

# LEGISLATIVE COUNCIL

Tuesday 13 March 2012

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

**The President** read the Prayers.

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

## DISTINGUISHED VISITORS

**The PRESIDENT:** I welcome into my gallery a former member of the Legislative Council, the Hon. John Tingle, accompanied by Ms Tennille Petrou. They are here to observe the proceedings of the House.

## NOXIOUS WEEDS AMENDMENT 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 later hour.**

## BUSINESS OF THE HOUSE

### Formal Business Notices of Motions

**The PRESIDENT:** Order! The Hon. Amanda Fazio has requested that three items be dealt with under Standing Order 44 today. However, she is ill. With the concurrence of the House, those items of business will be dealt with during formal business tomorrow. There being no objection, that course will be taken.

## JAPAN TSUNAMI FIRST ANNIVERSARY

**Motion by the Hon. NIALL BLAIR agreed to:**

1. That this House notes that:
  - (a) on Friday 11 March 2011, a magnitude 9.0 undersea megathrust earthquake off the Pacific coast of the Japanese island of Tōhoku occurred at 14:46 Japan Standard Time, resulting in 15,850 deaths,
  - (b) once a request for assistance by Japan was made to the Australian Federal Government, the negotiations and parameters for deployment were managed by Emergency Management Australia, and
  - (c) ATF1 (NSW TF1) commenced deployment and operations on 12 March 2011 and arrived back in Australia on 22 March 2011, and during this period the Australian Task Force T/F 1 completed the following operational achievements:
    - (i) 31 primary searches of buildings,
    - (ii) search of four square kilometres of earthquake and tsunami damaged area,
    - (iii) three days of travel to disaster areas,
    - (iv) five days of 12-hour operations,
    - (v) recovery of four deceased victims.

2. That, on the one-year anniversary of this disaster, this House recognises the contribution of the Australian and New South Wales task forces to aiding Japan in its largest peacetime disaster.
3. That this House extends continued condolences to Japan as it works through the difficult process of rebuilding.

## LEGISLATION REVIEW COMMITTEE

### Report

**The Hon. Dr Peter Phelps** tabled the report entitled "Legislation Review Digest 12/55", dated 13 March 2012.

**Ordered to be printed on motion by the Hon. Dr Peter Phelps.**

## IRREGULAR PETITION

**Leave granted for the suspension of standing orders to allow the Hon. Steve Whan to present an irregular petition.**

### Forests NSW Nurseries

Petition noting the proposed privatisation of Forests NSW Nurseries and requesting that the business of Forests NSW Nurseries be retained as a public enterprise, received from the **Hon. Steve Whan**.

## PETITIONS

### Coal Seam Gas Operations

Petition requesting that the House put communities and the environment ahead of the profits of gas companies, support a moratorium on coal seam gas exploration and extraction activities, and support an independent investigation into the environmental, social and economic consequences of coal seam gas activities, received from the **Hon. Jeremy Buckingham**.

## BUSINESS OF THE HOUSE

### Routine of Business

*[During the giving of notices of motions.]*

**The PRESIDENT:** Order! I call the Hon. Mick Veitch to order for the first time.

### REAL PROPERTY AMENDMENT (PUBLIC LANDS) BILL 2012

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

### ROAD TRANSPORT (GENERAL) AMENDMENT (VEHICLE SANCTIONS) BILL 2012

**Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Michael Gallacher.**

### Second Reading

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [2.56 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Road Transport (General) Amendment (Vehicle Sanctions) Bill 2012. The bill seeks to make key improvements to the current vehicle sanctions scheme, which to date has been primarily designed to target hoon type offences. The scheme is designed to immediately separate dangerous drivers from their vehicles and, in line with this concept, the bill proposes that other serious driving offences be relevant for inclusion in the scheme. The bill introduces practical and administrative efficiencies into the scheme by including number plate confiscation as an alternative vehicle sanction option for police for new offences where

a person misuses a vehicle that has had its number plates confiscated. The bill is the result of extensive officer level consultation between the Ministry for Police and Emergency Services, the New South Wales Police Force, Transport for NSW, Roads and Maritime Services and the Department of Attorney General and Justice. I thank those officers for their invaluable assistance.

The bill proposes that high-range speeding—that is, speeding by more than 45 kilometres an hour—and police pursuit offences be included as relevant offences for the vehicle sanctions scheme. It is well recognised that speeding contributes directly to the cause of crashes through loss of control and insufficient reaction time. It also significantly increases the severity of the crash. In total, in 2011, 225,401 legal actions for speeding were commenced in New South Wales. Current Australian research shows that the risk of being involved in a casualty crash whilst travelling at 90 kilometres an hour in a 60-kilometre speed zone is around 64 times that of travelling at the speed limit. The risk is even greater when speeding at more than 45 kilometres over the speed limit. In 2011 Roads and Maritime Services estimated that speeding was a factor in 150 of 376 recorded road deaths. This equates to 41 per cent of all road deaths. In 2011 the New South Wales Police Force commenced 3,079 legal actions for exceeding the speed limit by more than 45 kilometres.

According to figures taken from the website of the State Debt Recovery Office there were 302 camera-detected high-range speeding offences in the 2010-11 financial year. Despite already tough penalties, which include both immediate roadside licence suspension and fines of up to \$3,300, both sets of figures have remained relatively constant. For practical reasons it is proposed that vehicle sanctions will only be imposed where the high-range speeding offence is detected by a police officer and not by a camera. Camera-detected offences cannot result in the immediacy of a vehicle sanction because the actual offender is not spoken to or identified at the time of the offence. Camera offences must follow an administrative process to, first, identify the vehicle and serve a penalty notice on the registered owner. Then there is a separate process by which the registered operator identifies and nominates the offending driver.

For practical purposes vehicle sanctions for high-range speeding will not be imposed in variable speed zones with the exception—and let me make this very clear—of school zones. School zone speed limits are well understood by drivers and it would send an unacceptable child safety message to exempt offences committed in school zones from the vehicle sanction regime. If a section of road is subject to a variable speed limit because of traffic volumes, road conditions or roadworks, for example, the applicable speed limit will be the highest speed limit that applies to that length of road, not the lower variable speed. But if the normal speed limit for a length of road is 100 kilometres per hour and the variable speed limit is, for example, 90 kilometres per hour, a vehicle sanction would only be imposed where the driver travelled at 146 kilometres per hour or more—that is, 100 plus 46—and not at 136 kilometres per hour, 90 plus 46.

Where an individual driver is subject to a lower speed limit then vehicle sanctions will apply when that lower speed limit has been exceeded by more than 45 kilometres per hour. For example, a provisional P2 driver has a speed limit of no more than 90 kilometres per hour even if the street speed limit is 100 kilometres per hour. Therefore if a P2 driver is doing 136 kilometres an hour—that is, 90 plus 46—he or she will be exceeding his or her limit by more than 45 kilometres per hour and the new vehicle sanctions will apply. The bill proposes that offences relating to a police pursuit will also be relevant for vehicle sanctions.

Where a person is charged under section 51B of the Crimes Act, which members will know as "Skye's law" in honour of little Skye Sassine, police may also apply a vehicle sanction. Skye's law recognises that even when pursuits do not end in a crash they are inherently risky for the police involved, the offending driver, their passengers or anyone else in the vicinity of the pursuit. Skye's law, advocated by the New South Wales Liberals and Nationals and introduced under the previous Government, brought in tougher penalties for engaging in a pursuit of up to three years imprisonment for a first offence and up to five years imprisonment for a second offence, regardless of whether or not a crash occurs. The new offences commenced in March 2010.

From then until the end of January 2012 police commenced 1,168 legal actions for the new pursuit offences, 30 of which were for second or subsequent offences. In 2011 alone there were 1,781 police pursuits and 635 legal actions under Skye's law, including 20 for second or subsequent offences. High-range speeding and the offence of being involved in a police pursuit are very dangerous behaviours and present a high risk to the community. It is appropriate that these offences be brought within the vehicle sanction scheme and that the offenders are treated similarly to those who commit car hoon offences.

One of the sanctions created in the bill is a power for police to remove and confiscate number plates as an alternative option to impounding a vehicle. Number plate confiscation prevents a vehicle from being legally

driven on a road or road-related area and has the same effect as vehicle impounding even though it does not physically remove the vehicle from the offender's possession. Number plate confiscation will be a quicker, easier and less costly sanction for police to apply. Police will not need to arrange and pay for the towing of a vehicle. Officers will not have to remain with the vehicle until it is towed away, which will mean they are released sooner to perform other duties. There will be no vehicle storage costs for police and no need for police to pursue operators to recover unpaid towing and storage fees, which are currently borne by the New South Wales Police Force.

In 2011, 137 vehicles were confiscated for car hoon offences. Expanding the vehicle sanction scheme to include additional offences will in turn increase the number of vehicles and offenders subject to vehicle sanctions. Number plate confiscation will offer police a cost-effective and practical alternative to vehicle impounding, which I will elaborate on shortly. The current provisions allow police to apply a vehicle sanction irrespective of whether the offender was the registered operator of the vehicle. The proposed amendments introduce a distinction in the way a vehicle sanction is applied, depending on whether the offender is the registered operator of the vehicle or not.

For the purposes of the proposed amendments a "non-offending operator" is the registered operator of the vehicle used in the offence but who was not the driver who committed the offence. Non-offending operators will not incur roadside vehicle sanctions but will be subject to an administrative registration suspension scheme, which I will detail shortly. An "offending operator" is the registered operator of the vehicle used in the offence who is also the driver who committed the offence. Offending operators will face roadside vehicle sanctions, which will include the well-established practice of vehicle impoundment and forfeiture or the new number plate confiscation proposal.

I will now explain the revised scheme as it relates to an offending operator. For a first offence by an offending operator the sanctions available to police at the roadside will be vehicle impounding or number plate confiscation. In both cases the bill proposes that the sanction period will be three months. Where a vehicle is impounded it will be moved to and stored at a police holding yard, as is the current practice. Where number plates are confiscated, police will deliver the plates to Roads and Maritime Services. Roads and Maritime Services will hold the number plates for the duration of the three-month sanction. Applying a fixed three-month sanction period from the offence date is an improvement over the current arrangements. Currently a vehicle is impounded until the substantive driving charge is heard and determined by the court. This results in inconsistent sanction periods, which can be more or less than three months. The current arrangements also require the courts, when hearing the substantive driving charge, to also rule on whether the vehicle should be further impounded or returned. The proposed amendments will increase court efficiencies in view of the fixed three-month sanction period.

The fixed three-month sanction period will ensure that the sanction is applied equally to all offending operators. It will not matter whether the offence is dealt with by a penalty notice or attendance at court, nor whether the offence was for high-range speeding, a pursuit offence or for one of the existing street racing offences. For second or subsequent offences the vehicle sanction process for an offending operator will be the same as for a first offence. However, as is currently the practice, if the court determines that the offending operator is guilty the vehicle will be forfeited to the Crown, but if the offender can demonstrate to the court that forfeiture will result in extreme hardship then the court may instead order that a further period of vehicle or number plate confiscation is appropriate. If the court makes no such order a registered operator will continue to have the right to appeal the forfeiture at a later time.

As with the current arrangements, forfeited vehicles may be disposed of by police or crash-tested by Roads and Maritime Services. Operationally, it is expected that where police detect a second offence by an offending operator they will impound the vehicle rather than confiscate number plates as a prelude to possible vehicle forfeiture following conviction. Operationally, repeat high-range speeding offences will proceed by charge rather than penalty notice, given that the vehicle may be forfeited on conviction of the offence. For the purposes of determining whether a second or subsequent offence applies, a high-range speeding offence dealt with by way of a penalty notice will count as a first offence.

An offending operator who has had a vehicle impounded or number plates confiscated for the fixed three months will continue to have the opportunity to apply to the Local Court for the earlier return of the vehicle or number plates. However, in approving an application the court must have regard to such things as the safety of the public and the public interest with respect to the likelihood of the vehicle being used for further

dangerous driving offences. The court may also consider any hardship that the confiscation may impose on another person other than the offender. The court cannot order the release of the vehicle or number plates earlier than five business days from the date of the initial confiscation.

I would now like to talk in detail about the new vehicle sanction of the number plate confiscation. Where an offence is detected by police and the driver is the offending operator, police will arrange for the vehicle to be parked in the most convenient legal street location at the time of the offence. Police will remove the number plates and affix a number plate confiscation notice to the vehicle. Confiscated plates will be delivered by police to a nominated motor registry. Police and Roads and Maritime Services [RMS] will develop operating procedures so that plates will be available for collection after five business days in the event that the local court approves an application for the earliest release of the plates; otherwise the plates will be available for collection at the end of the three-month confiscation period.

A vehicle that has had its number plates removed may no longer be driven on a road or a road-related area. It is the offending operator's responsibility rather than that of police to arrange and pay for the vehicle to be towed home or to another location where it may be legally parked. The number plate confiscation notice will be A4 in size and affixed to the inside of the windscreen. It must remain in place for the duration of the confiscation period and the number plate confiscation notice will clearly state that the vehicle is subject to a sanction and that the number plates have been removed. It will advise that the vehicle cannot be driven during the vehicle's sanction period and that the vehicle may be impounded and forfeited if operated during the sanction period. Other information on the notice will include the date on which the confiscation period ends, the name of the local area command of the police officer who issued the notice, the address from which number plates can be collected, information about the right to apply to the local court for early release of number plates and penalties for removing or tampering with the confiscation notice.

Some motor cycles and scooters have small windscreens which police could affix the notice to. Where motor cycles do not have a windscreen the notice can be affixed elsewhere, such as over the fuel tank or seat. Where this is not feasible or may cause damage to the vehicle police may elect to impound the motor cycle rather than confiscate the number plates. The offending operator will be issued with a receipt for the number plates, which will include similar information to the confiscation notice. The receipt will also advise of the right to make an application to the local court for the early release of plates but that plates will be released no earlier than five business days from the confiscation date.

