society for Cellular Therapy; Commercialisation Committee; Centenary Institute; Chairman, Industry Advisory Committee for Research Infrastructure; Support Services; board member, Rebecca L. Cooper Medical Research Foundation; Chairman, Gene Technology Technical Advisory Committee, Office of the Gene Technology Regulator, Department of Health and Ageing, Australian Government (established under the Gene Technology Act 2000 to provide scientific and technical advice to the Gene Technology Regulator and to the Ministerial Council); Coordinating Reviewer for abstracts Stem Cell Therapies category, 12th annual meeting, American Society of Gene and Cell Therapy; Chairman, American Society of Gene and Cell Therapy International; committee member, Australian Red Cross Blood Service Ethics Committee; First Faculty Committee, Faculty of Science, Royal College of Pathologists of Australasia; and chair, Royal Prince Alfred Hospital Institutional Biosafety Committee.
2. That this House notes that Professor Rasko has received national and international awards in recognition of his commitment to excellence in medical research, these include:

1980-81	Summer Vacation Research Scholarship, Department of Anatomy, University of Sydney,
1982-83	Australian Medical Students Association, Australian Medical Association, JG Hunter Research Fellowship, University of Sydney Faculty of Medicine BSc (Med) Research Grant,
1984-85	Sydney Tapping Bequest Scholarship, Postgraduate Committee in Medicine, University of Sydney, Visiting Summer Vacation Student, Laboratory of Molecular Carcinogenesis, National Cancer Institute, Bethesda, SA Aaronson,
1985-86	Australian Medical Students Association, Australian Medical Association, JG Hunter Research Fellowship,
1991	Royal Prince Alfred Hospital Medical Board Bicentennial Travelling Fellowship Grant,
1992	University of Sydney Faculty of Medicine Travelling Scholarship,
1992-95	National Health and Medical Research Council Medical Postgraduate Research Scholarship for Project: "Hemopoietic growth factors and autocrine leukemogenesis",

- 1995 Haematology Society of Australia Glaxo Award,
 - 1996 The Royal Australasian College of Physicians' Rhône-Poulenc Rorer Fellowship in Oncology,
 - 1996-99 Damon Runyon-Walter Winchel Foundation Fellowship for postdoctoral studies at the Fred Hutchinson Cancer Research Center, Seattle, United States of America,
 - 1999 The Royal Australasian College of Physicians' CSL Fellowship in Medical Research, Centenary Institute of Cancer Medicine and Cell Biology,
 - 2000 AMRAD postdoctoral award, AMRAD Operations Australia Kanematsu Award, The Royal College of Pathologists of Australasia,
 - 2001 New South Wales Young Tall Poppy Award, Australian Institute of Political Science,
 - 2001 University of Sydney, Faculty of Medicine, Central Clinical School Excellence in Teaching Award,
 - 2003 Royal Prince Alfred Hospital Research Award, Royal Prince Alfred Hospital Foundation,
 - 2007 The Roche Medal, Australian Society for Biochemistry and Molecular Biology,
 - 2009 Visiting Professor for 2010, Royal College of Pathologists of Australasia,
 - 2010 The Lucy F Falkiner Fellowship, Sydney Medical School Foundation,
 - 2010 Visiting Academician, Academy of Medicine, Singapore,
 - 2011 Brocher Foundation Residency for visiting researchers, Switzerland,
 - 2011 Eric Susman Prize, Royal Australasian College of Physicians,
3. That this House acknowledges and thanks Professor John Rasko for his extraordinary commitment to cancer patients, medical science and the community.

PILLARS OF STRENGTH

Motion by the Hon. NIALL BLAIR agreed to:

1. That this House notes that:
 - (a) Pillars of Strength is an Australian initiative which has been launched at the Royal North Shore Neonatal Intensive Care Unit and will be rolling out to other hospitals and groups in 2012,
 - (b) Pillars of Strength was founded by Mr Gary Sillett, whose son Isaac was born prematurely and passed away in December 2010,
 - (c) Mr Sillett found that there was very little support for fathers who have a child going through a traumatic experience, when they are expected to be a pillar of strength for their family,
 - (d) the pilot program commenced in August 2011 and had begun providing support and time out for dads and families whose child is sick, or for those who have lost a child,
 - (e) Pillars of Strength is a conduit to other complementary services and information but primarily offers two key programs, being:
 - (i) the Time Out Program, through which Pillars of Strength provides fathers the opportunity to attend a sporting game or participate in a fitness activity with their mates or other dads who have experienced something similar by partnering with sporting codes, teams, venues and organisations,
 - (ii) in-hospital support, through which general financial advice is provided by an accredited financial advisor and financial assistance is provided in the form of parking vouchers, with other programs to be rolled out in late 2012, and
 - (f) the Pillars of Strength official launch and inaugural Golf Day, which was held on Friday 17 February 2012 at Twin Peaks Golf and Country Club, which was attended by numerous sporting celebrities and was a great success.
2. That this House:
 - (a) congratulates Mr Gary Sillett and Pillars of Strength on their official launch and fundraiser, and on their many achievements to date, and
 - (b) wishes Pillars of Strength success as they continue to roll out their support services across New South Wales.

CYPRUS DELEGATION**Motion by the Hon. MARIE FICARRA agreed to:**

1. That this House notes that, on 10 February 2012, members of the Cyprus Community of New South Wales welcomed His Excellency Mr Yiannakis Omirou, President of the House of Representatives for the Republic of Cyprus, and a parliamentary delegation to Australia.
2. That this House acknowledges:
 - (a) those that attended, particularly:
 - (i) His Eminence Malatius Malki Malki, Archbishop of the Syrian Orthodox Church,
 - (ii) Archimandrite Father Sofronios representing His Eminence Archbishop Stylianos of the Greek Orthodox Church in Australia,
 - (iii) the Hon. Anthony Albanese, MP, Federal Minister for Infrastructure and Transport, representing the Hon. Julia Gillard, MP, Prime Minister of Australia,
 - (iv) the Hon. Marie Ficarra, MLC, representing the Hon. Barry O'Farrell, MP, Premier of New South Wales,
 - (v) Senator Arthur Sinodinos, representing the Leader of the Federal Opposition, the Hon. Tony Abbott, MP,
 - (vi) the Hon. Amanda Fazio, MLC, co-convenor of the New South Wales Parliamentary Friends of Cyprus and representing the Leader of the New South Wales Opposition, Mr John Robertson, MP,
 - (vii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice and co-convenor of the New South Wales Parliamentary Friends of Cyprus,
 - (viii) the Hon. Carmel Tebutt, MP,
 - (ix) Reverend the Hon. Fred Nile, MLC,
 - (x) the Hon. Walt Secord, MLC,
 - (xi) Mr Andrew Rohan, MP,
 - (xii) the Hon. John Dowd, AO, QC,
 - (xiii) the Hon. Jeanette McHugh,
 - (xiv) Councillor Maurice Hannah, Mayor of Marrickville Council,
 - (xv) Councillor Nicholas Vrvais, Mayor of Kogarah Council.
 - (xvi) His Excellency Yannis Iacvou, High Commissioner of Cyprus to Australia,
 - (xvii) Dr Procopis Vanezis, former High Commissioner of Cyprus to Australia,
 - (xviii) Mr Ayman Ali Kamel, Consul General of the Arab Republic of Egypt,
 - (xix) Mr Branko Radosevic, Consul General of the Republic of Serbia,
 - (xx) Mr Mayer Dabbagh, Syrian Consul,
 - (xxi) Ms Kesanee Palanu Wongse, Deputy Consul General of the Royal Thai Consulate,
 - (xxii) Ms Maria-Jose De Jesus, Consulate General of East Timor,
 - (xxiii) Dr Noriko Tanaka, Consul General of Japan,
 - (xxiv) Mr Nicholas Manoppo, Consul of the Republic of Indonesia,
 - (xxv) Mr Dhanny Perkasa, Vice Consul of the Republic of Indonesia,
 - (xxvi) Mr Umagiliya Vithanage, Consul of Sri Lanka,
 - (xxvii) Mr Alfred Breznik AM, Honorary Consul General of Slovenia,
 - (xxviii) Mr Vaio Oraipoulos, Consul for Economic and Commercial Affairs of the Consulate General of Greece,

- (xxix) Mr Andreas Hadjithemistos, Consul of the Republic of Cyprus,
- (xxx) Councillors Emanuel Tsardoulis and Victor Makri of Marrickville Council,
- (xxxi) Commissioners Tony Pang and Wajiha Ahmed of the Community Relations Commission, and
- (b) the work of Mr Michael Christodoulou, AM, and the Cyprus community of New South Wales, including the community's efforts in promoting Cypriot culture and diplomacy between our two countries.

TOUR DE CURE

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:
 - (a) Tour de Cure Limited is the trustee of a charitable trust known as Tour de Cure Trust (Tour de Cure),
 - (b) Tour de Cure is committed to finding a cure for cancer,
 - (c) through the collaborative efforts of its team, corporate partners and the Australian community, Tour de Cure aims to raise awareness and inspire action in the fight against cancer, and
 - (d) Tour de Cure strategically identifies and funds cancer projects in the following areas:
 - (i) research focused to help find a cure,
 - (ii) supporting those suffering with the journey of cancer,
 - (iii) prevention focused through education and awareness, as prevention is a cure, and with 60 per cent of cancers deemed preventable these as well as the above two areas are perfect projects for Tour de Cure to fund.
2. That this House notes that:
 - (a) Tour de Cure in 2011 funded research, support and prevention projects to the total of \$1,000,000 to the following:
 - (i) Dr Kathy Willowson, researching the role of imitable micro spheres in radioembolisation treatment planning for hepatocellular carcinoma and other liver cancer (Cure Cancer Australia),
 - (ii) Dr NaiYang Fu, researching the identification of cells of origin in breast cancer (Cure Cancer Australia),
 - (iii) strategic equipment required to extend Lowy laboratory capability in finding prevention means for brain cancer (Cure for Life Foundation),
 - (iv) a cell culture orbital water bath "belly dancer" (Cure for Life Foundation),
 - (v) contribution to researcher and consumables for a kynurenine pathway research project (Cure for Life Foundation),
 - (vi) research equipment for gene and cell cancer research (Cure the Future),
 - (vii) a temperature-controlled orbital shaker for growing bacteria (Cure the Future),
 - (viii) research on using molecular detection of minimal residual disease to improve outcomes for children with Acute Lymphoblastic Leukaemia (Sydney Children's Hospital/Children's Cancer Institute Australia),
 - (ix) two minimal residual disease tests for two children (Sydney Children's Hospital/Children's Cancer Institute Australia),
 - (x) prostate cancer research to create personalised medicine to manage the disease in advanced stages (Garvan Research Foundation),
 - (xi) funding to assist young researchers' scholarship income for living expenses (Garvin Research Foundation),
 - (b) Tour de Cure contributed to the following support projects and donated \$336,579 of funding to:
 - (i) a state of the art chemotherapy suite, increasing comfort and support (LIVESTRONG/Flinders Medical Centre Foundation),
 - (ii) a chemotherapy chair (LIVESTRONG/Flinders Medical Centre Foundation),

- (iii) upgrade to office phone system (Cure Cancer Australia),
 - (iv) the inaugural Ovarian Cancer Supportive Care Program (Cancer Council),
 - (v) a recreational camp for kids (Camp Quality),
 - (vi) a ski camp for Wollongong senior kids (Camp Quality),
 - (vii) travel assistance for patients, carers and bone marrow donors (Arrow Foundation),
 - (viii) The Tracey Scone Wig Library (Arrow Foundation),
 - (ix) scholarships to registered nurses employed in the field of blood and marrow transplantation and paediatric oncology (Arrow Foundation),
 - (x) patient seminars and comprehensive guides on the transplant process (Arrow Foundation),
 - (xi) a computer and printer for the Cooma office of the Cancer Council,
 - (xii) funding for national support group management (Prostrate Cancer Foundation),
 - (xiii) an upgrade to the entertainment facilities for 18 patient home away from home accommodation units (Leukaemia Foundation), and
- (c) Tour de Cure donated \$100,054 to the following prevention and education programs:
- (i) IT equipment for Albury region education seminars (Leukaemia Foundation),
 - (ii) the "Stickman Rules" Kids Cancer Awareness Publication (Tour de Cure),
 - (iii) the "What I wish I knew about cancer" adult cancer awareness publication (Tour de Cure),
 - (iv) an education grant for a speakers' bureau (National Breast Cancer Foundation)
 - (v) a speakers' bureau training session for the Shepparton region (National Breast Cancer Foundation).
3. That this House acknowledges and thanks the following for their outstanding work:
- (a) the Tour de Cure Foundation,
 - (b) Tour de Cure's Board of Directors: Mr Bruno Maurel, Ms Dominique Robinson, Mr Geoff Coombes, Mr Gary Bertwistle, Ms Samantha Hollier-James, Ms Julie Briscoe and Mr Mark Beretta.

CURE THE FUTURE FOUNDATION

Motion by the Hon. MARIE FICARRA agreed to:

1. That this House notes that:
- (a) Cure the Future raises funds for medical research into innovative cell and gene therapies,
 - (b) Cure the Future focuses on the promise of cell and gene therapies that will cure all types of diseases including heart disease, cancer, haemophilia and diabetes, and
 - (c) since its inception in 2005, Cure the Future has raised over \$900,000 for cell and gene therapy research.
2. That this House notes that, since 2005, Cure the Future has purchased the following state-of-the-art machinery to assist researchers:
- (a) a polymerase chain reaction [PCR] machine, which is:
 - (i) a Nobel Prize winning discovery that has revolutionised the ability to study gene sequences,
 - (ii) a mini-factory which increases specific DNA sequences by up to a million times using temperature sensitive chemicals which reveal vanishingly small amounts of DNA present in as little as a single cell,
 - (iii) in high demand in the laboratory, therefore Cure the Future's funding of the machine has accelerated the rate of research, and
 - (b) nanodrop spectrophotometer, which:
 - (i) is used to measure the concentration and purity of DNA with greater efficiency and accuracy,
 - (ii) enables readings of DNA samples up to 50-fold higher in concentration which in turn preserves more of the sample taken for other testing/applications, an important innovation as the need to determine the concentration of samples is a cornerstone of modern molecular biology and almost all experiments involving gene transfer rely on this technology.

3. That this House acknowledges and congratulates:
- (a) the Cure the Future Foundation for its continuing active research work to address cancer, heart disease, haemophilia and diabetes,
 - (b) the founders of Cure the Future for their dedication in establishing this outstanding charity: Mr Paul Armstrong, Mr Michael Carr, Mr Matthew Coren, Mr Bryce Courtenay AM, Ms Christine Gee, Dr Peter Dodd, Ms Roslyn Forrest, Mr Julian Grosvenor, Mr Joseph and Mrs Miriam Habib, Mr Martin Hirst, Mr John and Mrs Kathleen Howard, Mr Sean Howard, Mr Ben Keeble, Mr David Khedoori, Mr Fred Khedoori, Mr Alexander Lang, Mr William Lynch, Mr Simon Maidment, Mr Bill Moss AM, Mr John Needham, Mrs Helen Rasko, OAM, Mrs Hermina Rich, Mr Andrew Richardson, Mr David Ross, Mr Mark and Mrs Jane Skinner and the late Mr Eric Strasser,
 - (c) the Board of Director of Cure the Future for their continuing dedication to raising funds for ground breaking medical science research: Ms Diane Langmack (Chair), Mr Stuart MacGill, Mr Luke Mangan, Professor John Rasko, Ms Catherine Oates Smith and Ms Jane Skinner,
 - (d) patrons of Cure the Future for their work and support of the Foundation: Mr Bill Moss, AM, the Hon. Michael Kirby, AC, CMG, Mr Bryce Courtenay, AM, and Professor Diana Horvarth, AO,
 - (e) ambassadors of Cure the Future for raising awareness of the Foundation: Mr David Pullini, Mr Petero Civoniceva and Ms Lucy Turnbull, and
 - (f) Ms Beverley Baker, Executive Officer of Cure the Future, for her continued outstanding service and dedication to the foundation.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Notice of Motion No. 1 postponed on motion by the Hon. Michael Gallacher.

Business of the House Notice of Motion No. 1 postponed on motion by Dr John Kaye.

MARINE POLLUTION BILL 2011

In Committee

Consideration resumed from 21 February 2012.

The Hon. LUKE FOLEY (Leader of the Opposition) [11.26 a.m.]: I return to my contribution in relation to Opposition amendment No. 1 on sheet C2012-017H, which seeks to establish an oiled wildlife care network. Discussions have been held overnight between the Government, the Opposition and interested crossbenchers, and I am pleased to advise honourable members that the points of difference between the parties have narrowed. The Minister will speak on our amendment in the near future, but it is fair to say that the Government has come some way and is prepared to seriously consider the network that Labor proposes. I appreciate the consideration the Minister has given to this amendment since it was last before the Committee yesterday afternoon. Labor is concerned about the State's preparedness to deal with a major oil spill in our waters. I recognise that the State Disaster Plan functions very well in preparing the State for disasters and that it contains a number of sub-plans, including a plan to deal with an oil spill.

However, after hearing from relevant stakeholders, in particular, people who provide rehabilitation to injured wildlife, I believe there is room for significant improvement in the State's preparedness to deal with a major oil spill. It is probably a case of when and not if a major oil spill occurs in New South Wales waters. The number of ships passing through New South Wales ports has increased dramatically, which is a good thing. Port Kembla, Newcastle and Sydney ports are all undergoing major expansions. The Port of Newcastle has seen a 30 per cent growth in shipping movements over the past five years. Nick Whitlam, Chairman of Port Kembla Ports Corporation, waxes lyrical about the growth that Port Kembla has experienced in recent years. If the Maldon to Dombarton rail line ever comes to fruition, the amount of traffic coming to that port will increase exponentially.

With that significant increase in traffic through our ports it follows that the chance of an oil spill will increase. Over the past few years we have seen internationally dramatic reports and footage of the environmental and wildlife catastrophe that flows from a major oil spill. I refer to the spill in the Gulf of Mexico

and to the *Rena* oil spill in the Bay of Plenty in New Zealand late last year. Members would be able readily to summon to mind the pictures on our television screens of stricken seabirds and wildlife as a result of those catastrophic oil spills. The New South Wales State Disaster Plan has a strong emphasis on protecting life and property, but it is not as strong when it comes to the environment and wildlife. Of course the greatest priority for the State Disaster Plan is life and property, which is as it should be. However, the State has a responsibility to consider in advance of any spill the likely impacts of such an event on the environment and on wildlife.

Yesterday I referred to Australian Seabird Rescue, which is a non-government organisation. At a recent meeting of the New South Wales Department of Primary Industries agriculture and animal services functional area subcommittee—which is a mouthful—the organisation highlighted some disparate and uncoordinated efforts in which multiple government agencies engaged to prepare for a spill. Australian Seabird Rescue made the case to politicians across the board, not simply to Opposition members, that we have a fair bit of work to do to put those disparate and uncoordinated efforts together in preparation for an oil spill.

In recent months Australian Seabird Rescue hosted across the New South Wales coastline five oil spill Response for Wildlife seminars, which were funded by the Environmental Trust and supported by the Department of Industry and Investment. The people involved in the organisation know what they are talking about as they have hosted seminars dealing with these issues. They told me that in some respects the State has a fair bit of work to do to improve its preparedness. For example, they said that Taronga Zoo no longer provides training for on-the-ground volunteer carers. They said that at the moment those on the frontline who save our wildlife in the event of a catastrophic spill do not receive formal training. I am told that Taronga Zoo had an oiled wildlife manual but that it is out of date. The manual should be updated to include reptiles and marine mammals. Serious consideration should be given also to the infrastructure and equipment needed to care for wildlife when a major oil spill occurs. For instance, birds need to be washed in warm water and then dried in a safe environment, and some birds need ongoing veterinary attention. This requires infrastructure such as electricity, tents, heating and cages.

The Opposition proposes an oiled wildlife care network that would bring together all stakeholders to ensure maximum coordination to prepare for the impacts of a major oil spill, particularly on wildlife but also on the environment. Yesterday the Minister raised concerns that such a network could potentially move responsibility from professionals to amateurs. I note those comments. That is certainly not the intention of the Opposition's amendment. It was drafted in such a way that all government stakeholders would be at the table—Maritime Services, the ports corporations, the Office of Environment and Heritage, the Department of Primary Industries, the Rural Fire Service, our emergency services, and Taronga Zoo, which has much to contribute. It is certainly the Opposition's intention that those professionals, as the Minister correctly refers to them, all be at the table central to this planning and this work.

There is a role for the non-government sector and for wildlife care and rehabilitation providers, including but not limited to Australian Seabird Rescue—the organisation I have been working with on this topic in recent times. Of course there are other wildlife organisations that will have expertise to bring to the table. I assure members that the intent of the amendment is not somehow to transfer responsibility from professionals in the New South Wales public service to the non-government sector. However, there is a very strong case for establishing a network that brings together the government and non-government sector with expertise in the field. I do not believe the Opposition's amendment, which has been moved in good faith, would conflict in any way with the relevant sub-plan under the State Disaster Plan. The non-government sector has made a persuasive case to the Opposition when it comes to the impact on wildlife of a major oil spill that a coordinated strategy from our State to prepare for those impacts could and should be improved.

That is the intent of the amendment—to establish this network. I am told it is modelled on the Californian network and that that network operates very effectively. Indeed, the Californians are called to give advice on these matters around the world when major oil spills occur. In short, this amendment has been moved in good faith. The Labor Opposition supports in totality the bill brought to the House by the Minister. We believe this amendment would strengthen the legislation and improve the State's preparedness for the catastrophic environmental and wildlife consequences of a major oil spill.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [11.40 a.m.]: The Government opposes the Opposition's amendment and will move an amendment to it. Whilst this is a well-meaning amendment, although illogical in many ways, there are germs of something sensible within it relating to listening to the organisations mentioned and their understanding and advisory function. Having listened to what the Leader of the Opposition

said about his amendment a moment ago, I believe he would have no trouble in supporting the Government's amendment because it makes absolutely clear that the good advice that could come from these organisations would be part of an advisory function rather than a deliberative function.

The Leader of the Opposition in speaking to his amendment made it clear that the organisations were there just to give advice, but that is not clear from the amendment. The amendment contains a list of wildlife care or rehabilitation providers, zoological parks, emergency services, regulatory agencies and academic institutions, which is pretty wide. One could put almost anyone, from the sensible to the senseless, into that group. The Leader of the Opposition talked about a couple of the sensible and respected groups, but the amendment is wide enough to include any group. Proposed subsection (4) of the amendment states:

The functions of the network are as follows:

- (a) to prepare a major spill contingency plan that sets out an integrated, co-ordinated procedure to combat the effects of a major spill of a marine pollutant on the environment and on wildlife,

That is pretty precise. It centres on the important area where we need professionals who know what they are doing. The amendment continues:

- (b) to test the major spill contingency plan at least once a year by the conduct of a drill,

That is fine; it is already happening. The Opposition did not do its homework. If it had spent more time talking to Nick Whitlam it might have found that out because he is good. He is the chairman of Port Kembla Port Corporation, which has great strategies in place, as does the Port of Newcastle, Port Botany and Port Jackson. If the Leader of the Opposition had listened to them he might have found out something. The amendment goes on to state:

- (e) to carry out continual training of personnel (including volunteers) who would potentially be involved in collecting and caring for wildlife affected by a major spill of a marine pollutant,
- (f) to conduct periodic drills to test the preparedness and skills of those personnel,
- (g) if there are any deficiencies identified by those drills, to conduct further training of personnel to remedy the deficiencies,

The Opposition amendment is not about the professional side of the organisation, which is set up and trained, which has millions of dollars of equipment and which is on an emergency footing 24 hours a day seven days a week. It talks about a group covering wildlife care or rehabilitation providers, zoological parks and academic institutions. It is a broad-ranging group which, as I said yesterday, is certainly well-meaning. However, the crux of it is that those institutions are amateurs in the field we are talking about. What they can and should bring to the table is their concern and expertise in the particular areas in which they operate. That is why the Government is e proposing an amendment. I move Government amendment No. 1 on sheet C2012-023A:

No. 1 Omit proposed section 189 (4) from Amendment No. 1. Insert instead:

- (4) The function of the network is to act as a consultative committee to advise on marine pollution response preparedness.

We will leave the organisations in the bill and remove proposed subsection (4) and replace it with words that set out the functions of the network to act as a consultative committee. I think that is appropriate. The words that the Leader of the Opposition used in speaking to his amendment support my amendment to his amendment. This is a consultative committee and one that we do not necessarily want to be running the show. The important contribution it would make would be to help improve our preparedness. The weasel words in proposed subsection (3)—that the Minister is to determine the constitution and procedure of the network—leave the way open for me to gut these organisations after building up their aspirations in subsections (1) and (2). I would prefer to be up-front and to say, "You guys are good; you do a terrific job. You have developed skills and we want to work with you and that is the way it will be." That is why we propose this amendment. The basis of the Opposition amendment is that we are not doing the job properly now, there is no consultation and there is not a proper plan in place. That is just dramatically wrong; it is just so wrong.

The Hon. Luke Foley: It doesn't say that.

The Hon. DUNCAN GAY: It does. The implication in the Opposition amendment is that the planning does not exist and there is no consultation. On the contrary, it does and there is. As I indicated, it fails to take

into account how oil spill response arrangements work in Australia. As members know, New South Wales is a signatory to the 2002 Intergovernmental Agreement on the National Plan to Combat Pollution of the Sea by Oil and Other Noxious and Hazardous Substances. Under this agreement a statutory agency in each State and the Northern Territory will be responsible for coordinating the local administration and operation of the national plan. Under the national plan the responsibilities of the State and Northern Territory statutory agencies include administration and operation of the national plan in the State or the Northern Territory, developing and implementing contingency plans for combating marine pollution and advising and supporting the combat agency during the response to a marine or chemical pollution incident.

The amendment of the Leader of the Opposition is about putting oil spill response management into the hands of a stakeholder group, which would go directly against the national agreement developed by the Federal Government and all the States. The national plan ensures prompt, professional, experienced and nationally coordinated responses are available to serious incidents wherever they occur. Stakeholders are certainly not excluded from this picture. The New South Wales response plans already encompass coordinated efforts by a range of organisations as well as support for these organisations.

I will not go into further detail because it is probably unnecessary, but a lot is happening in this area. There are facilities in each of the ports up and down the coast. We have trained and professional people who take their role seriously. Our track record to date has been pretty good but on any given day we are only an hour or a day away from another spill, which is why we must be vigilant. I acknowledge that part of this amendment is good and totally supportable but it would be better to leave the matter to the professionals to ensure that they carry out their work properly. The first part of the amendment is worthwhile as it is good to get feedback from communities.

The Department of Primary Industries Agriculture and Animal Services Functional Area Subcommittee, which has responsibility for all emergencies in New South Wales, brings together this expertise and coordinates wildlife response issues. Under current arrangements the National Parks and Wildlife Service procedural guidelines for the rescue and rehabilitation of all wildlife already contain provisions for the inclusion and management of volunteers. It is helpful to add a further layer to those guidelines. I commend to the Committee my amendment to the Opposition's amendment.

The Hon. ROBERT BROWN [11.53 a.m.]: The Shooters and Fishers Party supported the Marine Pollution Bill 2011 in its contribution to the second reading debate. The Shooters and Fishers Party supports the amendment moved by the Labor Party and the amendment to the amendment moved by the Minister for Roads and Ports appears to provide a reasonable outcome. We applaud the Government and the Opposition for getting their heads together to arrive at a good outcome. It will provide stakeholders with a seat at the table so their expertise is available to the Minister through a formal channel and, at the same time, it will leave the technical aspects to those people who carry out this work for a living. The Shooters and Fishers Party supports the Government's amendment to the Opposition's amendment, and will support the amended bill.

The Hon. LUKE FOLEY (Leader of the Opposition) [11.55 a.m.]: I thank the Minister for Roads and Ports and the Hon. Robert Brown for their contribution to debate on the Opposition's amendment. In essence, the Minister is now saying that he is prepared to adopt Labor's proposal for an oiled wildlife care network. However, the Government wants that network to act in an advisory capacity. The Opposition is prepared to accept that proposal. Clearly we have majority support in this Committee for an oiled wildlife care network and for the Minister's suggestion that it ought to be an advisory body. The Minister expressed concern about the fact that the people on such a network could include the sensible and the senseless, but the Opposition's amendment will give the Minister the power to decide who is on that network. It may be that the Minister for Roads and Ports will appoint the senseless as well as the sensible but I hope that will not be the case.

As I said, the Opposition's amendment will give the Minister the power to decide who is on the network and how it will be run. I believe any responsible Minister will ensure that professionals from multiple government agencies across this State are at the table and that the non-government sector is represented by sensible people with the relevant expertise. The Minister talked about the wonderful work that is being done in this area by the Port Kembla Ports Corporation. I do not doubt the veracity of that statement as I have the highest regard for Nick Whitlam, Chairman of the Port Kembla Ports Corporation, who is a friend of mine. As his name is Whitlam I am hardly likely to criticise him.

Yesterday I said that the State Disaster Plan was strong on protecting life and property but I believe there is room for improvement when looking after the environment and wildlife. This amendment will ensure

that the environmental and wildlife catastrophe that inevitably would result from a major oil spill is considered by our planners and that they devise the best possible plans to ensure we are ready to rehabilitate wildlife in the most effective way. We must ensure that plans are in place for vulnerable locations and ecosystems. Montague Island, which is located in the middle of a major shipping lane, has a colony of up to 16,000 penguins. I would hate to consider what would happen if there were an oil spill at Montague Island or Lord Howe Island. I would like an oiled wildlife care network—I am prepared to accept the Minister's proposal that it be an advisory forum—to put in place plans for vulnerable locations and ecosystems.

The Hon. CATE FAEHRMANN [11.58 a.m.]: On behalf of The Greens I support the Opposition's amendment to the Marine Pollution Bill 2012. However, I do not support the Government's amendment to the Opposition's amendment which, as the Leader of the Opposition noted, will not impact on the passage of this important bill but which will establish an oiled wildlife care network. The Leader of the Opposition talked about the importance of such a network. Last year The Greens wrote to the Minister for the Environment and asked for an outline of the State's preparedness for an oil spill, in particular, dealing with the catastrophic impact that an oil spill could have on wildlife and birds.

Last week we received a response that over the past 12 months officers from the Office of Environment and Heritage have been working closely with the Department of Primary Industries and Taronga Zoo to develop updated policies and procedures that will apply to all agencies when dealing with the rescue and rehabilitation of oiled wildlife. The Minister for the Environment mentioned the 2005 procedural guidelines for the rescue and rehabilitation of oiled wildlife to which the Minister for Roads and Ports referred, and she mentioned also the Taronga Zoo manual entitled, "Rescue and Rehabilitation of Oiled Birds" and said:

Whereas the Taronga Zoo manual dealt exclusively with seabirds, the new documents also include policies and procedures for the rescue and rehabilitation of both oiled marine mammals and reptiles.

That is all very good and it is gratifying to note that the Government is developing or updating policies. In fact, the reference is to "developing updated policies and procedures", which suggests that the policies or procedures do not exist or that they are being updated. However, The Greens believe it is vital that we make it a legislative requirement to develop a major spill contingency plan and to test it, and particularly to plan for the clean-up of wildlife and the environment. The California example has been referred to a number of times in this debate. That is the plan Australian Seabird Rescue is advocating be adopted in New South Wales because it is the best plan in the world.

The Leader of the Opposition mentioned the consultation that Australian Seabird Rescue undertook up and down the coast and noted that the findings were haphazard. The lack of response and coordinated effort across multiple agencies was highlighted during the consultations and seminars. The difference between what the Labor Party's original amendment would allow—that is, testing of major spill contingency plans and periodic drills—and the Hon. Duncan Gay's proposal to provide for an advisory body is that such a body would not have to be heard. An advisory body can get into the ear of the Minister or Ministers responsible perhaps only a couple of times a year. I believe that this amendment is designed to keep a few stakeholders happy rather than to make a difference.