The number plate confiscation notice will address the issue of other users of the vehicle being potentially unaware of the sanction and inadvertently driving the vehicle without noticing the missing number plates. It would be difficult to argue a failure to notice a large sticker affixed to the windscreen. The notices will be similar to defect notices currently used by police, which are also difficult to remove. Currently a vehicle without number plates may not be parked on a road or road-related area. The other purpose of a number plate confiscation notice is to enable the vehicle to be parked but not driven on the street. The removal of the confiscation notice would mean that the vehicle could be treated by authorities—police, Roads and Maritime Services and the local council—as if it were unregistered or abandoned and it could be impounded or disposed of.

To support this new sanction of number plate confiscation appropriate offences and penalties have also been provided for in the bill. Given that vehicles are not physically impounded or immobilised, there is a risk that a vehicle may be driven contrary to a number plate confiscation sanction: that is, if the number plate confiscation notice is removed a person may drive with no number plates or may affix false number plates. The risk of a proliferation of unregistered vehicles and vehicles with false number plates or plates taken from other vehicles must be acknowledged and managed through appropriate enforcement and penalties. Police advise that a vehicle being driven with no number plates would be detected and stopped very quickly and the New South Wales Liberals and Nationals Government commitment to the continuing rollout of automatic number plate recognition throughout the Highway Patrol fleet is continually increasing the ability of police to detect vehicles fitted with false number plates.

The bill introduces new offences to reduce the risk of driving contrary to a number plate confiscation sanction. The first involves removing, tampering with, altering or modifying a number plate confiscation notice. The second involves operating a vehicle that is subject to a number plate confiscation sanction. The third involves driving a vehicle fitted with a number plate that is not issued by Roads and Maritime Services or that is not issued for the specific vehicle. The fourth involves driving a vehicle displaying an altered number plate, a representation of a number plate or anything that is likely to be mistaken for a number plate. The fifth involves

causing, permitting, allowing or failing to take reasonable precautions to prevent the vehicle from being operated contrary to a number plate confiscation sanction or falsely fitted with number plates. The sixth involves making a false statement or misrepresentation to obtain an impounded vehicle or confiscated number plates or to secure their early release by the court. The seventh involves possession of unauthorised number plates without lawful excuse.

These offences are intended to cover a wide range of sanctions that contravene or facilitate the contravention of number plate confiscation sanctions. To counter a possible upsurge in number plate related crime and to prevent number plate confiscation being seen as a soft option compared with the current impounding regime, the penalties will be significant. As all of these offences may equally facilitate the breach of a number plate confiscation sanction, they will all carry the same penalties, proceeding with a charge rather than by penalty notice with the court having the option to order vehicle forfeiture. There is one exception to these penalties, the proposed offences of possession of unauthorised number plates without lawful excuse. All other proposed new offences are directly related to a vehicle that is subject to a number plate confiscation sanction. However, it may be the case that this offence will be committed by those who own a vehicle that has not been sanctioned but who have supplied substitute plates to others whose vehicles have been. Accordingly, this offence should not carry the possible penalty of vehicle forfeiture, nor should it always proceed to a charge.

A further offence of falsely displaying a number plate confiscation notice is also being introduced to cover situations that may arise where a person manufactures a false notice or gives a legitimate notice to enable an unregistered vehicle or vehicles with no number plates to be parked on a road or road-related area. This offence is not directly related to the number plate confiscation sanction but will address offenders who may try to misuse the number plate confiscation notice to avoid prosecution or vehicle impounding for parking an unregistered vehicle on a road. Police will continue to have the option of issuing a production notice requiring the registered operator to deliver the vehicle to a designated place at a designated time. The production notice may also be used for number plates if that is the vehicle sanction that police wish to apply. A production notice can be issued for operational or safety reasons. It is impractical to confiscate the vehicle or the number plates at the roadside, for example, if there are young children in the car or if it is in a very remote location.

The option for police to use wheel clamping as a sanction commenced on 26 September 2008. From this date police commenced a 12-month trial in the Liverpool and Wollongong local area commands to assess its effectiveness as a vehicle sanction and identify any issues or concerns before rolling it out across New South Wales. It was envisaged that clamping would be a cheaper and administratively easier sanction than impounding vehicles because vehicles could be parked at the offender's address rather than stored in police or commercial facilities and because it could be outsourced to private contractors. During the 12-month trial there were 2,122 legal actions by police for all car hoon offences. Of these, 219 involved vehicles being impounded by police but only 12 were wheel clamped. No clamping was ordered by the courts.

In practice, wheel clamping raised a number of unanticipated practical issues for police and clamping agents, including the need to rely on third-party contractors. The lack of availability of clamping agents, particularly in rural and remote areas, seriously impeded this initiative. Additionally, where wheel clamping was used it resulted in no time saving for police as they had to attend the address of the offender to ascertain whether the site would be suitable for accommodating a clamped vehicle. The trial showed that clamping was not an effective sanction. Accordingly, the bill makes the necessary amendments to remove wheel clamping from the vehicle sanctions regime.

I now turn to the proposals in the bill which give effect to the actions that will be taken in cases of non-offending operators. The vehicles used by non-offending operators will no longer be subject to roadside vehicle sanctions. These vehicles will instead be subject to registration suspension, but only after repeated violations. To give effect to the registration suspension proposal police will provide Roads and Maritime Services with details of a vehicle that has been used in a relevant offence where the offender was not the registered operator. Roads and Maritime Services will maintain a register of these events. New systems will need to be developed by police and the Roads and Maritime Services to give effect to this.

For a first offence Roads and Maritime Services will send the non-offending operator a warning notice. This will warn the non-offending operator that a person driving the vehicle was detected committing a relevant offence and that action may be taken to suspend the registration of the vehicle if it is used to commit further offences. In the case of a second offence Roads and Maritime Services will serve a notice of registration suspension under clause 41 (2) of the Road Transport (Vehicle Registration) Regulation 2007. This existing power provides that a registration may be suspended for up to three months if Roads and Maritime Services is

satisfied on the balance of probabilities that a registered operator of a vehicle has failed to use or manage the vehicle so as to effectively prevent repeated violations of the traffic law, whether by the operator or by another person authorised to use the vehicle.

This change is proposed because concerns exist about the impact of vehicle sanctions on non-offending operators who have not themselves committed any offence and because it is operationally simpler for police and Roads and Maritime Services to administer than the current legislative-based arrangements. Vehicle sanctions are more visible than individual driver sanctions and are harder to conceal from family and friends. They can often have an impact on people other than the individual offending driver. This may help to reduce the social acceptability of the relevant offences and the road trauma caused by these high-risk driving behaviours. Vehicle sanctions are supported by road safety stakeholders. For example, at a 2009 road safety roundtable convened by the then Roads and Traffic Authority there was strong support for vehicle impounding and number plate confiscation for high-range speeding, particularly for repeat offenders. I commend the bill to the House.

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

## **BUSINESS OF THE HOUSE**

### **Postponement of Business**

**Government Business Orders of the Day Nos 1 and 2 postponed on motion by the Hon. David Clarke.**

## **CRIMINAL PROCEDURE AMENDMENT (SUMMARY PROCEEDINGS CASE MANAGEMENT) BILL 2012**

### **Second Reading**

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [3.23 p.m.], on behalf of the Hon. Michael Gallacher: I move:

That this bill be now read a second time.

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

### **Leave granted.**

The Government is pleased to introduce the Criminal Procedure Amendment (Summary Proceedings Case Management) Bill 2012.

One of the Government's goals is to improve community confidence in the justice system, and one way of doing this is to improve the efficiency of the court system. Some cases are beset by problems of delay and unnecessary costs—this bill aims to reduce these problems in summary criminal proceedings in the Supreme Court and the Land and Environment Court.

In 2009, case management reforms were enacted in respect of a different type of proceedings—proceedings for indictable criminal offences. The aim was to halt the trend towards increasingly lengthy criminal trials, especially jury trials, by giving courts the capacity to manage more effectively the way trials are run. We did not oppose the passage of the Criminal Procedure Amendment (Case Management) Act 2009, which brought in those reforms.

The 2009 reforms were based on the work of the Trial Efficiency Working Group, made up of members of the judiciary; senior representatives of the legal profession (from both sides of criminal practice); and various government and non-government bodies. The Working Group was chaired by the Chief Judge at Common Law, Justice McClellan.

This bill will extend the 2009 reforms—beyond proceedings for indictable offences—to apply also to summary criminal matters in the higher courts, including sentencing proceedings. Problems of unnecessary delay and expense have been identified in some of these proceedings, especially in more complex matters. Apart from the financial implications, unnecessary delay and complexity in proceedings also imposes hardship on defendants and witnesses, and can adversely affect the public's perception of the justice system.

Some of the increase in the length of hearings can be attributed to scientific and technological advancements that have led to increasingly complex expert evidence. But some hearings take far longer than they should, not because of some unavoidable complexity in the evidence, but because the parties have failed to narrow down the issues in dispute at a sufficiently early stage. This can result in inefficiency, including the presentation of evidence with little or no probative value, and difficulties in managing the hearing. This results in unnecessary costs and places a needless burden on the justice system and on the parties.

It is essential that the issues be identified before the hearing to allow it to proceed efficiently. The issues in dispute can be narrowed where each party is encouraged or required to disclose aspects of its case to the other before the hearing, and to indicate, for example, which facts they agree on. The bill creates several mechanisms by which this can occur.

The bill mirrors the 2009 reforms, with some adjustments to tailor it to the context of summary proceedings. It provides for several different levels of case management.

#### Provisions of the Bill

I turn now to the substantive items in the bill.

Clauses 247D to 247F provide for the first level of case management. This involves a mandatory exchange of notices between the prosecutor and the defendant before the hearing. Prosecutors are already under an obligation, at common law, to disclose their case to the defence. This bill clearly sets out that obligation although it does not replace the common law. Among other things, the prosecutor's notice will include a statement of facts, and copies of any documents and reports the prosecution proposes to adduce at the hearing. The defence is required to respond in a limited fashion only, by stating the name of the defendant's lawyer and advising whether the defence proposes to consent to dispensing with the rules of evidence.

The court has the discretion to determine the timeframes within which these notices must be given.

Many criminal matters are straightforward, such that no further case management will be needed beyond this initial exchange of notices. In many cases, intensive case management or preliminary disclosure could be an unnecessary burden.

However, some proceedings will benefit from more intensive case management, due to the complexity of the relevant issues, the volume of evidence involved, or for other reasons that are apparent to the court.

The next level of case management that will be available to the court takes the form of preliminary hearings and conferences.

Clause 247G enables the court to order the prosecutor and the defendant to attend one or more preliminary hearings. At these hearings, the court will be able to make preliminary findings, or give directions that are appropriate for the efficient management and conduct of the proceedings. This could include, for example, objections to the form of the charge, advance rulings on certain questions of law, and rulings on evidentiary questions.

If a preliminary hearing is held and certain matters are not raised, or are dealt with, at that preliminary hearing, the leave of the court will be required before those matters can be raised in the principal proceedings. This aims to prevent the re-ventilation of matters that have already been dealt with, and to encourage the parties to focus their minds—at an early stage—on the issues in dispute.

Clause 247H gives the court the power to order that the prosecutor and the defendant's legal representative attend a preliminary conference for the purpose of reaching agreement about the evidence that will be admitted. After a preliminary conference, the prosecutor and the defendant's legal representative will file a preliminary conference form indicating the areas of agreement and disagreement. If the form records an agreement that certain evidence is not in dispute, a party cannot later object to the admission of that evidence, unless the court grants leave.

At present, in some complex cases where the issues are not narrowed down, the case must proceed as if every point is in dispute. This results in the prosecution spending public resources and wasting time preparing to run aspects of the case that are ultimately not in dispute. Witnesses may be called where their evidence is not really in question, and put to unnecessary inconvenience. All this may make the hearing longer and more complex than it needs to be, and there is unnecessary cost and delay for everyone involved.

To deal with this problem, the bill provides—at the highest level of case management—for the court to order additional preliminary disclosure where the court is of the opinion that it is in the interests of the administration of justice to do so. Such orders may be appropriate, for example, in more complex matters.

This court-ordered preliminary disclosure requires the prosecution and the defence to exchange information with a view to narrowing down:

- which aspects of a case the court will need to determine; and
- which aspects are not in dispute.

What must be disclosed when the court orders this higher level of preliminary disclosure? Under clause 247J, the preliminary disclosure requirements for the prosecutor include the matters they were required to disclose at the initial exchange of notices (which may need to be updated); any material they have that is adverse to the defendant's credibility; and a list identifying the evidence of the prosecution witnesses.

The matters that must be included in the defendant's notice are set out in clause 247K. The defence will be required to identify those parts of the prosecution case—as outlined in the initial prosecution notice—that are in dispute. The defence notice must also set out any objections to the admissibility of the prosecutor's evidence; and notice of any issues the defence proposes to raise in relation to:

- the corroboration of the prosecutor's surveillance evidence
- the accuracy of transcripts
- the chain of custody of exhibits
- the authenticity or accuracy of documentary evidence or exhibits
- the form of the initiating process
- the severability of charges, or
- the separation of hearings for different charges.



The defence notice must also include a copy of any expert report prepared by any expert witness for the defence.

Preliminary disclosure orders cannot be made in respect of unrepresented defendants, since the defence's response to an order for disclosure may limit the issues the defence may later raise.

The contents of the defence response may necessitate a further response by the prosecution, including whether the prosecution intends to dispute the admissibility of the defendant's evidence. Clause 247U makes clear that there is no need to disclose matters that have already been disclosed.

In order to create an incentive for the parties to focus carefully on the issues in dispute, various mechanisms will be available to the court to confine the parties to the issues raised at the stage of preliminary disclosure.

First, clause 247M allows the court to dispense with the prosecutor's obligation to formally prove a fact that is alleged in their initial notice, where preliminary disclosure was ordered and the defence did not dispute that matter. Further, the court may order that evidence cannot be led to contradict or qualify the relevant fact alleged by the prosecutor. This aims to encourage the proper compliance by both the prosecution and defence with the disclosure provisions of the Act.

Secondly, clause 247M also deals with the situation where the prosecutor discloses its evidence to the defendant, and the defendant does not contest the admissibility of that evidence at the stage of preliminary disclosure. In these circumstances, the court may allow the prosecutor to adduce that evidence without complying with certain requirements of the Evidence Act 1995, including, for example, the rules about cross-examination, hearsay, and opinion.

Thirdly, clause 247N enables the court to refuse to admit evidence where it has earlier made an order for preliminary disclosure and where a party did not provide the evidence at that stage. For the defendant, this will only apply to expert evidence that was not provided to the other party in accordance with an order for preliminary disclosure, and only where the prosecutor has complied with its obligation of disclosure.

These powers underpin the effectiveness of the enhanced disclosure regime and will help to ensure that the focus of the hearing itself is on the issues and evidence that are really in dispute.

I note that clause 247M also permits the court to allow the evidence of two or more witnesses to be adduced as a summary if this will not be misleading or confusing and will not result in unfair prejudice to a party. This may be useful, for example, where multiple investigators have conducted surveillance over some weeks.

The higher tiers of case management are available regardless of whether one or both of the parties has failed to comply with the lower tiers, although it is open to the courts to use the provisions in this fashion. Where it becomes apparent that a case would benefit from preliminary disclosure, the court can make relevant orders without first needing to conduct preliminary hearings or conferences.

In addition to these preliminary measures, clause 247V gives courts a general power to manage the hearing. The power will allow the court to make such orders, determinations and findings, or give directions or rulings, as it thinks appropriate for the efficient management and conduct of the hearing. This includes ordering any of the parties to make disclosures that could have been required under the proposed Division before the commencement of the trial or sentencing hearing.

Clause 247X creates a number of miscellaneous provisions, including clarifying that the Act is not intended to limit any common law disclosure requirements, or the requirements of other legislation, rules of court, and prosecution guidelines. Even where the court orders preliminary disclosure under clause 247I, the common law or other sources may require a higher level of disclosure than that prescribed in this legislation. It is not the intention of the bill to limit the operation of such requirements. The bill only prevails over such requirements where it is impossible, or impracticable, to comply with both.

Clause 247W provides that all orders made during the course of proceedings will be binding on a judge who later hears the proceedings, unless it would not be in the interests of justice for the order to be binding.

#### Impact on defendants' rights

Improvements in the efficiency of the court system should not come at the expense of unfairness to defendants.

The extent to which this bill impacts on defendants is limited in several ways. First, the pre-hearing disclosure provisions are not designed to be applied in every case. They are designed so that the courts can employ them where appropriate. A court may consider these provisions appropriate, for example, in the more complex cases, or cases that could lead to a lengthy hearing.

Secondly, even if pre-hearing disclosure is ordered, the defendant retains control over whether to agree with the prosecutor on any aspect of its case. The defendant may still choose to object to all matters in the prosecution's notice and retains the right to require the prosecutor to prove all aspects of the case.

Finally, the consequences that flow from a failure by the defence to identify an issue at pre-hearing disclosure will only apply where the court decides, in its discretion, that this should be the case. The court would be unlikely to confine the defence to its position as at preliminary disclosure if it considered this unjust to a defendant.

This Bill aims to reduce unnecessary delay and costs in the preparation for, and conduct of, hearings and sentencing proceedings in summary matters in the higher courts.

This Bill does this by introducing a number of mechanisms that will give those involved the means to identify and resolve issues at the beginning of a matter rather than during the trial or sentencing proceedings. This will also assist judges to manage the proceedings, by increasing their capacity to be informed of the relevant issues at an early stage.

Used properly, the provisions of this Bill provide an opportunity to reduce hardship to the parties and to witnesses, to prevent unnecessary costs and to allow parties and the court to spend their time and money on what really matters—that is, on those issues that are genuinely in dispute.

This Bill represents the Government's commitment to a form of justice in which the real issues in dispute are determined without undue delay or expense.

I commend the Bill to the House.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [3.24 p.m.]: I lead for the Opposition in the debate on Criminal Procedure Amendment (Summary Proceedings Case Management Bill) 2011. The Opposition does not oppose the bill; indeed, it supports the bill because it is an extension on an innovation brought in by the former Labor Government. In 2009, prompted by concerns about the increasing length of criminal trials, especially trials by jury, the previous Government reformed the case management process for indictable criminal offences. The then Government was concerned that, apart from financial implications, unduly lengthy trials imposed hardships on defendants and witnesses and could adversely affect the public's perception of the justice system.

As a result of those concerns the Criminal Procedure Amendment (Case Management) Act 2009 was enacted, based on the work of the Trial Efficiency Working Group. The working group consisted of senior representatives of the legal profession representing both sides of criminal practice, defence as well as prosecution, and senior members of the judiciary from both the government and non-government sectors. Justice Peter McClellan, Chief Judge at Common Law in the Supreme Court, chaired the working group. The terms of reference of the working party requested the evaluation, among other things, of the use and efficacy of current provisions aimed at reducing the length of trials; whether the provisions of the New South Wales Evidence Act 1995 were broad enough to streamline proceedings in criminal trials; the use of courtroom technology and training for time efficiencies; proposals to curtail time-wasting questions and other time limits on submissions; the possible introduction of a reciprocal disclosure scheme; the development of effective judicial case management practices; and any other relevant matters. [*Quorum called for.*]

[*The bells having been rung and a quorum having formed, business resumed.*]

The report of the working group specified seven areas contributing to overall trial inefficiency, and contained a total of 17 recommendations. The general areas to which the working group directed attention included juries, the conduct of counsel, the presentation of evidence, technological deficiencies, a lack of early identification of issues in contention, continuity of staff and appeals against interlocutory orders. The working group pointed out that change was best achieved through cultural reform from judges and practitioners embracing new ways of conducting and presenting trials. Of course, there is also a significant role for legislative change in that process. The working group report stated:

... working group concluded that the major problem affecting trial efficiency was the management of the trial process. A failure to establish the issues early in the trial has obvious consequences for trial efficiency, including the presentation of evidence which has little or no probity value, and difficulties in managing the trial, especially in ruling on questions of relevance. It is essential that the issues are identified before the trial.

The group also pointed out that a blanket application of all tiers of case management to all cases was not desirable: applying unnecessary pre-trial processes would increase inefficiencies. It is also worth noting that the working group pointed out that there were quite reasonable explanations for some of the increased length of trials. Advances in technology have resulted in a greater volume and complexity of forensic evidence. In addition, there has been a significant increase in the amount of electronic communication and therefore of potential evidence. The working group also noted earlier attempts and measures to deal with these measures and that since 2000 there had been some improvements in some areas of delay.

However, average trial lengths in New South Wales increased from 4.6 days in 1996 to 7.25 days in 2007. The group also pointed to great disparities and variations. Some routine criminal trials ran for only a few days while, for various reasons, others ran for months. It is these latter trials at which the full array of case management is best directed. Those concerns led to the enactment of the Criminal Procedure Amendment (Case Management) Act and involved a range of mechanisms that the court could use in the appropriate case with the aim of improving trial efficiency. The aim of the reforms was to reduce unnecessary delays in proceedings and therefore avoid unnecessary costs and, as far as I have been able to determine, they appear to have been broadly regarded as successful and consistent with the contemporary trend towards greater judicial management of proceedings.

The object of the bill is to amend the Criminal Procedure Act 1986 to make provision for case management procedures in order to reduce delays in trial and sentencing proceedings before the Supreme Court and the Land and Environment Court in their summary jurisdiction. This is to be achieved by granting to those courts the discretion to make orders requiring that certain disclosures be made by the prosecution and the defence before a trial or sentencing hearing. The bill also provides for pre-hearing mechanisms—for example, preliminary hearings and preliminary conferences—which are aimed at achieving a more efficient management and conduct of the proceedings.

The bill therefore extends the 2009 reforms to apply to proceedings beyond indictable offences. As with the 2009 reforms, this bill aims to encourage or require parties to a proceeding to disclose aspects of their case to the other before the hearing and to indicate, for example, which facts are to be agreed. The bill creates several mechanisms for this to occur. In effect, the bill largely mirrors the 2009 reforms, with appropriate adjustments to tailor it to the context of summary proceedings.

The provisions of the bill include the following. New section 247A extends the division to the summary proceedings of the Supreme Court and the Land and Environment Court. New sections 247D to 247F establish what has been referred to as the first tier or first level of case management. This involves an obligatory exchange of notices between the parties and, more importantly, of specified information to be contained in those notices. New section 247G contains the next level, involving the power of a court to order preliminary hearings. This allows, in broad terms, a court to give directions as to the proceedings and to make preliminary findings. New section 247H allows a court to order preliminary conferences. New section 247H (4) sets out the purpose of a preliminary conference to determine whether prosecutor and defendant can reach agreement regarding the evidence to be admitted at the trial or sentencing hearing.

In appropriate cases—those requiring the highest level of case management—new section 247I allows the court to order preliminary disclosure, which involves the exchange of information between prosecution and defence. The process is set out in new sections 247J, 247K and 247L. Following from this, new section 247M allows the court to dispense with formal proof of some matters. New section 247N provides sanctions for non-compliance with disclosure requirements, including empowering a court to refuse evidence in some circumstances. This is the highest level of case management and is intended to be applied only in particularly complex cases, as far as I can work out.

Several other provisions are inserted into the Criminal Procedure Act by the bill. They include new section 247V, a general power given to a court to ensure the efficient management and conduct of the trial or sentencing hearing; new section 247W, which enables preliminary orders that will generally bind the judge presiding at the hearing; new section 247X, which makes it clear that the Act is not intended to limit any common law obligation of disclosure; and new section 247Y, which provides for a review of the division by the Minister within two years of its commencement. A report on the outcome of the review will have to be tabled in each House of the Parliament. The bill is a small extension of a scheme pioneered by the previous Labor Government and is not envisaged as affecting a large number of cases.

The Supreme Court annual review 2009 recorded 11 summary jurisdiction cases filed in 2007 and nine in 2009. The 2008 review recorded 237, but as the notes to the review pointed out these were all against one company, T, and its two directors and therefore effectively one case. The annual review notes that there are normally only a few summary jurisdiction cases ever before the court. The Land and Environment Court summary criminal jurisdiction is referred to in that court's annual review for 2010. It shows more cases affected by the legislation than in the Supreme Court. The annual review reveals 48 cases registered in 2006, 88 in 2007, 93 in 2008, 82 in 2009 and 43 in 2010. Compared with the 6,000-odd criminal matters proceeding by way of indictment and dealt with by the 2009 legislation, these are comparatively small numbers. That is no reason to oppose the legislation, which we do not; as I indicated earlier, we support it. The figures I cited earlier indicate that while this reform is a good one, it is not only a sensible extension of an existing scheme but a comparatively minor one. The Opposition supports the bill.

**Mr DAVID SHOEBRIDGE** [3.35 p.m.]: On behalf of The Greens, I support the Criminal Procedure Amendment (Summary Proceedings Case Management) Bill 2012. The objects of the bill are to amend the Criminal Procedure Act 1986 to make provision for case management procedures to reduce delays in trial and sentencing proceedings before the Supreme Court and the Land and Environment Court in their summary jurisdiction. This is said to be achieved by granting those courts the discretion to make orders requiring that certain disclosures be made by the prosecution and the defence before a trial or a sentencing hearing.

The bill also provides for some pre-hearing mechanisms—for example, preliminary hearings and preliminary conferences—which are aimed at achieving a more efficient management and conduct of the proceedings. In short, the bill amends the Criminal Procedure Act 1986 to extend some existing case management procedures for summary criminal proceedings being heard in the Supreme Court and/or the Land and Environment Court. I note the contribution from the Hon. Adam Searle that this is building upon a set of reforms put in place by the former Government that have been found to work in practice.

Currently, these case management procedures apply to indictable offences. The change here is to extend the operation of this scheme to a broader class of offences. A number of levels of case management are conceived under the bill. The first level of case management involves a mandatory exchange of notices between the prosecution and the defendant before the commencement of a hearing. Of course, the existing common law requires a prosecutor to disclose their case to the defence and this bill maintains all those common law obligations. The new notice will also have to include a statement of facts and copies of documents or reports that the prosecution proposes to adduce. On the other hand, the defence is required to notify the name of the defendant's lawyer and whether the defence will consent to certain evidence being admitted.

Under new section 247G the court can order the prosecutor and defendant to attend a preliminary hearing or hearings. The court is then empowered to make preliminary findings and directions. The parties are then limited to those matters raised in the hearing unless the court gives leave. That, of course, can save considerable time and resources at a final hearing. For example, a witness may not need to be paid to attend or be caused the inconvenience of attending if the contentious evidence the witness may have otherwise been called upon to adduce is ruled inadmissible at a preliminary hearing. New section 247H empowers the court to require each party's legal representative to attend a preliminary conference to agree on the evidence to be admitted. Again, the parties are bound at trial by their statements that evidence is not in dispute unless the court grants leave at a later preliminary hearing or at the final trial.

In complex cases there is a higher level of case management available to the courts under new sections 247J and 247K. The former requires the prosecution, in addition to the notice under the first level of case management, to provide any material adverse to the defendant's credibility and a list of the evidence of the prosecution witnesses. Under new section 247K the defence also will need to identify those parts of the prosecution case that are in dispute, any issues they intend to raise about admissibility of evidence or other problems with evidence, a copy of any report from a person they intend to call as an expert witness, and notice of issues the defendant will raise regarding matters such as the severability of charges.

New section 247L then provides for a prosecution response to the defence court-ordered disclosure, including notification as to whether the prosecution intends to dispute the admissibility of evidence proposed to be led by the defence. New section 247M provides that facts and evidence raised by the prosecutor in the exchange of notices that were not disputed by the defendant are taken as proven and/or admissible. New section 247N provides that if a party in preliminary disclosure fails to disclose evidence or expert witness that they were required to then the court has a broad discretion to refuse to admit that evidence in a final hearing.