It is interesting that the amendment lodged yesterday by the Opposition included wildlife organisations in the list of stakeholders but this amendment does not. That is probably at the behest of the Shooters and Fishers Party. It will agree to a proposed amendment only if the proposer removes any reference to environmental groups or organisations such as the Humane Society International, the National Parks Association or any of the coastal groups that are so good at advocating for wildlife. I understand that members must negotiate, but the Shooters and Fishers Party is very successful in having any reference to environmental groups removed from amendments.

In his reply to the second reading debate yesterday the Hon. Duncan Gay noted my concerns about consultation. I suggested that environmental groups were not consulted and he said that he had spoken with the Office of Environment and Heritage. That office is not the same as environmental groups; they are separate entities. That is tantamount to suggesting that if recreational fishers complained that they had not been consulted about legislation dealing with fishing it would be acceptable for the Minister to say that he had spoken to the Department of Primary Industries. Non-government environmental organisations are substantial stakeholders. Indeed, they are the reason that this amendment has been moved.

Although there is a disaster response plan, we do not and will not have as focused an effort on ensuring that inner spill wildlife is cared for if we do not have the organisations at the table that have that as their first

priority. I note that wildlife rescuers, emergency services and regulatory agencies and academics are included. I do not believe that adding wildlife organisations would have prevented the passage of this amendment. Indeed, it would have added one or two more sensible groups to the network.

Despite that, The Greens look forward to the establishment of the network and we urge the Government to ensure that it has influence. When the inevitable oil spill occurs off the New South Wales coastline, given the increase in shipping movements to which other members have referred, and we see disturbing images of distressed birds and other wildlife, perhaps then we will be back in this place debating a better response. The Opposition's original amendment was the best way to ensure we have a contingency plan which focuses on wildlife, which is ready to go and which is tested when the inevitable oil spill occurs. We will be grappling with horrific images and the government of the day will be under enormous pressure. However, it was not properly prepared and it will not have a fully tested contingency plan in place to deal with thousands of distressed birds and sea mammals.

The Hon. JAN BARHAM [12.06 p.m.]: I support the Opposition's amendment dealing with the oiled wildlife care network. I am disappointed that it is not proceeding with subclause (4), which clearly defined the functions of the network. I acknowledge Australian Seabird Rescue, a North Coast organisation that does fantastic wildlife rescue work, and honour the memory of Lance Ferris, the former policeman who established the organisation. He was not a radical person and should not have been feared. He dedicated a good part of his life to protecting and preserving wildlife affected by oil and other pollutants, and blazed the trail in enlightening people about the dangers confronting wildlife. He did amazing things such as jumping into the water fully clothed when he saw a bird at risk. He made quite a name for himself and a park at Ballina has been dedicated to him. Unfortunately, people like him—volunteers and good people upon whom we rely—are being maligned in this debate.

I thank the Hon. Luke Foley for moving this amendment and appreciate the sensible suggestions about a disaster plan needing to consider the damage and problems caused by pollution and the impact it has on our wildlife and the environment. We promote the wonderful flora, fauna and natural features of New South Wales, but if we are not prepared to respond appropriately to a pollution incident that could harm them then we are negligent. The network idea is very good. Like my colleague, I preferred the amendment when it clearly referred to conservation organisations. It was disappointing to hear the things that members said about it being sensible or senseless. Members should meet with volunteer groups so that they can understand how sensible and dedicated they are. In fact, their dedication constantly amazes me.

As the Hon. Cate Faehrmann said, we have seen on television and in our papers what is required when an oil spill incident happens. These images now get broadcast all over the world and people are horrified to think that economic trade practices allow this to happen. We have to move beyond this and we cannot continue to allow these oil spills to occur. If we cannot stop them from happening, we should be prepared. I would like to read from the National Parks and Wildlife Service [NPWS] Procedural Guidelines for the Rescue and Rehabilitation of Oiled Wildlife, which talks about volunteer management. I speak as the Greens spokesperson for volunteers. The guidelines state:

8.0. Volunteer Management.

In the event of a large oil spill, large numbers of people are required to assist in the rescue and rehabilitation of oiled wildlife. The NPWS could not possibly undertake such a large operation using its own staffing resources. AMSA who administer the National Plan have indicated that volunteers will be paid by the National Plan funding arrangements.

There it is: recognition that dealing with the rescue and rehabilitation of oiled wildlife is beyond what government can do alone. This is about relying on the fact that volunteers—

The Hon. Duncan Gay: It is already there—that just backs up my argument.

The Hon. JAN BARHAM: I will go on to some of the other paragraphs in the plan, such as paragraph 8.1, Possible Roles for Volunteers. There is then a large list of the roles for the volunteers. Paragraph 8.2 states:

8.2. Advantages of Local Volunteers.

- Local volunteers normally have a strong sense of ownership of the problem.
- Local volunteers may have a good local knowledge of wildlife diversity, wildlife location, feeding habitats, foreshore type and access etc.
- Own accommodation relieves pressure of influx of other personnel.

The Hon. Duncan Gay: You are speaking in support of my amendment.

The Hon. JAN BARHAM: No, my argument is that we need to do more to support volunteer organisations. I refer to paragraph 4 (e) of the amendment moved by the Opposition, which states:

- (e) to carry out continual training of personnel (including volunteers) who would potentially be involved in collecting and caring for wildlife affected by a major spill of a marine pollutant,

This is the important bit. This is what we need to clarify: that that training will continue and that we have the right people, because we cannot just pluck them out of nowhere. Training needs to be coordinated a long time in advance and the personnel—both volunteer and professional—need to be properly trained in the event of oil spills. We need to ensure that everything is ready and nothing can be better than having a contingency plan and the network in place to administer. There are issues such as the counselling of wildlife response personnel. Personnel often work for many hours, with the physical and emotional fatigue involved in doing that and in witnessing the suffering of wildlife. We must not miss the point that this is such important work and that governments rely on volunteers.

The Government should be making every effort to support and acknowledge the work of volunteers and to keep the functions of the network clear and upfront, so that everyone knows what governments are able to do and the fact that the Government respects the work of volunteers. I make the point that some of my good friends are members of Australian Seabird Rescue. I am influenced by them because I know the great work that they do. I am proud that the North Coast has so many locals that take part in seabird rescue. I also know the commitment that they give. If there is one thing that this Parliament should be doing it is recognising that as much as possible.

The Hon. LUKE FOLEY (Leader of the Opposition) [12.13 p.m.]: I thank the Hon. Cate Faehrmann and the Hon. Jan Barham for their contributions to debate on the Opposition's amendment. In response, I want to explain where we are at in respect of paragraph (4) of the amendment. I would prefer the amendment to be passed in the terms submitted by me and moved as Opposition amendment No. 1. I know that there are not 21 votes in favour of that outcome right now. There are 21 votes to establish an oiled wildlife care network, but there are 19 votes for my original amendment in that form. To get an outcome, rather than simply complain about the current situation, two members on the crossbenches have said that they would prefer the network to exist as an advisory committee.

I consider that to be a considerable improvement on the status quo—there is no network. This will give those non-government experts a seat at the table with the Government to put their legitimate concerns about the improvements that we need to make to deal with the environmental and wildlife catastrophes of a major oil spill. I am prepared to take that on board. We will have a network; it will be there for the first time. It is a significant improvement on what we have now, which is no network. Of course, I would prefer Opposition amendment No. 1 to be carried in its original form as they are my words. But I am a realist. This is a pretty conservative Chamber since the last election.

I accuse the Minister for Roads and Ports of many things, but I would never accuse him of being an environmentalist. I have had to negotiate with the Shooters and Fishers Party on this matter. I thank its members for the constructive manner in which they have engaged, rather than simply dismissing this proposal out of hand as an initiative that they will not have a bar of. The majority of members are now willing to vote for a network that has an advisory role, rather than the stronger role that I originally advanced. I will take that because it is a significant improvement on the status quo.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [12.17 p.m.]: Once again I emphasise that the Government amendment was to pick up the good part—to allow people such as the Byron group, which does terrific work, to come in and advise. However, I am a little bit confused with the summation of the Leader of the Opposition. Earlier he intimated that his amendment, frankly, was a toothless tiger and that I, as Minister, could have done what I wanted to do anyway. Now he is saying that that last part was pretty tough. I am confused.

Question—That Government amendment No. 1 [C2011-023A] to Opposition amendment No. 1 [C2012-017H] be agreed to—put and resolved in the affirmative.

Government amendment No. 1 [C2011-023A] to Opposition amendment No. 1 [C2012-017H] agreed to.

Question—That Opposition amendment No. 1[C2012-017H] as amended be agreed to—put and resolved in the affirmative.

Opposition amendment No. 1 [C2012-017H] as amended agreed to.

Part 15 [Clauses 183 to 188] as amended agreed to.

Parts 16 to 19 [Clauses 189 to 231] agreed to.

The Hon. CATE FAEHRMANN [12.18 p.m.], by leave: I move The Greens amendments Nos 2 and 3 on sheet C2012-016K in globo:

No. 2 Page 105. Insert after line 10:

Division 4

Proceedings for restraint of breach

240 Remedy or restraint of breaches of this Act or regulations

- (1) Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a breach of this Act or the regulations.
- (2) Any such proceedings may be brought whether or not proceedings have been instituted for an offence against this Act or the regulations.
- (3) Any such proceedings may be brought whether or not any right of the person has been or may be infringed by or as a consequence of the breach.
- (4) Any such proceedings may be brought by a person on the person's own behalf or on behalf of another person (with their consent), or of a body corporate or unincorporate (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.
- (5) Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.
- (6) If the Court is satisfied that a breach has been committed or that a breach will, unless restrained by order of the Court, be committed, it may make such orders as it thinks fit to remedy or restrain the breach.
- (7) In this section:

breach includes a threatened or apprehended breach.

No. 3 Page 112, Schedule 1.2. Insert after line 11:

[1] Section 20 Class 4—environmental planning and protection and development contract civil enforcement

Insert after section 20 (1) (dh):

- (di) proceedings under section 240 of the *Marine Pollution Act 2011*,

The Greens amendments Nos 2 and 3 will enable any person to bring proceedings against a breach of the legislation to the Land and Environment Court and enable the court to make orders as it sees fit to restrain a breach of the Act, if it is satisfied that a breach has occurred or will occur. Amendment No. 3 is consequential on amendment No. 2. This amendment brings the bill in line with the New South Wales Environmental Planning and Assessment Act and the Protection of the Environment and Assessment Operations Act 1997, both of which allow for open standing. To explain the need for such an amendment I quote from the Hon. Justice Brian Preston, Chief Judge of the Land and Environment Court, when he said:

In order for environmental laws to be effectively enforced, it is not sufficient to rely on public authorities to do the enforcing. Environmental laws must have "teeth", in that important prohibitions and duties ought not to be left entirely to the unfettered discretion of Ministers, government agencies, or public officials. The inclusion of structures or procedural controls in the statute to govern the exercise of discretion and ensure judicial review enables the public to maintain some control over improper execution of the law.

A well-known example of open standing being used under environmental legislation, under the Commonwealth Environment Protection and Biodiversity Conservation Act, was where the Humane Society International brought action against a Japanese whaling company for killing hundreds of whales in the Australian Whale

Sanctuary. At that time the Federal Court of Australia granted an injunction. This is important because open standing is a fundamental premise under environmental law. It is important also for individuals and environmental groups to be able to bring prosecutions under these laws.

An example under New South Wales law, under the Protection of the Environment and Assessment Operations Act 1997, was where the Blue Mountains Conservation Society commenced proceedings against Delta Electricity in the New South Wales Land and Environment Court in a civil enforcement case for causing water pollution. In that case water quality testing results indicated that the Wallerawang power station was introducing salts and metals into a river, which was running into Sydney's drinking water supply. Importantly, the enforcement authorities had been advised of the results but by the time the matter got to court they had done nothing about it.

The case was settled in mediation, with Delta Electricity admitting to the pollution and agreeing to undertake necessary works to stop it. In the interim, it applied to the Office of Environment and Heritage for limits to be set on pollutants. That case, like many others, demonstrates that progress can be made when individuals and conservation organisations are able to utilise open standing provisions. This is not a radical provision. It ensures that it is in line with most other pieces of environmental legislation of similar weight in this State to allow anyone with standing to bring proceedings before the Land and Environment Court. I urge members to support The Greens amendments Nos 2 and 3.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [12.22 p.m.]: The Government opposes The Greens amendments Nos 2 and 3. The Marine Pollution Bill is about ship-sourced pollution of the marine environment and is intended to be consistent with Australia's international agreement under the International Convention for the Prevention of Pollution from Ships 1973, known as MARPOL, and Commonwealth legislation. The Marine Pollution Bill contains extensive provisions for actions to be taken in response to potential or actual marine pollution incidents. The provisions are contained in part 15. The Minister may take action to prevent or clean up pollution, and part 16, Marine environment protection notices. These provisions give power to the Minister to take action or clean up pollution, clause 183; to issue marine pollution clean-up notices to polluters and public authorities, clauses 192 and 193; marine pollution prevention notices, clause 196; and marine pollution prohibition notices, clause 200. Non-compliance with these notices will constitute offences.

The Minister will be able to take necessary action if a notice is not complied with. Obstruction of persons acting in compliance with the notices will be an offence, clause 203. Recovery of costs and expenses will be ensured by the costs constituting charges on the ship, division 7 of part 16. These provisions will enable the Minister to take comprehensive and effective action on his or her own initiative. Similar provisions exist in the Protection of the Environment Operations Act 1997, which have provided the basis for the marine environment protection notice provisions in the Marine Pollution Bill. The bill also contains provision for recovery of damages, costs or expenses relating to discharges prohibited by the bill, part 17: Recovery of costs, expenses and damages. There are also offence provisions for discharges of pollutants that carry very high penalties, such as clause 15: Discharge of oil into State waters from a ship prohibited. The prosecution and recovery provisions of the bill provide suitable remedies.

The Greens amendment No. 2, if passed, would introduce a procedure where an application can be made to the Land and Environment Court for an order to remedy or restrain a breach of the Act. This would be a far less efficient response to marine pollution situations where timely action is required. Amendments giving jurisdiction to the Land and Environment Court should properly be considered and appropriate consultation should take place with the Chief Judge of that court and the Attorney General—this has not happened. The proposed amendment is based almost word for word on section 252 of the Protection of the Environment Operations Act 1997. The Protection of the Environment Operations Act 1997 is a much more general environment protection statute than the Marine Pollution Bill, and the need for any person to be able to bring proceedings to remedy or restrain a breach of that Act is much more likely, given the range of environmental issues covered and the application of that Act broadly to the community.

The proposed amendment ignores section 253 of the Protection of the Environment Operations Act 1997, which already provides a general ability for any person to bring proceedings in the Land and Environment Court for an order to restrain a breach, or threatened or apprehended breach, of any other Act, or any statutory rule under any other Act, if the breach or the threatened or apprehended breach is causing or is likely to cause harm to the environment. The existing section 253 of the Protection of the Environment Operations Act 1997 is adequate for the objective sought by the proposed amendment. The Greens amendment No. 3 proposes to amend

the Land and Environment Court Act to classify the proceedings proposed under The Greens amendment No. 2 as class 4 proceedings. This proposed amendment is linked to The Greens amendment No. 2. If The Greens amendment No. 2 is rejected then The Greens amendment No. 3 should also be rejected. As I indicated earlier, the Government opposes The Greens amendments Nos 2 and 3.

I take this opportunity to congratulate Casey Richardson, a departmental liaison officer who has been working in my office for almost 12 months. Casey helped in the preparation of the notes on this bill, which bear testimony to her professionalism and the great work she has done for the Roads and Traffic Authority—now Roads and Maritime Services. Casey is to return to the department. I thank her for her time at Parliament House.

The Hon. SOPHIE COTSIS [12.28 p.m.]: The Labor Opposition supports The Greens amendments Nos 2 and 3. I join the Hon. Duncan Gay in congratulating Casey Richardson on her work and wish her well in the future.

The Hon. ROBERT BROWN [12.28 p.m.]: The Shooters and Fishers Party cannot support The Greens amendments Nos 2 and 3. I have tried many times to educate members in this place about the danger of third party backdoor clauses in legislation. We cannot support the amendments.

Question—That The Greens amendments Nos 2 and 3 [C2012-016K] be agreed to—put and resolved in the negative.

The Greens amendments Nos 2 and 3 [C2012-016K] negatived.

Part 20 [Clauses 232 to 241] agreed to.

Parts 21 and 22 [Clauses 242 to 250] agreed to.

Schedules 1 and 2 agreed to.

Title agreed to.

Bill reported from Committee with an amendment.

Adoption of Report

Motion by the Hon. Duncan Gay agreed to:

That the report be adopted.

Report adopted.

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

COURTS AND CRIMES LEGISLATION AMENDMENT BILL 2011

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay, on behalf of the Hon. Michael Gallacher.

Motion by the Hon. Duncan Gay agreed to:

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

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

ROAD TRANSPORT LEGISLATION AMENDMENT (OFFENDER NOMINATION) BILL 2012

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay.

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [12.36 p.m.]: I move:

That this bill be now read a second time.

The main purpose of the bill is to amend road transport and fine enforcement legislation to provide for efficiencies in the process of the penalty notice lifecycle. Other measures in the bill are directed at corporations

that do not do the right thing and attempt to shield their drivers from the allocation of demerit points and possible licence suspension. The bill has been a joint proposal by the Roads and Maritime Services and the State Debt Recovery Office in developing the measures. Officers of the Department of Attorney General and Justice and the Ministry for Police and Emergency Services were consulted. I thank those agencies for their contribution.

By way of background, section 179 of the Road Transport (General) Act 2005 provides that when a camera-recorded public transport lane, traffic light or speeding offence is committed, the responsible person for the vehicle is taken to have committed the offence. The responsible person includes the registered operator of the vehicle. The provision is necessary because the actual offender is not spoken to or identified at the time these camera offences are committed. In the first instance, the penalty notice or court attendance notice for the offence is sent to the registered operator. If the registered operator was not the driver, the law requires the registered operator to nominate the person who was. If a nomination is made, the responsibility for the offence is transferred to the person nominated. This not only provides protection for the registered operator who was not the driver but ensures the driver at the time of the offence is held accountable. By the same token, if the registered operator fails to nominate a person when they should have or falsely nominates a person as being in charge of the vehicle it is an offence.

Where the registered operator who is a real person, such as, in the case of privately registered vehicles, does not nominate another person as the offender, there is generally no problem in assigning responsibility for the offence, including demerit points, to the registered operator. However, where the registered operator is a company, responsibility for the offence cannot be assigned to a real person unless the company actually nominates. This provides some scope for the company to shield the offender. The incentive to do this is to avoid the allocation of demerit points and the possible loss of licence.

Much work has been done in introducing measures to encourage a company to nominate the offending driver. Those measures that previously have been agreed to by this place include increasing the maximum court fine for a company that falsely nominates or fails to nominate an offender to 100 penalty units or \$11,000, extending the time in which a person may be prosecuted for falsely nominating a driver from 6 months to 12 months, and allowing drivers to be nominated by means other than by way of statutory declaration. Whilst those measures have been successful in encouraging greater compliance, there still remain a number of companies that are prepared to shield drivers at the expense of incurring these additional fines in the company name. The proposals in the bill complement and strengthen those earlier measures. They provide for efficiencies in the process of the penalty notice lifecycle and they also ensure that the nomination process keeps pace with the new technologies around camera enforcement. The measures also further target companies that fail to nominate.

I will now explain in more detail those measures. The current provisions require a responsible person, when nominating the offender, to give the name and address of the offender. Often, insufficient information is given to the State Debt Recovery Office to enable it to issue a new penalty notice or court attendance notice to the nominated person. The bill amends section 179 to provide that a person who nominates another person as the offending driver in a relevant nomination document, if directed, is to appear before an authorised person or prosecutor for the purposes of interview or to provide additional information that it is in the person's power to give that may lead to the identification of the driver.

This includes providing a statement in writing. A similar requirement already exists in the Act with respect to the supply of additional information under the chain-of-responsibility provisions. The requirement to provide this additional information is not seen as onerous. Clause 90 of the Road Transport (Safety and Traffic Management) Regulation 1999 currently provides that the responsible person for or the person in charge of a motor vehicle must, before permitting any other person to drive the vehicle, cause the driver licence issued to the person to be produced to the responsible person or person in charge and inspect the licence.

Further, it is not seen as an impost on a company to maintain a log of its vehicle's use. It is expected that a company would maintain the full identity and address details of its drivers and their licence information, which represent a person's authority and legitimacy to drive company vehicles. Similar requirements to maintain and keep records already exist within the heavy vehicle fatigue management provisions and the motor vehicle dismantler provisions. The benefit of such a provision is that in the circumstance where an offender was correctly nominated but the offender subsequently falsely nominates another person, a stronger prosecution case can be made with the use of the additional information. Additionally, those who may think about falsely

nominating another person may reconsider doing so in the knowledge that they may be required to attend and give additional information over and above the name and address information that is asked for in the statutory declaration.

The bill proposes to reduce the time in which a penalty notice is deemed to be served, when served by post, from 21 days to seven days. Most penalty notices and penalty reminder notices for operator onus offences are served by post. To establish time frames for action by the responsible person—and by the authorised officer for the penalty notice—the legislation contains provisions that presume service to have occurred at a specified time after the notice was posted. Currently, a penalty reminder notice is presumed served after seven days, but for the original penalty notice the period is 21 days.

This creates an unnecessary delay in dealing with penalty notices and can reduce the number of subsequent penalty notices that can be sent where subsequent nominations are received before prosecution of the offence becomes statute barred. Evidence has shown that the 21-day period can assist unscrupulous persons to defeat prosecution of the real offender because the statutory time limit expires. It is proposed to reduce the period for presumed service of a penalty notice from 21 days to seven days. The penalty notice recipient would still be entitled to establish that service did not occur within that seven-day period and would still have 21 days from the presumed service date in which to nominate or otherwise deal with the notice.

New technologies have enabled cameras to be used to detect multiple driving offences from a single camera incident. For example, cameras at intersections with traffic lights are capable of detecting in the one camera image evidence of the driver committing a traffic light offence, a speeding offence, an unregistered vehicle offence and an uninsured vehicle offence. The current operator onus provisions limit one statutory declaration being provided for a single offence. However, the provisions are impractical for cameras that are capable of detecting multiple offences with the one image.

By way of illustration, the current provisions would require a registered operator to provide a statutory declaration for each offence in order to nominate the same offending driver. This is onerous on the responsible operator who is trying to do the right thing. It also presents an illogical situation where different persons could be nominated for each offence in a single camera incident. The current provisions also expose the registered operator to prosecution for failing to nominate where only one statutory declaration is received for multiple offences. The bill proposes to expand the current provisions to enable a single statutory declaration to be provided for all offences detected in a single camera incident.

As I mentioned earlier, a penalty notice for a camera offence will be sent in the first instance to the registered operator, which can also be a company. Some companies have adopted the practice of simply paying the fine for the camera offence and not nominating the offender. To encourage companies to nominate offending drivers, the bill increases the monetary penalties applying to a camera-detected offence where the offence remains in the company name. An increased fine for companies is in practice in some other Australian jurisdictions. Currently, a single maximum court fine exists irrespective of whether the offender is an individual or a corporation. For the majority of camera-recorded offences the maximum court fine is 20 penalty units or \$2,200.

In the case of heavy vehicles speeding more than 45 kilometres an hour over the limit, the maximum court fine is 30 penalty units or \$3,300. The fines for individuals will remain at current levels. However, the bill proposes that corporations face maximum court fines of five times these amounts. That is, in the case of heavy vehicles speeding more than 45 kilometres an hour over the limit, the maximum court fine applicable to a corporation will be 150 penalty units or \$16,500. For any other camera-detected offence, the maximum court fine will be 100 penalty units or \$11,000. The prospect of facing the increased maximum court fine will be a further deterrent for those remaining corporations that are prepared to incur the current fine levels but continue to fail to nominate the offending driver.

It is proposed to make a corresponding increase in the penalty notice fines for offences that are not prosecuted through the courts. The great majority of offences are dealt with by way of penalty notice. Consistent with introducing an increased maximum court fine for a corporation, the bill also proposes to introduce increased penalty notice fines for a corporation for camera-recorded offences, which also will be set five times higher than those that apply to an individual. For example, an individual or corporation reported for a camera-recorded offence of speeding more than 20 kilometres an hour in a light motor vehicle currently faces a penalty notice fine of \$371. Under the proposed changes where a penalty notice is issued in the name of a corporation the fine will increase to \$1,855.

Increasing both the penalty notice fine and the maximum court fine will deter some registered operators from routinely court-electing the penalty notice in the hope of avoiding the higher penalty notice fine because they, in turn, run the risk of the increased court fine on conviction. The increased monetary penalty for corporations introduces a substantial incentive to a corporation to nominate the offending driver. I point out that if the company does the right thing and nominates the offending person, as required, it does not have to pay any of the fines. Instead, a new penalty notice is sent to the person nominated, and it will attract the current lower values.

Parking offences are excluded because of the difficulties for enforcement officers at the roadside to determine whether a vehicle is registered in the name of a corporation and, therefore, which fine value to apply. The measures in the bill that I have just mentioned will provide for efficiencies in the management of penalty notices and ensure that the nomination process keeps pace with new technologies in camera enforcement. The increased monetary penalties in this bill will not apply to any individual or corporation that does the right thing and nominates the driver in a camera-recorded offence. However, the increased fines will send a clear message to a corporation that not nominating a driver will come at a substantial cost.

The opportunity is being taken with this bill to correct oversights from previous reforms. Section 41 of the Road Transport (Safety and Traffic Management) Act 1999 deals with burnout offences. Section 41 (1) provides for the offence of burnout and section 41 (2) provides for the more serious offence of aggravated burnout. The street racing provisions were amended in 2008 as part of a range of reforms. Prior to the 2008 amendments, police were able to seize vehicles used in either form of burnout offence. It was the intention of the 2008 amendments that police could seize only vehicles involved in the more serious aggravated burnout offence. Amendments were made and the continued reference to the burnout offence is an oversight. The bill proposes to rectify the oversight by amending section 218 (1) (a) of the Road Transport (General) Act 2008 to remove the incorrect reference to the burnout offence.

Sections 8 and 14 of the Road Transport (Safety and Traffic Management) Act 1999 deal with drink-driving and drug-driving offences and the prescribed concentration of alcohol for different categories of drivers. The provisions impose lower blood alcohol limits on novice drivers and unlicensed drivers. Novice drivers, that is, those with learner and provisional licences, must have a blood alcohol limit of zero. Drivers who are unlicensed are classified as special category drivers and can have a blood alcohol limit of 0.02. The legislation was amended in December 2009 to ensure that a novice driver who was disqualified or whose licence was expired was not subject to a blood alcohol limit of 0.02 but to a blood alcohol limit of zero, just the same as a novice driver with a current licence. By oversight, the 2009 amendment was not replicated in the definition of "special category driver". This means that a novice driver with an expired licence cannot be charged with a special range alcohol offence—up to 0.05—even though novice drivers with current licences can. The bill rectifies the oversight by including in the definition of a "special category driver" persons with expired licences.

By oversight, section 14 (1) (a1) also was not amended. As a result, expired novice drivers who fail a roadside breath test cannot be arrested, undergo secondary testing or be charged if their roadside test indicates they have a blood alcohol reading in the novice range—up to 0.02—even though novice drivers with current licences can. The bill rectifies the oversight by amending section 14 (1) (a1) to replace the reference to "the holder of a learner or provisional licence" with a reference to "a novice driver". The definition of "novice driver" currently includes a novice driver with either a current or expired licence.

This is important legislation because it puts companies on notice that if they do the wrong thing and fail to nominate a driver they will face increased fines. If companies do the right thing and nominate the offending driver, they will avoid facing these additional measures. These measures are directed at those companies that do not do the right thing, and we know who they are. These tough new penalties will make those who think they are above the law think twice. There is no reason why a company cannot put in place measures to identify who was driving a company vehicle at any time. Companies can avoid these penalties by simply maintaining a record of vehicle use, which enables them to nominate the actual offender. The former Labor Government promised to introduce these laws but, as in so many instances, failed to deliver. I trust all members will lend their unreserved support to these sensible Government proposals. I commend the bill to the House.

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

[The President left the chair at 12.56 p.m. The House resumed at 2.30 p.m.]

Pursuant to sessional orders business interrupted at 2.30 p.m. for questions.

QUESTIONS WITHOUT NOTICE

WORKCOVER PROSECUTIONS

The Hon. LUKE FOLEY: My question is directed to the Minister for Finance and Services. I refer to the Minister's answer yesterday about a review of some occupational health and safety prosecutions currently before the Industrial Court "to see whether they are being appropriately addressed". Is it a fact that he has instructed WorkCover to review all current occupational health and safety prosecutions? If not, who did order the review and on what basis?

The Hon. GREG PEARCE: I refer to the answer I provided yesterday.

ROADS FUNDING

The Hon. JOHN AJAKA: My question is directed to the Minister for Roads and Ports. Will the Minister update the House on future funding for the Pacific Highway?

The Hon. DUNCAN GAY: This is a very important question and I thank my Parliamentary Secretary for asking it. He is a true-blue New South Welshman, unlike the Labor Party apologists opposite who want to see the Federal Government withdraw its funding commitment. From the outset it is important to say that the New South Wales Government supports the Prime Minister's completion target date of 2016 for the Pacific Highway. What the New South Wales Government does not support is the Federal Government's attempt to move the goal posts and to change the funding split from 80:20 to 50:50. When the State Labor Government left office there was an 86:14 funding split between it and the Federal Government. However, Mr Albanese, the Federal Minister for Infrastructure and Transport, has now indicated that he wishes to reduce the Federal Government's contribution to upgrading the Pacific Highway from 80 per cent to 50 per cent of the remaining funding that is required to complete the work, which is over and above the current commitment.

[Interruption]

Why blame Julia? In real dollar terms, it means reducing the Federal Government's contribution by approximately \$2.3 billion.

The Hon. Catherine Cusack: Shame!

The Hon. DUNCAN GAY: It is shameful. Given the Federal Government's large revenue base and its expenditure on projects such as the National Broadband Network, which is forecast to cost \$36 billion and rising, and the Building the Education Revolution program, which is forecast to cost of \$16 billion and rising, this attitude to funding the upgrade of what is arguably the nation's most important transport and freight route is frankly disappointing. It is disappointing that when the Labor Party held office in this State the Federal Labor Government was happy to increase roads funding. However, now that we have a Liberal-Nationals State Government the Federal Government wants to cut its funding share dramatically.

Apart from the Pacific Highway, key upgrade projects on the national land transport network in New South Wales have generally been funded at least 80 per cent by the Federal Government. For example, the Hume Highway duplication has been 100 per cent funded by the Federal Government, apart from a projected 4 per cent New South Wales contribution for the Holbrook bypass. The \$1.7 million Hunter expressway project will receive a minimum 88 per cent contribution from the Federal Government. Recent widening of the M5 and F3—

The Hon. Catherine Cusack: Point of order: I am attempting listen to this important answer, but I cannot hear the Minister because Opposition members are talking over him.

The PRESIDENT: Order! I uphold the point of order. I am having great difficulty hearing the Minister. Members will allow him to conclude his answer in silence.

The Hon. DUNCAN GAY: Recent widening projects on the M5 and F3 freeways on the outskirts of Sydney have been at least 80 per cent Federal Government funded. Improvements to the Barton Highway, which links Canberra to the Hume Highway, have been 100 per cent funded by the Federal Government. *[Time expired.]*

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

The Hon. DUNCAN GAY: Funding for the Great Western Highway between Mount Victoria and Lithgow has been provided on an 80:20 basis. Furthermore, the Federal Government's proposed funding split for the Parramatta to Epping rail link, which is not a priority for the New South Wales Government, was 80:20. In other States projects on the Western and Goulburn highways in Victoria have been funded on an 80:20 basis and a large number of projects on the Bruce Highway in Queensland have been fully funded by the Federal Government.