These reforms come about from the work of the Trial Efficiency Working Group that was tasked by the Attorney General of New South Wales with identifying the causes of unnecessarily long criminal trials and evaluating possible solutions. Unnecessary delays and sometimes needlessly long trials place unacceptable burdens on victims, the accused and jurors, who are effectively volunteers in our criminal justice system. Indeed, unwieldy and unnecessarily long trials undermine confidence in the jury system. Many jurors complain that they sat through days and days of evidence that at the end of the trial was uncontroversial, was never challenged by the defence and was, in the end, immaterial to the issues that the jurors had to decide. It is those kinds of unnecessary delays that are very much the target of this set of amendments to criminal procedure. One recommendation of the Trial Efficiency Working Group and the review that it undertook related to case management solutions. It states:

**Recommendation 7:** Amend the Criminal Procedure Act 1986 to provide for three tiers of case management:

- compulsory prosecution and defence disclosure of specified matters in all criminal trials;
- the establishment of a system of pre-trial case conferences which may take place on the application of the parties or by initiation of the court; and
- intensive pre-trial case management on the application of the parties or by initiation of the court.

Statutory powers should be conferred on the courts to make directions concerning the conduct and management of the trial.

The Criminal Procedure Amendment (Case Management) Bill 2009 implemented these recommendations for indictable offences. Now that they have been seen to work effectively in practice, they are being extended to this further class of offences. There are always concerns when a bill in any way seeks to limit the rights of a defendant in a criminal trial. Such rights need to be balanced against the hardships imposed not only on defendants but also on witnesses and jurors in the course of lengthy trial proceedings and against the rights of a defendant to test all prosecution evidence fully. We must also ensure that our system of criminal law does not end up being trial by ambush—whether that is ambush by the defence or ambush by the prosecution. Preliminary disclosure in criminal proceedings removes much of that trial-by-ambush culture that otherwise can develop in the criminal justice system.

It is appropriate that these kinds of preliminary disclosure orders cannot be made in respect of an unrepresented defendant who clearly would not be in a position to understand fully the consequences of admissions or other matters that are made in the course of a preliminary conference. I note also that court-ordered preliminary disclosure and conferencing is aimed at reducing the trial length and costs that are borne by the State. Often the State bears not only the cost of the prosecution but also the cost of Legal Aid for the defendant. If that is being directed towards unnecessarily lengthy criminal trials, it is not sensible expenditure by the State. The discretion of the court to allow exceptions from these processes in the interests of justice is important and must be maintained. Quicker trials must not be the result of an overall reduction in just outcomes in New South Wales.

New section 247P allows the court to waive any of the requirements of the proposed new division if the court is of the belief that such a waiver would be broadly in the interests of justice. The defendant can make a mistake in the course of a preliminary hearing. Indeed, the consequences of that may be quite telling on a defendant and granting the court discretion to waive the requirements of those procedures in the interests of justice is essential. New section 247W also provides discretion for a presiding judge. Ordinarily, a presiding judge at a criminal trial is bound by the determinations made in one of the preliminary conferences, but there is important capacity and discretion in a presiding judge to waive and/or release the defendant from a concession made in a preliminary hearing if, in the interests of justice, it is appropriate that that be done. This is a carefully crafted piece of legislation that adopts a successful set of reforms from 2009. It appears to strike the right balance between efficiency and the interests of those engaged in the criminal justice system. Importantly, it maintains the right of defendants to fully exercise their rights if they so choose to put the prosecution to proof on each and every element of a case. The Greens support the bill.

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [3.44 p.m.], in reply: I thank the Deputy Leader of the Opposition and Mr David Shoebridge for their contributions to the debate. The provisions of the Criminal Procedure Amendment (Summary Proceedings Case Management) Bill 2012 will give courts a broader and better defined range of tools to prevent summary criminal proceedings being beset by needless complexity and delay and its associated costs. The bill does this by providing for a range of mechanisms that are designed to facilitate early agreement between the parties about which issues are really in dispute. Some of those mechanisms will be appropriate for more complex matters but unnecessary in the average relatively straightforward case. Courts can tailor the way in which they use these provisions according to the requirements of effective and expeditious justice in each case. 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 returned to the Legislative Assembly without amendment.**

### **BUSINESS OF THE HOUSE**

#### **Postponement of Business**

**Government Business Order of the Day No. 4 postponed on motion by the Hon. David Clarke.**

**COURTS AND CRIMES LEGISLATION AMENDMENT BILL 2012****Second Reading**

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [3.47 p.m.], on behalf of the Hon. Michael Gallacher: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Courts and Crimes Legislation Amendment Bill 2012. The purpose of the bill is to make miscellaneous amendments to courts and crime-related legislation as part of the Government's regular legislative review and monitoring program. The bill will amend a number of Acts to improve the efficiency and operation of the State's courts and tribunals and criminal laws. I will now outline each of the amendments in turn. Items [1] to [4] in schedule 1 to the bill amend the Criminal Procedure Act 1986 to apply a uniform maximum jurisdictional limit in the Local Court of two years imprisonment where that court is dealing with indictable offences summarily. The indictable offences that are capable of being dealt with summarily are set out in tables 1 and 2 of schedule 1 to the Criminal Procedure Act. At present, a number of offences appear in tables 1 and 2 that have a specified maximum penalty of 12 or 18 months imprisonment if finalised in the Local Court.

The Sentencing Council examined the jurisdiction of the Local Court in its report, "An examination of the sentencing powers of the Local Court in NSW". It considered that the current system invited or at least risked error on the part of police or prosecuting authority that the matter could be dealt with adequately in the Local Court when, in reality, the maximum term of imprisonment may be capped at 12 or 18 months. Amending the Criminal Procedure Act to apply a uniform two-year limit will ensure that the Local Court has adequate sentencing power in these matters should the election be made to deal with the offence in that jurisdiction.

Items [5] to [10] in schedule 1 to the bill amend the Criminal Procedure Act 1986 to simplify the procedures for random samples of child abuse material in prosecutions relating to child abuse material offences. The amendments change the phrase "authorised analyst" to "authorised classifier" where it appears in sections 289A and 289B. This change in terminology is needed because the officer who performs this role is required to classify the child abuse material contained in the random sample. The bill will also amend section 289B to provide that the analysis must be of a random sample of seized material as opposed to a random sample of only the child abuse material. This amendment will allow police to take a more representative sample of the material, including any innocuous material, rather than only a sample of child abuse material. The sample must be of seized material, which is broadly defined in the bill to include material that has come into the possession of a police officer in the course of exercising his functions. This may include material handed in to a police officer or material seized pursuant to a warrant.

The amendments also bring the legislation into line with present police procedure. A safeguard exists in the legislation because section new 289B (6) will require that the defence have an opportunity to view all the seized material before the random sample evidence will be admitted. The amendments also remove the requirement in section 289B (4) that the sample and examination be conducted in accordance with the regulations. Schedule 1.2 amends the Criminal Procedure Regulation to define the term "authorised classifier" to include a member of the NSW Police Force who has undertaken training in the classification of child abuse material that is conducted or arranged by the NSW Police Force. I note that under the previous provision the "authorised analyst" was not required to have undertaken any particular training.

The bill also amends provisions in the Criminal Procedure Act 1986 relating to sexual assault communications privilege. Sections 297 and 298 of the Act limit the production and disclosure of documents recording a protected confidence. The amendments will clarify that the court may consider documents to determine whether they contain a protected confidence, notwithstanding the limits imposed by sections 297 and 298. The regulation-making power in section 305A of the Criminal Procedure Act 1986 enables regulations to be made in relation to subpoenas in specified sexual assault proceedings. This power will be amended to provide that the regulations will apply to subpoenas in any criminal proceedings if the subpoena requires production of a document recording a counselling communication.

Items [14], [15] and [16] of schedule 1.1 amend schedule 1 of the Criminal Procedure Act to provide that certain indictable offences under the Property, Stock and Business Agents Act 2002 and the Conveyancers Licensing Act 2003 can be tried summarily before a Local Court. Currently, charges relating to these fraudulent

accounting offences must be dealt with in the District Court, which can be a costly exercise, particularly for less serious matters. The amendments will allow less serious matters under these offences to be dealt with summarily. This is consistent with the way in which similar offences such as larceny are dealt with under the Criminal Procedure Act, and it does not prevent more serious matters being dealt with on indictment.

Schedule 1.3 will amend the Director of Public Prosecutions Act 1986 to clarify how the Judges' Pensions Act 1953 applies to the Director of Public Prosecutions. The Director of Public Prosecutions is eligible for benefits under the Judges' Pensions Act 1953. However, a pension is not payable unless the Director of Public Prosecutions has served at least 10 years and reaches 60 years of age while in office, the same as for judges. The present Director of Public Prosecutions will not reach 60 years of age while in office, and will therefore not be eligible for a pension under the Judges' Pensions Act 1953 at the end of his fixed 10-year term. Section 5 of the Judges' Pensions Act 1953, as it applies to judges, provides for a pension to be payable should a judge retire due to permanent disability or infirmity, notwithstanding the age at which this occurs. The amendments will make it clear that the Director of Public Prosecutions is eligible for the pension under section 5 of the Judges' Pensions Act 1953, notwithstanding the fact that he or she may not be able to reach the age at which a pension is usually payable.

Section 6 of the Judges' Pensions Act 1953, as it applies to judges, provides for a pension to be payable to the surviving spouse of a judge should the judge die whilst in office, notwithstanding the age at which this occurs. The pension payable is the same as that to which the judge's spouse would have been entitled if the judge served until age 72 and then retired and died. However, again, it is not clear how this should apply to a Director of Public Prosecutions who cannot reach 72 years of age while in office—the age of forced retirement. The amendments make it clear that should he or she die whilst in office, the surviving spouse is eligible for the pension under section 6 of the Judges' Pensions Act 1953. The proposed clarifications will ensure that the Director of Public Prosecutions is treated in the same way as any judge who is medically retired or dies whilst in office. The amendments also clarify how sections 3 and 4 of the Judges' Pensions Act 1953 apply to the Director of Public Prosecutions by linking the calculation of benefits to the age for vacation of office in schedule 1 to the Director of Public Prosecutions Act 1986—which is 72, the same as for judges. This is for clarification only and does not change the benefits payable.

Schedule 1 [4] to the bill amends section 13 of the Fines Act 1996, which governs the referral of unpaid court fines to the State Debt Recovery Office for the making of court fine enforcement orders. Currently, section 13 of the Fines Act requires court registrars to refer court fines to the State Debt Recovery Office if they have not been paid by their due date. The introduction of JusticeLink in most New South Wales courts means that unpaid court fines can now be automatically referred to the State Debt Recovery Office electronically without a registrar's involvement. Accordingly, the bill provides that section 13 (1) does not apply in courts that use an automated computer system to refer overdue fines to the State Debt Recovery Office. This is a good bill, which is part of the process of ensuring that our laws are appropriate.

**The Hon. Dr Peter Phelps:** We are making New South Wales number one again.

**The Hon. DAVID CLARKE:** We are indeed. We have a lot of time to make up for—

**The Hon. Dr Peter Phelps:** After 16 years of hard Labor.

**The Hon. DAVID CLARKE:** Indeed.

**The Hon. Walt Secord:** Get into the attack; you have it in you.

**The Hon. Lynda Voltz:** Point of order: It is very difficult to hear what the Parliamentary Secretary is saying over the interjections across the House.

**The PRESIDENT:** Order! I am having difficulty hearing the Parliamentary Secretary because of the level of interjections. Members would assist the House and the Chair by listening to the Hon. David Clarke in silence.

**The Hon. DAVID CLARKE:** This is another fine bill coming from an outstanding Attorney General of the State of New South Wales.

**The Hon. Michael Gallacher:** Delivered by an outstanding member.

**The Hon. DAVID CLARKE:** I acknowledge the interjection from the Minister for Police and Emergency Services.

**The Hon. Duncan Gay:** And the support of the Hon. Walt Secord.

**The Hon. DAVID CLARKE:** Indeed.

**The PRESIDENT:** Order! I am having difficulty hearing the Parliamentary Secretary because of the incessant interjections. Members would assist the House and the Chair by listening to the Hon. David Clarke in silence.

**The Hon. DAVID CLARKE:** This is another fine bill from an outstanding Attorney General. It is just one of many fine bills that this Government will bring forward over the coming months and many years that it will be the government of the State of New South Wales.

**The PRESIDENT:** Order! Members will cease interjecting.

**The Hon. DAVID CLARKE:** The Government is proud to bring this bill forward.

**The PRESIDENT:** Order! Government members will cease interjecting.

**The Hon. DAVID CLARKE:** As I was saying, the Government is proud to bring this bill forward.

**The Hon. Lynda Voltz:** Point of order: Despite numerous directions from you, Mr President, the level of noise in the Chamber is preventing members from following the debate.

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

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

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

## **QUESTIONS WITHOUT NOTICE**

### **GOVERNMENT ASSETS SALE**

**The Hon. LUKE FOLEY:** My question is directed to the Minister for Finance and Services. Given that the Schott review has recommended further asset sales on top of the power, water and ports assets already being prepared for sale, will the Minister give members a commitment that these will not include schools?

**The Hon. GREG PEARCE:** The Leader of the Opposition has apparently read the Schott report. In doing so I am sure that he would have been distraught about the predicament in which the State was left by his colleagues. We will be working our way through the Schott report. I invite the Opposition to make up for some of their past indiscretions by supporting some of the reforms in that report. The member should acknowledge that schools are bought and sold all the time, as part of normal procedure, and in that regard I would be very happy to ask my colleague the Minister for Education to provide us with a list of schools that were sold by the previous, Labor Government. I will not do that, however, because that would embarrass members opposite too much.

### **ROAD NETWORK FLOOD DAMAGE**

**The Hon. JOHN AJAKA:** My question is directed to the Minister for Roads and Ports. Can the Minister update the House on work to repair the damage to New South Wales roads caused by recent rain?

**The Hon. DUNCAN GAY:** I thank the member for his question. I am sure that the Hon. Mick Veitch appreciates the work that is being done in this regard. Last week major roads across the State were closed due to heavy rainfall and flooding. Even now, key routes such as the Kamilaroi Highway, Lachlan Valley Way, the Newell Highway and the Sturt Highway are closed in sections. Only when the floodwaters completely recede will we be able to determine the full extent of the damage done to the State's road network. The Government's



priority at the moment is to ensure that adequate resources are available to support those communities most in need. That is our focus. Whilst the State does have contingency funding set aside for events such as these, it is too early to assess the full financial impact of the recent floods. When a clearer picture emerges we will be in a position to judge the full impact on the New South Wales budget. However, as I have said previously in this House, early assessments from Roads and Maritime Services estimate that New South Wales could be facing a repair bill of approximately a quarter of a billion dollars.

This financial year the New South Wales Government has already spent \$104 million on natural disaster funding. Of this amount, \$94 million, or 90 per cent of the funds, has been allocated to roads owned and managed by local councils. It is going to be difficult financially. New South Wales households and businesses are doing it tough already because of the damage caused by heavy rain. There are provisions in the New South Wales budget to cover the cost of flood recovery and rebuilding, and we will meet our obligations. The Federal Government should meet its obligations and ensure that funding to fix our roads is delivered as soon as possible.

Regional managers from Roads and Maritime Services have been in contact with flood-affected councils over the past few weeks offering support, including providing help with emergency works and assistance with the assessment of claims under the natural disaster provisions. Roads and Maritime Services will continue working with councils in disaster-declared districts to determine what help can be provided to ensure that roads are repaired as soon as possible. For those councils with areas that have been declared a natural disaster, funding assistance is provided by the Government to cover the full cost of restoration of State, regional and crown roads. For local roads funding assistance is provided at 75 per cent of the assessed cost up to \$116,000 and 100 per cent thereafter. In addition, funding assistance at 100 per cent of the approved actual cost is also available for emergency work required to reinstate safe access for emergency services and goods, such as debris removal and the construction of flood flow relief causeways.

I thank the hardworking people of Roads and Maritime Services for their efforts during this difficult time. They have been at the coalface, working in terrible conditions to ensure that the people of New South Wales receive the assistance they require. They have been working with councils and their staffs, who have done a terrific job along with police and emergency services personnel. Whilst we have enjoyed the comfort of places like Parliament House, these people have been out in the rain doing the hard yards. Congratulations to them all. Assessing in these circumstances is a difficult job and there will be disagreements, although I am pleased to say there have been very few to date.

#### **FRONT-LINE SERVICES ON-CALL RATIOS**

**The Hon. ADAM SEARLE:** My question is directed to the Minister for Finance and Services. Will the Minister remove on-call ratios for front-line services in awards, as suggested in the Schott review?

**The Hon. GREG PEARCE:** I have already said in relation to the Schott review that we are working our way through it.

#### **NURSE RETRAINING**

**The Hon. PAUL GREEN:** My question is addressed to the Minister for Police and Emergency Services, representing the Minister for Health. Is the Minister aware that a number of experienced and competent nurses are willing to take up nursing again but are effectively prohibited because of an expensive \$10,000 re-education course? Given the invaluable service nurses provide to New South Wales, will the Government consider more ways of subsidising the re-entry course, and will the Government provide a more affordable and accessible re-entry course for the many nurses who want to resume their careers after taking time out for their families or for other reasons?

**The Hon. Helen Westwood:** Good question.

**The Hon. MICHAEL GALLACHER:** It is a very good question and I thank the member for it. It has again fallen to the Hon. Paul Green to ask a very good question—this time relating to the Health portfolio. We do not hear such questions from those opposite. I suppose at least they have the decency to acknowledge that it is a good question. Put simply, they have not been in a position to ask such questions of the Government since the last election.

**The Hon. Luke Foley:** Point of order: The Leader of the Government has spent 30 seconds debating the question.

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

**The Hon. MICHAEL GALLACHER:** I again acknowledge a very good question from the Hon. Paul Green. He has asked a number of similarly good questions in the Health portfolio in the past to which *Hansard* will show that the Minister for Health has always been prompt in her response. I give the Hon. Paul Green a guarantee that the response of the Minister to this question will be prompt also.

### JAPAN TSUNAMI FIRST ANNIVERSARY

**The Hon. JENNIFER GARDINER:** I address my question to the Minister for Police and Emergency Services. Noting the first anniversary of the Japan tsunami and earthquake, will the Minister inform the House about New South Wales Fire and Rescue's response to those devastating events?

**The Hon. MICHAEL GALLACHER:** On 11 March last year Japan was struck by a magnitude 9 earthquake. The earthquake was horrifying enough but its devastation was compounded by the tsunami that quickly followed. Members will remember the terrible image that flashed onto our screens that day of a great, black wave that rolled relentlessly over miles and miles of farms, parks and homes, leaving a wasteland of wreckage and debris in its wake. Last Sunday marked the first anniversary of that tragic event, which saw many lives lost and many people displaced. Proudly, one of the first international teams to assist with the rescue effort was an Australian urban search and rescue team. That 76-person team included 52 rescue specialists from Fire and Rescue New South Wales, eight New South Wales ambulance paramedics, two Public Works New South Wales structural engineers, a NSW Police Force specialist, four firefighters from the Australian Capital Territory, and Queensland search dog teams.

On 14 March the team arrived in Miyagi Prefecture. By the next day the team had set up base operations and were ready for the task at hand. They faced extraordinarily demanding conditions, with temperatures falling to a chilly minus 17° Celsius and limited water and electricity, not to mention the threat of radiation from the failing Fukushima nuclear power plant. These challenges did not daunt them in their efforts to search for and rescue survivors. Before leaving Japan, the team left its tents and other supplies to help local authorities in the relief effort and gave its medical supplies to the local hospital—a gesture that no doubt was most welcomed by the Japanese authorities. The rapid response and efforts of our emergency services personnel during the disasters in Japan should highlight to the people of New South Wales the skill and commitment of our emergency services.

On Sunday many of us turned on our televisions to watch the memorial services being held in Japan and across the world. More than 20,000 died or were reporting missing as a result of the earthquake and tsunami, and many communities continue to mourn their loss. The Japanese economy was also dealt a terrible blow, with the damage bill alone costing almost \$300 billion. One year on, it is encouraging to see the enormous strides that the Japanese Government and people have made in recovering from the disaster. The Fukushima Prefecture was one of the worst hit. Today, the tangled wreckage that remained of its many villages and towns has been completely cleared and many of the prefecture's roads and buildings have been rebuilt. Across the country communities continue to plan and progress their recovery efforts. Over the past few years we have been witness to many disasters, from the earthquakes in Christchurch and Japan to the floods closer to home. Mother Nature has proved to be a fickle and sometimes terrible beast, yet communities continue to rebound and rebuild. I am sure members will join me in expressing our deepest sympathies once again to the Japanese people, as well as our admiration for their spirit in the face of a disaster of such magnitude.

### STATE RECORDS AUTHORITY OF NEW SOUTH WALES

**Dr JOHN KAYE:** I direct my question without notice to the Minister for Finance and Services, and Minister for the Illawarra. Is it true that the budget for the State Records Authority of New South Wales is approximately \$7 million per annum and that cuts of about \$1.8 million will be made over the next four years on top of the efficiency dividends? If this is not true, will the Minister provide the House with the accurate figures? Will the Minister explain to the House how the State Records Authority of New South Wales will continue to be able to provide their valuable services?

**The Hon. GREG PEARCE:** I will provide the member with an answer to his detailed question.

**GOVERNMENT ASSETS SALE**

**The Hon. PENNY SHARPE:** I direct my question without notice to the Minister for Finance and Services. Given that the Schott review has recommended further asset sales, on top of power, water and ports assets already being prepared for sale, will the Minister give a commitment that it will not include hospitals?

**The Hon. GREG PEARCE:** I am really pleased that the Opposition has taken it upon itself to read the Schott report.

**The Hon. Michael Gallacher:** Someone has.

**The Hon. GREG PEARCE:** That is a good point. I could bring the Schott report into the Chamber and spend a lot of time going through the detail—

**The Hon. Adam Searle:** Point of order: The Minister is debating the question; he should answer the question.

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

**The Hon. GREG PEARCE:** Perhaps those opposite should also read the Auditor-General's report that was issued on 29 February, which summarises the findings and recommendations reported to Parliament in 2011. It is an interesting summary of the state in which the mob opposite left New South Wales and follows the Schott report—

**The Hon. Penny Sharpe:** Point of order: My point of order is relevance. My question to the Minister was about whether there are plans to sell hospitals. What the Auditor-General may or may not have said in a previous report is irrelevant to that question.

**The PRESIDENT:** Order! It is far too early to make that judgement. There is no point of order.

**The Hon. GREG PEARCE:** Those opposite do not want to hear about the Auditor-General's report because it is a scathing condemnation of the mismanagement and waste under Labor for 16 years.

**The Hon. Steve Whan:** The surplus we handed you.

**The Hon. GREG PEARCE:** The surplus? Let us just look at that.

**The PRESIDENT:** Order! Members will cease interjecting.

**The Hon. GREG PEARCE:** Let us look at the status of New South Wales now that the Coalition is in government. Moody's recently released a report—

**The Hon. Steve Whan:** Point of order: My point of order is relevance. Mr President, you have now had adequate time to see the direction in which the Minister is heading with his answer, and it is in no way relevant to the question.

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

**The Hon. GREG PEARCE:** The Opposition has asked me three questions about the Schott report. That constitutes three own goals. Those numb clucks on the other side—

**The PRESIDENT:** Order! The Minister will desist from using that sort of language. He will answer the question.

**The Hon. GREG PEARCE:** The Opposition has asked me three shoot-yourself-in-the-foot questions. And what am I doing? I am telling those opposite about the judgement of the Moody's rating agency in relation to the Coalition Government.

**The Hon. Walt Secord:** Only one Greg Pearce comes in a lifetime.

**The Hon. GREG PEARCE:** I acknowledge the interjection of the Hon. Walt Secord. Thank goodness there is only one Walt Secord. Moody's recently advised that New South Wales had retained its triple-A rating and stated:

Moody's further considers that over the medium term the Government's resolve to exercise greater control over expenditure will be of key importance to achieving the planned narrowing in deficits.

That is what Moody's said about the New South Wales Government in reaffirming the triple-A rating. [*Time expired.*]

### ILLAWARRA COMMUNITY ENGAGEMENT

**The Hon. MARIE FICARRA:** My question is addressed to the Minister for the Illawarra. Will the Minister inform the House how the Government is seeking to increase community engagement in the Illawarra?

**The Hon. GREG PEARCE:** The people of the Illawarra do love me.

**The Hon. Steve Whan:** Point of order: The Minister should be directed to stop outrageously misleading the House.

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

**The Hon. GREG PEARCE:** I can inform the House that on Friday of last week applications closed for the Illawarra Community Advisory Panel. I called for applications from people who wanted to have a say in the future of the Illawarra to join the New South Wales Government's new advisory body for the region. I have encouraged people in sectors including education, business and not-for-profit to apply for membership of the new Illawarra Community Advisory Panel. The panel, which I will chair, opens the door to the community. It will allow access and direct advice to get to the Government on the issues impacting the people of the Illawarra.

This is further evidence that the New South Wales Liberals and Nationals are committed to open, collaborative decision-making for the long-term development of the region. Whether it is supporting jobs, delivering services and infrastructure or tackling the costs of living, the New South Wales Government is determined to help Illawarra families and communities meet their potential. This panel will be an ongoing voice to the Government and the hallmark of the Government's approach to the Illawarra. This approach is in stark contrast to that taken by Labor, which kept businesses, the public sector and the community in the dark without a direct voice to government.

The new panel will work as part of the Illawarra Government Coordination Group, which is made up of government agencies delivering services on the ground in the region. The community advocates sitting on the panel will provide advice that will be developed and coordinated through the coordination group. I have encouraged community members with a demonstrated contribution to the community and a desire to advocate for the Illawarra to apply. I am also glad to say that I have had substantial support from two local members of Parliament in the region, namely Gareth Ward, the member for Kiama, and Lee Evans, the member for Heathcote. Those members welcomed the announcement. Mr Ward was particularly kind in his praise. He said:

This is a fantastic initiative for the region. It is going to ensure that the community has constructive input and access to government. It really demonstrates the way this Government treats the region when compared to the former Government.

This presents a fantastic opportunity for the Illawarra community to have a say by directly engaging with the New South Wales Government.

It is unfortunate that those opposite, despite attending and endorsing the launch of the Illawarra Government Coordination Group, could not bring themselves to support this new community oriented initiative. The member for Keira, Mr Park, stated after he attended the opening and endorsed it:

If you are a hardworking local member then the community has already good access to you for you to raise issues with the Government or in the Parliament.

**Dr John Kaye:** Why don't they then? They have never met him.

**The Hon. GREG PEARCE:** They are still looking for him and for Noreen Hay. It is clear that 16 years of Labor representation in—

**Dr John Kaye:** That is not true. No-one looks for Noreen Hay; they run away from her.

**The Hon. GREG PEARCE:** I acknowledge that interjection from Dr John Kaye.

**The Hon. Lynda Voltz:** Point of order. The Minister should be directed to refer to members of this Chamber by their correct titles.

**The PRESIDENT:** Order! I remind all members who are given the call to refer to other members of the Chamber by their correct titles. I note that the Minister's time for speaking has expired.

### CARBON TAX

**The Hon. ROBERT BORSAK:** My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Resources and Energy. Is it a fact that Macquarie Generation, which operates Liddell and Bayswater power stations and produces 40 per cent of the State's power, is facing extra costs of \$460 million a year because of the carbon tax? What projections does the Government have on how much of this extra cost Macquarie Generation will absorb, and by how much does the Government expect the average household power bill to rise?

**The Hon. DUNCAN GAY:** I thank the member for this important question. I wonder why the Opposition has not asked such a question. Apart from the great questions asked by members on the Government side of the House, we have to rely on members of the Shooters and Fishers Party and the Christian Democrats to ask sensible questions. The cost of carbon and particularly the cost to Macquarie Generation are very important issues for the people of New South Wales. I know that everything we do in this State that relates to my portfolios of roads and maritime services will come with increased costs because of this extra big tax that the Federal Government is putting in place. Whether that relates to the use of heavy vehicles to haul gravel or asphalt that is used to fix up our roads, or to repairing damage caused by floods throughout the State—everything will be hit by this carbon tax, which will be introduced by the Federal Government, unless we are saved by Tony Abbott the Good, the saviour of New South Wales and Australia. If we are saved by him, we will not have a carbon tax.