While the Federal Minister is talking about cutting his funding commitments, the New South Wales Liberal-Nationals Government has already demonstrated its determination to deliver the Pacific Highway upgrade by increasing its funding. Last year the New South Wales Government committed an additional \$468 million for that upgrade. That increase more than makes up for the \$300 million that the State Labor Government cut from the project budget. Importantly, this Government's increased funding firmly established an 80:20 funding split between the Federal and State governments.

Opening a four-lane divided highway between Hexham and the Queensland border by the end of 2016 is possible, but it will require an estimated additional \$7.4 million in out-turn dollars. To achieve this, agreement to the respective funding contributions and the intergovernmental agreement had to be finalised swiftly. Close cooperation with and support from approval agencies at both the Federal and State level is required. I hope that members of the State Opposition will try to help us. [*Time expired.*]

WORKCOVER PROSECUTIONS

The Hon. ADAM SEARLE: I direct my question to the Minister for Finance and Services. I refer to his statement yesterday about the review of WorkCover prosecutions. Will the Minister advise the House how many cases have been adjourned or sought to be adjourned? How much will those adjournments cost WorkCover and do any of them involve fatalities or serious injury?

The Hon. Matthew Mason-Cox: Put it on notice.

The Hon. GREG PEARCE: The Parliamentary Secretary's suggestion is a good one and perhaps the Deputy Leader of the Opposition should put that question on notice. I have never practised in the Industrial Court; I was involved in commercial law. Therefore, I am not au fait with the procedures of that court. However, I do understand that most of its hearings are public. If the member wants an answer, perhaps he should ask his colleagues at the bar who appear there. The various judges have either agreed to requests for an adjournment or not. I am told that Justice Boland was his eloquent self when he suggested that—

The Hon. Adam Searle: That your position was absurd.

The Hon. GREG PEARCE: He suggested that someone's position was absurd, but he did not say whose.

The Hon. Adam Searle: It was the prosecutor.

The Hon. GREG PEARCE: I am not the prosecutor. I thought the Deputy Leader of the Opposition had a very good practice at the bar. In fact, I think he is still at the bar much of the time. As I understand it, these matters are heard in open court and the information is readily available.

BOOLIGAL STATION NATIONAL PARK

The Hon. ROBERT BORSAK: My question is directed to the Minister for Finance and Services, representing the Minister for the Environment. Is the Minister aware of comments by the Mayor of Hay, Councillor Sheaffe, that there has not been a lot of communication from the National Parks and Wildlife Service about the opening day for the Booligal Station National Park? Will the Minister explain why there have been delays in opening the new park? Is there a date on which it will be opened? What work has been done to prepare the park for the expected flood of tourists? What are the expectations of visitor numbers in the first year?

The Hon. GREG PEARCE: I assure the member that I will be a visitor in that first year, if I possibly can. I would love it if the Hon. Robert Borsak came along at the same time. The Government loves to see people using the facilities. As to the detail of the question, I will have to give the member the same answer that I have given him on other occasions: I will get him a detailed answer.

ROAD SAFETY

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Police and Emergency Services. Will the Minister update the House on what the NSW Police Force and the Roads and Maritime Services have been doing recently to stop dangerous driving, particularly in the trucking industry?

The Hon. MICHAEL GALLACHER: People will no doubt see media reports about a joint operation being held today through the Joint Heavy Vehicle Taskforce, which is seeing the NSW Police Force and Roads and Maritime Services working together. The Liberal-Nationals Government has delivered on its commitment to centralise the highway patrol structure, and today's operation is a great example of how well it is working. Prior to the election, the Coalition said that the new highway structure was more than just consolidating the line of command; it also should be about seconding non-sworn public officials from other government agencies to work with the highway patrol to ensure every possible opportunity is afforded for police to patrol our roadways.

Today's case gives me a valuable opportunity to talk about the great work being done in a new era of collaboration between my agency in policing and that of my parliamentary colleague the Minister for Roads and Ports and his government agencies. I am delighted to recognise the success that police and Roads and Maritime Services personnel can bring to the table when a law enforcement and road safety approach is required. The unique skills of the team within Roads and Maritime Services, particularly in vehicle inspections, have been in full operation today. As a result of today's raids, approximately 80 Roads and Maritime Services officials and police have come together to work collaboratively to seize evidence that will form part of their continuing investigations.

Road safety is paramount to the O'Farrell Government, and that is why it has created the new stand-alone Traffic and Highway Patrol Command. The new command is headed by Assistant Commissioner John Hartley and brings together all highway patrol resources under a central command structure. Traffic accidents have no boundaries, and that is why the highway patrol units are becoming part of a larger approach. While they will remain geographically in the local area command, the highway patrol units will have a statewide focus.

By removing these historical boundaries, the focus will be on improved responses and doing everything we can to save lives. Having a separate Traffic and Highway Patrol Command should see less diversion of highway patrol officers to general duties, more officers out on the roads and better linking of highway patrol tasking to statewide road safety priorities. Significant progress has been made in the establishment of the new Traffic and Highway Patrol Command, with an additional 100 officers and another 50 vehicles deployed, and 100 additional automatic number plate recognition systems deployed over the next few years.

The Government takes road safety seriously. It has delivered on its pre-election commitment by ensuring that there is now a dedicated specialised and trained highway patrol team with a high-profile presence on our roads. I thank all the officers—both police and from Roads and Maritime Services—who have assisted in this operation today. Their work is appreciated by this Government. More importantly, it is appreciated by the people of this State who want safe roads.

DENILIQIN RABBIT PLAGUE

The Hon. ROBERT BROWN: My question is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Is the Minister aware of reports that in the Deniliquin area and some parts of northern Victoria rabbits are in plague proportions and have developed a resistance to the calicivirus? What help is the Government giving farmers who, mostly by themselves and on their own land, have to fumigate warrens, rip warrens, lay poison baits and then, in their spare time, when not doing other jobs around the farm, go out at night and shoot rabbits? Will the Government ask the Game Council to look at developing a program utilising licensed hunters to help farmers mitigate the rabbit problem given that, if necessary, it may take up to five years to develop a new strain of the calicivirus?

The Hon. DUNCAN GAY: I thank the member for a good question and some sensible suggestions. Obviously, this is not my area but that of my colleague the Minister for Primary Industries. Am I aware that there is an increased rabbit population at Deniliquin? Yes, I am. But those rabbit populations go way beyond Deniliquin. I am sure the last remaining Country Labor member in the House will testify to the fact that rabbits are at Young. They are also on the Central Coast. When duties take me away from Redfern and I get home to

the farm at Crookwell, I find that some of those furry fellas have moved in, not the least to the house paddock. I have to move the roos and the bunnies. There are bunnies everywhere, and there are more in Deniliquin than in most places.

The rabbit plague is a real problem across the State. We had the build-up to the calicivirus and there is still the odd case of myxomatosis around—surprisingly, after so long. However, the controls that we have been relying on for so long are no longer working. There is a build-up of foxes and other animals as well. One problem is that, given the economic situation on many farms during a decade of drought, there are fewer people on the properties.

The Hon. Amanda Fazio: You do not go there often.

The Hon. DUNCAN GAY: No, I do not go to the farm a lot, but when I do get there it is terrific to get home. When I was a child there were four families on our property. These days the working part of the farm is leased and there is only me to do this work, when I get home away from Parliament.

The Hon. Jeremy Buckingham: You could use the spirit fingers.

The Hon. DUNCAN GAY: There are many farms like mine across the State. I could use the spirit fingers, but I do not think that would work, not even for The Greens. The number of feral animals in the State is an increasing problem. I will pass on the suggestions made by the member to my colleague the Minister for Primary Industries. I will obtain a detailed answer from the Minister.

WORKCOVER PROSECUTIONS

The Hon. MICK VEITCH: My question is directed to the Minister for Finance and Services. With regard to the review of WorkCover prosecutions, what are the terms of the review? Why have its terms not been disclosed to the Industrial Court of New South Wales? Will the Minister disclose its terms to the House?

The Hon. GREG PEARCE: That is not a bad question—asking for the terms of the review.

The Hon. Mick Veitch: Are there terms?

The Hon. GREG PEARCE: That is also a good question. Given the number of Labor barristers who have gone to the Industrial Court and told the judges of the Industrial Court that there is a review, I would have thought any number of them would already have given Opposition members the information that they are seeking.

The Hon. Mick Veitch: We want the terms of the review.

The Hon. GREG PEARCE: I thought they would already have given the member the terms. We have these well-paid Labor lawyers, Senior Counsel—

The Hon. Lynda Voltz: Point of order: The Minister is debating the question. I ask you to bring him back to the relevance of the question.

The PRESIDENT: Order! There is no point of order. The Hon. Mick Veitch has asked his question. He will cease interjecting. The Minister should answer the question and not respond to interjections.

The Hon. GREG PEARCE: As I said, it was a good question.

SOCIAL HOUSING PUBLIC-PRIVATE PARTNERSHIPS

The Hon. MATTHEW MASON-COX: I address my question to the Minister for Finance and Services. Will the Minister update the House on new public-private partnerships aimed at revitalising public housing?

[Interruption]

The Hon. GREG PEARCE: I thank the member for his question and his continued interest in this vital area of public policy. Do not forget that I learnt how to perform in question time from Michael Egan.

The PRESIDENT: Order! The Minister will not respond to interjections.

The Hon. Michael Gallacher: Have you got a dog?

The Hon. GREG PEARCE: I did have dogs but, unfortunately, they are all deceased. It was very sad when they passed away. They were Jack Russells and they—

The PRESIDENT: Order! I call the Hon. Greg Pearce to order for the first time.

The Hon. GREG PEARCE: I inform the House that on 30 November last year the Minister for Family and Community Services, and Minister for Women, an excellent Minister, and I—

The Hon. Duncan Gay: Another excellent Minister.

The Hon. GREG PEARCE: Yes, of course I am. The Minister and I announced that the New South Wales Government had embarked on the biggest social housing public-private partnership [PPP] ever in New South Wales, with expressions of interest being sought for the Airds-Bradbury Renewal Project. The project is the biggest and most ambitious public-private partnership undertaking in social housing ever in New South Wales and underpins the New South Wales Government's commitment to both quality social housing and urban renewal.

The Airds-Bradbury Renewal Project demonstrates the Government's new approach to social housing, which targets the building of communities rather than the construction of towers. The project also supports the Government's targets for the supply of land and housing. The 15-to-30-year program will transform 1,470 dilapidated public housing units into around 2,000 twenty-first century homes, providing a mix of social housing, affordable housing and private dwellings adjoining the Georges River Reserve. This public-private partnership will deliver the full range of services necessary to the project: finance, design, refurbishment, construction, acquisition, tenancy management, maintenance, sales, community engagement, community renewal and development.

The Government is looking for the private and not-for-profit sectors to bring their expertise and innovation to the challenging task of renewing the community and providing fit-for-purpose social housing. Tenancy management services will be provided by a registered community housing provider, regulated by the New South Wales Government. A not-for-profit specialist provider of community renewal services also will be part of the public-private partnership. An important part of the process is early engagement with industry. Since announcing the public-private partnership, the Department of Finance and Services has met with more than 20 interested parties to hear their views and seek feedback on the proposed public-private partnership. Housing NSW and the Department of Finance and Services also have engaged with local community, which is an integral part of the project. The community will continue to be consulted every step of the way.

The project aims to reduce the concentration of social housing, support the social and economic participation of residents and contribute to a more sustainable and affordable social housing system. The Government wants a public-private partnership to achieve the best outcome for the community and transform a disadvantaged and stigmatised area into a vibrant, attractive and diverse community, which will bring new opportunities to all residents. The era of having concentrated pockets of public housing is over. As I have said previously, it is a proven failure here and in other parts of the world. It creates cycles of disadvantage and it cannot be managed. The Government is determined to create communities, not ghettos.

SEXUAL ASSAULT REPORTING OPTION

The Hon. MELINDA PAVEY: I address my question to the Minister for Police and Emergency Services. Will the Minister inform the House on the new sexual assault reporting options initiative?

The Hon. MICHAEL GALLACHER: Sexual assault is an horrific crime, which more often than not goes unreported. For some women fear of the offender, feelings of guilt and self-blame and concern about how they will be portrayed in court, are enough to prevent them from approaching police and reporting this terrible crime. For every sexual assault that is not reported to police valuable information is lost, information that could help find the offender and prevent more individuals from becoming victims. Sadly, it is estimated that 85 per cent of sexual assaults go unreported in New South Wales. That is why police have taken a positive, proactive step to further reduce barriers for victims by providing them with another option for reporting sexual assault.

Whilst the first and preferred option is for victims to contact police and make a formal complaint, the Sexual Assault Reporting Option, or SARO as it is more commonly known, provides another path for reporting sexual assault. Launched by the NSW Police Force on 13 January this year, the Sexual Assault Reporting Option is based on a questionnaire that was initially used by Queensland Police for a number of years and led to the arrest and prosecution of a serial offender in that jurisdiction. The Sexual Assault Reporting Option gives victims an alternative option to formal reporting by enabling them to complete the questionnaire, which is available online.

The Sexual Assault Reporting Option questionnaire elicits important details about the assault, such as the date and time it occurred, the location of the offence, a summary of the incident and details of the offender. These details are then recorded on the NSW Police Force database and analysed by the Sex Crimes Squad to help identify patterns of behaviour and solve other crimes. All information received is treated with utmost confidentiality. The questionnaire can be completed anonymously, although the victim can choose to provide personal details and can elect to be contacted by police if they wish. For those who have had a forensic examination at a NSW Health Sexual Assault Service there is the option of giving permission for samples of their examination to be released on the questionnaire. This is important as the analysis of forensic samples can help police to identify and capture an offender.

Within three weeks of being launched six reports had been received through the Sexual Assault Reporting Option, and I am sure that these positive results will continue. The Sexual Assault Reporting Option will be reviewed in 12 months' time so that lessons can be learnt from its implementation. I am pleased to also report that the Sexual Assault Reporting Option will be rolled out nationally over a period of time. It is important to note that the Sexual Assault Reporting Option is only for adult victims of sexual assault or victims of historical sexual assault. Matters involving the sexual assault of children will continue to be dealt with under current processes. I am confident that the Sexual Assault Reporting Option will fill an important gap in the reporting of sexual assault by encouraging those who would not ordinarily do so to report the matter to police. Through the Sexual Assault Reporting Option victims can take the power back and report the crimes committed against them in an environment where they feel safe and have some privacy.

Further information about the Sexual Assault Reporting Option can be found on www.police.nsw.gov.au or by calling the Police Assistance Line on 131 444. More importantly, the Sexual Assault Reporting Option gives victims something that perhaps up until now they felt was not available to them: The power to choose how best to deal with the terrible injustice committed against them. I congratulate the NSW Police Force on this initiative. I look forward to hearing of the great results—which I will report back to the House—that I am confident the Sexual Assault Reporting Option will achieve.

PILLIGA FOREST

The Hon. JEREMY BUCKINGHAM: I direct my question without notice to the Minister for Roads and Ports, representing the Minister for Resources and Energy. What investigations are being carried out in relation to incidents within the Santos controlled Petroleum Exploration Licence 238 and Petroleum Assessment Lease 2 in the Pilliga Forest? Will the Government provide the House with the terms of reference for those investigations and the reporting date? Will the Government commit to making public the findings and recommendations of those investigations?

The Hon. DUNCAN GAY: Obviously off the top of my head I do not know the details of the particular exploration licence the member referred to, but I will pass the question on to the Minister for Resources and Energy for a response.

The Hon. Greg Pearce: There were so many of them granted by the Labor Party.

The Hon. DUNCAN GAY: I am also wondering whether it was the incident where there was a camera crew in the area and a tap was turned on and no-one knows who turned it on. I remember that the member was rather shy about that particular leak.

The Hon. Greg Donnelly: Is that an imputation, Duncan?

The Hon. DUNCAN GAY: I am not sure. But what does being "shy" mean? The last time there was a question about this and I raised the same issue I received only silence from the member. The company that was

involved certainly maintains that before the member and the camera crew were in attendance the tap was firmly turned off. Is that one that the member is looking for information on? I will pass the question on to the Minister for Resources and Energy for a detailed and sensible response.

MINING SAFETY

The Hon. STEVE WHAN: My question is directed to the Minister for Finance and Services. I refer the Minister to his previous answer about prosecutions. Can the Minister advise whether the Mine Safety Prosecutor has also adjourned prosecutions on occupational health and safety matters relating to mining, and if so, why? Does this subject go to the broader WorkCover review of occupational health and safety cases?

The Hon. GREG PEARCE: The member should direct his question to the appropriate Minister.

SHARK NETS

The Hon. PAUL GREEN: I address a question without notice to the Minister for Roads and Ports, representing the Minister for Primary Industries. In light of the recent reports of irresponsible vandalism of Sydney's shark nets and the reassurance that these nets bring to the many stakeholders using our beaches, will the Minister inform the House how often the nets are inspected to check their effectiveness? What action is the Government undertaking to apprehend and prosecute the perpetrator or perpetrators of such acts?

The Hon. DUNCAN GAY: This is an important question because shark nets are an important part of our summer in Sydney—although we have not had much of a summer and in two days it will be autumn. The issue of shark nets being cut is certainly a concern to the whole community. It defies belief that some people regard the cutting of shark nets as sensible. I will refer the question to my colleague the Minister for Primary Industry, who I know will provide a detailed and sensible answer.

PUBLIC SECTOR BOARD APPOINTMENTS

The Hon. SOPHIE COTSIS: My question is directed to the Minister for Finance and Services. On 23 August last year in response to a question without notice about public sector board appointments the Minister stated:

The message I have given at most of those meetings to the managing directors and the other directors is that when the new board appointments come up, I want to see most of them as women.

What percentage of female board appointments have been made since 26 March 2011?

The Hon. GREG PEARCE: Not enough. I am not sure whether I can rely on the Hon. Sophie Cotsis to have accurately quoted what I said. I certainly could not rely on the word of the Hon. Walt Secord in that regard. However, knowing the Hon. Sophie Cotsis as I do, I am willing to accept her quote as accurate. I repeat my answer: Not enough. We are looking for suitable women to appoint to these boards and we are gradually working our way through them. I could not tell the member how many there are off the top of my head. Obviously, I would not be expected to know that. But they are all publically disclosed as they are nominated. I suggest that the Hon. Sophie Cotsis make a list because all the names are publically disclosed. If she does that, the member can ask me a question based on her work rather than on my work. If the member did some work of her own as the Opposition spokesperson, she could rely on that rather than on my work.

The Hon. John Ajaka: Point of order: I cannot hear what the Minister is saying through all the interjections.

The PRESIDENT: Order! Members will cease interjecting.

The Hon. GREG PEARCE: Interestingly, thus far in question time today Opposition members have asked me five questions, four of which related to industrial relations, a portfolio about which the Hon. Sophie Cotsis is the Opposition spokesperson. The member was smart enough to steer clear of those stupid questions—

The Hon. Adam Searle: Point of order: The Minister is debating the question, and I ask that he be called to order.

The PRESIDENT: Order! I uphold the point of order. I ask the Minister to return to his answer.

The Hon. GREG PEARCE: I have just about concluded my answer. I note, however, that the shadow Minister for Industrial Relations steered clear of the nonsense that her colleagues were participating in during question time.

SYDNEY HARBOUR BRIDGE RESURFACING

The Hon. MARIE FICARRA: My question is the directed to the Minister for Roads and Ports. Can the Minister update the House on the Sydney Harbour Bridge resurfacing?

The PRESIDENT: Order! The Minister will ignore interjections and answer the question addressed to him.

The Hon. DUNCAN GAY: I thank the Hon. Marie Ficcarra for her question. As I have informed the House previously some defects were identified on the Sydney Harbour Bridge following weeks of heavy rain. In fact, we have had weeks and weeks and weeks of heavy rain. Road and Maritime Services has already moved swiftly to fix these defects. The defects were in lanes two and three, which were recently upgraded as part of a major project to weather-proof the bridge and its approaches. These two lanes on the Sydney Harbour Bridge were closed for half an hour from 1.00 p.m. to allow minor patching work to be carried out.

The Hon. Greg Donnelly: Shame.

The Hon. DUNCAN GAY: That is a shameful response from Labor to repair work that is being conducted to ensure that matters do not get worse. The Hon. Greg Donnelly said "Shame." That is just unbelievable. That is his response to this proactive work. Further investigations and hand repairs were carried out last night, and Roads and Maritime Services will return tonight to carry out finishing work to the existing repairs. We will continue to monitor the surface very closely. We are acutely aware how important it is to fix such defects before they become more of a problem and form potholes.

Unfortunately, the heavy rain on the first weekend of resurfacing work on the bridge caused water pockets to form and cracks were created in several areas on the top layer of asphalt. While it is not ideal to lay asphalt in wet weather—and members will understand that it has been damn difficult to find any dry weather recently—Roads and Maritime Services dried the surface as thoroughly as possible and continued to apply the seal to ensure that the job was completed and the bridge was reopened to traffic on schedule. Roads and Maritime Services will continue to monitor the surface of the bridge and the approaches for further defects.

Any future repairs will be limited to night work to minimise disruption to motorists. Meanwhile I am gobsmacked at the hypocrisy of members opposite. They have been critical of the bridge work. The first person to be critical of this work, while people were working to fix the bridge in pouring rain, was Robbo. Everyone in Sydney was appreciative of the work that was being done to fix up something that Labor had not addressed over 16 years, but Robbo was out there being critical.

The Hon. Adam Searle: Point of order: The Minister well knows that he should refer to the honourable Leader of the Opposition by his correct title rather than by a nickname.

The PRESIDENT: Order! I uphold the point of order.

The Hon. DUNCAN GAY: I thank the Deputy Leader of the Opposition because I indicate that it was Robbo, the Leader of the Opposition in the other place, not the honourable Robbo in that place, who is a fantastic Minister in the O'Farrell Government. Lest there be any confusion, I remind members that there is only one whinger, one whiner in this State; there is only one person in this State without the ticker to bring it on, one person who does not want anyone to achieve; and that is the Leader of the Opposition. [*Time expired.*]

GREY NURSE SHARK PROTECTION

The Hon. CATE FAEHRMANN: My question is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Has the Minister received advice from her department to inform her that the majority of submissions to the Government's discussion paper on the grey nurse shark support its protection? If so, when will the Minister restore protection for the critically endangered species at South West Rocks and the Solitary Islands?

The Hon. Steve Whan: This is embarrassing, isn't it, Duncan?

The Hon. DUNCAN GAY: The only embarrassment is the fact that the member interjecting did not have enough ticker to go to the Minister's office when the Minister was there. The great white leader of the Labor Party is scared of a little National Party girl. He squibbed it. I am informed that the Minister is committed to ensuring that the conservation needs of the grey nurse shark are met well into the future. The Minister has said that she will not repeat the mistakes made by the former Labor Government. Members opposite may not have learnt from their mistakes but we have. Their idea of consultation is about seeing which special interest groups can fire off the most form letters. That was the crux of the question I was just asked: who sent in the most letters? That is secret code for "the fix is in". The Greens had organised their people to inundate—

The Hon. Steve Whan: Point of order: My point of order is on relevance. The Minister was asked a specific question about his response to the submissions the Government has received and he is clearly not addressing that. While he is at it he might address the fact that it was Andrew Stoner who raised the issue with me—

The PRESIDENT: Order! The member is debating the point; he is not taking a point of order. The Minister was being generally relevant.

The Hon. DUNCAN GAY: The question, as I remember, was about the number of responses that went in.

The PRESIDENT: Order! I call the Hon. Steve Whan to order for the first time.

The Hon. DUNCAN GAY: I urge you not to throw the member out, Mr President. He should be made to stay to listen to my answers; it will be good for him. The question was about the number of responses that had come in from a certain area, and I was passing comment that it was not beyond the realms of possibility that certain bodies organised a large number of form letters. I am not saying that The Greens would be party to such activity. All I am saying is that we have detected, particularly in this area, letters of remarkable similarity—and that is a very dangerous thing. The question is quite detailed, and I will refer it to my colleague for a detailed and sensible response, just like mine has been.

PARENTAL LEAVE

The Hon. PENNY SHARPE: My question is directed to the Minister for Finance and Services. Is the Minister's exclusion of public sector workers who are surrogate parents and foster carers from receiving paid parental leave more proof that the Government does not care about important issues affecting women in New South Wales?

The Hon. GREG PEARCE: It was actually your Government's exclusion.

PRIORITY SEWERAGE PROGRAM

The Hon. JENNIFER GARDINER: My question without notice is addressed to the Minister for Finance and Services. Will the Minister update the House on claims being made by the Leader of the Opposition in the other place about the Priority Sewerage Program? Will the Minister tell the House what is actually happening with the Priority Sewerage Program?

The Hon. GREG PEARCE: So much for the Opposition's knowledge of the Government. I thank the Hon. Jennifer Gardiner for her question and commend her for her continued interest in this commitment of the Liberal-Nationals Government. I am sure all members will be pleased to know that I can reaffirm the Government's commitment to fast-tracking sewerage connections despite all the ill-informed attempts at scaremongering from the Leader of the Opposition in the other place, Mr Robertson, and none other than the Leader of the Opposition in this House, the Hon. Luke Foley.

Claims on Channel 7 news by New South Wales Labor that the Government is delaying the Priority Sewerage Program and not providing the funding to fast-track connections are categorically untrue and nothing more than scaremongering. We are delivering on this program. We are following through on our commitment to double the subsidy to Sydney Water to fund the program. Labor's claim that the New South Wales Government is not investing the necessary funds for the program shows yet again that it does not understand how to read the

budget. The subsidy is paid and reflected in the budget when the projects are completed. I should have thought that John Robertson, as a member of the previous Government, would know this. Who would know what the Hon. Luke Foley knows.

They should also know that the figures from the New South Wales budget that they used to try to prove that somehow this Government had broken its election commitment are actually a reflection of what they invested in sewerage services when last in government, not what we on this side of the House are investing. The question is: Are the leaders of the Opposition incompetent or just happy to be loose with the truth? Let me remind the House of Labor's track record on priority sewerage connections. In 2009-10 Labor spent \$16 million; in 2010-11 it spent \$5 million; and in 2011-12 it spent \$2 million. That was Labor's commitment to the Priority Sewerage Program, and it is in the budget for all to see. Labor is simply trying to dress up its mistakes and claim that they are those of this Government.

Mr David Shoebridge: Point of order: The Minister is misleading the House. Labor was not in government in 2011-12—

The PRESIDENT: Order! Mr David Shoebridge knows that is not a point of order.

The Hon. GREG PEARCE: It wasn't even a debating point.

The PRESIDENT: Order! I call Mr David Shoebridge to order for the first time.

The Hon. GREG PEARCE: If Mr Shoebridge understood how the budget works, he would know that there is an allocation for forward estimate years. This is typical of Labor. The truth of the matter is that during Labor's term in government John Robertson and his colleagues were too focused on pouring money into infrastructure white elephants like the Rozelle metro rather than actually investing in the services that people really need. This is exactly why the New South Wales Liberals and Nationals made the election commitment to fast-track sewerage connections. This is what actually makes a difference to people's lives. Under the plan the New South Wales Government is fast-tracking the connection to the sewerage network for almost 3,000 homes across eight communities. We will deliver these connections through a doubling of the current subsidy that the Government provides Sydney Water for these connections under the program.

The PRESIDENT: Order! I call the Leader of the Opposition to order for the first time.

The Hon. GREG PEARCE: This is in stark contrast to what happened for 16 years under Labor. It is really nice; it is a bit like the cat playing the mouse—

The PRESIDENT: Order! The Minister will ignore interjections.

LACTATION BREAKS

The Hon. HELEN WESTWOOD: My question is to the Minister for Finance and Services. Will the Minister overturn his draconian policy that women in the public sector can be forced—

The Hon. Matthew Mason-Cox: Point of order—

The Hon. HELEN WESTWOOD: —to trade off lactation breaks for a pay rise—

The Hon. Matthew Mason-Cox: The member has used an argumentative term—draconian.

The PRESIDENT: Order! It is contrary to the standing orders for members to use words such as "draconian", which is an argumentative term, when asking questions. Members should cease using argument in their questions. However, previous Presidents and I have allowed such questions to be asked on the basis that the Minister to whom the question is directed may respond to those parts of the question that are in order.

The Hon. Greg Pearce: Point of order: The time for the question has expired.

The PRESIDENT: Order! The question was asked and I have ruled that the part of the question that did not include argument is in order. The Minister may respond to that part of the question. How the Minister chooses to respond to it is also governed by the standing orders.

The Hon. GREG PEARCE: The only part of the question that I heard was some sort of allegation that there was draconian policy but I did not hear what it was supposed to be. No doubt it was one of the Labor Party's policies that the member was referring to. It is good to see that the shadow Minister for Industrial Relations has come back to question time. Maybe she can help the member to redraft her question so that we can get a question that I can actually respond to.

The Hon. HELEN WESTWOOD: I ask a supplementary question. Will the Minister elucidate his answer on the lactation breaks for public sector workers?

The Hon. Matthew Mason-Cox: Point of order: This is a new question and not a supplementary question and I ask that you rule it out of order.

The Hon. Helen Westwood: To the point of order: My question, which was asked within time, related to lactation breaks for public sector workers.

The Hon. Duncan Gay: To the point of order: I listened to the member asking her question and, although it was very hard to hear at the time, my understanding is that a point of order was taken before the member got to that stage of her question. In that event, it would be very difficult for anyone to answer a question that seeks elucidation of more information on a part of the question that—I could be wrong but I did not hear this being said—may well not have been asked.

The Hon. Amanda Fazio: To the point of order: I speak in support of the supplementary question and against the point of order raised by the Hon. Matthew Mason-Cox. If this point of order were to be upheld, it would allow Ministers to simply state that they either did not hear or did not understand a question and, therefore, refuse to answer it or take a supplementary question seeking an elucidation of the answer. I think that would be very poor form in question time.

The Hon. Michael Gallacher: To the point of order: My recollection was that the moment the member used the word "draconian" a point of order was taken but the member continued to speak into the microphone although the point of order had been taken. What she said was inaudible. The Minister has indicated it was something to do with draconian industrial relations laws. It is clear he did not hear it. Therefore, the remainder of the member's question following the point of order was incapable of being the subject of a supplementary question.

The PRESIDENT: Order! Supplementary questions must ask for an elucidation of an aspect of the Minister's answer. The member's question did not seek an elucidation of an aspect of the answer. Therefore, it is out of order.

SYDNEY MARDI GRAS FUNDING

Reverend the Hon. FRED NILE: My question is addressed to the Minister for Finance and Services. In view of the Government's transparency policy goal 31, will the Minister provide details of what funds the Government and Destination NSW have committed in support of the 2012 Sydney Mardi Gras? Does the Government acknowledge that the revenue raised from the event is retained within the homosexual community? Does the Government acknowledge that programs and organisations that are run for the benefit of all in the community have had their funding cut, like the anti-violence organisation Enough is Enough, which has just had its funding cut by over \$60,000? Can the Government justify why funds are being cut from universally inclusive community programs but not from the 2012 Sydney Mardi Gras and Film Festival?

The Hon. GREG PEARCE: I thank the member for his question. He is entitled to have an interest in and ask questions on such matters. I will obtain an answer for him, as he is entitled to expect.

KOKODA TREK

The Hon. CHARLIE LYNN: My question is directed to the Minister for Police and Emergency Services. Could the Minister provide the House with details of the recent initiative developed by the NSW Rural Fire Service in partnership with the Rural Fire Service Association to take young people on a trek along the Kokoda Trail?

The Hon. Amanda Fazio: Is your company making money out of it, Charlie?

The Hon. Charlie Lynn: No, it is not with my company.

The Hon. MICHAEL GALLACHER: I thank the honourable member for his question. The Kokoda Trek initiative is best described as a journey to a site of significance for Australians where the young participants will experience the values and qualities that epitomise the Australian soldiers who fought along the Kokoda Trail in the Second World War. These same values and qualities—courage, endurance and sacrifice—are at the core of the NSW Rural Fire Service, as evidenced by the number of volunteer firefighters who put their lives on the line, risking death or serious injury, while protecting the community. This initiative will involve taking the children or grandchildren of fallen or seriously injured firefighters on a journey along the Kokoda Trail. I understand that the first trek will be departing for Papua New Guinea on Easter Sunday, 8 April

Three young participants between the ages of 16 and 25 have been selected through an expression of interest process to join the inaugural 2012 Kokoda Trek. I am sure the House will join with me in extending congratulations to this year's successful candidates, Kristian White, Ben Nolan and Ivan Moses. The Rural Fire Service advises that funding for the three participants has come from sponsorship, with the Rural Fire Service Association as the major partner. The remaining funds have been raised through the sale of a commemorative military-style dog tag.

As part of the initiative, seven other Rural Fire Service volunteers and staff will be joining the trek as full fee-paying participants, along with the service's senior chaplain and a representative of the Young Members Group. It is pleasing to note that in addition to the trek itself a number of other opportunities will be available to the young participants. These encompass a broad program that aims to encourage re-engagement with the Rural Fire Service for young people who are not currently active members. This will include general Rural Fire Service training and a leadership program, coupled with speaking opportunities at the Rural Fire Service Association's conference—a conference that I recommend all members should attend at least once in their career as a member of Parliament to talk to these volunteers who do a wonderful job.

In addition, the young participants have been allocated two mentors throughout the initiative. This year's participants will fly out to Port Moresby on 8 April and return 10 days later. A second trek is being planned for April 2013, with the three young participants already selected. Other eligible 16- to 25-year-olds whose firefighter parent or grandparent has been either lost or seriously injured will be given an opportunity to apply to join the 2013 trek at no cost. I commend the NSW Rural Fire Service and the Rural Fire Service Association for this admirable initiative and trust that all participants will find it a challenging, worthwhile and inspirational experience. If members speak to those who have participated in previous treks they will receive a message of inspiration and mateship. The values of young Australians who fought to defend this nation are brought back by those who have taken time out of their lives, whether for the purpose of education or business, to experience Kokoda firsthand. I suspect these young people will return better off for the experience. [*Time expired.*]

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

LACTATION BREAKS

The Hon. GREG PEARCE: Earlier in question time the Hon. Helen Westwood asked me a question in relation to lactation breaks. The question was a rehash of a scare campaign run by the Opposition in August 2011 in an attempt to build up hysteria, as the Opposition often does. The Government supports paid lactation breaks and would not support this condition being traded off in future negotiations under the Government's wages policy. This condition is currently found in awards, including the Crown Employees (Public Service Conditions of Employment) Award 2009, which covers 80,000 employees. Many other public sector employees, such as, nurses, home care workers, school administration assistants, Roads and Traffic Authority employees, TAFE employees—I am not sure whether TAFE employees have moved over to the Federal system—Taronga Zoo workers and Parliament House employees receive this award entitlement.

Questions without notice concluded.

MS HEIDI TILTINS

Ministerial Statement

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.32 p.m.]: I wish to make a brief ministerial statement to

acknowledge the departure, albeit temporary, of one of our well-respected reporters from the parliamentary press gallery. Heidi Tiltins, 2GB's State political reporter, is leaving us at the end of the week, ahead of the birth of her and her husband's first child. It has been a pleasure for me, both as an Opposition member and now as a Minister, to have worked with Heidi over a number of years. She is a thorough professional and, I think it is fair to say, liked by all members of the Legislative Council and the Legislative Assembly.

Heidi, on behalf of my ministerial colleagues, Government members and all members of this House, I extend to you and your husband, Jason Morrison, our well wishes in this next exciting step in your lives. I am sure I speak for everyone when I say that we look forward to your return and we hope you enjoy your time off and experiences as a mum. When you return in your professional role, I am sure you will continue to provide your expert services to Parliament in getting the message across to the people of New South Wales about the fine work that is done here. Well done, Heidi.

The Hon. LUKE FOLEY (Leader of the Opposition) [3.33 p.m.]: On behalf of Labor members, I heartily endorse the comments of the Leader of the Government. Since I first became a member, I have observed Heidi Tiltins' work in Parliament House covering State politics. She certainly has the respect of Labor members. As the Minister said, she is a warm human being and is liked by her colleagues in this building. I wish Heidi and Jason all the best at this wonderful time in their lives. Theirs is now a mixed marriage: she is at 2GB and he has gone to 2UE. We wish them well. I also note Jason's superb commentary on the parliamentary cricket team's demolition of the press gallery. [*Time expired.*]

CRIMINAL CASE CONFERENCING TRIAL REPEAL BILL 2011

Second Reading

Debated resumed from 16 February 2012.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.34 p.m.]: I lead for the Opposition on the Criminal Case Conferencing Trial Repeal Bill 2011. The Opposition does not oppose the legislation. The Criminal Case Conferencing Trial Act established a 12-month trial scheme, which commenced on 1 May 2008, providing for participation in case conferences for certain indictable offences. The scheme also provided for a 25 per cent discount in sentencing in designated courts for early pleas of guilty. Lesser discounts were available for pleas that came later. This reflected generally the principles of sentencing in New South Wales. By prohibiting substantial discounts for late guilty pleas it aimed to encourage early guilty pleas in order to obtain substantial benefits in efficiencies and costs to the system. It also would relieve some of the stress otherwise experienced by witnesses and victims.

The trial was created in response to an increasing trend in late pleas of guilty and late terminations of proceedings. The scheme sought to encourage early plea negotiations in certain criminal cases prior to committal for trial through the provision of an entitlement to a discount on a sentence in exchange for a guilty plea. The scheme sought to improve cooperation between the Office of the Director of Public Prosecutions and the NSW Police Force to ensure that offenders were charged only with appropriate offences. When the bill was debated in the Legislative Assembly, the then Opposition welcomed it and the then shadow Attorney General, now the current Attorney General, said that a measure of this kind was well overdue. A Bureau of Crime Statistics and Research [BOCSAR] evaluation in 2010, however, was not supportive of the scheme, principally because too few cases had at that stage been included in the trial. On 30 June 2011 the current Government extended the trial until 1 July 2012. However, without explanation, on 7 October 2011 the Government cancelled the scheme as at 8 October by way of regulation.

At estimates committee hearings the Attorney General tried to justify the cancelling of the trial on the basis of the Bureau of Crime Statistics and Research report and also that the limited amount of money required to continue the scheme was not available from Treasury. This was despite both the defence and prosecution wanting the trial to continue in order to see whether the scheme could yield the intended benefits. Further questions on notice established that the only Bureau of Crime Statistics and Research report on the trial was in 2010 and there had not been enough cases to give a definitive result. The Government had the report when it decided to extend the scheme in June 2011. Therefore, the only rational or real reason for discontinuing the scheme must have been the cost. The Attorney General conceded at estimates that it was quite a small amount of money. In my view, the scheme eventually would have saved money and reduced stress on victims and witnesses. The Government's position is myopic in precipitately cancelling the trial. If the trial had continued, we would have had a proper and full evaluation based on a sufficient body of cases from which it could be determined whether the scheme would yield the intended benefits in the longer term.

As I indicated earlier, the trial has been extinguished by way of regulation. The cancellation of the trial, which took place only a couple of months after the extension of the trial, has not been adequately explained by the Government. This legislation merely formalises that the scheme has been cancelled and ensures that this extinguishment of the scheme does not act retrospectively. Indeed, it will preserve any entitlement under the scheme to a 25 per cent discount on sentence for guilty pleas entered before committal. It is merely formalising the existing state of play. As I indicated earlier, the Opposition will not oppose the legislation but we believe the Government has unfortunately and short-sightedly cancelled an enterprising and potentially beneficial scheme for the administration of criminal justice in this State. This will be seen in the longer term as an opportunity lost, unless a similar scheme is initiated and properly assessed on a sufficient body of case law.

Mr DAVID SHOEBRIDGE [3.40 p.m.]: The Greens do not oppose the Criminal Case Conferencing Trial Repeal Bill 2011. However, we do question the rigour with which the scheme was analysed and which led to the cancellation of the trial. The trial commenced in May 2008 initially for one year but was extended until July 2010. The legislation required compulsory case conferences for all indictable offences for which a court attendance notice was filed on or after 1 May 2008 and where the committal proceedings were held in the Downing Centre or the Central Local Court registries or in the Sydney District Court registry. It required representatives of the defence and the prosecution to convene a conference prior to the committal hearing, if a guilty plea was entered before the hearing a 25 per cent discount would apply. That is called a utilitarian discount in that the early guilty plea is designed to reflect not so much additional remorse but the resulting benefit to the criminal justice system afforded by the avoidance of the expense and constraints of a trial. If the plea was entered after the hearing commenced, that discount was to be limited to 12.5 per cent—that is, a 50 per cent reduction—to reflect the loss of the utilitarian benefit resulting from an early guilty plea.

The scheme was expected to produce four outcomes: first, to reduce the number of trial case registrations in the District Court; secondly, to increase the proportion of sentence case registrations in the District Court; and, thirdly, to increase the proportion of defendants committed to trial in the District Court whose case proceeded to trial. The intent was that the defended matters would be a smaller cohort but far more likely to proceed to trial. The fourth objective was to decrease the number of cases where the accused changed his or her plea from not guilty to guilty on or about the first day of trial.

The Bureau of Crime Statistics and Research evaluation of the scheme, which is now the better part of two years old, did not uncover any measurable changes that would support those expectations. It initially appeared that those expectations would be realised by this simple change to the criminal justice system because of the utility of making an early guilty plea and the penalty for not doing so. However, the criminal justice system and our trial courts, in particular, are complicated animals and changing one small aspect will not necessarily lead to predicted outcomes at the end of a complicated process.

While The Greens will not oppose this legislation, which as the Hon. Adam Searle pointed out ends a non-operational trial operating in New South Wales, we should all pause to reflect on how any government or Parliament should undertake a proper review of these kinds of schemes. The argument in support of the suspension of the scheme is primarily based on the Bureau of Crime Statistics and Research report entitled "The impact of criminal case conferencing on early guilty pleas in the NSW District Criminal Court". That is yet another fascinating report title from the bureau. The report provides only very weak evidence that the compulsory case conference scheme has achieved its stated objectives. It is worth noting the emphasis that the bureau placed on the difficulty it had in examining data in this area. For example, the section dealing with the analysis states:

One of the major difficulties that needed to be overcome with the analysis is that each of the dependant variables is highly volatile (i.e. variable from month to month). With such volatile series it is very difficult to partial out any effect of the intervention from the natural month-to-month fluctuation in these outcomes.

One difficulty is dealing with the culture not only of the practitioners in the legal system but also of the judges. The structures and processes are aimed at the defendants and practitioners. However, when one examines a system as complex as the criminal justice system, one must take on board the impact that any change will have on judges. The Bureau of Crime Statistics and Research addressed how the change in the approach to sentence discounts worked in practice. It stated:

One of the primary mechanisms by which the courts seek to discourage late plea changes is to offer sentencing discounts in exchange for an early guilty plea. These sentencing discounts are referred to as the utilitarian value of the plea. In practice, there appears to have been widespread scepticism in the legal profession that such discounts are, in fact, conferred on their clients (Lumsden, 2006). This scepticism was noted in the guideline judgement of *R v Thompson & Houlton* [2000], NSWCCA 309 (126):

Nevertheless the scepticism about the benefits of an early plea, which appears to be widespread amongst participants in the New South Wales criminal justice system, does suggest an element of inconsistency. Most significantly, however, the evidence available to this Court indicates that the scepticism is reflected in actual practice: where pleas occur, they tend to be late. One of the reasons for that fact is the scepticism about the benefits in fact afforded.

As the court noted in *R v Thompson and Houlton*, that scepticism is well-founded for many people. They make the early plea but at the end of the day they do not get the full benefit of doing so. If a new trial is conducted, and I hope it will be, it should involve the practitioners and the judiciary. Any future scheme should be rolled out far more comprehensively. I hope that the report is not cast to one side because we should take on board some of the difficulties facing any government that wishes to achieve cultural change in the criminal justice system.

The Bureau of Crime Statistics and Research does not believe that it had enough time to undertake the review. Cultural change takes time and 18 months is not sufficient to achieve change in a system as complex as the criminal justice system. One would expect to see minimal, if any, positive change after a trial lasting only 18 months. In addressing the limited time available to undertake the review the bureau states:

Two data-related issues might have precluded our ability to find an effect of the CCC scheme. Firstly, the number of registrations varies dramatically from one week to the next in any particular District Court, which makes it very difficult to detect an intervention effect. We could have reduced this variability to some extent by looking at monthly registration counts but the second data issue is that our follow-up period was not very long. Short follow-up periods reduce the power of the statistical tests employed and, again, reduce our ability to detect subtle intervention effects. The short follow-up period may also have reduced our ability to detect changes in outcomes (3) and (4)... It would have taken a further eight months or so for half these cases to be finalized...

The bureau could not use the data in about 50 per cent of the subject cases because they could not be followed through to the end of the process. In short, a deeper reading of the data available indicates that this is not a simple case of a trial being shown to be ineffective. I hope that that is not the lesson the Government learns from this. Such a conclusion would fail to recognise the realities of intervention in a system as complex as the criminal justice system, including the need to create a cultural change and faith in such a scheme, the time and tools required to obtain sufficient data and the difficulty of analysing it.

The criminal justice system requires a far broader set of interventions than just simply dealing with practitioners. It must involve the bench and also must allow sufficient time to change not only the forms and directions hearing but also the culture of the criminal justice system. Not enough time was allowed for this to happen. In some regards, it is a budget-saving mechanism for the Government. Let us hope that the Government does not throw this scheme aside and not revisit it and that this is just a step on the way to further comprehensive reforms that will make our criminal justice system more effective, cheaper and less stressful for all involved.

The Hon. DAVID CLARKE (Parliamentary Secretary) [3.50 p.m.], in reply: I thank members for their contributions to the second reading debate. The bill provides for the repeal of the legislation that supported the trial of criminal case conferencing. Unfortunately, the trial did not deliver the benefits originally envisaged. A full and proper review was undertaken and, as such, it is appropriate to end it. The Government will continue to consider reforms that have the potential to ensure criminal trials run as efficiently as possible whilst maintaining fairness for the accused. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. David Clarke, on behalf of the Hon. Michael Gallacher, agreed to:

That this bill be now read a third time.

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

GOVERNMENT INFORMATION (PUBLIC ACCESS) AMENDMENT BILL 2011

Second Reading

Debate resumed from 16 February 2012.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [3.52 p.m.]: I lead for the Opposition on the Government Information (Public Access) Amendment Bill 2011. In 2009, following considerable

discussion, the Labor Government enacted significant freedom of information reforms, which took the form of the Government Information (Public Access) Act 2009. The bill proposes a series of amendments which the Government describes as minor or in the nature of finetuning. The bill confirms that the provision of information has due regard to copyright issues—that seems to be a sensible change—and enables an agency to refuse to provide information if the applicant already has been provided with the information.

The bill clarifies requirements for information recorded in agency disclosure logs and allows affected persons to object to certain information being included. The bill also enables parts of agencies to be treated as separate agencies for the purposes of the principal Act, confirms that an agency may require proof of identity from an applicant before providing access in certain cases, removes the requirement to pay a fee for an internal review by an agency following a recommendation by the Information Commissioner, and provides there is no conclusive presumption of overriding public interest against disclosure of a spent conviction to the person convicted.

Further, the bill clarifies when an agency is required to consider professional legal privilege in connection with an access application, amends the Criminal Records Act to provide that it is not an offence for a public authority that has a record of a spent conviction to make information about the conviction available to the person convicted, and confirms that an internal review is not available in relation to a reviewable decision of a member of a Minister's personal staff. That provision also extends to an agency's principal officer. For other categories an internal review is a precondition to parties seeking review by the Information Commissioner.

This bill makes it clear that they can go straight to the Information Commissioner where an internal review is not available. I am unsure what has prompted the inclusion of Ministers' officers in that exemption. Perhaps it is thought that a departmental review of a decision of a Minister's staff may not be undertaken properly or independently or it may be invidious to ask public servants to pass judgement on decisions about Government Information (Public Access) requests made by ministerial officers and, therefore, it is preferable for the Information Commissioner to determine the matter. As I said, the changes are minor or in the nature of finetuning. The Opposition does not oppose the bill.

Mr DAVID SHOEBRIDGE [3.55 p.m.]: I speak on behalf of The Greens to the Government Information (Public Access) Amendment Bill 2011. I say at the outset that The Greens do not oppose these relatively modest amendments to the Act, which has been in operation for about 18 months. As we read the bill and on advice from the Government and the Information Commissioner, it is clear that this series of amendments is designed to tidy up loose ends and deal with minor administrative difficulties that have arisen from the legislation. This bill is not in any way a wholesale review of the Act, as a statutory review is to be undertaken in or about July 2014, after the Act has been in operation for five years. I seek the Government's confirmation that it is committed to conducting a thorough and open statutory review in July 2014.

The Greens support this relatively uncontroversial bill, which clarifies aspects of the Government Information (Public Access) Act system in New South Wales. Schedule 1 of the bill confirms that the obligation to make information available does not mean that information should be made available in a manner that would constitute an infringement of copyright. As I said before, most of this bill is not controversial. However, the laws that regulate copyright are at the Commonwealth level. The Greens support this provision on the understanding that we are not in a position to legislate with respect to a breach of a Commonwealth Act. It is clear that there is rising concern amongst persons seeking access to information in New South Wales that the provision relating to copyright is being used to avoid the production of information at a State level.

By way of illustration, under the Local Government Act local councils have an obligation to provide copies of material provided to them. One of the key materials often requested by community members and residents in a local area are plans associated with a development application. Requests for copies of such documents used to be made under the Local Government Act. It is now the practice in some local councils to address such requests through the Government Information (Public Access) Act system. A number of councils hold the view that they are not in a position to provide copies of development application plans, elevations and the like because that would be a breach of copyright.

That is a matter of substantial open argument. It is the case that documents provided to a local authority for a lawful purpose, which includes open and clear community consultation, are provided to the council with an understanding and acceptance by the copyright owner—either the architect or the developer—that their copyright entitlements will be waived to the extent that necessary community consultation is undertaken. As The Greens have said, that would extend to the releasing of information in the form of those plans, which otherwise may face an assertion of copyright, to interested community members.

Unless the community can get its hands on the plans, the street elevations, the footprint and the like of developments, it will make a nonsense of any kind of open planning system in New South Wales. The copyright argument is not just being seen in planning laws; it is increasingly being used by the New South Wales Government to prevent the copying and dissemination of other third party documents in the hands of government, such as reports from consultants and experts provided to government.

If the Government is of the view that it has an obligation to preserve some copyright so as not to provide those kinds of third party documents to people seeking them under the Government Information (Public Access) Act and there is a genuine copyright issue, it needs to be resolved at an early stage. Whenever a government, local council or any public authority engages a third party that may otherwise assert copyright, it must be made clear at the outset that they waive any rights to copyright if those documents are requested by members of the public either through the Government Information (Public Access) Act or through other lawful requests under any Act. It cannot be the case that a positive State law, such as the Government Information (Public Access) Act, is undermined by this reliance upon a somewhat nebulous argument as to copyright to prevent that necessary material getting into the public domain. It is of real concern to The Greens, and to a good many community groups and interested persons, that increasingly government is operating to restrict access to public documents in New South Wales in this way.

The Greens do not oppose schedule 1, on the basis that it accepts at a New South Wales level that Commonwealth law cannot be overridden. The bill also has a good many other changes, which I will not deal with seriatim. If there is one other continuing complaint that The Greens hear from those making Government Information (Public Access) Act applications, it is the delay in processing—a blowout in processing time. The Act provides quite tight statutory timelines for processing and for the provision of information, but those timelines are rarely being complied with. The department most at fault is the Department of Planning and Infrastructure. Many community groups and interested persons have made requests of that department for information and in response they have received a form letter effectively stating, "Thank you for your application under the Government Information (Public Access) Act but we know for a fact that the department will not get to it within six weeks." The requests are effectively rejected from day one—hardly the atmosphere of openness one would expect under the new Government Information (Public Access) Act system in New South Wales.

If the Department of Planning and Infrastructure does not have the resources to provide timely access to government information under the Government Information (Public Access) Act, the Government needs to provide it. It is a remarkable position that the department is effectively sending out form letters stating, "We have your request. It has been stuck in a pile. There is no way we will get to it in the statutory time frame. Do you want to review us?" The Government should address this issue in short order. Many groups have brought these concerns to the attention of The Greens. As I have said, The Greens do not oppose the bill. We note our concerns and observations in relation to the copyright issue.

A creeping culture is appearing in the Government, a culture that could be dealt with if the Government accepted a requirement for openness by a clear acknowledgement from those that they receive the third party documents from in the first instance that they will not rely upon copyright to prevent the release of information. It is of concern to The Greens that in government departments such as the Department of Planning and Infrastructure and certain environmental agencies the lack of resources for the provision of public documents means, almost by default, that the timelines in the Act are being breached and the agency will know that they are being breached at the time the application is received. If the Government is committed to openness, and some of the rhetoric we heard during the election campaign last year about doing things differently in New South Wales, this is one way in which it could do things differently. If those opposite want to live up to openness in government they should commit to those two simple changes.

The Hon. PAUL GREEN [4.05 p.m.]: The Christian Democratic Party supports the Government Information (Public Access) Amendment Bill 2011. While we note the overview of the bill, I do not propose to read it as it is quite extensive. It is very helpful for this type of regulation to be available to the public to allow access to these types of documents, but at a local government level it is becoming resource hungry. More households now have access to the internet and that means more people have the ability to request information. It is simply becoming unaffordable for local governments to keep up with the pace of supplying record requests—people resources are being drained by paperwork and mail-outs, et cetera. The other complication with public information access is that the local government elections are to be held in September and there will be a flood of requests for information from councils. Sadly, many of those requests will be trying to build a vexatious case to help one candidate get the jump on another.

Mr David Shoebridge: It is not always vexatious, Paul.

The Hon. PAUL GREEN: I did not say it was always vexatious; I said in many cases requests are made to build a vexatious case against another candidate in an endeavour to bring down that candidate and to get the jump at the election. It is unfortunate that that happens. I have no problem with transparency. If the Government has documents that can help people to understand why decisions are being made or to help them understand the processes and procedures, I do not have a problem with that. However, I have a real problem if it is used to bring down someone for the wrong reasons. I commend the bill to the House. It would be great to stop people using the Government Information (Public Access) Act for selfish ends, but I do not think it will happen.

Mr David Shoebridge: There are provisions in the Act, Paul.

The Hon. PAUL GREEN: Yes, I am sure that Mr David Shoebridge knows them all.

Mr David Shoebridge: I do not pretend to know them all, but there are provisions to stop vexatious applications.

The Hon. PAUL GREEN: The problem is that those requests mount up. They then go to the Ombudsman, the Local Government and Shires Associations and to the Independent Commission Against Corruption and, depending on what they are, they build up. Poor old local government has been flooded with such applications. Some are very helpful, some hold people to account where they should be held to account but, sadly, some are just draining the ratepayers' purse.

The Hon. Adam Searle: And some of them are misconceived.

The Hon. PAUL GREEN: And some of them are misconceived. The Christian Democratic Party commends the bill to the House and congratulates the Government on introducing it.

The Hon. DAVID CLARKE (Parliamentary Secretary) [4.09 p.m.], in reply: I thank all members for their contributions to debate on the Government Information (Public Access) Amendment Bill 2011, which smooths out some of the minor issues that have been identified during the first year and a half of the operation of the Government Information (Public Access) Act 2009. The bill has been developed in consultation with government agencies and the Office of the Information Commission and Privacy Commissioner and will ensure that the processes that underpin the substantive rights in the bill operate in the way that best upholds those rights. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. David Clarke, on behalf of the Hon. Michael Gallacher, agreed to:

That this bill be now read a third time.

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

AGRICULTURAL TENANCIES AMENDMENT BILL 2011

Second Reading

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [4.10 p.m.], on behalf of the Hon. Greg Pearce: I move:

That this bill be now read a second time.

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

Leave granted.

I am very pleased to introduce the Agricultural Tenancies Amendment Bill 2011. The purpose of the bill is to amend the Agricultural Tenancies Act 1990 and the Consumer, Trader and Tenancy Tribunal Act 2001 to confer jurisdiction for the resolution of agricultural tenancy disputes on the Consumer, Trader and Tenancy Tribunal. This will establish a new process for the resolution of agricultural tenancy disputes that will be provided by the Tribunal.

In June this year, the Agricultural Tenancies Act 1990 was transferred from Primary Industries to the Fair Trading portfolio. The Act is a good fit with the other tenancy-related responsibilities within the Fair Trading portfolio.

Honourable members may be interested to know that agricultural tenancy laws have been in operation in New South Wales since 1916. These laws were first introduced to address the power imbalance between land owners and tenants, and also to help prevent the degradation of agricultural land that resulted from poor farming practices.

The laws have been amended over time to keep up with developments in agricultural practices and the changing circumstances of tenant farmers.

These matters are now dealt with by the Agricultural Tenancies Act 1990, which regulates the rights and responsibilities of landowners, tenants and sharefarmers in relation to agricultural tenancies. The Act applies to land used for grazing, dairying, pig farming, viticulture, orcharding, bee-keeping, growing vegetables or other crops, forestry, or any combination of these activities.

The Act also provides an arbitration process for resolving disputes that may arise during a tenancy. These disputes can involve matters such as land misuse, weed growth or the financial benefits flowing to the tenant or the land owner from the use of the land or the making of improvements.

Under the current terms of the Act, the Director General of the Department of Primary Industries is responsible for the arbitration of disputes. However, it would be neither logical nor practical to transfer administrative responsibility for the Act to Fair Trading without also transferring responsibility for the dispute resolution role.

It is also commonsense to integrate this isolated, single-issue dispute arbitration service into the Tribunal's responsibilities. New South Wales has numerous dispute resolution services, ranging from the Consumer, Trader and Tenancy Tribunal to small health tribunals that deal with a specific profession.

While the change to the agricultural tenancy dispute resolution process is a relatively minor administrative change, this will help reduce the scattered duplication of dispute resolution services in New South Wales. The proposed changes in this Amendment bill will contribute to the development of more cost effective system for the resolution of disputes.

In regard to reducing the duplication of services, a Legislative Council inquiry is currently underway which is exploring the possibility of a 'super tribunal' to replace many of the existing dispute resolution bodies.

Interested parties have been invited to provide submissions to the inquiry, and public hearings were held in December last year.

While the final report of the inquiry is not due until 29 February, the need for dispute resolution services is not going to vanish overnight. It will be appropriate to maintain the provision of this vital service in rural and regional parts of the State.

I understand that at the Department of Primary Industries the arbitration process is handled by a paralegal officer working in the Department's Legal Services Division. This is quite different from the level of service that the Tribunal can provide, and obviously places limits on the extent of the dispute resolution services. Bringing the dispute resolution role into the Tribunal brings the opportunity to broaden the range of disputes that can be resolved outside of the court system, and I will touch on this in more detail shortly.

I note that during the Lower House debate on this bill, concerns were raised that the transfer of agricultural tenancy dispute resolution to the Tribunal could mean job losses at Primary Industries.

Apart from the fact that only one officer is involved in the provision of the dispute resolution service, I am also advised that this role only takes up a small part of that officer's workload. So I can assure honourable members that there will be no job losses as a result of the transfer of the dispute resolution role.

Currently, most of the agricultural tenancy dispute applications received by the Department of Primary Industries are resolved by mediation or conciliation, and there are only a few formal arbitration hearings each year. In comparison, the Tribunal provides dispute resolution services to tens of thousands of people every year, and has extensive experience in a whole gamut of tenancy and commercial matters.

The Tribunal has eight registries, including three in rural and regional areas, and conducts hearings in over 70 locations around the State. This widespread choice of venues will make it that much easier for hearings to be held in a convenient location for the parties to a dispute.

Existing provisions in the Consumer, Trader and Tenancy Tribunal Act cover virtually all procedural matters currently provided for in the Agricultural Tenancies Act. The bill therefore proposes to remove the duplicate provisions from the Agricultural Tenancies Act.

Not only will the Amendment bill streamline the Agricultural Tenancies Act significantly, it will also repeal the Agricultural Tenancies Regulation, which will be made redundant by the amendments.

This is completely in keeping with the O'Farrell-Stoner Government's commitment to cutting red tape by 20 per cent reduction in our first term. Streamlining of legislation and red tape reduction will improve business confidence and help boost the State economy.

Turning now to the substance of the Agricultural Tenancies Amendment bill, I can assure you that the bill is brief and straightforward.

Firstly, the bill proposes to amend the objectives and definitions of the Agricultural Tenancies Act to reflect that the dispute resolution service is to be provided by the Tribunal. This will also mean that the current functions of the Director General of the Department of Primary Industries will become redundant and will be omitted from the Act.

Part 2 of the current Act sets out the general rights of tenants and owners, including the right to have matters determined by arbitration. The Amendment bill proposes to delete all references to the current arbitration process in Part 2 of the Act and replace them with references to the Tribunal.

Part 2 of the Act will be otherwise unchanged, and will still cover the general rights of tenants and owners in regard to:

- improvements to land undertaken by tenants or owners;
- tenants' fixtures;
- owners' rights of entry;
- recording a farm's condition;
- keeping of accounts; and
- termination of tenancies.

Part 3 of the current Act concerns the determination of compensation payable for improvements that have been made to the land. This includes improvements made by either a tenant or an owner.

Part 3 also provides for tenants to be compensated for stored products that are left behind when they leave the farm, and for owners to be compensated for any deterioration in the condition of the farm.

As is the case with Part 2 of the Act, for Part 3 of the Act the Amendment bill proposes to replace references to arbitration with references to the Tribunal.

The current power for the Director General of Primary Industries to appoint someone to make a record of the condition of a farm under section 12 will be omitted. However, tenants and owners will instead be able to apply for Tribunal orders in relation to a dispute about a record of condition.

The existing provisions in Part 4 of the Act concern the current system for arbitrating disputes and the application of the Commercial Arbitration Act 2010. Similar procedural and administrative provisions are contained in the Tribunal's Act and apply to all matters within its jurisdiction.

Accordingly, the Amendment bill proposes to replace Part 4 of the Act.

The new Part 4 to be inserted into the Act will provide for a handful of procedural and administrative matters that are not already covered in the Tribunal's Act. Some of the provisions in the current Part 4 will be carried over and retained.

Proposed section 20 in the new Part 4 of the Act gives tenants and owners the right to apply to the Tribunal for resolution of agricultural tenancy disputes. As I noted earlier, it is also proposed to expand the types of disputes that can be determined.

Under the existing arbitration process, applications cannot be made for disputes concerning rental arrears or evictions. These matters must currently be heard in the courts. Under the proposed bill, parties to these kinds of disputes will be able to apply to the Tribunal for dispute resolution at a much lower cost.

The current time limit for applying for arbitration of disputes is three months after the dispute arises or after the end of the tenancy, whichever is the latest. Proposed section 20 retains the same time limit for the Tribunal process. The Tribunal's Act also allows for an extension of time to be granted where appropriate.

Proposed section 21 will list the range of orders that the Tribunal can make under the Act. The Tribunal will be able to make orders to:

- give effect to a dispute determination;
- restrain any action that breaches a term of a tenancy;
- amend or not amend a record of the condition of a farm;
- require an action to be performed;
- require payment of money or compensation;

- direct a tenant or owner to undertake work to remedy a breach of a term of a tenancy;
- direct an owner, an owner's agent or a tenant to comply with the Act or Regulation;
- terminate a tenancy and return possession; and
- require an owner to allow a tenant to recover goods or fixtures.

Proposed section 21 will also establish the Tribunal's financial jurisdiction. Currently, the financial limit for matters that can be determined by the Director General of Primary Industries is \$100,000. It is proposed to increase this limit so that the Tribunal can determine matters and make orders involving amounts of up to \$500,000.

Given that the amounts involved with agricultural tenancy disputes can add up to millions of dollars, a limit of \$500,000 for the Tribunal is considered appropriate. Increasing the monetary jurisdiction will mean a wider range of disputes can be determined in the lower cost Tribunal instead of the courts. Disputes involving larger amounts will continue to be heard in the courts.