And I know that secretly one or two members on the Opposition side of the House are hoping like hell that Tony Abbott becomes Prime Minister—in the same way as many of the Federal colleagues of those opposite could not wait for the day that some members of the Opposition, like the former member for Monaro, ended up on the losers' lounge. I cannot verify this but some have said that the Federal member for Eden-Monaro cannot wait for the Hon. Steve Whan to go. I cannot verify that but it has been stated by others. Given the detail of the question, I will seek a detailed answer from my colleague the Minister for Energy.

### NSW TRADE AND INVESTMENT REGIONAL OFFICE CLOSURES

**The Hon. MICK VEITCH:** My question is directed to the Minister for Roads and Ports, representing the Deputy Premier, and Minister for Trade and Investment. Was a rural impact assessment conducted prior to the announcement on Friday to close Department of Trade and Investment, Small Business and Regional Development offices in Tweed Heads, Coffs Harbour, Goulburn and Broken Hill? If not, why not?

**The Hon. DUNCAN GAY:** Unlike the decisions made by the previous Government, every decision made by this Government is made after conducting a rural impact statement. Every document that goes to Cabinet has that characteristic about it. The previous Government stated that that would happen in its term of office, but it never, ever happened. The crux of his question was whether a rural or regional impact assessment was conducted, and the answer is: Yes, there was.

### FIREFIGHTER PHYSICAL SCREENING TEST

**The Hon. DAVID CLARKE:** My question is directed to the Minister for Police and Emergency Services. Can the Minister inform the House about research being conducted by the University of Wollongong to help Fire and Rescue New South Wales set physical standards for firefighters?

**The Hon. MICHAEL GALLACHER:** I thank the member for his question. Firefighting is a strenuous and physically demanding job and our firefighters need to have the strength to walk through burning

buildings, lift heavy loads up and down stairs, climb ladders, hoist very heavy hoses and rescue people from life-threatening situations. They also need to have the right levels of endurance to combat fatigue, cope with obviously hot temperatures and continue their very demanding job for relentless periods of time.

With lives hanging in the balance, it is vitally important that our firefighters have the right levels of fitness and health to perform their important job of protecting and serving our community. That is why crews from 10 Fire and Rescue New South Wales stations recently participated in a project to help researchers at the University of Wollongong to better understand the demands of firefighting. The project involved seven days of exercises during which firefighters participated in a range of simulations of building fires, bush fires, rescue scenarios, and hazardous materials incidents.

The university researchers observed the simulations and collected physiological data on the firefighters' heart rates, ventilation, oxygen consumption, core temperature and muscular loading to assess the physical toll of the day-to-day work of a Fire and Rescue NSW firefighter. I understand that the initial data has shown that firefighters frequently work at incredible levels of intensity, where their heart rates reach more than 180 beats per minute and their core temperatures exceed 39 degrees Celsius. This data highlights the importance of maintaining the very highest levels of health and physical fitness in our firefighters.

I am advised that upon completion of this groundbreaking research, major firefighting agencies in Australia and abroad have shown interest in the university's findings. The next stage of the project will provide even more opportunities for firefighters to get involved. Firefighters will assist the research team to develop and finalise a new physical screening test. The test will be based on the data from the simulations, as well as the findings of firefighter focus group and survey research that was carried out in 2011. The new physical screening test will help Fire and Rescue NSW to identify applicants with the optimal levels of health and fitness to protect the community from fires and other threats. I look forward to updating the Chamber in the coming months with the final results of this exciting research.

### INDUSTRIAL RELATIONS REFORM

**Mr DAVID SHOEBRIDGE:** My question is directed to the Minister for Finance and Services. In the media release the Minister issued today trumpeting employer support for his proposed industrial relations reforms, why did he fail to mention the complete opposition to the reforms by the peak transport employers group, the Australian Road Transport Industrial Organisations, as it advised the Minister by writing on 9 March 2012?

**The Hon. GREG PEARCE:** I like good news. Today the Minister for Health and I met representatives of the young doctors and the ambos at the front of Parliament House—the people who have specifically asked me to amend the industrial relations law to allow them to have choice in their representation if they choose to be a member of a union. The doctors presented me with a petition signed by more than 1,000 doctors applauding the Government.

**Mr David Shoebridge:** One thousand?

**The Hon. GREG PEARCE:** They have been working on it for only a couple of days, David.

**Mr David Shoebridge:** You said to the media that it was 10,000.

**The Hon. GREG PEARCE:** No, you are not listening, David.

**The Hon. Lynda Voltz:** Point of order: I seek clarification. Is the Minister referring to a bill that is currently before the House?

**The Hon. GREG PEARCE:** No, I am referring to a petition.

**The PRESIDENT:** Order! Having viewed the question and having heard the answer, I rule the question out of order.

### NSW TRADE AND INVESTMENT REGIONAL OFFICE CLOSURES

**The Hon. SOPHIE COTSIS:** My question is directed to the Minister for Roads and Ports, representing the Minister for Trade and Investment. Did the decision to close NSW Trade and Investment small business and regional development offices in Tweed Heads, Coffs Harbour, Goulburn and Broken Hill go before Cabinet? If not, why not?

**The Hon. DUNCAN GAY:** Members opposite have been out of government for 12 months. However, they should remember that Cabinet consideration is confidential.

**KINGS HIGHWAY AND HUME HIGHWAY**

**The Hon. NIALL BLAIR:** My question is addressed to the Minister for Roads and Ports. Will the Minister update the House on the Kings Highway and the Hume Highway?

**The Hon. DUNCAN GAY:** These highways are of concern for people who live in the south of the State, including a number of members in this House. Last week two tragic accidents on the Kings Highway claimed the lives of five people. It is an absolute tragedy when we hear of people losing their lives on our roads. However, when such young and promising lives are lost it is even more devastating to their families, friends and local communities. Certainly the angst in these cases was shared around the State. Roads and Maritime Services is continuing to work with the NSW Police Force on investigations into the cause of the crashes. Unfortunately, it appears that driver error might have been a factor in at least one of the crashes.

I cannot emphasise enough how important it is for motorists to drive to the conditions. This weekend there were higher traffic levels on the Kings Highway, with traffic diverted from the roads closed as a result of flood damage and holiday traffic from Canberra. There had been no fatalities on this stretch of road in the past year. However, in the five years to 2010 there were six fatal crashes on this section, resulting in seven lives lost. I have asked Roads and Maritime Services to conduct a detailed safety review of this section of the highway. Roads and Maritime Services will work with local councils as part of the Kings Highway Technical Working Party to identify what needs to be done on the highway.

Recently black spot safety work has been carried out on the road near the location of Sunday's crash, and routine road surface maintenance is also planned for the near future. Road maintenance work is planned for the highway a few kilometres from Friday's crash site. A number of curve direction warning signs have been installed to provide motorists with guidance on curves in the road. Roads and Maritime Services understand that the local community is concerned about safety on this stretch of the highway and will carry out the detailed safety review of the highway as a priority. This safety review will take into account the findings of NSW Police Force investigations into the recent crashes.

There have been higher than normal levels of traffic on some routes in the southern region this weekend, with key routes closed due to flooding and public holiday traffic from both Victoria and the Australian Capital Territory. Unfortunately, this resulted in lengthy delays caused by roadwork on the Hume Highway near Marulan yesterday which, frankly, were completely unacceptable. Following a period of really good work from our guys we had what can only be described as a minor stuff-up yesterday. I know that the wife of one member was held in traffic and the former Treasurer of this State sent me a text message to say that he was held up on this road for two hours. It was a mistake not to take into account holidays in other States, certainly an understandable mistake—

**The Hon. Mick Veitch:** It was a holiday in Victoria and the Australian Capital Territory.

**The Hon. DUNCAN GAY:** We can understand why people wish to leave those places to come to New South Wales, and I want to ensure that they continue to do so. As Minister I accept responsibility. I extend apologies to all concerned, including the wife of the Hon. Steve Whan. I spoke to the former Treasurer. Good people are doing good work. Sometimes we do not get it right, but we must ensure that we get it right more often than not.

**The Hon. NIALL BLAIR:** I ask a supplementary question. Will the Minister elucidate his answer?

**The Hon. DUNCAN GAY:** While I have accepted that we made a mistake and quite rightly should apologise, I must compliment the work of our staff that day. The closure was south of Marulan, where members would know an overhead access is being built to a mine. Just south of that the old concrete pavement is being replaced. When it became obvious that there was a problem with the traffic, the staff immediately moved to widen the lane carrying the traffic and to double the speed limit through the area. We did several things immediately: lifted the speed limit from 40 kilometres an hour to 80 kilometres an hour, widened the laneway and stopped the work so we could clear the traffic that had been delayed for almost two hours. We looked at putting contra-flows in place, but there was heavy traffic in the other direction as well so that was not possible. In that instance some good work was done. We are putting on an extra team to ensure that the resurfacing can be done quickly. The process takes about three days: The section is lifted, a new one has to be poured and then it has to be allowed to cure before traffic can travel on it.

**The Hon. Mick Veitch:** Provided it doesn't rain.

**The Hon. DUNCAN GAY:** Provided it does not rain, but rain is reasonably okay. It is not like when bitumen is being laid. I have to say mea culpa; I wear it. We did the wrong thing. Some days you have a bad day. We should not let that happen again and certainly there will be enough people concerned to make sure it does not happen again. Congratulations to all the people from top to bottom. When a problem occurred they got stuck in to make the situation better.

### CITYRAIL EASY ACCESS PROGRAM

**The Hon. JAN BARHAM:** My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Transport. Will the Minister advise which railway stations will be upgraded to improve accessibility under the \$60 million over four years Easy Access Program upgrade commitment? Will the Minister also advise how the prioritising of these stations is determined?

**The Hon. DUNCAN GAY:** I thank the honourable member for her important question. We are taking action to unwind the policies of the former Government that tied up these programs. Three main programs will improve rail stations, commuter car parks and associated infrastructure across the metropolitan network. As members will know, this Government allocated \$268 million to upgrade railway stations and associated infrastructure in our first budget. We are going to allocate funding according to need, unlike those opposite. This State budget delivers \$268 million to upgrade our rail stations and associated infrastructure. The pot of money available to upgrade our stations and car parks is actually \$55 million higher than what was spent by Labor in its last year in government. It includes \$76 million towards the delivery of commuter car parks and transport interchanges across the CityRail network.

The State budget also delivers \$30 million for upgrading stations under the Easy Access Program, including an extra \$7.5 million from the additional \$60 million this Government has committed to the Easy Access Program over the next four years. In addition, a further \$69 million is allocated to CityRail's station upgrade program. This money has been put aside to upgrade the facilities rail commuters rely on every day. These funds will be used to complete the upgrades under construction at Central, Picton and Windsor, and to continue the Easy Access upgrade of Sydenham station, which is due to be completed at the end of 2013.

Under the Easy Access Program stations are prioritised on a number of criteria including patronage, proximity to other accessible stations, and demographic information. RailCorp works with key New South Wales disability and community groups to inform and prioritise the program. The Government is currently in the process of determining where future upgrades to stations will take place. This Government will deliver a new program of station upgrades, Easy Access upgrades, interchanges, car parks and ferry wharves based on the needs of the community, unlike the Labor Party's flawed program which was based on shoring up marginal electorates. It did not work that well either, did it?

### KINGSCLIFF SEA WALL

**The Hon. WALT SECORD:** My question without notice is directed to the Minister for Finance and Services, representing the Minister for the Environment. In light of the Minister for the Environment's comments this morning in the *Gold Coast Bulletin* urging Tweed Shire Council to consider a planned retreat from fixing the Kingscliff erosion problem, will the Government give an ironclad commitment that it intends to honour its promise to build the entire sea wall?

**The Hon. GREG PEARCE:** Surely I am allowed to debate that question. I do not believe we can rely on a rendition of what was supposedly in a Gold Coast newspaper today. I suggest the member place his question on notice and he might get an answer.

### ELECTRICITY COMPANY DIVIDENDS

**The Hon. MATTHEW MASON-COX:** My question without notice is directed to the Minister for Finance and Services. Will the Minister comment on recent accusations from the Leader of the Opposition that the Government has broken its promise on electricity dividends?

**The Hon. GREG PEARCE:** I thank the Parliamentary Secretary for his excellent question. I know that the Leader of the Opposition is really good at being a busy bee drumming up fear and doubt across New South Wales on a range of issues based on distortion, embellishment or just straight-out lies. If anything his performance has shown once again why New South Wales voters kicked Labor out so comprehensively last



year. Take his claim that the Government had broken a key election promise and would be increasing dividends from the State-owned energy companies. Nothing could be further from the truth. The New South Wales Liberals and Nationals promised during the election campaign that there would be no increases in electricity dividends above Labor's budgeted levels—that is, the 2010-11 budget year—in our first term of government, and that is exactly what we are doing. In fact, we are doing better than that. Our actions are actually putting downward pressure on electricity prices.

**The PRESIDENT:** Order! There is far too much audible conversation coming from the Government benches. I cannot hear the Minister.

**The Hon. GREG PEARCE:** The 2011-12 budget handed down in September shows dividends are down on those sought under Labor in the 2010-11 budget by \$692 million over the forward projections. This reflects lower forecast dividends in distribution and transmission as well as generation. Moreover, the dividend forecast in the statements of corporate intent over the forward years for the distributors and TransGrid are \$48 million less than the 2011-12 budget forecast. So dividends are lower than under Labor and lower than this Government's election promise. If the Hon. Luke Foley had bothered to pay attention when he was in government he would also know that a statement of corporate intent is a forecast by the electricity company, not the actual dividend.

Actual dividends are determined following discussion between the company and its shareholder, the Government, and reported in the budget. I reiterate: actual dividends are in the budget. It is curious how the Leader of the Opposition could get something so simple so consistently wrong. He has clearly not read the previous or current budget papers or the statements of corporate intent properly. What is even more curious is that the Leader of the Opposition would parade such a viewpoint whether he knew it was incorrect or not—

**The PRESIDENT:** Order! Opposition members will cease interjecting. I call the Hon. Greg Donnelly to order for the first time. I call the Hon. Walt Secord to order for the first time.

**The Hon. GREG PEARCE:** —knowing full well that under Labor electricity prices soared by more than 60 per cent in five years.

**The PRESIDENT:** Order! I call the Hon. Penny Sharpe to order for the first time. I call the Hon. Dr Peter Phelps to order for the first time.

**The Hon. GREG PEARCE:** Perhaps the Leader of the Opposition should consult the former Treasurer, the Hon. Eric Roozendaal. Incidentally, I noticed some photographs in which the Hon. Eric Roozendaal is wearing glasses. Perhaps he has pulled out some old photos for his job applications—I am not quite sure.

## WATER MANAGEMENT

**The Hon. ROBERT BROWN:** My question is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Will the Minister provide the House with a list of potential sites for new dams in this State on both the eastern and western falls? Will the Government look at Welcome Reef dam and assess the benefits it could provide to New South Wales? Does the Government have any plans, other than more desalination plants, to help drought-proof the State into the future? If not, after almost 12 months in government, why not?

**The Hon. DUNCAN GAY:** What a damn good question.

**The Hon. Greg Donnelly:** Freewheel it, Duncan.

**The Hon. DUNCAN GAY:** I am freewheeling it—not a piece of paper to be seen. I suspect the staff in my office are worried.

**The Hon. Greg Donnelly:** We are all worried.

**The Hon. DUNCAN GAY:** I know. This is an important question that a lot of people across New South Wales have asked, particularly over the past 16 years when we went through a long period of drought.

**The PRESIDENT:** Order! I call the Hon. Walt Secord to order for the second time.

**The Hon. DUNCAN GAY:** This question is outside my portfolio area. It is complex and serious question that involves a lot of money. I will refer the question to my colleague the Minister for Primary Industries for a detailed and counselled answer.

#### **NSW TRADE AND INVESTMENT REGIONAL OFFICE CLOSURES**

**The Hon. STEVE WHAN:** My question is directed to the Minister for Roads and Ports. Does the Minister's admission in question time last Thursday that he was unaware of the decision to close NSW Trade and Investment small business and regional development offices in Broken Hill, Tweed Heads, Coffs Harbour and Goulburn mean there was no Cabinet consideration of this decision? As the most senior member of The Nationals in this place, is the Minister angry that he was not consulted as the O'Farrell Government broke another two promises—the promise to have publicly available rural impact statements and the promise of a decade of decentralisation? If the Minister is not angry, why not?

**The Hon. Dr Peter Phelps:** Point of order: The second part of that question contains argument. It implies that an election promise has been broken. I ask that you rule the second part of that question out of order.

**The Hon. STEVE WHAN:** To the point of order: I would have thought the question of Government promises is a legitimate topic for questions in this place. Indeed, the promises were broken—so it is fact.

**The PRESIDENT:** Order! The question asked, "Is the Minister angry?" Clearly, the question asked for an expression of opinion and, therefore, is out of order. I will allow the Hon. Steve Whan to ask his question later in question time if it complies with the standing orders.

#### **NSW POLICE BAND**

**The Hon. SCOT MacDONALD:** My question is addressed to the Minister for Police and Emergency Services. Will the Minister inform the House of the role and activities of the NSW Police Band?

**The Hon. MICHAEL GALLACHER:** I thank the member for his question and interest in the NSW Police Band. The Police Band has a long history: it is the longest standing concert band in Australia, serving the State and people of New South Wales since 1894. The Police Band is a full-time unit of the NSW Police Force, comprising 28 musicians and a director of music managed by a commander and supervisor. Whereas previously some police officers were attached to the band as musicians, now the band consists entirely of professional musicians. The Police Band comprises a number of different ensembles, such as the concert band, the marching concert band, the rock band, the wind quintet, and the jazz and brass ensembles. From the sound of the music I hear at the back of the Chamber, it seems that they are coming in the door now.

**The PRESIDENT:** Order! I call the Hon. Charlie Lynn to order for the first time.

**The Hon. MICHAEL GALLACHER:** The Police Band is widely known and respected within the community. It supports community and multicultural based policing activities in the Sydney metropolitan and country areas, making over 150 performances each year.

**The PRESIDENT:** Order! Stop the clock. The Hon. Charlie Lynn knows better than to play music via his laptop. I call the Hon. Charlie Lynn to order for the second time.

**The Hon. MICHAEL GALLACHER:** Members might recall that the band played at the Spring Ball, and accompanied the well-respected brother of the Hon. Helen Westwood, Mr Frank Bennett. The Police Band participates in a range of activities, including police graduation and award ceremonies, Anzac Day and Remembrance Day. The Police Band has had the privilege of performing at prestigious state events, including during royal visits, two papal visits and visits from heads of State and dignitaries from all over the world. In addition to those official functions, the Police Band serves the community through outdoor public performances, school visits, concerts and balls in collaboration with charitable organisations, and visits to regional and remote areas of New South Wales.

The marching band has performed at numerous ticker tape parades for the Australian cricket, hockey and rugby union teams, and Commonwealth and Olympic athletes. The Police Band and New South Wales Mounted Police combine regularly to perform the famous Police Musical Rides, a major attraction at the Sydney

Royal Easter Show. The electronic ensemble performs regularly at the Sydney Mardi Gras Parade. The Police Band provides an important public face to the NSW Police Force and helps to forge stronger links between the police and the people of New South Wales. The public can inquire about booking any one of the Police Band ensembles, which operate on a cost-recovery basis.

A glance at the Police Band's schedule for March shows that it continues to be in high demand. It will perform at a charity event—the Police Legacy Kokoda Ball at Canterbury-Hurlstone Park RSL—the St Patrick's Day Parade in Sydney, several concerts for seniors, a Police Force graduation and awards ceremonies. These are but some of the events planned, with many other events already confirmed for the coming weeks and months. A strategy is being prepared to identify priority services the Police Band must provide on an ongoing basis and to implement the most efficient arrangements to fulfil them. The Police Band will continue to serve the Police Force and the people of New South Wales by meeting the demands for its services throughout the year and encouraging positive interactions between Police and the community. I congratulate the Police Band on the valuable work it provides in support of the NSW Police Force and the community at large.

#### **NSW TRADE AND INVESTMENT REGIONAL OFFICE CLOSURES**

**The Hon. STEVE WHAN:** My question is directed to the Minister for Roads and Ports. Does the Minister's admission in question time last Thursday that he was unaware of the decision to close offices of NSW Trade and Investment small business and regional development offices in Broken Hill, Tweed Heads, Coffs Harbour and Goulburn mean there was no Cabinet consideration of this decision? As the most senior member of The Nationals in this place, why was the Minister not consulted as the O'Farrell Government broke the commitment to have publicly available rural impact statements and the promise of a decade of decentralisation?

**The Hon. DUNCAN GAY:** Earlier in question time concern was expressed about my being angry. I am never angry, but I came close, as the Deputy Leader of the Opposition said, to being grumpy because we have been asked stupid questions by absolute hypocrites. The loser on the loser's lounge—

**The Hon. Lynda Voltz:** Point of order: The Minister is clearly debating the question rather than answering it. Mr President, I ask you to direct him to answer the question rather than debate it.

**The PRESIDENT:** Order! While the Minister may make some general comments, he may not debate the question. The Minister's answer was tending in that direction. If the Minister has further information to provide he may do so.

**The Hon. DUNCAN GAY:** We have a great deal more information because we are starting a decade of decentralisation. Unlike the hypocrites opposite, this Government believes in regional New South Wales. That bloke came into this place and bled about forest reform despite the fact that he was the Minister who introduced it. There is no greater hypocrite. He is so lacking in ticker that he would not go to Katrina Hodgkinson's office when she was there.

**The Hon. Steve Whan:** Point of order: My point of order relates to relevance. The Minister has not come close to addressing the issue raised in the question, which is very important to the people in those communities who do not want their services centralised to Dubbo.

**The PRESIDENT:** Order! The honourable member should not use points of order to make debating points. He took a point of order about relevance. The Minister was being generally relevant. Does the Minister wish to provide any further information?

**The Hon. DUNCAN GAY:** No.

**The Hon. MICHAEL GALLACHER:** The time for questions has now expired. I thank honourable members for their participation today. We will welcome them back tomorrow. If they have any further questions they should put them on notice.

**Questions without notice concluded.**

#### **MENTAL HEALTH COMMISSION BILL 2011**

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

**Pursuant to sessional orders debate on committee reports proceeded with.**

**GENERAL PURPOSE STANDING COMMITTEE NO. 2****Report: Budget Estimates 2011-2012****Debate resumed from 6 March 2012.**

**The Hon. SHAOQUETT MOSELMANE** [5.03 p.m.]: In considering the budget estimates for 2011-2012 General Purpose Standing Committee No. 2 examined a variety of portfolio areas. However, I will focus on a couple of matters; namely, Minister Piccoli's appalling mismanagement of the Assisted School Travel Program, which left so many of our students with disabilities without transport to school and which caused their families significant distress, and Minister Dominello's handling of a couple of issues pertinent to communities covered by his portfolio of Aboriginal Affairs, Citizenship and Communities.

I take this opportunity to thank the chair of the committee, the Hon. Marie Ficarra, for her fair approach to running the inquiry. I also thank my fellow committee members, the staff and the witnesses who gave evidence. These budget estimates hearings were the first time I participated in such an inquiry. It was interesting to be involved in a process in which Ministers, heads of departments and staff are brought before a committee of politicians who ask questions of the Government and the administration. It was an opportunity to raise issues of concern.

It is Westminster democracy in practice in that Ministers of state are subjected to an inquisition about their decisions, policies and management, or lack thereof, with a view to holding the government of the day to account. It was an excellent exercise that exposed some of the limitations of Ministers and departments. Of course, in holding the Government and its Ministers to account the Opposition was acting in the interests of good government and for the benefit of the public as a whole. It is therefore interesting to note that the chair, the Hon. Marie Ficarra, in her budget estimates report delivered on 14 February 2012, said—and this is no criticism of her:

...Minister Piccoli has offered his apologies for what has been a completely unacceptable mismanagement of the Assisted School Travel Program, which left so many of our students with disabilities without transport to school and caused their families distress.

I thank the chair for her acknowledgement of the Minister's mismanagement of the Assisted School Travel Program. I believe that the apology was warranted, but it should have been offered by the Minister to the many children who had suffered under his watch. The Minister has put the lives of disabled school students at risk with his appalling mismanagement of the disabled transport scheme. He failed to appropriately staff the school transport runs for disabled students with carers and in doing so he put the students' lives at risk. We simply cannot have disabled children travelling unattended.

We cannot cut costs or allow operators to bypass requirements for disabled children to be transported without their usual carers or escorts. It goes without saying that it is vital that a carer be in attendance to provide medical assistance in case of emergency. The Minister has no doubt put the lives of disabled children at risk with his appalling mismanagement of the disabled transport scheme. He is clearly incompetent. It is not surprising that the people of Griffith to whom I spoke while in my duty electorate of Murrumbidgee call him the useless man.

The Minister was informed of the problems in November last year and could have prevented the entire debacle, but he did not. He tried to explain away the problems by arguing that he was not informed. It has been revealed that he knew in November last year that disabled children could be left stranded by the roadside, but he took no action. He even signed off on a letter dated 18 November 2011 reassuring a parent of two autistic children that the disability transport program would proceed as usual. It appears that the Minister simply did not see the disabled children as a priority. In the words of the shadow Minister for Education, Ms Carmel Tebbutt, this is a gross dereliction of duty by the Minister for Education and for that he should have been dumped.

The O'Farrell Government cannot use the report into the disabled school transport scheme to let its incompetent Minister for Education off the hook. Hundreds of disabled school students were left stranded because the Minister failed to renew their transport contracts in time. Three weeks after he said he had fixed the disabled transport scheme children with disabilities were still being left without transport to school. The Minister is simply not up to the job. His handling or, rather, mishandling of this issue has been disgraceful. He has misled the community and lied to the parents of disabled children, and he should have been sacked. I asked a simple question of Minister Piccoli about another important issue during the budget estimates hearing: What is your policy in relation to class sizes? I was not surprised by his cynical response when he said:

I am not going to rule anything in or out, because we rule one thing out and then you ask the next thing. That is an old trick that we used to use as well. I am not going to rule anything in or out. I think this would be a disingenuous way to begin negotiations with the union, by them reading the *Hansard* about what might be in or out.

This surely cannot give the people of New South Wales any confidence in this Minister, nor would it give parents, teachers, the teachers federation or education department any solace that this Minister is capable of handling a portfolio that has significant impact on the education of our future generations. Labor respected this portfolio and respected the people of New South Wales. I refer the House to a press release of the shadow education Minister, Carmel Tebbutt, on Friday 28 October 2011, in which she said the following:

In Government, one of Labor's proudest achievements was reducing class sizes in the early years of schooling. Beginning in 2004 under Premier Bob Carr, we embarked on this significant reform to our school education system, reducing class sizes in Kindergarten to Year 2 to a statewide average of 20 students in Kindergarten classes, 22 students in Year 1 classes and 24 students in Year 2 classes. By 2007, Labor delivered it.

Labor has many achievements in education including establishing the Institute of Teachers, ensuring teachers were amongst the highest paid in Australia and revolutionising information technology in our schools.

An independent evaluation of the class size reduction program was conducted in 2005. The press release quotes from the evaluation report as follows:

The program resulted in the provision of more personalised attention and teaching; an increase in teacher morale; a reduction in classroom management problems and better teacher student relationships. The most significant reported benefits of the program were an increased one-to-one interaction between teachers and students; teachers being able to get to know their students better; and improved student achievement.