Tribunal hearings are required to be run as informally and inexpensively as possible. This means that, in most cases, the disputing parties represent themselves and lawyers do not participate. Some exceptions apply. For example, in home building matters involving amounts higher than \$30,000 or for disputes where complex legal issues are expected to arise, the parties are able to be represented. It is proposed that agricultural tenancy disputes will be treated in the same way.

Under the current arbitration system, case management and mediation have proven to be effective in resolving many matters, and there is no reason why this should not continue to be the case. Tribunal members are highly experienced in alternative dispute resolution methods. Mediation of disputes reduces the costs for all parties involved, and can deliver a very quick result.

Accordingly, proposed section 22 will require the Tribunal to promote conciliation and use its best endeavours to bring the parties to an agreed settlement. Matters that are not able to be settled will be referred to mediation. The details of the mediation process are already covered under Part 5 of the Tribunal's Act. If mediation is unsuccessful, then the Chairperson can direct that the matter be subject to an inquiry by an assessor, or the matter can proceed to a hearing.

Existing provisions in the Agricultural Tenancies Act provide for a charge to be placed on land in order to secure amounts that have been ordered to be paid to a tenant. The charge is released once the owner pays the tenant the amounts in question. The charge on land is being retained in proposed section 23 of the Amendment bill.

Section 27 of the current Act voids any agreements that seek to waive or cancel any of the rights, powers and duties under the Act. This important provision is being retained.

The current procedures for serving documents and basic regulation making powers will also be retained.

The current section 7 and schedule 1 to the Act concern a tenant's right to make improvements to a farm. Section 7 states that, without the owner's consent, a tenant is only allowed to carry out improvements to a farm if:

- the improvement is listed in schedule 1 to the Act; or
- the improvement is prescribed by regulation; or
- the improvement has been determined as suitable and desirable.

The improvements listed in schedule 1 are crucial to the operation of a farm. The list includes drainage, roads, bridges, and repairs to essential farm buildings. The schedule also includes important activities such as destruction of pests, destruction of prickly pear and noxious weed control. The Amendment bill proposes to retain schedule 1 in its current form.

Schedule 2 of the current Act contains the savings and transitional provisions that are required to deal with administrative matters. The Amendment bill proposes to update that schedule to provide for management of any dispute applications that were lodged but have not been finalised before the new dispute resolution process comes into effect.

The final proposals in the Amendment bill concern minor changes to the Consumer, Trader and Tenancy Tribunal Act that will be required to give the Tribunal jurisdiction to determine agricultural tenancy disputes. The bill proposes amendments to section 5 of the Tribunal's Act that will add the Agricultural Tenancies Act to the list of Acts that confer jurisdiction on the Tribunal.

The Tribunal has nine divisions that are listed in schedule 1 of its Act. Each division covers a different area of the Tribunal's responsibilities for dispute resolution. The bill proposes to amend schedule 1 of the Tribunal's Act so that agricultural tenancy disputes are dealt with in the Commercial Division.

A memorandum of understanding will be entered into so that the Tribunal can obtain expert advice or technical assistance from the Department of Primary Industries, as required.

The key stakeholder for agricultural tenancies is the New South Wales Farmers Association. The Association was consulted before and during the drafting of the Amendment bill and supports the introduction of the new dispute resolution process.

In summary, the Agricultural Tenancies Amendment bill only contains the measures that are required to confer jurisdiction over agricultural tenancy disputes on the Consumer, Trader and Tenancy Tribunal which is the direct result of the transfer of the Agricultural Tenancies Act to the Fair Trading portfolio.

Following its introduction, the ongoing impact of the new dispute resolution process will be monitored by the Tribunal, New South Wales Fair Trading the Minister for Fair Trading's office. The Minister for Fair Trading, Mr Anthony Roberts, has already made it quite clear that he will be happy to take action if necessary to address any problems that arise in practice.

The bill will ensure that farm owners, share farmers and farm tenants will have ongoing access to an affordable and accessible dispute resolution service.

I commend the bill to the House.

The Hon. SOPHIE COTSIS [4.11 p.m.]: On behalf of the New South Wales Labor Opposition and my colleague the shadow Minister for Fair Trading, Ms Tania Mihailuk, I lead in debate on the Agricultural Tenancies Amendment Bill 2011. I congratulate Ms Tania Mihailuk on her elevation to the shadow ministry. The Opposition will not oppose this bill which aims to replace the current arbitration system for determining disputes relating to agricultural tenancies with dispute resolution and determination by the Consumer, Trader and Tenancy Tribunal. I will briefly outline some of the features of the bill. The provisions in proposed section 21 (3) will limit the tribunal to making orders of up to \$500,000. It will also increase the previous limit for these matters from \$100,000. The tribunal routinely handles matters up to \$500,000 and, as such, the increase in limit for agricultural tenancy matters brings this in line with those matters. This sensible limit is appropriate for the subject matter, given the size of the land allotments usually in question.

Proposed section 22 will ensure that matters are required to go through alternative dispute resolution before progressing to a tribunal determination, which is commendable as it provides parties with an opportunity to resolve their differences in a more informal setting before appearing before the tribunal. As a result of the bill, the Consumer, Trader and Tenancy Tribunal will be able to handle agricultural tenancy matters concerning evictions and rental arrears. Presently these matters have to be resolved in the courts. The Opposition supports the amendment to have these matters heard instead by the tribunal. I understand that the shadow Minister has held discussions with the New South Wales Farmers Association and the Public Service Association, which represent the major stakeholders relating to this bill.

The Farmers Association assured the shadow Minister that its concerns relating to the bill have been adequately addressed. The association was concerned that the proposal to shift the arbitration of agricultural tenancy to the Consumer, Trader and Tenancy Tribunal might result in a loss of expertise in Department of Primary Industries personnel involved in these matters. However, the association has been provided with a guarantee that Department of Primary Industries personnel will be available to provide expert advice. Furthermore, many tribunal offices are located in rural and regional areas and, as such, tribunal staff are likely to have experience in rural and regional matters.

The shadow Minister received advice from the Public Service Association which was initially concerned that the proposal might lead to job losses in the Department of Primary Industries. However, I understand that the Public Service Association has indicated there will be no job losses. At present, all initial inquiries regarding agricultural tenancies are being handled by existing legal staff in the Department of Primary Industries rather than by separate officers. Arbitration work is then outsourced by the Department of Primary Industries with the costs borne by both parties involved in the matter. The Public Service Association is of the view that this proposal will reduce costs for farmers involved in agricultural tenancy matters. Again, I understand that the shadow Minister sought a reassurance from the Minister for Fair Trading that there will be no job losses. As with all matters in this Minister's portfolio, once this legislation is enacted it will be subject to a process of review to determine its effectiveness.

As the bill does not contain a formal mechanism for review I hope that the Parliamentary Secretary in reply is able to provide us with some assurances. When the shadow Minister asked the Minister for Fair Trading to address this issue she was informed that the Government is presently undertaking a review of the structure and potential merger of State tribunals. Another issue that was dealt with by the shadow Minister related to the proposed merger and consolidation of tribunals. The Minister addressed that issue by stating that the different models proposed in the issues paper might affect the ability of the Consumer, Trader and Tenancy Tribunal to resolve agricultural disputes.

The shadow Minister also asked the Minister for Fair Trading whether the tribunal would be merged with another body and whether such a merger would be likely to result in the closure of rural and regionally based tribunal offices. If such a merger were to occur the New South Wales Farmers Association would have cause for concern. As I outlined earlier, the shadow Minister said the Farmers Association had been assured that existing expertise would remain in the Consumer, Trader and Tenancy Tribunal and the Department of Fair Trading as many officers were based in rural and regional areas.

The Hon. Matthew Mason-Cox: That's right. You just answered your own question.

The Hon. SOPHIE COTSIS: Yes, I have.

The Hon. Matthew Mason-Cox: It's a very good answer.

The Hon. SOPHIE COTSIS: The Opposition requires additional information.

The Hon. Matthew Mason-Cox: Commend the bill to the House.

The Hon. SOPHIE COTSIS: As I said that the outset the Opposition does not oppose this bill. I commend the bill to the House.

The Hon. JENNIFER GARDINER [4.17 p.m.]: It is with pleasure that I speak in support of the Agricultural Tenancies Amendment Bill 2011. It was good to hear Opposition members referring to the bill as one that is sensible and commendable—a statement with which I concur. The laws relating to this matter were first introduced to address the power imbalance between landowners and tenants and also to help prevent the degradation of agricultural land that resulted from poor farming practices in years gone by. Over time the laws have been changed to keep up with developments in agricultural practices and the changing circumstances of tenant farmers.

These matters are currently dealt with by the Agricultural Tenancy Act 1990, which regulates the rights and responsibilities of landowners, tenants and sharefarmers in relation to agricultural tenancies. The Act applies to land used for grazing, dairying, pig farming, viticulture, orcharding, beekeeping, growing vegetables or other crops, forestry or any combination of these activities. It also provides an arbitration process for resolving disputes that may arise during a tenancy.

The sorts of disputes that lead to problems include land misuse, weed growth or the financial benefits flowing to the tenant or the landowner from the use of the land or the making of improvements. In relation to the current Act the Director General of the Department of Primary Industries is responsible for the arbitration of such disputes. If there is to be transfer of administrative responsibility for the Act to the Fair Trading portfolio it makes sense that as the Consumer, Trader and Tenancy Tribunal already provides dispute resolution services and has extensive experience in tenancy-related matters, it is well placed to take on that role.

The tribunal has eight registries, including three in rural and regional areas of New South Wales, and it conducts hearings in more than 70 locations around the State. This widespread choice of hearing venues will make it easier for hearings to be held in a place that is convenient for the parties to a dispute. It is proposed that a memorandum of understanding will be entered into so that the tribunal can seek expert advice or technical assistance from the Department of Primary Industries. Existing provisions in the Consumer, Trader and Tenancy Tribunal Act cover virtually all procedural matters currently provided in the Agricultural Tenancies Act. The bill will remove the duplicate provisions from the Agricultural Tenancies Act. The bill will streamline the Act and repeal the relevant regulation, which will become superfluous.

As the Hon. Sophie Cotsis stated, the New South Wales Farmers Association is a key stakeholder and was consulted by the Minister in the other place before and during the drafting of the bill. The association supports the introduction of the new dispute resolution process within the environs of the Consumer, Trader and Tenancy Tribunal. In relation to the detail of the bill, it proposes to amend the objectives and definitions of the Agricultural Tenancy Act to reflect that the dispute resolution service is to be provided by the tribunal. This will mean that the current functions of the Director General of the Department of Primary Industries will become redundant and will be removed from the Act.

Part 2 of the current Act sets out the general rights of tenants and owners, including the right to have matters determined by arbitration. The bill proposes to delete all references to the current arbitration process in part 2 of the Act and replace them with references to the tribunal. Part 2 of the Act will be otherwise unchanged. It will still cover the general rights of tenants and owners with respect to improvements to land undertaken by tenants or owners, tenants' fixtures, owners' rights of entry, recording a farm's condition, keeping of accounts and terminating of tenancies. Part 3 of the Act concerns the determination of compensation payable for improvements that have been made to the land. This includes improvements made by either a tenant or an owner. Part 3 also provides for tenants to be compensated for stored products that are left behind when they leave the farm and for owners to be compensated for any deterioration in the condition of the farm.

As I stated earlier, some of the powers of the Director General of the Department of Primary Industries will be deleted from the new legislation. However, it is proposed that tenants and owners will be able to apply for tribunal orders in relation to a dispute about a record of condition. The provisions of part 4 of the Act now

concern the current system for arbitrating disputes and the application of the Commercial Arbitration Act 2010. Similar procedural and administrative provisions are contained in the tribunal's Act and accordingly the amendment bill will replace part 4 of that Act. The new part 4 will provide for a handful of procedural and administrative matters that are not already covered in the tribunal's Act.

Some of those provisions will be carried over and retained. New section 20 of new part 4 gives tenants and owners the right to apply to the tribunal for resolution of agricultural tenancy disputes. It is also proposed to expand the types of disputes that can be determined. Many of the changes are minor to effect realignment of the two bodies, to enable people involved in agricultural tenancy disputes to gain access to tribunals in a more convenient way and to ensure that matters are dealt with in a more orderly fashion. On behalf of The Nationals and our rural constituents I am happy to support this sensible and commendable bill.

The Hon. JEREMY BUCKINGHAM [4.25 p.m.]: I, too, support rural constituents and speak in support of the Agricultural Tenancies Amendment Bill 2011.

The Hon. Matthew Mason-Cox: Good on you.

The Hon. JEREMY BUCKINGHAM: Working constructively together with the Government. The Greens have no concerns about this bill and support it. The New South Wales Farmers Association has raised no concerns about the bill during discussions I have had with the association and I am glad that the Government has undergone reasonable consultation in relation to this legislation. The Greens recognise that an agricultural tenancy is very different to a residential tenancy situation. The value of the properties involved and the complexity of issues that could arise in a dispute in an agricultural tenancy arrangement require different skills and expertise to adjudicate on disputes. Issues of land management and how the value of improvements to land or the costs of poor practices are shared between landowner and tenant are unique in agricultural tenancies. It is also the case that persons involved in disputes are more likely to reside in regional areas and special consideration needs to be given to ensure access to dispute resolution in a timely and cost-effective manner.

At the outset I raise my concern about the potential for agricultural tenancy disputes as a result of the Government's currently lax regulatory environment around coal seam gas exploration. I can foresee issues arising between agricultural land tenants and landowners who decide to sign on to access arrangements. The current Petroleum (Onshore) Act does not appear to protect the occupier of the land. Tenants will no doubt be concerned about the potential impacts of gas exploration on their farming operations, including water access and quality, chemical use in drilling, and general disruption and nuisance.

The Hon. Scot MacDonald: Point of order: Mr Assistant-President, I ask you to ensure that the Hon. Jeremy Buckingham speaks to the bill and not matters outside the leave of the bill.

The Hon. Lynda Voltz: To the point of order: I believe that the Hon. Jeremy Buckingham is speaking broadly to the long title of the bill, which is what he is required to do under the standing orders.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The Hon. Jeremy Buckingham will confine his remarks to the bill.

The Hon. JEREMY BUCKINGHAM: The Greens agree that transferring the responsibility for dispute resolution with respect to agricultural tenancies to the Consumer, Trader and Tenancy Tribunal is a practical change. The Greens recognise the Government's commitment to ensure the Consumer, Trader and Tenancy Tribunal has access to expertise within the Department of Primary Industries. However, I ask the Minister to confirm in reply that no job losses will occur in the Department of Primary Industries as a result of this bill and that staff that have previously dealt with these disputes will be retained to support the Consumer, Trader and Tenancy Tribunal. Retaining this technical support will be important to ensure disputes in this area can be effectively and fairly dealt with.

The Greens support the measure increasing the financial jurisdiction of the tribunal to \$500,000 from the existing \$100,000. While \$100,000 may have made sense in relation to complaints that go before a single decision-maker, as is the current situation, increasing the amount that can be determined by the tribunal is appropriate. This will keep more matters out of the court system and help to reduce the costs and the time burden to tenants and landholders in resolving complaints.

I note the Government's claim that the Consumer, Trader and Tenancy Tribunal will be suitably available to regional communities through its three rural registries and hearing locations around the State.

However, I think that should be looked at closely over the short term to determine if in taking on this role the tribunal should also look to add to its regional presence. We know that farmers just want to be able to farm. As a community we need them to farm and provide our food and fibre and keep jobs in regional communities. They do not want to face unnecessary process burdens. The Greens accept the Government's claim that this change will "ensure that farm owners, share farmers and farm tenants will have ongoing access to an affordable and accessible dispute resolution service". The Greens support the bill.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [4.30 p.m.]: I support the Agricultural Tenancies Amendment Bill 2011 and the Government's move in this important area. The idea for the bill came from an internal review of Department of Primary Industries functions, which found that dispute arbitration was not a core function of the department. Dispute arbitration is handled by a paralegal officer in the Legal Services Branch of Primary Industries and requires specific procedures that have limited application as they are only relevant to the handful of matters that arise each year—around 20 on average.

The review also found that there is a potential conflict of interest between the department's roles of administering the legislation and arbitration of disputes. It was suggested it would be more appropriate to transfer the dispute resolution role to the Consumer, Trader and Tenancy Tribunal given the tribunal's expertise in tenancy issues and resolving disputes. I commend the Minister for Fair Trading, Anthony Roberts, and the Minister for Primary Industries, Katrina Hodgkinson, for securing the passage of this legislation and resolving this important issue. It was agreed that if responsibility for the dispute resolution role was transferred it would also be appropriate to transfer the administration of the Agricultural Tenancies Act to the Fair Trading portfolio.

There was much consultation throughout New South Wales and, in particular, with the key industry stakeholder, the New South Wales Farmers Association. The association has been consulted a number of times since the transfer of responsibility for agricultural dispute resolution was initially proposed. Before the drafting of the amendment bill the association was consulted again and confirmed its support for the transfer of the dispute resolution role. Most importantly, ongoing consultation was undertaken with the Consumer, Trader and Tenancy Tribunal to address any issues concerning the proposed transfer. The Law Society was also consulted in the drafting of the bill.

The Consumer, Trader and Tenancy Tribunal has extensive experience in tenancy-related matters and has a strong emphasis on low-cost mechanisms for resolving disputes. The tribunal has a large pool of members with significant expertise in and practical knowledge of alternative dispute resolution techniques. Tribunal processes are similar to the current arbitration process, and matters are dealt with by a combination of mediation, conciliation and hearings. The tribunal is clearly the most appropriate body to provide the dispute resolution service. A further advantage is that the tribunal has registries in regional areas and conducts hearings at more than 70 locations across New South Wales. It also has established customer information services and provides community education and information programs. The necessary administrative support is already in place and the tribunal will be able to take on this role with no interruption to the provision of dispute resolution services to landowners and tenant farmers.

Importantly, this should also limit the costs faced by those seeking resolution. The additional responsibility for agricultural tenancy disputes is not expected to have a measurable impact on the tribunal's operational costs. During the last financial year the tribunal received 59,403 applications and held 78,822 hearings across New South Wales. In comparison, the Department of Primary Industries receives roughly 20 inquiries a year about agricultural tenancy disputes and about 12 of these matters progress to an application. Most of these disputes are resolved by mediation or conciliation, and there are only one or two hearings per year. This very small number of additional matters will not have a significant impact.

There will be no additional costs for applicants. In fact, the parties' costs will be lower under the new process. Under the current Department of Primary Industries arbitration process applicants must pay for mediators, arbitrators and assessors. The tribunal will charge a minimum application fee ranging from \$36 to a maximum of \$191 depending on the amounts involved in the dispute. The tribunal offers reduced fees for pensioners and fees can be completely waived in special circumstances, such as hardship. Furthermore, parties to disputes will not have to pay for the costs of mediation or hearings. If the parties need to appeal a tribunal decision, the appeal process will also be less expensive as appeals against tribunal decisions can be made to the District Court on a question of law. This is a lower cost option than the current Supreme Court appeal option under the Agricultural Tenancies Act.

The services provided by the Consumer, Trader and Tenancy Tribunal are highly accessible. The tribunal has eight registries, including three in rural and regional areas, and conducts hearings in more than

70 locations around the State. It will also be easier for people to lodge applications. Applications can be lodged online, by post or fax, or lodged in person at any tribunal registry or Fair Trading centre. Information about the tribunal's services is available from any Fair Trading centre. People will also have the option of calling the tribunal or Fair Trading telephone inquiry centres or visiting the tribunal's website or the Fair Trading website.

Importantly, under the tribunal's dispute resolution service, parties to a dispute will have the same rights they have under the current arbitration process. The tribunal's dispute resolution system will be very similar to the current process, and disputes will be dealt with by a combination of mediation, conciliation and hearings. However, parties to a dispute will have an additional right to seek a rehearing of a dispute and will still be able to appeal decisions to a higher court.

The tribunal will be able to determine disputes about any matter that comes under the Agricultural Tenancies Act. This includes disputes about improvements carried out by tenants or landowners, tenants' fixtures, compensation for stored products and compensation for deterioration in the condition of a farm. Under the current arbitration system, applications cannot be accepted for disputes about evictions, rent arrears or disputes involving amounts in excess of \$100,000. The tribunal will have jurisdiction over a broader range of disputes. The tribunal will be able to accept applications for disputes relating to evictions, rental arrears or disputes involving amounts up to \$500,000.

The tribunal's existing dispute resolution processes emphasise the use of mediation and conciliation. The amendment bill makes it mandatory for all agricultural tenancy dispute applications to be referred to mediation. If the mediation is unsuccessful, the dispute can go to a hearing. However, the chairperson of the tribunal will still retain the option of appointing an assessor to inquire into and report on the dispute before the dispute progresses to a formal hearing. Most matters that are dealt with under the existing dispute resolution process are resolved by discussion or mediation and do not require a formal hearing. It is anticipated that these outcomes will continue to be achieved for agricultural tenancy disputes.

The Hon. Jeremy Buckingham raised the issue of expertise and it is important to highlight that the Department of Primary Industries will still provide technical advice to the tribunal. To ensure that technical assistance on agricultural tenancies is readily available a memorandum of understanding will be entered into with the Department of Primary Industries for the provision of advice as may be required. Tribunal members are already experienced in the whole gamut of issues involving various kinds of tenancies as well as commercial matters. It is important to note that tribunal members who live in rural or regional areas where agricultural tenancy disputes are likely to arise may already be quite familiar with a range of farming activities and agricultural matters. Over time the tribunal members who hear agricultural tenancy disputes will develop specialist expertise in such matters.

The bill is comprehensive, as are the arrangements that have been put in place for sharefarms and landowners. As a daughter of a sharefarmer I recall that when I was about nine or 10 my parents had a very bitter dispute with the owner of the land, which resulted in mum and dad going to see the local solicitor. As it turned out the landowner was trying to evict mum and dad from the farm because he had written a very poor contract which gave my parents first option on buying the farm at a very good price. The solicitor looked at the contract and said, "You are in a very fortunate situation. If you've got some money behind you, you can buy this farm. That is why the landlord wants to get you off the farm." It went on for several months at the time and it was a traumatic period for my parents. I had really no understanding of it at that time except that we were going to be thrown off the farm.

It is very important to have extra strength, resolution and mediation options for farmers. I also highlight that rights need to be built in for people who are trying to have a go and work as sharefarmers and not be put into a position of being treated unfairly, particularly now with the value of agricultural land. Conversely, if people do not look after a farm and are not good tenants a mediation system should be in place, with more expertise in more locations in country areas. This is a very sensible piece of legislation. I commend the bill to the House.

The Hon. SCOT MacDONALD [4.40 p.m.]: I support the Agricultural Tenancies Amendment Bill 2011, which is a logical development in the streamlining of tenancy dispute resolution. Sharefarming and similar rural tenancy arrangements are an important business structure in agriculture. They facilitate an efficient allocation of capital and human resources. It enables the ongoing improvement in agricultural productivity, which is so important to maintaining the terms of trade for many of our commodities. Now that responsibility for agricultural tenancies has shifted from the Department of Primary Industries to the Department of Fair Trading, it is fitting that disputes will also rest with Fair Trading.

The Consumer Trader and Tenancy Tribunal within the Department of Fair Trading is accessible in regional New South Wales. I have personal experience of that. Even where parties are not physically close to a Consumer Trader and Tenancy Tribunal office, the tribunal offers hearings using the telephone or videoconferencing. It is well versed in handling a wide range of tenancy matters. I believe it will be a cost-effective and timely process to achieve dispute resolution in most cases. It encourages mediation and negotiation. However, disputes can obviously proceed to a hearing by the Consumer Trader and Tenancy Tribunal. The bill allows for large matters—sums over \$500,000—to be continued to be heard by courts.

This streamlining is probably a sign of the Coalition Government's aim to simplify and rationalise tribunals. The Legislative Council's Standing Committee on Law and Justice, chaired by the Hon. David Clarke, is inquiring into opportunities for improving tribunal services. I am sure the committee will see the value, as with this bill, in improving accessibility and reducing the complexities and cost of many of our tribunals. I commend the bill to the House.

The Hon. PAUL GREEN [4.42 p.m.]: On behalf of the Christian Democratic Party I speak on the Agricultural Tenancies Amendment Bill 2011. I will not speak at length as the bill is self-explanatory and many other members have eloquently addressed it. The object of this bill is to establish a new process for resolving agricultural tenancy disputes by the Consumer, Trader and Tenancy Tribunal. Most Australian States have legislation that regulates agricultural leases to a varying extent. For example, I refer to the Queensland Property Law Act 1974, the Tasmanian Landlord and Tenant Act 1935, the South Australian Landlord and Tenant Act 1936 and the Victorian Landlord and Tenant Act 1958. The content of each of those Acts is generally similar yet distinct from the more comprehensive New South Wales Act.

In New South Wales the Agricultural Tenancies Act 1990 applies to all agricultural tenancies in New South Wales; regulates the rights of agricultural landowners, tenants and sharefarmers; and requires and encourages suitable and adequate provision to protect their farming properties from deterioration. This includes works such as drainage and pasture improvement, eradication of rabbits and other noxious pests and weeds, and the use of fertilisers in accordance with the provisions of the Fertilisers Act 1985. It provides for the determination by mediation or arbitration of disputes between them. Under the current Act the Director General of the Department of Primary Industries is responsible for the arbitration of disputes. This bill will transfer the responsibility of dispute resolution to the Consumer, Trader and Tenancy Tribunal, which is more equipped to ensure an affordable and accessible dispute resolution service.

The Hon. Melinda Pavey related her sharefarming experience. I too grew up on a sharefarming arrangement. It seemed that we did all the work and the other guy got all the pay. I was thankful for that great opportunity and provision that the sharefarming experience gave me and my family. In relation to the successful mediation that has been found to date, obviously a quick resolution of these types of matters can improve dramatically the quality of life of those concerned in such a dispute. Children carry the burdens of their parents when they note that they are under stress. A quick resolution of such matters is most appreciated. I commend the bill to the House.

The Hon. RICK COLLESS [4.46 p.m.]: I support the Agricultural Tenancies Amendment Bill 2011. This issue is important in regional areas. The Agricultural Tenancies Act 1990 provides for the resolution of disputes between landowners, sharefarmers and tenant farmers. The mediation and arbitration of those disputes is currently handled by the Department of Primary Industries. On 2 June 2011 administration of the Agricultural Tenancies Act was transferred from the Minister for Primary Industries to the Minister for Fair Trading. As a result, it is now inappropriate for the dispute resolution process to remain with the Department of Primary Industries and responsibility for resolution will be transferred to the Consumer Trader and Tenancy Tribunal.

The tribunal's dispute resolution process will be similar to the current process, with more of an emphasis on mediation and conciliation. The tribunal has eight registries, including three in regional areas, with hearings conducted in some 70 locations around the State. As such, the services of the tribunal will be highly accessible, with costs incurred by both parties to the dispute reduced as a result of improved accessibility. The Department of Primary Industries will continue to provide expert technical assistance to the tribunal as may be required. Other members have related their experiences with sharefarming and leasing. I have both leased agricultural land and leased my agricultural land. I know that disputes arise through a leasehold arrangement relating to a wide range of issues from both the perspective of the lessee and lessor.

Typically a matter that arises is land use. Invariably the lessee wants to run the property more intensively than the lessor prefers. The lessee, who is paying the lease fee, needs to maximise his production to

justify holding that lease. If it is a cropping property the lessee might want to crop it more intensively than the lessor would prefer, which gives rise to a dispute. I have experienced disputes regarding fence, water and various infrastructure maintenance issues because the lessee does not want to spend on infrastructure maintenance but the lessor considers that that is the responsibility of the lessee. Weed control and pest animal control are always in dispute between a lessor and lessee. Obviously a lessor would prefer a higher level of weed control and pest animal maintenance, and the lessee is always trying to minimise his costs on the leasehold property. Therefore, the lessee may not be undertaking the work that the lessor considers appropriate.

There can be problems with the use of fertilisers on grazing land. Thankfully, most of those disputes are relatively minor and farmers generally have an innate ability to work out issues over a beer or a cup of tea. The tribunal's approach will streamline the mediation and conciliation process for those disputes that cannot be easily resolved—I believe it is only about 20 each year—and it will also make the process less costly, which will be a vast improvement. I commend the bill to the House.

The Hon. NIAL BLAIR [4.50 p.m.]: I support the Agricultural Tenancies Amendment Bill 2011. I will not comment on those aspects of the bill that other members have covered, but I will deal with the positive effects that will flow from its passage. As members have pointed out, the Agricultural Tenancies Act 1990 has been recently transferred from the Primary Industries portfolio to the Fair Trading portfolio. That is a good fit because the Fair Trading portfolio is home to the Consumer, Trader and Tenancy Tribunal, which is used to dealing with disputes. However, that transfer did not involve the Department of Primary Industries' arbitration responsibilities. In a sense, this legislation is a housekeeping measure designed to move those arbitration responsibilities to the Consumer, Trader and Tenancy Tribunal.

The Hon. Melinda Pavey, the Hon. Paul Green and the Hon. Rick Colless related their personal arbitration experiences with regard to agricultural lands. I live on a lifestyle agriculture block in the Southern Highlands and one of my neighbours would be classified as a primary producer because of the size of his block. Lifestyle blocks are becoming more prevalent throughout the State and the problems that have faced primary producers are now confronting the newcomers. Members have mentioned issues such as weed control, fence and pest management, and so on, that are creating problems on land that is the subject of an agricultural tenancy and on lifestyle blocks.

It makes sense to move responsibility for arbitrating any disputes that arise to the Fair Trading portfolio. Legislation dealing with agricultural tenancies was first passed in 1916, but the emergence of lifestyle blocks has created another dimension. The Consumer, Trader and Tenancy Tribunal is a more appropriate agency to deal with these issues because it has broad experience in dealing with such disputes. This legislation covers a range of practices undertaken on agricultural land, including grazing, dairying, pig farming, viticulture, fruit growing and beekeeping. I am tempted to tell the House about my experience as a beekeeper.

The Hon. Dr Peter Phelps: Why not?

The Hon. NIAL BLAIR: Okay, I will. When I was studying horticulture I had to repeat one subject. I needed six credit units to graduate and apiculture did not involve an exam, so I signed up. It was the most enjoyable subject I did during my three years of study. I am now getting back into beekeeping with my eight-year-old son. I know that if it becomes a problem for my neighbours who have an agricultural tenancy agreement we will be able to go to the Consumer, Trader and Tenancy Tribunal to have the issue resolved. The tribunal, which has a great deal of experience in dispute resolution, has more than 70 venues across the State at which disputes can be resolved. I commend the bill to the House.

The Hon. TREVOR KHAN [4.53 p.m.]: The object of the Agricultural Tenancies Amendment Bill 2011 is to amend the Agricultural Tenancies Act 1990 and the Consumer, Trader and Tenancy Act 2001 to replace the current arbitration system for determining disputes relating to agricultural tenancies with dispute resolution determination by the Consumer, Trader and Tenancy Tribunal. Schedule 1, clauses 5 to 9 and clause 11 replace the use of arbitration to resolve certain matters with determination by the tribunal. The matters relate to the terms of an agricultural tenancy and improvements carried out by owners or tenants and compensation for improvements.

Clause 10 removes the requirement for the cost of condition reports to be shared and also makes other consequential amendments. Clause 12 replaces part 4 of the principal Act to confer jurisdiction on the tribunal to resolve disputes and other matters relating to agricultural tenancies. Proposed section 20 enables an owner or tenant, or former owner or former tenant, to apply to the tribunal for determination of matters under the

principal Act, including disputes relating to or arising out of agricultural tenancies. Proposed section 21 sets out the orders that may be made by the tribunal and limits the amount that may be ordered to be paid to a modest \$500,000—obviously not.

Proposed section 22 requires applications for determination to be dealt with by the tribunal under the alternative dispute resolution provisions of the Consumer, Trader and Tenancy Tribunal Act 2001 and prevents the tribunal from determining a matter unless it is satisfied that there is no prospect of settlement or successful mediation. Proposed section 23 re-enacts the provision relating to the amounts payable by trustee owners on farms. Clause 15 makes it clear that documents may be served in a manner permitted by the Consumer, Trader and Tenancy Tribunal Act.

This style of legislation has a long history in New South Wales and, indeed, in Australia. It emerged during the Depression in response to problems confronting sharefarmers. Very small landholdings were created after the First World War and share farming agreements were entered into between adjoining owners to create economic units. There was considerable opportunity for oppression of share farmers in those circumstances. The demographics of agriculture have changed significantly over the years such that most disputes do not involve a small sharefarmer and an oppressive owner.

One often finds that, because of the age bracket of many landholders, relatively small landowners are forced to participate in sharefarming, perhaps as a result of the death of a husband or other family member. So one can have large consolidated holdings of land where the sharefarmer is the wealthy party in the transaction and the landowner is the relatively poorer person. In that regard, there has been a significant change in the dynamics of the landowner and sharefarmer relationship. Clearly, there is a requirement to amend legislation to reflect the changing nature of the economic relationship that now exists. In many ways this Act is a reflection on the necessity to modernise our dispute resolution techniques to meet the changing nature of economic circumstances. I commend the bill to the House.

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [5.02 p.m.], in reply: I thank all members for their contributions to the debate and the unanimous support for the Agricultural Tenancies Amendment Bill 2011. It is worth noting the depth of the debate particularly on this side of the Chamber, whose members include sons and daughters of sharefarmers, owners of land and previous tenants of agricultural land. It was in stark contrast to the less than deep consideration of the issues from the other side of the House. The aim of the Agricultural Tenancies Amendment Bill 2011 is to amend the Agricultural Tenancies Act 1998 and the Consumer, Trader and Tenancy Tribunal Act 2001 to confer jurisdiction for resolution of agricultural tenancy disputes on the tribunal. As I have outlined, the bill will retain the key aspects of the current dispute arbitration system by reducing the cost of parties to disputes and to provide a highly accessible service, with an emphasis on mediation and conciliation of disputes. As the spokesman for the Opposition noted—

The Hon. Sophie Cotsis: Spokeswoman.

The Hon. MATTHEW MASON-COX: As the spokeswoman for the Opposition noted, the bill has been developed in consultation with key stakeholders. I thank the New South Wales Farmers Association and the chairperson of the tribunal for their input in this regard. I also note that the spokeswoman for the Opposition raised the issue of an upper House inquiry into the establishment of a supertribunal and whether that would impact upon the provisions contemplated by this bill. In that regard, I note that the inquiry is examining whether a supertribunal could replace the numerous smaller dispute resolution bodies that exist in New South Wales, which could provide a more cost-effective and efficient system for dispute resolution. I note that the final report of the inquiry is due on 29 February 2012. We look forward to that report. The proposed changes to agricultural tenancy dispute resolution will contribute to reducing the proliferation of small dispute resolution services. This is an important reform. I congratulate the Minister for Fair Trading—Robbo the Good—in the other place on another excellent reform and an important piece of legislation. I strongly commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Matthew Mason-Cox, on behalf of the Hon. Greg Pearce, agreed to:

That this bill be now read a third time.

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

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 5 to 7 postponed on motion by the Hon. Matthew Mason-Cox.

REAL PROPERTY AMENDMENT (PUBLIC LANDS) BILL 2012

Second Reading

Debate resumed from 16 February 2012.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [5.04 p.m.]: I lead for the Opposition on the Real Property Amendment (Public Lands) Bill 2012. The Opposition supports the bill. In 2007 the former Labor Government began the process of conversions of property title to Torrens title through the Registrar General who instructed the Land and Property Information division of the Department of Finance and Services—formerly the Land and Property Management Authority—to convert all remaining Crown title to Torrens title. The Real Property Act 1900 authorises the Registrar General to be able to convert Crown lands under the Crown Lands Act 1989 to Torrens title, not national parks or State forests.

This amendment to the Real Property Act will allow the Registrar General to complete these conversions and to convert land administered under the National Parks and Wildlife Act 1974 and the Forestry Act 1916 to Torrens title. The amendment will enable all land in New South Wales to be on the one title system and link Crown lands to the digital database. It is another step in the modernisation of land titles in New South Wales and a reasonably important step, notwithstanding the brevity of the bill and its operative provisions. As I stated earlier, it is part of a wider program to convert all Crown lands titles to the digital cadastral database administered by Land and Property Information. The database is linked to the Torrens register. The Opposition understands that this will in no way impact on any claims by local land councils under the Aboriginal Land Rights Act 1983 or on other land administered under that administration in any way, shape or form. For those reasons, the Opposition will support the legislation.

The Hon. MARIE FICARRA (Parliamentary Secretary) [5.06 p.m.]: The Torrens system in New South Wales is a robust and accurate titling system that has been operating for over 100 years. The Torrens system is governed by the Real Property Act 1900 and is far superior, both in cost and efficiency, over other titling systems that exist in New South Wales—the Old System and Crown title. Approximately 95 per cent of land in New South Wales is under the Torrens system and the Registrar General, through the Land and Property Information division, is working on bringing the remaining parcels of land under the Torrens system through its conversion project.

The conversion project aims to issue titles to all remaining Crown land, as provided for by the Real Property Act, which authorises the Registrar General to bring Crown lands under the provisions of the Real Property Act. Crown lands are governed by a variety of legislation, such as the Crown Lands Act 1989, the Roads Act 1993 and the Western Lands Act 1901, to name but a few. Land and Property Information has converted over 60,000 parcels of Crown land since the commencement of the Crown Land Conversion Project in 2007. Land and Property Information received a request from officers of the Office of Environment and Heritage, which administers the National Parks and Wildlife Act 1974, and the Department of Primary Industries, which administers the Forestry Act, to begin conversion of their respective lands to the Torrens system. Not only are there significant benefits for converting Crown title to Torrens title, there are specific benefits to both agencies that administer the National Parks and Wildlife Act 1974 and the Forestry Act 1916.

The majority of land in national parks and State forests is under the Old System or Crown land title or a combination of both and this makes searching and managing the title of the land difficult and costly. An

experienced staff member, one with access to paper records, together with a detailed knowledge of the Old System and Crown title, would be needed to carry out searches of land to determine its status. The search is usually done manually, as most of the records of national park land and State Forests land are not on the electronic database. So Land and Property Information turned its attention to convert national park land and State Forests land to Torrens title. However, it was clear that the conversion project cannot go ahead in regard to the conversion of the national park land and State Forests, as the Real Property Act does not provide for the conversion of land administered under the National Parks and Wildlife Act 1974 and the Forestry Act 1916.

The intention of the conversion project is to ultimately bring all land under the Real Property Act. However, the Real Property Act does not go far enough to cover national parks and State forests. The Real Property Act Amendment (Public Lands) Bill 2012 will allow Land and Property Information, a division of the Department of Finance and Services, to facilitate the Torrens conversion project to convert lands under the National Parks and Wildlife Act and the Forestry Act to Torrens title. Once converted to Torrens title, the title to national park land or State forest land will have its own unique folio identifier recorded in the register—a public database maintained by the registrar general—and the owner of the land, known as the registered proprietor, will be the State of New South Wales. Any interests currently affecting the land, such as right of ways, leases and forestry rights also will be recorded in the register. The title will be searchable by the public so they can see what interests affect their land.

The conversion process of bringing national park land and State forest land to Torrens title will be by close collaboration between Land and Property Information and officers of the Office of Environment and Heritage and Forests NSW. The conversion process will thoroughly investigate the title to the land and any interests that should be recorded on it. The bill will continue the work of the registrar general in the effective administration of land titles. All land under the Torrens system enjoys certainty of title and allows parcels of land to be easily identified and searched. It is a cheaper, quicker and safer system of dealing with land compared to the Old System or Crown title. Importantly, under the Torrens system an owner of land enjoys the benefit that their title to the land is guaranteed by the State.

Under the bill schedule 2 of the Real Property Act will be amended by adding the words "Forestry Act 1916" and "National Parks and Wildlife Act 1974". The effect of this amendment is to allow the registrar general to bring under the provisions of the Real Property Act land from both the National Parks and Wildlife Act and the Forestry Act by creating a folio of the register recording the State of New South Wales as the proprietor of the land. The bill will allow for the continuation of converting all land to Torrens title and, ultimately, to have one land titling system. I commend the bill to the House.

Dr JOHN KAYE [5.12 p.m.]: On behalf of The Greens I address the Real Property Act Amendment (Public Lands) Bill 2012. As pointed out by previous speakers, this bill will allow State forest land or national park land currently under Crown title to be converted to Torrens title. That conversion will facilitate the keeping of records and make it easier to understand issues held against a title. It also will make it easier for individuals to search for and understand title. As the Torrens system is a computerised system, it will be easier to conduct searches. Currently, three types of title operate in New South Wales: the Old System and Crown title, which are both being phased out, and Torrens title, which is the most modern version and is better suited to the needs of the modern economy.

The objectives of the bill, which The Greens support, are to improve the accuracy and reliability of the title of those lands that are State forest and national park and to improve the management and mapping of those lands. The Minister in his second reading speech identified that the change from Crown title to Torrens will not impact on any Aboriginal rights or interests under the Aboriginal Land Rights Act 1983 or any other native title that may or may not exist in the land. The Greens are assured by those comments on this important issue. However, in his second reading speech the Minister did not address the issue of whether the conversion of title will enable the land to be sold or affected in the manner that it can be dealt with. The Greens took advice on this issue.

I have been advised by two lawyers that the transition from Crown title to Torrens title will have no material effect on the capacity of the State to privatise either State forest or national park land. I ask the Parliamentary Secretary in reply to address that issue and to give an assurance that the transition from Crown title to Torrens title will not in any way facilitate the privatisation or sale of land or a change in the way in which the land can be dealt with. The Greens understand that is the case and on that basis we will vote for the bill. However, it would be useful to have on the public record a comment by the Parliamentary Secretary, on behalf of the Minister in this House, which would make it absolutely clear that that is neither the intention of the Government nor is it the effect of the bill.

The Greens welcome the fact that the Minister in the Legislative Assembly made it clear that this legislation will have no impact on claims by an Aboriginal land council under the Aboriginal Land Rights Act 1983 or on any other native title claim that may or may not exist in the land. The Greens recognise that keeping good quality records that can be searched by the public and maintained in a fashion consistent with modern information technology is of benefit to the State. The Greens do not wish to stand in the way of that. In fact, we encourage such things to happen. The Greens also understand that the bill will not have an impact on the possibility of the sale of land. I again ask the Parliamentary Secretary to give a further assurance on that matter.

The Hon. NIAL BLAIR [5.17 p.m.]: I support the Real Property Act Amendment (Public Lands) Bill 2012. The Torrens system in New South Wales began in 1863 and was formulated to combat the problems of uncertainty, complexity and cost associated with Old System title, which depended on proof of an unbroken chain of ownership back to a good root of title. The basis of the Torrens system is certainty of title, by having a person's interest in land recorded in the Torrens register, and a guarantee by the State that the title to the land is correct. Today only a small fraction of land in New South Wales is not under the Torrens system. National parks and State forests make up the majority of the remaining land not under the Torrens system. The need to convert these lands to the Torrens system will assist in allowing the people of New South Wales to enjoy a totally integrated land information system, which provides accurate and comprehensive land data in a variety of forms. It also will allow information to be accessed online by anyone—business, government or a member of the public. It is in the State's interest to have all land under one title system.

The Real Property Act Amendment (Public Lands) Bill 2012 is required to allow Land and Property Information, the division responsible for the administration of land titles in New South Wales, to facilitate the conversion of all remaining Crown lands to Torrens title—that is, national parks and State forests. Under the Real Property Act, the Land and Property Information division, commonly referred to as LPI, can, on its own motion, convert land held under Old System title or Crown title to Torrens title. The Crown lands that may be converted are those lands under the Crown Lands Act 1989 or in the Acts listed in schedule 2. Although 13 Acts are listed in schedule 2, none of them governs national parks or State forests. Therefore, Land and Property Information cannot convert these Crown lands to Torrens title unless a change to the Real Property Act is made. The bill proposes to amend schedule 2 of the Real Property Act by adding the National Parks and Wildlife Act 1974 and the Forestry Act 1916.

The Land and Property Information division recently completed a major project aimed at identifying and converting nearly 66,000 parcels of Crown land to Torrens title. The next phase of the project is to identify and convert parcels of Crown land governed under the National Parks and Wildlife Act and the Forestry Act. The conversion project is welcomed by the agencies that look after State forests and national parks, that is, the Department of Primary Industries through Forests NSW and the Office of Environment and Heritage respectively. It will make searching and dealing with these lands quicker, cheaper and easier for both agencies. As many of the titles to national park and State forest lands are bound up in Old System title or Crown title, the conversion project will eliminate the need to maintain multiple title systems and promote better asset management by dispensing with outmoded paper-based systems and moving towards a fully automated electronic database.

Once a parcel of land of national park or State forest is converted to the Torrens system, a certificate of title to the land is issued in the name of the "State of New South Wales". All interests that may affect the land, including any provisions of the National Parks and Wildlife Act or Forestry Act that may apply, also are noted on the certificate of title. Most parcels of land that are converted also will have a notation on the certificate of title to indicate that the land to which the certificate relates is State forest or national park and is subject to the provisions of the relevant legislation. This bill does not change the status of national parks or State forest land. It merely allows the title of the land to be brought over into the Torrens system. The bill does not remove any provisions from the National Parks and Wildlife Act and the Forestry Act. These lands can be dealt with only under their respective legislation. This bill seeks to expand the category of land that can be brought under the Torrens system, which in turn will assist in the goal of having one electronic title-based system for the whole of this State. I commend the bill to the House.

The Hon. AMANDA FAZIO [5.22 p.m.]: I concur with the comments of my colleague the Hon. Adam Searle, who led for the Opposition, on the Real Property Act Amendment (Public Lands) Bill 2012. I will not read out a speech that has been prepared for me by the Minister's office on a topic about which I know nothing. However, I indicate that I support the bill so that I, too, will have an extra speech recorded against my name in case the *Daily Telegraph* does an audit. I commend the bill to the House.

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [5.23 p.m.], in reply: I sincerely thank all honourable members for their contributions—even the Hon. Amanda Fazio for that last contribution—and their unanimous support for the Real Property Amendment (Public Lands) Bill 2012. The Hon. Amanda Fazio perhaps has been in this place for too long and heard too many wonderful speeches in support of legislation that has been long awaited in this place. The Real Property Amendment (Public Lands) Bill 2012 is needed to enable the registrar general to issue titles to Crown land under the Forestry Act 1916 and the National Parks and Wildlife Act 1974. The proposal contained in this bill will make State forests and national park land among the categories of Crown land that can be brought under the provisions of the Real Property Act.

Under the Real Property Act the Registrar General of New South Wales may convert certain Crown lands to the Torrens system by creating a folio of the register and recording the "State of New South Wales" as the registered proprietor. Since 2007, the registrar general has converted over 60,000 parcels of Crown land to Torrens title under its conversion project. The conversion process involves issuing each parcel of land a distinctive folio reference and certificate of title. The benefits of converting land to the Torrens system are self-evident in that there is one document, a certificate of title, that is evidence of ownership and on it are recorded all of the interests that may affect that piece of land. Of most significance is that every certificate of title is guaranteed by the State.

However, national parks and State forest land are Crown land. It has been determined that these particular lands do not fall within those Crown lands that the registrar general may convert. To eliminate any doubt, it is proposed to include the National Parks and Wildlife Act and the Forestry Act in schedule 2 of the Act and to provide a clear legislative basis to enable the conversion of these lands. The proposal contained in the bill will provide the benefits that other lands in the Torrens system enjoy: certainty of title and the ease with which the title can be dealt with or searched. The converted titles of national park land and State forests will replace the complex mix of Old System and Crown land titles that currently attach to many landholdings of Forests NSW and the Office of Environment and Heritage. The move towards one computer-based title system will encourage best practice in asset management by both the Office of Environment and Heritage and Forests NSW. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

Motion by the Hon. Matthew Mason-Cox, on behalf of the Hon. Greg Pearce, agreed to:

That this bill be now read a third time:

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

FIREARMS AMENDMENT (AMMUNITION CONTROL) BILL 2012

Second Reading

Debate resumed from 16 February 2012.

The Hon. STEVE WHAN [5.25 p.m.]: The Firearms Amendment (Ammunition Control) Bill 2012 is a measure that the Government has introduced in response to the explosion in gun crime that we have seen around Sydney in drive-by shootings. That has been an issue of strong concern to the community, particularly communities in western Sydney. This bill, since its introduction to the Parliament, has aroused concerns from many parts of the community. I indicate at the outset that the Opposition will support the legislation, but that is not without concern about, firstly, the effectiveness of the bill and, secondly and more importantly, the impacts on sporting shooters, farmers and genuine law-abiding citizens who purchase ammunition.

The concerns that have been flagged to us in a number of emails from sporting shooters around New South Wales are legitimate concerns. It is disappointing for every member when laws we make in this place in

an attempt to curtail the few also impact on the many legitimate and law-abiding people in the community. That is the case with this bill. The Opposition's view is that this bill on its own will have very little, if any, impact on the problem around Sydney at the moment—a problem this Government was so slow to address at the beginning of this year—that is, drive-by shootings and gun crime. However, we will support the bill because even if it contributes to stopping one crime that is a positive step.

However, we seriously doubt that this will have much of an impact. Instead, it will inconvenience legitimate users when they are purchasing ammunition. Obviously ammunition could still be passed on through gifts and the like, which will limit the effectiveness of this bill. The Opposition believes that the Government introduced the bill to make it look as though it is doing something on the issue. The aim of the bill is to try to prevent the sale of ammunition by a licensed dealer to a shooter unless the purchaser is the registered owner or has a permit to acquire a firearm that takes the ammunition, in addition to the existing requirement that the purchaser must hold a licence or permit for a firearm that takes the ammunition. It also requires licensed firearm dealers to keep records of purchases and sales of ammunition.

This bill is an extension of the measures introduced by the former Labor Government that require stringent registration for firearms. However, the Opposition is concerned that many legitimate users will be inconvenienced by this legislation. I have received feedback about the inconvenience of one person not being able to purchase ammunition when a group is heading out on a hunting trip. Farmers who need to buy ammunition may also be inconvenienced. It is a shame when laws are enacted that inconvenience the majority who are law-abiding citizens and who use their firearms in a responsible manner.

Some sporting shooters have suggested that they may purchase large amounts of ammunition at one time and store those large amounts around their premises rather than buy small amounts for each trip. However, I cannot verify the accuracy of that statement as I am not a licensed firearm owner. The Government is introducing this bill, along with others, as its response to drive-by shootings, and the limitations are obvious. Unless there is a means for auditing the actual use of ammunition purchased, it remains unaccounted for and can be easily distributed to other people. The Opposition notes the strong opposition from sporting shooters, who have pointed out flaws in the process.

I note that the Legislation Review Committee considered the bill and made a number of points about certain measures trespassing on people's rights and liberties. However, the committee then stated it felt that the public interest in providing assistance to police to investigate criminal behaviour overrode that interest. I note the committee made that statement on a number of occasions and made no further comment on a number of other provisions.

The Hon. Michael Gallacher: Rudd has just resigned as foreign Minister. So you are backing Julia again now. Winners are grinners, pal.

The Hon. STEVE WHAN: This is an important bill and the Government should not comment on Federal political events while it is being debated, much as it might be fascinating to those involved. As I said last week in this place, over the past few months we have seen a worrying rise in drive-by shootings in Sydney and the Government has been very slow off the mark in dealing with that. Over the Christmas period the Premier looked all at sea on answers to this until the Minister for Police came back from holidays and helped him out at his press conferences. The Government sat on its hands for far too long before it started to address the problem. It is not good enough for the people of western Sydney to be subjected to a drive-by shooting a week—even more over the past few months. The Government should act far more quickly to prevent such occurrences.

The Government introduced this bill and said it would reintroduce the former Government's bikie gang legislation that was struck down by the High Court. However, it took the Government nearly a year to bring that legislation back to this place; we have only just seen it despite questions being raised about it from the middle of last year—at a time when people would have expected the legislation to have been reintroduced. It is almost as though the Government sat back and said, "We will not bother with this until we are forced into taking action by the concerns of people who are seeing reports every day of drive-by shootings." One Government member in the other place implied that people in his electorate should not worry about this because they are not the targets. That goes to the heart of the importance of the bikie gang legislation.

Members understand that people involved in these crimes may not necessarily be fine upstanding citizens. In fact, last year I met one of these shooting victims. He was in the same hospital ward as my son. I did

not ask him whether he was on the receiving end of a bullet for any particular reason; I did not really want to do that. However, I got the distinct impression, without slandering him, that he did not have quite the same view of the world as my children. I will not go any further than that. It is not good enough for a Government member to say to his constituents, "You don't need to worry because you are not the targets", when we do, on occasion, see these drive-by shootings affecting innocent people. I am sure the person whose house was hit by a bullet last week would be greatly concerned that these crimes are happening in the community.

The Hon. Michael Gallacher: Or the innocent truck driver who was murdered a few years ago.

The Hon. STEVE WHAN: Indeed, the innocent truck driver who was shot a few years ago. No-one would suggest that these crimes did not happen in the past; what we are concerned about is that there have been 64 drive-by shootings since this Government came to office. At the current rate that is more than one a week. The Minister for Police could not deny that there has been an escalation in the rate at which they are happening. I have no doubt that the New South Wales Police are working their hardest to address that issue—and we all have confidence in their efforts—but as I said in another debate in this place last week the Government needed to act more quickly to give them legislative support through the bikie gang legislation. The Government needed to address the problem that has arisen within western Sydney commands where local area commands appear to be under strength. No amount of talking from the Minister for Police about the wonderful new structure for the highway patrol can hide that. He needs to ensure that police strength is provided in the areas it is needed, and that is critical to people in western Sydney.

The Hon. Michael Gallacher: The only thing that is out there is your comments.

The Hon. STEVE WHAN: Since the Minister interjected, I remember very clearly questioning the Minister about the Government's policy when it came to increasing police numbers and the worry in the Police Force of its policies on recruitment becoming a sawtooth effect where at each recruitment the numbers go up above authorised strength, only to drop back down in the period in between. At the time the Minister explained to us that the terrible Labor Government had gone over its budget in spending on police because we tried to keep those numbers above authorised strength all the time. The Minister did not respond adequately to that and I am sure he will take the opportunity to do so when he replies. It is important to put those issues on the record.

The Opposition has strong concerns about the Government's slow pace in taking action to deal with the current problems relating to gun crime in New South Wales. We believe that this amending bill will not solve the problem but we will support it. However, we put on record our genuine concerns for law-abiding citizens who use guns for hunting and sporting pursuits, and primary producers who we believe will be disadvantaged by this legislation. We would like to see the Government address those issues and we hope it has been considering them as we have gone through this process.

The Hon. ROBERT BORSAK [5.40 p.m.]: I speak on behalf of the Shooters and Fishers Party in debate on the Firearms Amendment (Ammunition Control) Bill 2012. The Government believes that introducing this bill and laws relating to the sale of ammunition will somehow reduce the incidence of drive-by shootings in Sydney and make it harder for ammunition to fall into the hands of criminals. Let me make one thing clear: The Shooters and Fishers Party supports any sensible legislation that would crack down on drive-by shootings, because every time a drive-by shooting takes place it is the lawful firearm owners of this State that get stigmatised with the negative ramifications by the media.

As I said, our party supports sensible legislation. However, this ill-thought-out legislation has been cobbled together without any proper consultation and, frankly, the citizens of the State should not be conned into believing that this legislation will deal with, or even has a remote possibility of dealing with, drive-by shootings. Even as a system for tracking the use of ammunition it will fail. If this is the best the Government can do after 12 months of drive-by shootings it needs better advisers. Sir Humphrey is obviously doing the same to this Government as he did to the previous Government. The Government needs someone who understands shooting and shooters, not someone who seemingly wants to shut down their legitimate activities. Remember, Sir Humphrey thought hospitals ran best without patients. The gun-hating bureaucrats in the police ministry are just using this opportunity to further their agenda of tightening controls on law-abiding citizens, scapegoating them for their failures in policing the gangs in New South Wales.

It is very clear that at best the police are confused as to the effect of this bill and, at worst, are also looking for a scapegoat. Our party would also like to see the written advice of the Commissioner of Police on why he wants this particular provision, which only makes more work for the hardworking firearms dealers of

the State. Drive-by shootings are not committed by licensed shooters and hunters, and the firearms used in such crimes are not registered. The types of crimes that the proposed amendments supposedly target are almost exclusively being perpetrated in the metropolitan area. Yet this proposed legislation will significantly and adversely affect legitimate and lawful shooters in country areas—hardly a fair and reasonable outcome.

Many of the firearms used in firearm-related crime have never been legitimately owned and presumably were illegally imported. If criminals can easily source illegal firearms, surely acquiring ammunition from illegal sources is an even more trivial exercise. Arguably the proposed amendments, if enacted, will adversely affect lawful shooters yet at best have only a negligible impact, if any, on criminal activities. Current legislation already provides that ammunition can be sold only to persons authorised to possess a firearm that take the ammunition. This is already sufficient to ensure that law-abiding citizens do not supply ammunition to unauthorised persons. For example, a person with a category A licence—shotgun and rimfire rifle—cannot purchase centrefire rifle or pistol ammunition. The current legislation does have an omission that could be rectified. It is seemingly not an offence to give ammunition to an unauthorised person, only to sell it. However, it is unlikely that this loophole is the major source of supply of ammunition to criminals.

In this regard I ask the Minister in his speech in reply to answer part of the question that I asked last week and which was ruled out of order at the time: How many instances have there been since 1996 in which police have been unable to press charges against a person for providing ammunition to someone who is unauthorised because the person gave away the ammunition rather than sold it? Amending the Firearms Act to allow firearms dealers to sell ammunition only to those already owning a firearm that uses that ammunition, or that have a permit to acquire a firearm of that calibre, will not prevent those willing to break the law from accessing ammunition, just as the controls on the sale of cold and flu tablets containing pseudoephedrine have not prevented criminals accessing in bulk the precursor chemicals needed to manufacture ecstasy.

Ammunition will either continue to be smuggled into the country for criminal use or continue to be supplied by those very few licensed persons willing to break the law by supplying unauthorised persons. This bill will not act to break either of these supply chains. The shonky licensed gun owner can continue to buy on behalf of the criminal, after obtaining a permit to acquire a firearm, and the shonky dealer could simply record 1,000 rounds against a legitimate purchaser and only supply 500, leaving the balance to be sold on to criminals.

I would like to know how the ammunition will be traced, once purchased, if a licensed shooter was to sell or give the ammunition to criminals and it was used in a crime. How would ammunition used in a crime be traced back to its source? The only way the supply of illegal guns and ammunition to criminals can be prevented is by good detective work, that is, good old-fashioned intelligence gathered by hardworking police. If the Government wants more effectively to discourage the supply of ammunition to unauthorised persons, it should increase the penalty for the sale of ammunition to an unauthorised person from the current low level to something with real deterrent power.

Even better, it should support the Shooters and Fishers bill that we have on the *Notice Paper* that would bring into effect a mandatory charge of using a firearm in the commission of an offence whenever a person is caught with a firearm during the commission of a crime. This ill-conceived piece of legislation will not achieve its objectives and it will have a miniscule effect, if any, on drive-by shootings. It will, however, have a detrimental effect on firearms dealers, farmers, club armourers, hunters, target shooters and employees who use firearms in their everyday work. Firearms dealers will be required to spend even more time completing forms and gathering information that is of no use.

The current form of firearms licence does not provide information on what calibres of firearm a person owns. Firearms owners would be forced to carry their registration papers to the gun shop rather than keeping them safely locked at home. Some will no doubt leave copies of registration papers in their motor vehicles, so that they are always to hand when purchasing ammunition. Unfortunately, this will result in an increased risk of those documents falling into criminal hands as a result of a break and enter of a motor vehicle or the simple loss of papers. This could effectively deliver a "shopping list" of potentially available firearms into criminal hands. The alternative of giving all firearms dealers access to the Firearms Registry database of registered firearms would be an invasion of privacy and another increased security risk for firearms owners.

The requirement for dealers to record the name and address of persons purchasing ammunition creates another database at risk of misappropriation or theft by criminals wishing to locate addresses at which firearms are stored. Firearms dealers are already swamped with red tape, which takes up a great deal of the time that is spent running their business. Adding more red tape without any real benefit to public safety is something that we

must oppose. The proposed amendment applies only to the sale of ammunition through licensed firearms dealers. Persons who are authorised under their firearms licence to possess ammunition will, under section 65 of the Firearms Act, still be able to sell it to other authorised persons after sighting their firearms licence, but without the need to sight a registration paper for a firearm in the calibre concerned.

This bill will lead directly to an increase in the number of sales of ammunition outside firearms dealerships. The increase of private ammunition sales will render the data collected by firearms dealers on ammunition sales even more useless in tracking the source of ammunition used in criminal offences. It may in fact make it easier for criminals to access ammunition through shonky licence holders. The only difference it will make in criminal purchases from a shonky licence holder is that the shonky licence holder will now have to have a firearm of that calibre registered to him or her. The groups most significantly affected by this bill will be firearms users who find it difficult to visit their local gun shop to purchase ammunition and legitimate firearms users who do not own firearms of their own.

Many farmers in rural areas already find it difficult to find the time to drive what can be a considerable distance to a firearms dealer and it is common practice for them to ask another licensed person to pick up ammunition for them or on their behalf. Several farmers have informed me that their wives have obtained licences purely for the purpose of allowing them to purchase ammunition for use on the farm. This would no longer be possible if the legislation is enacted in its current form. Persons with physical disabilities can also have difficulty getting to a firearms dealer to purchase ammunition. A case that has been brought to my attention is that of a shooter who suffers from the effects of multiple sclerosis. She owns a 20 gauge shotgun and her husband owns a 12 gauge shotgun. In a letter she wrote to me she said:

As I am disabled from the effects of Multiple Sclerosis it is easier for my husband to buy ammo for my 20 gauge. He reloads ammo for his 12 gauge. The way I read the amendments he will have to load me, with my gun rego papers into the car and drive the 9 kilometres to our local gun shop just so I can buy ammo.

This example highlights the stupidity of restricting purchases of ammunition to those who own a firearm in that calibre. Various members of a family own firearms in different calibres reflecting their different physical attributes, interests and genuine reasons for shooting. Under this legislation, instead of one person being able to purchase longarms ammunition for the whole family, all family members will have to pile into the car for the trip to the gun shop. Has the Government given any thought to how employees who are required to use firearms registered to their employer will be able to purchase ammunition? Will the employer be able to appoint an agent to purchase ammunition on his or her behalf? I have in mind the National Parks and Wildlife Service.

My comments in regard to hunters apply also to primary producers licensed to control vertebrate pests on their property. Hunters make a choice as to what calibre firearm they will use each time they go hunting, based on the size and structure of the animal they intend to hunt, in order to ensure that the animal is humanely killed. The recommended calibre for hunting pigs differs from that for deer and differs again for rabbits and other animals. Many hunters borrow a rifle from a friend or property owner if they get an opportunity to hunt an animal for which they do not own a firearm in the recommended calibre. Friends are willing to loan firearms, but ammunition is expensive and when one borrows a rifle one can expect to have to buy ammunition to use in it.

If this amendment is successful a hunter who has borrowed a rifle will not be able to buy ammunition from the local gun shop to use in it, and the owner will not be likely to afford to give the ammunition away. There is a likelihood that this will lead to increased sales of ammunition outside firearms dealerships, as the owner of the rifle sells ammunition to the person to whom he or she is lending the rifle. It may lead also to increased purchases of rifles as hunters seek to minimise the need to borrow rifles and instead prefer to own rifles in a greater number of calibres. There could also be an increased likelihood of hunters choosing to use a firearm that they own in an inappropriate calibre rather than borrowing one, thereby increasing the likelihood of a quarry animal suffering a longer and more painful death.

This bill will also affect target shooters. Licensed target shooters do not always choose to buy their own firearms. Some prefer to use a club gun because they do not want to store a firearm at home, cannot afford one or do not see the necessity of owning one. However, these target shooters still have a legal obligation to shoot at the range at least four times a year in order to keep their licence, and in order to meet that obligation they need to purchase ammunition. Not all clubs sell ammunition at the range, so the shooter needs to purchase ammunition prior to going to the club. This proposed amendment will prevent shooters from doing that and will result in more shooters choosing to purchase a firearm.

A pistol shooter initially is issued with a probationary licence and during the first few months cannot purchase a pistol. However, pistol shooters are still required to make a minimum number of attendances at their

pistol club using either club pistols or pistols supplied by other club members. While the amendment provides for club armourers to supply ammunition to club members for use in club guns, it does not allow for them to provide ammunition for use in firearms borrowed from other club members. The effect of the proposed amendments will be akin to one borrowing a diesel-fuelled motor vehicle and being prohibited from purchasing diesel fuel because one is not the registered owner of a diesel motor vehicle.

Club armourers are a form of firearms dealer licensed to provide a service to club members. These are volunteers who are not in it for financial reward. Club armourers often purchase ammunition in bulk for sale to club members. The bill will require a club armourer to specify in which club firearm the ammunition sold to a member is to be used, which is completely unreasonable. Some clubs have up to 20 club firearms, and it is unlikely to be known which firearm will be used at the time the ammunition is purchased. Little thought seems to have been given to how the amendments in this bill will be applied and administered. How will this affect clay target shooting clubs that give away ammunition as prizes and the ammunition companies who donate ammunition as prizes? How does a person holding a permit as a cartridge collector purchase ammunition under the proposed amendments?

This bill is a prime example of how political meddling without consultation with stakeholders can have widespread negative ramifications without going anywhere near achieving its stated objectives. If the Government had been clever enough to discuss the bill with us in the drafting stage we might have been able to work out a more effective approach. But we, as shooters, have seen it all before. To me it appears as though we are facing 1996 all over again with the Liberal-Nationals Coalition and The Greens coming after firearms.

In the Legislative Assembly we have the Master's Apprentice, Johnny-come-lately, and I am worried that in this place we might have the ghost of Tim the Hat. I would like to hear something—indeed, anything—from The Nationals on this issue. The Shooters and Fishers Party does not support this ill-thought out bill that will do little, if anything, to reduce the incidents of drive-by shootings in Sydney.

The Hon. AMANDA FAZIO [5.56 p.m.]: I support the comments of my colleague the Hon. Steve Whan who led for the Opposition in debate on the Firearms Amendment (Ammunition Control) Bill 2012. The Opposition will be supporting the bill even though it believes it has significant issues. The bill is an inadequate response to what we have seen since Premier O'Farrell was elected in March 2011. Since then 64 drive-by shootings have occurred, mostly in western and south-western Sydney. It has taken an outcry from the media to get the Premier to expend some energy to try to come up with a solution to the problem. People who live in Sydney expect to live in a safe environment. People living in western and south-western Sydney should not be subjected to the sorts of threats to which people who live in Compton and South Central Los Angeles have been subjected for years. Los Angeles used to be the drive-by shooting capital of the world but lately people in western and south-western Sydney feel that they live in it.

This legislation is a pathetic response to a serious problem. People who commit drive-by shootings are not worried about those whom they hit; they will spray bullets anywhere in an attempt to get their targets. Neighbours living in adjacent homes are at risk because of this ongoing gang war in Sydney. The response by the Government to date has not been adequate. It is simply the case that the Government has been slow to respond to a serious community safety issue. Fairfield Local Area Command, which has 14 officers under its authorised strength, has had at least 10 drive-by shootings since August. The Government has not been putting the necessary resources into areas where these crimes have been committed, and its response is too late and too little.

It is good for the Government to be able to say, "We are taking some strong action." However, as other speakers have said, if people are going to the lengths of illegally acquiring firearms I do not think they will rock up to their local gun shop with all the requisite licences and registration papers to buy ammunition to use in those illegally acquired firearms. That is why this legislation is deficient in some areas. I draw the attention of members to a press release issued by the New South Wales Firearms Dealers Association dated 19 February 2012. It states:

New South Wales Firearms Dealers Association President, Chris Barrett says that the Firearm Amendment (Ammunition Control) Bill 2012 introduced to Parliament last Tuesday whilst laudable in its goals is actually targeting the wrong people in our community.

He says that the legislation is meant to curb the spate of drive by shootings in Sydney's south west but will instead hurt rural communities across the state as well as thousands of legal & law abiding firearm owners.

He goes on to say that criminals in south-western Sydney and elsewhere in NSW need the full force of the law brought down upon them, but that requires increased Police resources targeting the illegal trade in firearms and ammunition, rather than an increase in the complexity of the laws to be negotiated by legal firearms users and dealers.

"This piece of legislation is typical of a government that has no real answers to our society's problems and is unwilling to consult with industry prior to introducing major changes to legislation that will affect tens of thousands of New South Welshmen but provide no real benefits to our society or industry at all."

Mr Barrett believes that it is highly likely that one of the major results of this Bill being passed in its current form will be to increase the incidence of ammunition sales outside of licensed firearms dealerships, which would actually make ammunition sales records kept by firearms dealers useless as a police intelligence source.

Despite reservations about the usefulness of such sales records, Mr Barrett says that the NSW FDA has no objection to recording transactions of ammunition sales and in fact a large number of the major retailers of ammunition currently record a lot of their sales anyway.

Many dealers do that as part of their stock control process and to alert them when they need to reorder certain types of ammunition. The press release continues:

"The problem with Premier O'Farrell's proposal is that having a firearm license in NSW allowing you to use a nominated category of firearm would no longer be sufficient to allow you to purchase ammunition for that type of firearm. Under this law I would no longer be able to borrow an air rifle from a friend and take my son to the range to teach him how to shoot, as I won't be allowed to buy ammunition for it."

Similarly, if this Bill is passed into law then it will preclude farmers from having family or friends purchase ammunition on their behalf.

The Hon. Robert Borsak pointed out that it is often difficult for farmers to get away from their property to buy the ammunition, particularly if they do not live near a major centre. The press release further states:

A farmer who works long hours and doesn't get to town very often, frequently has to rely on licensed family and friends to pick up ammunition for him on their way through town. Under this law they won't be able to, it's just disgraceful."

The Hon. Marie Ficarra: You are so insincere.

The Hon. AMANDA FAZIO: No, I am concerned about the inconvenience that will be caused to farmers, who play a very important role in the control of feral animals, if this legislation is passed unamended. I understand that amendments may be moved about the use of firearms and the purchase of ammunition by farmers. I also draw the attention of the House to an email I received from Stephen Larsson, who describes himself as a law-abiding firearm owner. The email refers to an electronic petition and states:

- In the past 18 hours since its commencement over 1,100 people have supported my call for you to stop your attack on Law Abiding Firearm Owners by signing the petition below
- This petition has rocketed to the top of the most active 100 International petitions and most active 100 Australian petitions
- I am confident that by March 2015 the vast majority of the 180,000+ Law Abiding Firearm Owners in NSW will remember and still resent the imposition of this ill-conceived and unworkable legislation by the Liberal Government
- On behalf of all Law Abiding Firearm Owners in NSW, I urge you to withdraw or amend this Bill

I have spoken to some firearm owners about this bill and asked them what they think of it. They told me that rather than go to their local firearm shop and buy enough ammunition for a weekend or for a holiday they will buy a larger amount because they will be required to take all their paperwork, which is kept securely at home. Rather than buying a small amount of ammunition and keeping it at home they will buy enough for a few hunting expeditions. One of the likely unintended consequences of this legislation will be that registered shooters will have more ammunition in their homes, which are not as secure as gun shops. I know that people have gun safes; I have seen plenty of them in people's homes and at gun and ammunition stands at agricultural shows. However, I still believe it would be better if firearm owners were to buy smaller amounts of ammunition rather than to stockpile it. I believe that home gun safes are less secure than the storage facilities at gun shops.

The Government might say this is a strong measure designed to stop drive-by shootings. However, the arrest record of people involved in drive-by shootings does not suggest strong action has been taken. This legislation may reduce the incidence of people illegally obtaining ammunition, but it will not solve the problem. The Government should implement more effective initiatives to tackle this problem. This is one measure, but it is not the solution. This legislation will inconvenience law-abiding firearm owners. As I said, members opposite are crazy if they think that people who buy guns on the black market will not also buy their ammunition on the black market.

Mr David Shoebridge: So you don't want to reduce the amount of ammunition on the black market?

The Hon. AMANDA FAZIO: Mr David Shoebridge can all interject all he wants. He will have an opportunity to make a contribution to this debate later. I have noticed his habit of doing this and it is simply annoying.

Mr David Shoebridge: You are being hypocritical.

The Hon. AMANDA FAZIO: I do not appreciate being called hypocritical by Mr David Shoebridge. He never attacks the Government because he might want to do another deal with it like the deal he did on the election funding legislation. He has no substance or ethics. As I said, the Opposition does not believe in this legislation is the panacea that the Government claims it is, but we will not oppose it. The Hon. Steve Whan has indicated that if members submit amendments that improve the situation for farmers the Opposition will consider them. We know that this is a bandaid solution to a very serious problem that is causing great distress to the citizens of western and south-western Sydney. This Government's response to date has been inadequate and this bill will not solve the problem. We must address the O'Farrell Government's obsession with ensuring that everything is fine on the North Shore but bugger western Sydney.

The Hon. SCOT MacDONALD [6.10 p.m.]: I support the Firearms Amendment (Ammunition Control) Bill 2012. I asked to speak on this bill because I have experience as a buyer and seller of ammunition. Can any other member of this House say that they have been a dealer in ammunition? Silence. I also have a shooter's licence and three registered firearms.

The Hon. Matthew Mason-Cox: Only three?

The Hon. SCOT MacDONALD: Only three, sorry. I was a registered seller of ammunition until 2009, when my permit expired. I come to this debate able to draw upon relevant experience. I imagine that most members have received representations about this bill. The protestations generally revolve around cost, inconvenience and the likely impacts on criminal behaviour. I would like to give my perspective on those concerns. First, as a registered owner of firearms and a purchaser of ammunition, I cannot agree that there would be anything more than a minor inconvenience to carry and present a copy of the firearm registration to an ammunition dealer. Are members seriously suggesting that to do so will delay a transaction or present insurmountable obstacles to the trade? I would rate it as about as difficult as pulling out your FlyBuys card at the supermarket. This House is debating the trade of a deadly instrument, and I do not think it is unreasonable to have workable checks and balances in firearm and ammunition transactions.

I want to address the remarks of a couple of members who spoke about farmers and the inconvenience to them. My experience of visiting and shooting on farming properties is that most farmers have cars, visit towns and routinely do their shopping—believe it or not. Even in the more distant places such as Wentworth or Condamine, Queensland, farmers undertake such transactions without problems. Farmers will store as much ammunition as they need. I do not see that the bill will raise any obstacles for them.

Secondly, it has been suggested that the bill will place a significant burden on ammunition sellers. The bill outlines the records that will need to be kept of the purchase and sale of ammunition. I have experience as a retailer of ammunition in our rural services business in Guyra. As a normal part of doing business, I kept records of all my purchases. I kept records of what I bought, from whom and for how much. When I sold the ammunition I raised a tax invoice that recorded the purchaser's name, shooter's licence number, the type of ammunition purchased, the quantity and the price. From my interaction with others in the industry, I believe my record-keeping was standard. The only thing our business did not do was record or sight the firearm registration. This simple extra task is hardly burdensome. I am confident that ammunition sellers will quickly adapt their systems to include this information.

Thirdly, it is stated that the provisions in the bill will not capture criminal behaviour. I have never accepted that argument—now or in the height of the mid 1990s gun control debates. Of course, laws and regulations do not stop all criminal activity, but we have a duty to minimise opportunity and build an environment where it is difficult to abuse or misuse firearms. No-one could rationally suggest that criminals will not get access to illegal firearms or ammunition, but we can make it more difficult. We can build obstacles to illegal trade and improve traceability of firearms and ammunition. I accept the view that our society is better off with fair and reasonable gun and ammunition control.

The first rifle I bought was a .22 magnum from Kmart. I think I was 17 or 18 and I took my mother along to make the purchase. We do not want to go back to those days. It is quite possible to shoot in this State

within reasonable regulation and rules. As someone who enjoys the sport of shooting, I do not buy the argument that we are hurting law-abiding shooters while not stopping the criminals. In this country we have made worthwhile advances in reducing the pool of unnecessary guns. This bill will help restrict the use of ammunition to genuine users. I commend the bill to the House.

Mr DAVID SHOEBRIDGE [6.14 p.m.]: The Greens support the Firearms Amendment (Ammunition Control) Bill 2012. It has been a long-standing commitment of my party to ensure that we do all we can to make certain that the firearms laws in New South Wales live up to the commitment that was given by each Minister for Police and each Premier at a State and national level in May 1996 in the Australasian Police Ministers Council. The commitment they made was to deal with what was then seen nationally as a scourge of firearm-related crimes by a series of comprehensive changes to the law that were required to properly regulate firearms and ammunition and to make Australia substantially safer.

On any view of it, since those laws were implemented across the nation, there has been a reduction in firearm homicides and in suicides with a firearm in rural and regional areas of the country, most notably in rural and regional New South Wales. There has been a substantial reduction in firearm murders across Australia and in New South Wales. There continues to be a downward trend in firearm offences for things such as robbery and other criminal offences. Those who argue that there is an absolute right to own guns or ammunition that should override the public interest in controlling and limiting the number of firearms and the amount of ammunition in circulation are swimming against the stream. There is broad public interest in controlling the number of guns on our streets and in regulating the amount of ammunition in circulation.

I have a similar memory to that of the Hon. Scot MacDonald. As a child I went to Kmart with my father and saw him purchase ammunition over the counter, without any checks or balances. I recall it distinctly—an almost unregulated access to firearms and ammunition. It was not a good culture. Thankfully we have come a reasonable distance from the days when people could just rock up to Kmart, get themselves a gun and some ammunition, and go off and do what they liked with it. It is good to see the changes that have happened as a result of the national commitment made in 1996 to deal with the relevant laws and to make Australia and New South Wales safer.

It is a tragedy that the former Labor Government—of which the Hon. Amanda Fazio was at different times a luminary—did deal after deal with the Shooters and Fishers Party to water down our firearms laws and to allow greater access to firearms by provisions such as section 6B of the Firearms Act. That section allowed relatively unregulated access to firearms and ammunition at gun clubs in New South Wales, with minimal or no external police checks. This has led to tragedy in New South Wales. Those amendments to the Firearms Act were pushed through this Parliament because of ugly deals done by the former Labor Government and the Shooters Party, with no opposition from the Coalition, which jumped on board and supported it. Year after year, through those kinds of grubby deals, the former administration, with the support of the Coalition, watered down our firearms laws from a relatively high watermark in 1996. We need to start turning it around.

This is the first bill that I can recall in the past 10 years that has taken it the other way, where the Government has stood up to narrow minority interests—such as the Shooters and Fishers Party—and said that we need to deal with the deficiencies in our firearms regulations. If there has been one consistent, repeated voice for stronger firearms regulation and laws over both governments it is that of the NSW Police Force. Year after year the NSW Police Force has consistently given advice to governments that tough firearms laws that control the sale and use of firearms and ammunition are an important part of law and order in New South Wales. It was only because of the strong stance taken by the NSW Police Force, which stood up to the previous Labor Government and refused to agree to a further watering down of the firearms laws, that that Government did not further weaken our firearms laws to duchess other unrelated legislation through the Parliament.

I turn to the substance of the bill. The bill amends the Firearms Act to add additional requirements as to the transfer and purchase of ammunition. New section 65A introduces the restriction that sales of ammunition by firearm dealers can occur only if a firearm that takes the ammunition is registered in the name of the purchaser or the purchaser has a permit to acquire such a weapon. New section 45A will require the recording of ammunition transactions—an obligation which almost no-one from the industry side thinks is onerous. As pointed out by the Hon. Scot MacDonald, most businesspeople like to keep a record of their transactions and to know where their stock is at a particular level. Simply adding an additional line to indicate who the ammunition was sold to and that a permit check was done will hardly be onerous for the New South Wales firearms industry.

Under new section 45A a licensed firearms dealer must keep a record of all sales and purchases of ammunition—a basic and simple requirement. The record must contain the name of the buyer, details of the

buyer's licence or permit, and the notice of registration for a firearm or permit to acquire a firearm that matches the ammunition requested. The record needs to contain the name and address of the dealer and any other information prescribed by the regulations. A breach of that section will carry the relatively modest penalty of 20 penalty units. I heard the Hon. Robert Borsak say that that is not enough. I agree with him. The Greens would support an amendment to increase that penalty and look forward to the Shooters and Fishers Party introducing such an amendment. New section 45A (7) provides that police may conduct random checks and that licensed firearm dealers are required to produce their records. That sensible provision allows for the proper auditing of the legislation.

Given that an estimated 20 per cent of firearm licensees do not own a firearm but exercise their right to fire a weapon for which they own a licence through a club, there is an obvious exemption to allow club armourers to sell ammunition to club members for use in the firearms registered to the club. The Hon. Robert Borsak complained that this minority will be disadvantaged because they will not be able to buy ammunition prior to arriving at their club. The bill allows club members to buy ammunition at the club and it allows for the gun armourer to buy ammunition that matches the various firearms owned by the club. The Shooters and Fishers Party has put an array of false issues on the table.

The Shooters and Fishers Party also say that the National Parks and Wildfire Service will be disadvantaged because the guns are owned by the National Parks and Wildlife Service and not by the employees who hold the permits to use the weapons. If they knew anything about ostensible authority or corporate or government regulation in New South Wales they would know that, if necessary, an employee can be given authority by either a corporation or a government authority to acquire weapons on behalf of that legal entity and that will be the manner in which the legal entity can acquire the weapons—

The Hon. Robert Borsak: What weapons?

Mr DAVID SHOEBRIDGE: I am sorry, the ammunition. The member is quite right. The National Firearms Agreement of 1996 specified that all jurisdictions should put in laws to restrict the sale of ammunition to those for whom the purchaser has a license. I do not often support former Prime Minister Howard but that was one of those moments where we saw national leadership stand up against a powerful but minority lobby who wanted to stop the rest of society from regulating safe firearms laws. At a meeting of the Australian Police Ministers' Council on 10 May 1996 it was resolved that:

... jurisdictions are to legislate to allow the sale of ammunition only for those firearms for which the purchaser is licensed and that there be limits on the quantity of ammunition that may be purchased in a given period.

While the bill requires the recording of ammunition that is purchased at any given time, and provisions already exist in the Firearms Act to allow for the limitation of the quantity of ammunition to be purchased at a particular time, the Firearms Act does not contain any powers—regulation making powers or otherwise—to place limits on the quantity of ammunition that may be purchased in a given period. To live up to the commitment made in 1996, The Greens have circulated an amendment that gives necessary regulation making power to the Government to comply with the obligations that were signed up to by New South Wales and all the other Australian States in 1996—namely, to place limits on the quantity of ammunition that may be purchased in a given period.

The bill contains a regulation-making power to allow a standard record-keeping document to be produced and disseminated by the Commissioner of Police. It also contains a provision to delay the proclamation of the bill until such time as those administrative arrangements are on foot—that should deal with many of the practical difficulties raised by the Shooters and Fishers Party. The Greens support the proclamation provisions of the bill. The bill also provides a sensible limitation on what ammunition may be purchased by licensed firearm holders.

One hears many small incident cases of minor inconvenience to firearm owners who might have to make a second trip to town to buy ammunition. Milk and bread go off a great deal faster than ammunition and people have to go into town to buy milk and bread. Ammunition has a relatively long shelf life and can be purchased on the occasions when firearm owners go to town. The argument that it would be too great an inconvenience to that class of firearm owners to present their permit to acquire ammunition or license to own a weapon fails to deal with the broader public interest in limiting and regulating the amount of ammunition that can seep into the black market.

No-one would suggest that this bill, which requires further regulation of ammunition sales, will go anywhere near addressing all of the issues or even the great majority of issues involving gun crime in New

South Wales. The overblown rhetoric of the Hon. Amanda Fazio in comparing western Sydney to south central Los Angeles demonstrates how unprincipled the Opposition has been in the firearms and gun crime debate in New South Wales. The Hon. Amanda Fazio and the Hon. Steve Whan basically misled the House when they said there has been an unprecedented explosion of gun crime in New South Wales. Any gun crime is totally unacceptable, as are the recent drive-by shootings in west and south-west Sydney. Steps should be taken to reduce the amount of guns and ammunition in circulation that is leading to such gun crime.

The Hon. Amanda Fazio and the Hon. Steve Whan do not accept that the biggest spike in drive-by shootings in Sydney happened three years ago under the watch of the former Labor Government. To fail to accept that fact and to indulge in overblown rhetoric suggesting that Sydney is falling into broad lawlessness, and comparing Sydney with south central Los Angeles, demonstrates how out of touch and how politically convenient the Opposition has been in response to these laws. The Hon. Amanda Fazio called the bill a disgrace. She then spent the better part of 15 minutes reading complaints onto the record from various constituents, but said she will vote for it. That is also true to the Opposition's form in government. The former Government watered down the firearm laws and now those opposite are coming up to water them down and oppose them in opposition.

The Hon. Amanda Fazio: Point of order: When I referred to the legislation as being disgraceful, I was quoting a press release from the Firearm Dealers Association of New South Wales.

The Hon. Michael Gallacher: That is a debating point. Sit down. This is an abuse.

The Hon. Amanda Fazio: Being misquoted by Mr David Shoebridge is an abusive process. I suggest that Mr David Shoebridge is accurate when quoting members.

Mr DAVID SHOEBRIDGE: What is the member's point of order?

The Hon. Amanda Fazio: The point of order is that you were not listening, you fool.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! There is no point of order

Mr DAVID SHOEBRIDGE: The Hon. Amanda Fazio was randomly reading quotes onto *Hansard* in which she had no belief and did not support. She was randomly reading quotes onto *Hansard*; she was not doing so in order to make her absolutely appalling political points. The Hon. Amanda Fazio wants the members of this House to believe that she just randomly reads quotes onto *Hansard*. She may have a point: the Hon. Amanda Fazio may just be randomly and, as she loves to say, disgracefully reading quotes onto *Hansard*. Why should a person who has a category A licence but only owns an air rifle be legitimately allowed to purchase ammunition for rimfire rifles or shotguns? That is the key point. Why should a person who only has an air rifle at home be able to rock up to the ammunition store and buy shotgun ammunition? Why should someone who has a shotgun licence be able to buy rimfire rifles? Just because a person has a category A licence does not mean he or she should have broad access to any firearm.

The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner): Order! Mr David Shoebridge has the call. Members will remain silent so that Hansard and the Chair can hear his contribution.

Mr DAVID SHOEBRIDGE: The Commissioner for Police asked why people should be able to buy ammunition for a gun they do not own. That is the key point. If people are allowed to buy swags of ammunition for weapons they do not own, that provides an avenue for that ammunition to find its way onto the black market. Is that the primary way that ammunition ends up on the black market? Probably not. Is that the primary way that ammunition ends up in criminal use in New South Wales? Probably not. But if it is a part of the solution, then it is a part of the solution The Greens will support. If it is a part of the answer to reduce the amount of ammunition that is available to gangs and other criminal elements in New South Wales, then it is part of the solution The Greens will support.

It is by no means a perfect solution for stopping drive-by shootings. I do not believe that the Government even pretends it is the so-called magic bullet for drive-by shootings. The Greens, in supporting this legislation, do not pretend that it goes anywhere near addressing all the issues of drive-by crimes. I agree with the observation of the Hon. Robert Borsak that the best solution for dealing with the types of crimes that we have seen in Sydney is police resources and police action. The Greens support the bill.

The Hon. ROBERT BROWN [6.32 p.m.]: I had not intended to speak on the Firearms Amendment (Ammunition Control) Bill 2012, as my colleague the Hon. Robert Borsak led on the bill. However, every time Mr David Shoebridge makes a spray, with his vast knowledge of firearms, I feel that I have to correct the record. First, I will refer to comments made by my Labor colleagues. The Hon. Steve Whan alluded to the fact that this piece of legislation would improve the monitoring of the use of ammunition. If the member has an understanding of how we can monitor the use of people's ammunition I would like to hear it, and I am pretty sure the police would too.

The Hon. Steve Whan: I think I said it would not.

The Hon. ROBERT BROWN: If that is what you said, I accept that. Then Mr David Shoebridge vented his ignorance of the law and the 10 May agreement. The member read out the 10 May agreement and then made the mistake of confusing licensing with registration. I am licensed to purchase ammunition for category A and B firearms—that is, any category A and B firearms. Mr David Shoebridge compounded the error, further showing his ignorance, by agreeing with the Commissioner of Police, Mr Scipione, who made the ridiculous statement in the press that a person who had a category A shotgun should not be able to buy category H ammunition. For the benefit of members and the *Hansard* record, category A firearms are: air rifles; rimfire firearms, which are sometimes called pea rifles; and shotguns. Category B firearms are centrefire rifles. Centrefire simply means that it is a different type of cartridge—slightly bigger and more powerful. Category H refers to handgun ammunition. People cannot buy category H handgun ammunition on a category A or B licence.

Mr David Shoebridge: I did not say anything about handguns.

The Hon. ROBERT BROWN: Yes, you did. Let *Hansard* be the judge of that. Mr David Shoebridge made a mistake. He always makes mistakes. Mr David Shoebridge is supposed to be a clever dick lawyer, yet he makes mistake after mistake after mistake. Mr David Shoebridge also made the comment that the majority of dealers do not have a problem with this law. He obviously did not listen when the Hon. Amanda Fazio read onto the record a letter from the New South Wales Firearm Dealers Association, which represents the majority of firearms dealers in this State. I note the contribution by the Hon. Scot MacDonald in which he waxed on about his days as a firearms dealer selling ammunition. The Hon. Scot MacDonald would not have made anywhere near the amount of transactions for ammunition that have been made by Horsley Park Gun Shop, one of the larger firearms dealers in western Sydney, or Safari Firearms at Bexley. They would have sold hundreds of thousands of rounds of ammunition.

Mr David Shoebridge: Unregulated.

The Hon. ROBERT BROWN: No, it is not unregulated. It is regulated. People cannot buy handgun ammunition if they do not have a category H licence. It is as simple as that.

Mr David Shoebridge: But you can buy a shotgun.

The Hon. ROBERT BROWN: So what? I am licensed under the May 10 agreement to buy ammunition for category A and category B. That is the end of the story. Mr David Shoebridge got it wrong. The Greens run out the old line that under Labor the Shooters party did deals. That is one of the most hypocritical statements I have heard from The Greens. The Greens are the masters of hypocrisy and the masters of deals. After 16 years of Labor we have 6.7 million hectares of useless national parks. Mr David Shoebridge's credibility is—

The Hon. Dr Peter Phelps: Shot.

The Hon. ROBERT BROWN: —shot. I refer to issues raised by my colleague the Hon. Robert Borsak, in particular, an issue that was raised with me by members of a school shooting team. As most honourable members would be aware—Mr David Shoebridge probably is not aware—a minor can obtain a minor's permit from the age of 12. A minor with a minor's permit is not allowed to own a firearm and, therefore, cannot have a firearm registered in his or her name. He or she is allowed to use that firearm under strictly controlled circumstances.

A number of Great Public Schools and one State school have very successful rifle shooting teams. In fact, one of the captains of the State school's rifle team was a Governor of New South Wales. To facilitate those

young adults with their shooting, more often than not—in fact, invariably—a parent has to become licensed for a category A or category B firearm. This is to facilitate the movement of the student backwards and forwards to the range. The schools, which in most cases own the target firearms to be used, now, by necessity, have to purchase the ammunition. The parents of the school boy or girl would not be able to do so because they do not have a firearm registered in their name. A minor cannot purchase ammunition because the minor does not have any firearm in his or her name. There are some real holes in this legislation, which I have expressed personally to the Minister. The Government has a bit of work to do to address these very real concerns. I would love it if this legislation solved the issue of drive-by shootings in south, south-western and western Sydney. It will not. If it did I would be over the moon, and so would all the other licensed firearm owners.

Licensed firearm owners are hot under the collar about this legislation. We have received emails from electorates such as Oatley, East Hills, Swansea, Monaro, Newcastle, Wyong, Granville, Campbelltown, Rockdale, Strathfield, the Blue Mountains, Smithfield, Maitland and Kiama—all Liberal-Nationals electorates. Most licensed firearm owners had an expectation that the bad old days of Johnny Howard were over and done with and there would be no more pursuing of licensed firearm owners for no valid reason. If this were good legislation it would stop drive-by shootings. We would be able to convince our constituents of that. Indeed, they would not need convincing, they would support the Government. They would stand behind it. But they know that this is just another piece of "grab it out of thin air" legislation. It will not fix the problem. As my colleague the Hon. Robert Borsak alluded to earlier, all it will do is make shooters believe that the ghost of John Howard has appeared and inhabited the New South Wales Liberal Party.

The Hon. MARIE FICARRA (Parliamentary Secretary) [6.42 p.m.]: Tonight I speak in support of the Firearms Amendment (Ammunition Control) Bill 2012. I congratulate my colleague the Hon. Michael Gallacher, Minister for Police and Emergency Services, on proposing it. Very few Opposition members believe that this bill will solve drive-by shootings or the escalation in crime, but there is no doubt that the community finds the escalation in crime unacceptable. As Mr David Shoebridge said, it is not the first time we have seen a spike in such crimes. When Labor was in government for 16 years there were many episodes of drive-by shootings and an escalation in crime and back then people, including police commissioners and many police officers, thought that not enough had been done.

Police Commissioner Scipione, who is immensely respected by the community, in consultation with his officers, crime investigators and officers of the Attorney General's Department and the Minister for Police, said that this legislation is required. Further legislation probably will be introduced under the portfolios of the Minister for Police and the Attorney General. People want the Government to make life as difficult as possible for the perpetrators of crime and to give police the assistance they need to track them down. I am not a shooter and I do not know anything about guns. The closest I have been to a gun is an antique French cavalry gun from the French Revolution owned by my husband. I have told him that he must get rid of it because children who come to the house think it is exciting to play with it. So the gun must go.

The Hon. Robert Brown: Keep it.

The Hon. MARIE FICARRA: We are not going to sell it on eBay.

The Hon. Michael Gallacher: You don't play Marie Antoinette, do you? Are you into role playing?

The Hon. MARIE FICARRA: I will not go there. I thank the Shooters and Fishers Party for advising me on where to dispose of the gun—to gun collectors. I admit that I do not know much about it all. It is a matter of great concern in the community that it is so easy for people to buy ammunition for guns that they do not even own and that this situation has been allowed to continue for so long.

The Hon. Luke Foley: Are you speaking on this bill?

The Hon. MARIE FICARRA: Yes, I am speaking precisely on this bill. Many people believe that this bill is needed to combat the rise in gun violence that has beset our city streets and neighbourhoods. As has been discussed at great length in this Chamber, our State is currently in the midst of an escalation in crime that undermines our way of life and restricts the security of law-abiding residents, who are the majority of our constituents. Over the past 12 months there have been a significant number of shootings all over Sydney which warrant the Government's attention. Many of the offences have been drive-by shootings related to organised crime. According to the New South Wales Bureau of Crime Statistics and Research [BOCSAR], the majority of firearms offences relate to the unauthorised possession of firearms and/or ammunition.

Currently, there are no provisions under the Firearms Act 1996 that require the purchaser of ammunition to hold a permit or certificate of registration for a firearm that requires a specific type of ammunition. Essentially, firearms dealers are unable to confirm whether a person is purchasing ammunition for a firearm they own by checking a purchaser's licence because New South Wales firearms licences only detail the category of licence that is held. The last major gun law reforms were introduced a decade ago. Indeed, many Liberals are proud of the achievements of former Prime Minister John Howard in this area. He has the respect of many people, regardless of their political persuasion. However, these gun law reforms failed to close this potential criminal loophole.

Further, licensed firearms dealers still are not required to report transactions associated with ammunition, unlike firearms or firearm parts. This bill goes a significant way towards correcting this oversight in public safety and provides resources that the brave and dedicated men and women protecting our streets need in order to properly investigate gun-related crimes. I am sure many other pieces of legislation or changes to the regulations will follow. Some opponents of the legislation will argue that this will restrict the ability of gun clubs to sell ammunition to their members as some do not own firearms.

The Minister in reply will further elucidate on this issue. The legislation provides an exemption to club armourers that will allow them to sell ammunition to club members strictly for firearms registered to the club. These individuals will be registered members of the club and known to the respective club management. Records of these sales will be required, as outlined in section 45 of the Firearms Act 1996. Some members have suggested that this legislation unfairly targets all gun owners rather than focusing on the criminals of organised crime who are carrying out these heinous acts of drive-by shootings.

However, I bring to the attention of the House a 2008 publication by the Australian Institute of Criminology in which researchers found that of offenders known to have used a handgun to commit a homicide between 1989 and 1990, only 12 per cent were licensed firearm owners and only 2 per cent had used a registered firearm. However, the ammunition for firearms that were used in these criminal acts was generally easily purchased from gun dealers. This Government has a responsibility to close this glaring loophole. The bill does not seek to collectively penalise all gun owners but rather to ensure that all parties who wish to own handguns and purchase ammunition do so in a manner that does not undermine public safety and that provides transparency for police investigations.

The legislation has the support of many community leaders and law enforcement officials, in particular the New South Wales Commissioner of Police, Andrew Scipione. Commissioner Scipione recently remarked that this legislation was long overdue and would assist his officers in reducing gun violence and investigating gun crimes. I am confident that gun violence in our communities will be given more attention and an appropriate response as a result of this legislation, which I believe our citizens are demanding. Even though members opposite are bleating and making incredible statements they will still vote for the bill because they know if they do not they will incur the wrath of the public.

The bill provides ample time for the NSW Police Force and ammunition dealers and shooters to prepare and put in place adequate forms of record keeping and for the requirements of the bill to be met. I believe it is reasonable. Certainly the Minister will discuss that further in his reply to the second reading debate and in Committee. This Government has chosen to remain vigilant and proactive in response to the escalation of criminal acts and to provide our police with the necessary tools to ensure the safety of our communities even as members opposite make the conscious decision always to politicise aspects of urban crime. They should give it away. They had 16 years and they lost the election overwhelmingly. People do not want these issues politicised; they do not want smart remarks and personalised comments against other members. They just want members opposite to get on with the job. I commend the bill to the House.

The Hon. LUKE FOLEY (Leader of the Opposition) [6.52 p.m.]: I will make a contribution to the Firearms Amendment (Ammunition Control) Bill 2012. I endorse all the remarks of my colleague the Hon. Steve Whan, who has led for the Opposition in this House on the bill. I am a suburban boy. I grew up without an exposure to firearms or to sporting shooting or farmers. My education on the ways of law-abiding firearms owners has come over the past decade. My father-in-law is a farmer, albeit not in the New South Wales jurisdiction but on the other side of the world. I have made about 10 trips to his farm over the past decade in the process firstly of wooing his daughter back to Australia and, in more recent years, taking her back there as my wife and taking my children. Those visits and my stays on the family farm have opened my eyes to a way of life I just was not exposed to in my first 30 years.

My father-in-law uses firearms regularly on his farm. My brother-in-law has taken me out shooting at night on a number of occasions. Fortunately, most of the time he, rather than I, handled the firearm. Those visits have been most educative. In addressing this bill I draw on those experiences that have come to me in the last 10 years of my life. I know it is common practice for my father-in-law and his neighbouring farmers to share ammunition and firearms. It is just common practice when different types of weapons are needed to deal with particular animals or particular tasks on their farms.

The Hon. Robert Brown: Like borrowing a hammer.

The Hon. LUKE FOLEY: I acknowledge the interjection of the Hon. Robert Brown. He is absolutely right to suggest that for working farmers firearms are another tool of the trade. I have received correspondence from farmers in recent days, as I am sure many members have, about the implications of this legislation, if passed, for their practices in using firearms as a tool of their trade. Mr Patrick Cummins wrote to me and said in part:

I assist a farmer control feral animals, namely pigs and goats, on his property in Western New South Wales. My rifle is not of large enough caliber to humanely kill feral pigs so if I purchase the ammunition the farmer lends me his registered .30 caliber rifle for which I am a licensed shooter.

He goes on to say:

I must show my Shooters License already when I wish to purchase ammunition and then I must store it in a separate safe to my firearms. I agree with this. I do not need any further legislation to do with ammunition that will not stop a criminal from illegally getting his/her hand on ammunition. He/she will get it anyway. The law means nothing to criminals, only to the law abiding. Surely you don't target the law abiding citizen to halt criminal activity?

The Sporting Shooters Association has written to me and other honourable members. They advise that section 65 of the Firearms Act already restricts the sale of ammunition, making it an offence for a person to sell ammunition to a person who does not hold a firearms licence or permit authorising their possession of a firearm that takes the ammunition being purchased. The sporting shooters make the point in their correspondence that in their view the proposed change brought by the Government will not make any difference to the number of drive-by shootings. They assert that criminals will continue to obtain ammunition through illicit means just as they continue to obtain firearms through a black market.

What farmers and sporting shooters assert in their correspondence is that the real impact of this legislation, if carried into law, will be a further imposition on the rights of law-abiding firearm owners and of farmers and sporting shooters. I am yet to see the case made by Government speakers in this debate that would provide persuasive evidence to members that the bill will be effective in reducing the number of drive-by shootings. The evidence simply has not been brought. Small business people will also be affected in this way. The promise of a Liberal-Nationals Government in its Start the Change manifesto to which I have often referred in this House was to reduce red tape for business, in particular, small business in New South Wales. Indeed the plan in the Start the Change manifesto was to reduce red tape for businesses and the community by 20 per cent by June 2015.

This bill goes in the opposite direction and increases red tape for those people engaged in the business of selling ammunition. Unlike the Government Whip, I am not a "get government out of our lives" type of person. My position has always been to support active government as a force for good but I do not support unreasonable government interference in the rights of law-abiding citizens unless there is a persuasive case for that government interference. As a social democrat there are many times when I can and will support government interference in people's lives if there is a valuable social outcome to be realised from that interference. Many Government members profess that they cannot support it as they do not believe in it. I am not a "get government out of our lives" type of person.

The Hon. Dr Peter Phelps: Shame!

The Hon. LUKE FOLEY: I acknowledge the interjection from the Government benches. If that is the view of the Hon. Dr Peter Phelps he should vote against this bill which will clearly interfere in the lives of farmers, sporting shooters and small business people in the business of selling ammunition. I look forward to hearing from those members of the Liberal Party who profess to believe that, above all else, government should get out of the lives of individuals. I look forward to them joining the Shooters and Fishers Party to vote against this legislation as that is the only consistent course they can take. This bill imposes severe and new restrictions on the lives of farmers, sporting shooters and small business people.

The Hon. Robert Brown: Not to mention the added security risk for those individuals.

The Hon. LUKE FOLEY: I acknowledge the interjection of the Hon. Robert Brown. It is incumbent on the Government to provide some evidence to show how this bill will improve the occurrence of drive-by shootings. I do not believe it will. The Government is charged with doing something to arrest the current spate of drive-by shootings. The Government has been asleep at the wheel this summer in relation to the spate of drive-by shootings in western Sydney. During the summer the Labor Opposition called for the bikie legislation to be reintroduced and passed through this Parliament. The Leader of the Opposition, John Robertson, asked for the Parliament to be recalled, given the great urgency for this Government to respond to the spate of drive-by shootings in western and south-western Sydney.

The Labor Opposition has repeatedly called for the current lack of strength in police numbers in south-west Sydney to be addressed as a matter of urgency. We want the excess numbers in places such as Ku-ring-gai to be redirected to these hotspots in south-west and western Sydney that currently are being plagued by the drive-by shootings that are being perpetrated by criminals. The target ought to be criminals, not law-abiding firearms owners. They should not be persecuted when the real target ought to be the criminals who are committing these drive-by shootings.

The Liberal-Nationals Coalition says that it needs this law to reduce drive-by shootings. The Commissioner of Police says that the police in this State need this power to address drive-by shootings. The Opposition will not oppose the bill, given that the Government and the Commissioner of Police assert that they need that power. We will certainly hold the Government to account over the months and years ahead to ensure that their claims are borne out by evidence. If this bill becomes law it should do what the Minister and the commissioner claim it will do—that is, reduce drive-by shootings. I understand that discussions are underway. I hope that before the Parliament resumes in two weeks time progress will have been made and the bill will be amended to reduce its imposition on farmers, sporting shooters and small business people.

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

EDUCATION AMENDMENT (RECORD OF SCHOOL ACHIEVEMENT) BILL 2012

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Michael Gallacher, on behalf of the Hon. Duncan Gay.

Motion by the Hon. Michael Gallacher agreed to:

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

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

ADJOURNMENT

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [7.09 p.m.]: I move:

That this House do now adjourn.

ARMENIAN GENOCIDE

The Hon. WALT SECORD [7.09 p.m.]: I advocate that the Government reaffirm its bipartisan support for the Armenian people and commemoration of the Armenian genocide. Further, I urge my colleagues to show their commitment by accepting an invitation to undertake a multiparty delegation to Armenia. My initial interest in Armenia arose from my study of genocide. It was from a study of the Armenian genocide that the term itself was coined in the early 1940s by Raphael Lemkin. Regrettably, there is not enough general awareness of the Armenian genocide. This matters because those who commit atrocities today rely on the fact that people will forget them tomorrow. Adolf Hitler cited this very fact in August 1939, asking: "Who, after all speaks today of the annihilation of the Armenians?" This only highlights the importance of publishing these dark chapters of history and preventing attempts to use the passage of time to deny the truth.

It is time for Turkey to accept the past and to unequivocally recognise the Armenian genocide. I emphasise to members that in saying this I am not proposing something radical. In 1997 the New South Wales Parliament passed a bipartisan resolution recognising and condemning the genocide of the Armenians. It also designated 24 April as a day of remembrance in New South Wales. That was the day when in 1915 Ottoman authorities arrested some 250 Armenian intellectuals and community leaders. That was the start of the Armenian genocide. Over the next four years, 1.5 million out of a total 2.5 million Armenians were systematically killed.

Under a similar genocidal policy, the Greek and Assyrian populations of the Ottoman Empire were also eliminated. Churches, entire neighbourhoods and even cemeteries were destroyed. Members could not help but note that this date, 24 April, was also the eve of Gallipoli. That very night young Australian diggers waited, preparing to meet an enemy. At that very moment, soldiers of the Ottoman Empire were commencing the very atrocities and assaults on freedom that Australians would always stand against. In fact, young Australian diggers were witness to these atrocities while sheltering in abandoned Armenian churches. We still stand against them today.

It is time for this Parliament to reaffirm that 1997 resolution. I note that the final article of that resolution called on the Commonwealth Parliament to recognise the Armenian genocide as a crime against humanity. Mercifully, the Armenians survived and flourished as a people and a nation. But present-day Armenia faces many challenges. Landlocked as a result of the Armenian genocide, it is surrounded by Georgia, Azerbaijan, Iran and Turkey. It is blockaded by Azerbaijan and Turkey and must balance delicate relationships with Georgia, Iran, Russia and the United States.

In late December, I had the honour of visiting Armenia and the Republic of Nagorno Karabakh, also known to the Armenian people as Artsakh. I met with locals, business people, government officials and parliamentarians. I saw also important political, cultural and historical sites. I had the honour of laying a wreath at the national genocide museum and memorial in Yerevan. Further, I travelled by four-wheel drive for seven hours each way and across a tiny road corridor to Artsakh. The Armenian population in Artsakh can trace their presence there back to the sixth century BC. Currently, Artsakh is not internationally recognised as a State. Seized under Stalin, it has been subjected to decades of persecution.

Armenia has also been at war with Azerbaijan. However, the Armenians have survived and Artsakh Armenians have fought for their autonomy. Memories of the war are everywhere in Armenia and Artsakh. In Yerevan, there are hills that were stripped of trees for fuel when Armenia was the subject of embargos during the war. In Artsakh, I stood on the plateau which is the site for Shushi, the town from which during the war the Azeri army fired missiles at their capital city, Stepanakert. In a night assault on 8 May 1992, the Artsakh Armenians captured and conquered Shushi. This plateau has a special place in modern Armenian history and the events there are seen as a turning point in the war. There are parts of the Artsakh capital city that still bear bullet holes from that episode in history.

I visited and had a personal tour of the Artsakh Museum of Fallen Soldiers, which honours those who died in the 1990-94 war and the Museum of Missing Soldiers, which is a testament to the disappeared. Incidentally, during my visit, there was a meeting of parents who were still trying to get information about their children who went missing during the war. I note that the Azerbaijan diplomatic representatives have been active and have protested to the Department of Foreign Affairs about my visit to Artsakh. I make no apologies for visiting this region.

Further, I will not apologise for supporting the Armenian diaspora, for expanding my knowledge of the Armenian genocide or for visiting Artsakh. I believe that Artsakh Armenians should have the right to determine their own political and economic future. I object to the suggestion that there is anything provocative about a member of this Parliament in a State with a significant Armenian diaspora wishing to understand and support the contemporary Armenian cause. I urge this House to recommit to its support for the Armenian people. Finally, I commend the Armenian National Committee of Australia for putting this issue at the forefront of our minds.

INDEPENDENT SCIENTIFIC AUDIT OF MARINE PARKS

The Hon. ROBERT BROWN [7.13 p.m.]: I draw the attention of the House to the report of the Independent Scientific Audit of Marine Parks in New South Wales. I commend the chair, Associate Professor Bob Beeton, on his thorough examination of the subject. In a nutshell, the findings of the audit report confirm what most fishermen already believe; that is, that the original science behind the establishment of the parks and

their zonings needs to be redone. It is no secret that the parks were set up by the former Government in a cosy little deal with The Greens of the day. Those so-called "parks" had nothing to do with protection or conservation. Let us be clear: The parks were a pure political deal between the Labor Left and The Greens.

I note that the chief executive of the Nature Conservation Council, Pepe Clark, said that the report "lays to rest claims that marine parks and sanctuaries are based on voodoo science". Mr Clark is wrong. In fact, the audit found that "the social and economic impacts of the marine parks were not properly considered when the parks were created". That clearly leaves one free to accept the claim that they were indeed based on political dealing and on voodoo science. However, as always, The Greens are never satisfied. Mr Clark put his spin on the report and then foreshadowed a push to further restrict the fish that recreational fishers can take. He says that because recreational fishers are catching almost a third as many fish as the commercial fishing fleet, he wants a higher level of protection. In green-speak, and according to Mr David Shoebridge, that means fishers can have only three firearms and now, according to Mr Clark, probably only one fish. Who will they come after next? They have had shooters and fishers under the hammer for ages—16 years to be precise.

I believe that recreational fishers should be pleased by most if not all of the report's recommendations because it provides a fair balance between the needs of conservation and use. That balance is called "sustainable use", and it is supported by the International Union for Conservation of Nature. I welcome the recommendation that the governance of the New South Wales marine estate be reorganised by bringing it all under one legislative and administrative structure and including the catchment management authorities covering the State's coastal drainage system. Members should note that the report does not call it "marine park". It is also a sensible recommendation to have the science of the marine estate reorganised under an independent scientific committee whose research priorities put proper emphasis on research in the social and economic sciences and the application of these findings to management of the marine estate.

The report recommends also that approaches to zoning be reassessed and based on management objectives which are specifically geared to ecological and biodiversity outcomes and which utilise economic and social assessments in their implementation and evaluation. I hope the Government takes up the recommendation in relation to improving approaches to zoning that say significant resources need to be allocated to research before any more lines are drawn on a map. I call on the Government tonight to put aside the necessary budget for Minister Hodgkinson's department so that the work can be done. If the budget is not made available the report is not worth the paper it is printed on.

One of the most important recommendations is that the needs of user groups be included in any future management models, in the context of a much expanded New South Wales marine estate, which could include innovations such as havens for particular forms of fishing or other specific uses. The Government has kept its word on delivering this truly independent review. I hope it also has the determination to see a shift to sustainable utilisation as a now accepted method of conserving biodiversity. Hopefully it will not go down the same path as the previous Government and allow voodoo science and political dealing with The Greens to determine how the new marine estate is managed.

COAL SEAM GAS EXPLORATION

The Hon. SCOT MacDONALD [7.18 p.m.]: At the beginning of January this year I inspected coal seam gas sites and the Origin water treatment plant near Kogan in Queensland. I met also with concerned farmers who were seeking more information about the coal seam gas industry. It was interesting to sit and talk with them over a cup of tea. I concluded that most of their reticence arose from a sense of powerlessness. They fear that drillers would come onto their properties and that they would face an invasion of privacy, interference to their farming operations and a possible loss of control. Overwhelmingly it was these personal challenges that were uppermost in their minds. Environmental risks were part of their considerations, but it was primarily an issue of control. Most of these farmers are on large properties. They are self-reliant and independent people. I can see why the emergence of drill rigs and the necessity to strike a land access agreement is unusual and challenging for them.

I took two farmers from the Condamine region with me to the Origin operation at Kogan. It would be fair to say both gentlemen were apprehensive. Their properties are probably going to be approached for access for gas exploration in the near future. I asked Origin for the opportunity to look at the water treatment plant. I believe it is one of the key factors in the coal seam gas debate. I agree that we need to ensure produced water is handled properly and that any treatment by-products, such as brine, are disposed of safely. I was particularly keen to see the water being returned to the Condamine River after treatment. Returning water is demanding technology. If the temperature and quality are not suitable there are serious risks to the ecology of the river.

We need to put this issue into context. Origin is currently returning eight to 12 megalitres of water per day into the Condamine River. That capacity may increase to 30 megalitres per day. Over a year that could amount to 11 gigalitres. That has to be compared to the levels of extraction from the system. The Murray-Darling Basin Authority estimates the baseline diversion limit from the Condamine-Balonne river system is 978 gigalitres annually. Therefore, the coal seam gas industry may be redressing the irrigator, stock water and town water take by 1 per cent. It seems to me that this is hardly a threat but an opportunity for better surface water health.

Origin showed us the Talinga operation. We looked at many coal seam gas well sites which were unobtrusive and did not seem to present any problems to the working farm. We were shown the reverse osmosis plant, collection dams and the site where the water re-entered the Condamine. We discussed the Queensland Government guidelines for treated water. They were stringent with the requirement that the returned water was compatible with the natural system. There appeared to be comprehensive monitoring and reporting systems. I place on the record my appreciation to Origin Energy for hosting us on 10 January. I have a stronger understanding of the investment in produced water treatment. The visit will help me in contributing to the inquiry into coal seam gas. The two local farmers who joined me on the inspection had many "lock the gate" myths dispelled. They had a frank and productive dialogue with Origin staff—a good basis for making informed decisions rather than the fearmongering of The Greens, the Socialist Alliance and associated groups.

The most striking clarification for the farmers was the reassurance that the coal seam gas infrastructure would not be developed where it interfered with farming operations. I have been visiting family friends on a farm that is adjacent to the Condamine River for 40 years. I have witnessed farm aggregation, depopulation and the decline of small towns in the region, which has been heartrending. Where there were once families with young children there are now empty cottages. These are the consequences of tough terms of trade and rapid developments in technology. But coal seam gas is reinventing western Queensland and young people are returning. Towns such as Miles and Chinchilla are enjoying a reversal of fortune.

Opposition to coal seam gas is easy—prosecuting a negative is always tempting for the opportunistic. I challenge the community to look at the industry firsthand and to think about viable, sustainable regional development. I challenge the community to think also about the young men and women who, without the opportunities afforded by coal seam gas mining, would have had to move away to the city for work. Let us develop appropriate environmental planning guidelines, abide by our ecologically sustainable development principles and think also of those who do not agitate noisily. They are the next generation of working men and women who want to make a contribution, have a career and a life in regional New South Wales and who do not have the luxury of a working farm that will be passed on to them.

MRI E-CYCLE SOLUTIONS INDUSTRIAL ACTION

The Hon. PETER PRIMROSE [7.23 p.m.]: Bruce Jackson has a poster over his desk that states, "You can't trust Slippery Jackson." Last week nine workers at MRI e-waste recyclers at Wetherill Park drew a line in the sand and said that they would take no more disdain from their employer, Bruce Jackson. The workers stopped work for 24 hours. This was a big step for these workers, who have never taken industrial action before and who are amongst the lowest paid workers in their industry. The last pay rise that Bruce Jackson gave his workers was 3¢ an hour, and that was three years ago.

The workers, all family men and women, feed and educate their children and pay their rent and medical bills on around \$18 per hour—when they are paid by Bruce Jackson. The word "when" is important in that context. This is because, despite their low wages, Bruce Jackson often does not pay his workers on time. They are often made to wait for days until their pay goes into their accounts. The workers are frequently fined because they are overdrawn on their accounts. Their bank direct debits—such as child support, loan repayments and rent—are not paid on time. The workers at MRI have found also that their superannuation instalments have not been paid.

The MRI premises at Wetherill Park, where office equipment is salvaged, stripped and recycled, were filthy and unsafe. The safety equipment was damaged and protective clothing was damaged and did not fit. The workers—who Bruce Jackson refers to as "my dummies"—had had enough. They approached the Australian Manufacturing Workers Union for help. But instead of meeting with the union or the workers to discuss the issues, Bruce Jackson laid off five workers, including the cleaner, telling the workers that they should clean their own toilets. At times, when there were scheduled meetings with the union, he went on holidays to Port

Macquarie. Despite instructions from Fair Work Australia on four separate occasions over the past 12 months, Bruce Jackson refused to meet with the union, or else he agreed to terms, only subsequently to email his refusal within hours of shaking hands on the deal.

Bruce Jackson does not deny himself. When he bought himself a new mansion on Sydney's North Shore, he directed his workers to spend two days moving his family and their belongings into his new home. Most of the workers live with their families around Mt Druitt, and were asking for a pay rise of 50¢ an hour. Bruce Jackson's response was that he would give them 50¢—but only if the workers gave up their morning and afternoon tea breaks. He told them also that they could keep their annual picnic day—but only if they spent the day working in the grounds of his local church.

Tim Ayres is the State Secretary of the Australian Manufacturing Workers Union. When he met with the workers on site last week they told him that they needed a pay rise simply to meet everyday living expenses for their families. They told him also that they just wanted to be treated with some dignity. New South Wales boasts many good employers—intelligent, innovative people who work with their employees and demonstrate the best of entrepreneurial skills. Bruce Jackson is not one of those people. His treatment of his employees is shameful. His disrespect of industrial laws and courts is offensive. In case he missed it, the 1823 Master-Servant Act no longer applies in New South Wales. At a time when extremists in the Federal Opposition are again calling for a return to WorkChoices, Bruce Jackson is a fine example of why we still need strong trade unions, strong industrial laws and strong industrial courts.

The seriousness of the challenge facing manufacturing in New South Wales should not be underestimated. Unions, industry and government should focus on the productivity issues that matter: investment in infrastructure, skills and innovation, to lift economy-wide productivity and provide a more conducive environment for manufacturers to invest, building better and more productive manufacturing businesses with the management systems and organisational capabilities required to succeed in an ever more competitive global economy. Industry and government must reject the Bruce Jackson "race to the bottom" approach of cutting wages and jobs. Convict era industrial relations practices have no place in twenty-first century Australia.

WARKWORTH COALMINE

The Hon. JEREMY BUCKINGHAM [7.28 p.m.]: Tonight I record my concern that mining interests in New South Wales have once again been prioritised ahead of the community. The New South Wales Government has approved the extension of the Warkworth coalmine near Bulga in the Hunter Valley. On 3 February the Planning and Assessment Commission approved the expansion which will result in the extension of the life of the mine by 12 years, which will now come to an end in 2033. This expansion means that the township of Bulga will come under threat from a broad range of negative environmental, health and transport impacts. These include the total destruction of biodiversity offsets which were guaranteed by the previous Government at the time of a previous expansion approved in 2003. Bulga is now at risk of going the same way as nearby towns such as Warkworth, Ravensworth, Ulan and Wollar.

At the 2011 State election the Coalition released a strategic regional land-use policy that aimed to create strategic regional land-use plans to determine which areas should be ruled out for coal and gas development in New South Wales. This policy boasted the benefits of a triple bottom line assessment that would take into account the environmental, social and economic characteristics of each area. As yet, no strategic regional land-use plan has been made public for the Upper Hunter. But despite this, a major mining expansion has been approved that will have guaranteed impacts on the community and that will destroy some of the last remnants of the Warkworth sands ecological community. The community is now asking, "What is the value of this Government's strategic land-use promises?"

One of the most disturbing aspects of this approval is that the community was promised that the neighbouring biodiversity offset area would be protected at the time of the previous expansion in 2003. The company signed a deed of agreement with the Government to provide assurances. The expansion area of the Warkworth coalmine is set to desolate a non-disturbance area which was to be set aside for conservation by inclusion in the Singleton local environmental plan.

The deed of agreement states that Warkworth must request council to amend the Singleton Local Environmental Plan for a new conservation zone prior to carrying out any development on the previous extension area. This most recent expansion of the Warkworth coalmine was approved without that deed

condition being satisfied. Now it seems certain that much of this area will be destroyed to make way for a hole in the ground. This loss of biodiversity offset will lead the endangered Warkworth Sands Woodland to extinction and threaten a number of endangered species. What is even more disturbing is that the approval by the Planning Assessment Commission recognises that the proponent may be unable to secure suitable land to offset the impacts of the project on the identified endangered ecological communities—in this case a best effort will seem to do.

The Warkworth coalmine expansion will have a number of other negative impacts on the local community and environment. Coal trucks and noise from mining operations have been the cause of complaint from local residents unable to sleep. In addition, they have had walls cracked and doors broken. This expansion will bring the mine to within 2.6 kilometres of the township of Bulga and 24 privately owned residences are now faced with the decision of accepting a buyout by the company or suffering tremendous disturbances into the future. What sort of choice is that? The expansion will lead to the closure and destruction of an important local road: Wallaby Scrub Road. This shortcut, which connects Cessnock and the Lower Hunter to the Central West, is an important piece of social infrastructure. Its closure is not supported by either the community or Singleton Shire Council.

With the introduction of a carbon tax last year and wide community recognition of the need to move towards a renewable energy future, it is alarming to see the New South Wales Government expanding existing coalmines and supporting the expansion of the coal industry in New South Wales past 2020. The expansion of the coal industry is a short-sighted decision that is not consistent with the stated emission reduction targets of New South Wales and Australia. The State Government is developing a terrible environmental record. At every opportunity it opposes renewable energy sources, such as solar and wind, and supports more coalmining and the development of coal seam gas and uranium. It is ignoring the opportunity for regional New South Wales to lead the way on renewable energy and at the same time protect agricultural industries. Regional Australia needs to be presented with an alternative to dirty coal and gas. The Government must keep its election promises to regional New South Wales and look strategically at the land-use debate. It must prioritise the people of this State and their need for clean food, air and water over the profits of big mining companies.

MEDICARE

The Hon. Dr PETER PHELPS [7.32 p.m.]: What is the connection between a tax on alcopops, increasing the health insurance penalty, banning solar beds and restrictions on smoking? They are all a consequence of the socialist medical system in Australia. Most people say that they like Medicare, but do they really understand its consequences? Let me put it plainly. Medicare offers moral justification for the Government to interfere in your life. How does it work? Medicare allows for medical treatment at no direct cost to the patient. People might not like to admit it, but health is a market and, like all markets, where there is no cost there is no price signal to influence behaviour. What does that mean? It means that, in the absence of a price signal, there is no reason to behave in a healthy manner. People can be as dissolute as they like and pay no personal cost for their actions—this has consequences.

The first consequence is the failure to provide any incentive to do the right thing. You might as well go out, get drunk, get into fights, smoke crack cocaine and have unprotected sex—after all the Government will pay your medical bills, not you. But this leads to the second consequence: governments do not have money of their own. They take it from people in what is generally called taxation, but it might just as appropriately be called legalised theft. To pay for the medical consequences of the indulgences of person A, governments must raise funds from person B. "Ah", I hear you say, "but they also raise funds from person A." That may be true, but the question is: Do they raise enough taxes from person A to entirely cover their medical costs? If the answer is yes, then why do we need socialised medicine in the first place? Why not just let everybody pay for their own expenses? However, if the answer is no—which is more likely—then we have the situation where those who live healthy lifestyles are compelled to pay for the cost of those who do not.

As I said in my maiden speech, why do socialists believe that a rational market will pursue virtue, when virtue is punished and wickedness and indolence are rewarded? As medical costs rise, taxes must also rise and all governments hate the political consequences of raising taxes. So the Federal Government seeks to defray the health costs by forcing people on above average incomes to pay an additional amount of pseudo-taxation. People are compelled to either subsidise the private health sector through private health insurance or face a higher Medicare tax. Either way they are being forced to subsidise a system which, if they take care of themselves, they may never need to use. I do understand the plight of those who have chronic biological medical conditions and simply cannot fund their own medical costs. This is an instance where market failure legitimately

calls for government intervention, and I am happy to contribute to such. But I am totally unsympathetic to those who have consciously adopted, and continue to maintain, destructive lifestyle choices that necessitate my subsidising their medical care at great expense.

Aside from the purely fiscal considerations, there is a much more insidious and dangerous problem caused by socialised medicine. Governments now run what are euphemistically called lifestyle campaigns, purportedly to make us healthier and because they care about us, but really they are to reduce the net demand for health services. We are told to stop smoking, stop drinking, exercise more, not use drugs, not to eat fast food, put on sunscreen and make sure our kids do not get fat. When that fails, as it inevitably does because there are no price signals limiting demand for health services, out pops the authoritarian hoof and governments start banning stuff. Members will recall that I have spoken of the petit Fascism of the scientific community in relation to man-made global warming. But that same strain also emerges in some sections of the medical community: The mentality of not just "we know what's best for you" but "you must do what we say". It is the idea that adults are children who cannot be left to their own devices.

This desire to run our lives dovetails nicely with government's desire to reduce medical costs. So they play off each other, mutually supporting, mutually reinforcing. The net result of all this is a massive loss of liberty and a destruction of the right to freedom of action by individuals. The ability of people to make their own mistakes, to pay and learn from them, has disappeared. We are now little children who must be told what to do in our lives. Who is to blame for this lamentable state of affairs? We are. We, the Australian people, who thought we could get something for nothing and found that the laws of economics are just as immutable as the laws of gravity. My fellow Australians wanted a system of so-called free medical care and they got it. Are they now prepared, as a direct consequence, to let government run their lives, rather than as they see fit? [*Time expired.*]

JOB LOSSES

The Hon. SOPHIE COTSIS [7.37 p.m.]: In the lead-up to the 2011 State election Barry O'Farrell promised that if elected he would create 100,000 jobs and he personally signed copies of a contract with New South Wales. On 16 March 2011 he said, "I am happy to resign if I don't deliver on these promises." The O'Farrell Government has been in office for almost a year. How are things progressing with those 100,000 jobs? Not good at all. In fact, New South Wales has lost 22,900 jobs. That might seem like a statistic cited as a political point; it is not. Human lives have been uprooted and upended—real people with mortgages to re-finance, credit card bills to pay and children's education costs to pay. These include 106 workers at Pacific Brands, whose jobs have been moved from western Sydney to Victoria; 500 workers to be sacked by Westpac and 150 jobs to be sent offshore; thousands of jobs lost at Kell and Rigby; 250 aluminium smelter jobs in the Hunter; 190 jobs at Reckitt Benckiser at West Ryde; hundreds of subcontractor businesses will hit the wall—

The Hon. Scot MacDonald: Point of order: The Hon. Sophie Cotsis is misleading the House. The Government has created 18,000 jobs—

The Hon. SOPHIE COTSIS: No, the Government has not done that. The Deputy Premier has done absolutely nothing. He has not been using the arms of government to go out to the community—

[*Time for debate expired.*]

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

Motion agreed to.

The House adjourned at 7.39 p.m. until Thursday 23 February at 9.30 a.m.