Given the shortness of time, I now turn to a very important question that I raised with Mr Dominello in relation to the issue of burial space. The Muslim community in particular has to bury two bodies—and there is even talk of three—in one grave because of the shortage of burial space. This is a most pressing priority for a number of communities, including the Vietnamese community, which has expressed alarm at the lack of burial space. I asked the Minister:

Can you confirm if your Government will continue with the former Labor Government's policy to release 90 hectares of cultural burial grounds to allow families to observe their cultural and religious beliefs at Castlereagh, Appin, Rookwood, Kemps Creek and Mona Vale cemeteries?

The Minister stated that it was a sensitive issue and he was looking into it, and he would come back to me with a response on notice. The response I received reads as follows:

Issues relating to burial grounds are matters for the Minister for Primary Industries, who has acted quickly to address this matter following the failure of the previous Government to resolve it.

There has been no policy decision on burial grounds by this Government. Some communities are agonising over the lack of burial grounds. They are desperately needed. I ask the Government to re-examine this issue and come up with a policy as soon as possible to assure the community that we are looking after them and their loved ones.

**The Hon. MARIE FICARRA** (Parliamentary Secretary) [5.13 p.m.], in reply: I thank the Hon. Sarah Mitchell, Dr John Kaye, the Hon. David Clarke and the Hon. Shaoquett Moselmane for their contributions to the debate. I reiterate that Minister Adrian Piccoli very sincerely offered his apologies for what he admitted was a completely unacceptable situation regarding the Assisted School Travel Program, which left many students with disabilities without transport to school and left families in distress. But what did he do in return on Tuesday 31 January? The Premier, with the Minister, appointed Dr Ken Boston, AO, an esteemed international educator and former director general of the Department of Education—

**The Hon. Dr Peter Phelps:** Under Labor.

**The Hon. MARIE FICARRA:** That is true, recognised under Labor and ourselves—to carry out an independent review into the Assisted School Travel Program. The New South Wales Government has accepted all recommendations in the Boston report and will ensure that the recommendations are implemented to ensure that there is no repeat of such distress to families and carers of students with disabilities requiring school travel. What a fantastic Minister, admitting that something went wrong and, with the Premier, acting upon it and apologising to affected families. It is a shame that over the past 16 years those opposite did not keep saying sorry. They should have said sorry every day, because every day they did something but they never apologised.

I will now touch upon some positive contributions by the Minister for Health, including sweeping new tobacco reforms. Let us talk about good news from the O'Farrell Government. Smoking will be banned at

playgrounds, public sportsgrounds, swimming pools and public transport stops. The New South Wales Tobacco Strategy, one of the most progressive tobacco reforms in Australia, will include a smoking ban in commercial outdoor dining areas from 2015. As we know, smoking-related illnesses account for far too many deaths and far too many hospitalisations. Again, reducing the harm of tobacco and its effect on the community is a key priority for this Government.

Let me talk about the \$10,000 re-entry program for nurses. Over the next two years sixty \$10,000 scholarships will be offered to nurses to re-enter the workforce after a break of between five and ten years. Scholarships will be awarded on the basis that recipients work in the public health system for at least two years. The O'Farrell Government is committed to employing an additional 2,475 nurses in its first term. We have increased the number of nurses by 1,011 and have recruited an extra 2,163 new graduate nurses.

Other good news involves the Nepean hospital car park sought by staff, nurses, paramedics, health care professionals and doctors. It will have close to 650 car parking spaces, a significant step forward, and will complement the important building works taking place as part of the \$138 million Nepean hospital redevelopment program to improve health services in the region—another key commitment. Let me talk about other things happening at Nepean hospital. The New South Wales Minister for Health, together with the Federal Minister for Health, officially opened the \$87 million east block of the hospital, part of the \$139 million joint investment by the Commonwealth to redevelop the Nepean hospital.

**Dr John Kaye:** Is that a media release?

**The Hon. MARIE FICARRA:** Yes, it is a media release. That is where I get very good information. The east block features six operating theatres, an ambulatory procedure centre and two surgical wards able to accommodate 60 additional patients. We are fulfilling our commitment to the people of western Sydney. Let me now talk about other important health announcements, such as the new dialysis unit, which was a win for the inner west. People with advanced kidney disease will now be able to have access to a new \$1.6 million renal dialysis unit at the Concord repatriation hospital. That is expected to provide more than 8,700 dialysis treatments a year to 56 outpatients. A \$5.2 million hyperbaric chamber at the Prince of Wales Hospital is the biggest and most technologically advanced of its type in the world. This is important for wound management and for treating divers with decompression illnesses. It is used in the treatment of diabetic ulcers and gangrene, and to treat cancer patients suffering from complications of radiation therapy.

In the portfolio of mental health the O'Farrell Government, delivering on an election commitment, was pleased to consult with over 2,000 people suffering from mental illness, their families, carers, clinicians and service providers, and landmark legislation has now been passed. The Mental Health Commission, which is expected to be operational by July this year, will provide for a more accountable mental health system and work collaboratively with government and non-government sectors in the broader community to ensure a coordinated and integrated approach to mental health care in this State.

In the portfolio of Education, proudly, the Minister for Education and the Premier announced the most far-reaching reform to school education in New South Wales in the past century. The Government is getting on with the job of delivering its election commitment to give decision-making powers back to schools and their school communities. Our Local Schools, Local Decisions policy is a roadmap for change. Public schools will be given the opportunity to respond to the needs of their students based on each school's specific circumstances; not on the basis of formulas or forms dictated by a bloated head office. The Government trusts our principals and teachers to place students at the centre of every decision they make and to use the resources available to them to improve the learning of every student.

The second round of funding of the Government's \$40 million public school upgrade program is now available. With this funding principals and communities can identify those facilities in need of upgrade and they can also choose to self-manage those projects. The first round saw 143 projects funded. This funding will ensure the best learning environments in our schools. Another key election commitment was for more teachers. Some 967 teachers took up permanent positions in New South Wales at the start of this school year—an increase of 99 teachers on the previous year. The Government is committed to making public education the first choice option for parents. These new teachers follow the New South Wales \$40 million summer building program to improve State schools as well as the continued roll-out of interactive whiteboards.

Public schools will have a wealth of teaching expertise. An amount of \$12 million has also been allocated to start the \$261 million literacy and numeracy action plan, and the Government has expanded the

Smarter Schools Program. Additional support will be offered to existing schools and a new school is to be added to the program. The schools participating in this initiative will be able to spread the knowledge of best teaching practices. Time limits preclude me from speaking any longer but there have been many good announcements in all portfolios, whether in disability accommodation, disability sport projects or the 1,800 jobs being created et cetera. I am very proud to be a member of the O'Farrell Government.

**Question—That the House take note of the report—put and resolved in the affirmative.**

**Motion agreed to.**

## **JOINT SELECT COMMITTEE ON THE PARLIAMENTARY BUDGET OFFICE**

### **Report: Inquiry into the Parliamentary Budget Office**

**Debate resumed from 6 March 2012.**

**The Hon. TREVOR KHAN** [5.23 p.m.]: On the previous occasion the report was debated I spoke briefly to the primary purpose of the Parliamentary Budget Office. In the time remaining to me I shall speak about the possible elements that a Parliamentary Budget Office could undertake—that is, the preparation of non-election policy costing and the provision to members of Parliament of analyses, advice and briefings of a technical nature on financial, fiscal and economic matters. Some members in this debate have spoken with considerable passion about the lack of availability of these under the proposals in the inquiry report.

When Mr Tony Harris gave evidence before the inquiry I asked him some questions about how information was currently being obtained and how that would intersect with the provision of advice on technical issues to do with financial, fiscal and economic matters. It became evident that what was proposed in that area of a Parliamentary Budget Office intersected with a lot of the work that those in opposition do. For instance, they use what used to be called freedom of information requests to obtain information. Members use their logistical support allowance—money provided by the Parliament and the people of New South Wales—to undertake requests. Those opposite wanted not only to keep the tens of thousands of dollars provided by the State in logistical support allowances, but also to burden the people of New South Wales with a further expensive arbiter in the form of a bloated Parliamentary Budget Office.

Those opposite have to learn to use the resources they have already—namely, the staffing and electoral allowances that cost the people of New South Wales tens of millions of dollars each year. Once they learn to do some work and to use the resources available to them they will become an effective opposition. In the meantime those opposite must realise that no longer are they in a position to have other people do their work for them. They need to do the grunt, hard policy work that they have failed to do in the past 12 months. They need to get up off their seats and go and mix with the public to learn about their problems and to develop policy outcomes. It is only then that those opposite will become an effective opposition. Until that time those opposite will continue to be the failures that they have been up until now. [*Time expired.*]

**The Hon. MATTHEW MASON-COX** (Parliamentary Secretary) [5.27 p.m.]: I echo the closing remarks of the Hon. Trevor Khan. I am sure that in good time those opposite will learn the keys to being an effective opposition. It is worth remembering how the Parliamentary Budget Office Bill 2011, which gave us the current Parliamentary Budget Office, was introduced into this place—a bill that those opposite tried to slam dunk. I well remember the lack of notice accorded to the then Opposition about the introduction of the bill. The Treasurer at the time was the one and only, the Hon. Eric Roozendaal. The shadow Treasurer at that time, Mr Mike Baird, was given but minutes notice that the bill was about to be debated. There was no consultation whatsoever. It was clearly a cynical and shameless attempt by the former Government to put in place an instrument it could use in opposition to inform themselves and to fund the hard work of opposition, which the Hon. Trevor Khan referred to.

The process that led to the bill being introduced is all very clear. Over 24 months the then Leader of the Opposition, Mr Barry O'Farrell, and the Premier at the time debated how costings were to be dealt with in the pre-election period. Mr Nathan Rees, when participating in a pub debate, said, "We will deal with donations. We will deal with electoral reform. We will ensure that costings are done on an accountable and transparent basis." Of course, when the rubber hit the road the former Government did nothing of the sort. What did those opposite do? They introduced the Charter of Budget Honesty (Election Promises Costing) Amendment Bill 2010. Essentially, they sought to impose their budget costings on the then Opposition so as to disadvantage it at every turn.

There were other changes in that context. The Parliamentary Budget Officer Bill 2010 was not only introduced to Parliament with a few minutes' notice. Interestingly, it was observed at the time, that the bill went a lot further than was contemplated in the fine report delivered by the Committee on the Parliamentary Budget Office. The bill moved beyond providing advice on costings in a pre-election period and extended to preparing costings of proposed policies of members of Parliament. The original bill that came before this place allowed any member to submit any policy from an Opposition or other party for costing. For example, the then Premier could submit a misrepresentation of an Opposition policy for costing by the responsible budget office with advice from the Treasury. That misrepresentation could then be presented to the public, pretending that the outcome was absolutely valid. It was a scurrilous, opportunistic attempt by the former Government to bastardise what could otherwise have been a very proper and accountable arm of government.

I am very pleased to see the report of the Committee on the Parliamentary Budget Office return to the real intent of the Parliamentary Budget Office: to put some discipline, accountability and transparency into costings in the critical six months before an election. That is admirable, and I think the report of the Parliamentary Budget Office committee is absolutely correct in its recommendations. I understand from some members that it was a robust process in terms of the committee refining its recommendations. We would not want anything but a robust process in relation to such important recommendations. I find it just a little cute that members opposite should comment in such a way about a robust process delivering recommendations worthy of the attention of this House.

I note also some of the contributions to this debate regarding the budget outlook when the Coalition came to power. It is worth reflecting on them for a moment. The former Treasurer, the Hon. Eric Roozendaal, and a number of his cohorts cast doubt on the \$5.2 billion black hole that this Government inherited as a result of the appalling economic mismanagement by those opposite. In reflecting on that, I refer the House to statements in the budget. Budget Paper No. 2 2011-2012 states that the budget delivers an operating deficit of \$718 million and a net lending deficit of \$3.986 billion in 2011-2012. Over the four years to 2014-2015 the accumulated operating result is a deficit of \$118 million (virtually in balance), representing a \$5.2 billion turnaround. There it is in black and white; they are the figures—a \$5.2 billion turnaround in relation to what the current Opposition left the Government when we came to power. The reality is that Labor did a baking job on the numbers. It ignored the \$1.9 billion blowout in the Solar Bonus Scheme; it did not put that in the budget figures.

Indeed, the former Government did not put in the budget figures a whole range of things, which I call "poison pills" that have been left for us to resolve. Let me reflect on just a couple of them. Of course, we had the completely disastrous electricity sale on the stroke of midnight before Labor was turfed out. In that regard, we had a commission of audit, an Auditor-General's report and a review in the form of the Tamberlin inquiry, which produced a set of recommendations to fix the festering problem left by the former Government. As a consequence, a bill will no doubt be introduced in this place very soon to unscramble the egg, so to speak. It is worth remembering also that as part of the deal—I have mentioned it a number of times in this place—the former Government sought to underwrite the coal that would be used in the power stations. It threw Cobbora mine on the table in a desperate attempt to featherbed the negotiations and increase the price so that it had something positive to say on the eve of the State election. Labor committed this Government to developing a \$1.5-billion mine at Cobbora. That most irresponsible economic act is the legacy the former Government left us, and we will have to fix that problem as well.

The former Government also left us the Reliance Rail public-private partnership to unwind and fix. Consider also the T-card litigation—an ongoing weeping sore that I know the Hon. Penny Sharpe was very familiar with in her former role as Parliamentary Secretary Assisting the Minister for Transport and Roads, and something that she is probably trying hard to forget. It was a running sore for the former Government and another issue in our brief that we are determined to address. All these matters were ignored and postponed by the former Government but we are determined to deal with them. The report on the Parliamentary Budget Office will no doubt ensure that the right expert costings are provided during pre-election periods. I commend chairman David Elliott, in particular, and committee members, including the Hon. Natasha Maclaren-Jones, for their hard work. I look forward to what will undoubtedly be a comprehensive response from a responsible Government—something I am sure this State is looking forward to.

**The Hon. NATASHA MACLAREN-JONES** [5.37 p.m.], in reply: I thank the Hon. Walt Secord, the Hon. Eric Roozendaal, Dr John Kaye, the Hon. Amanda Fazio, the Hon. Trevor Khan and the Hon. Matthew Mason-Cox for their contributions to the debate. I begin by adding some important comments that I did not make when I introduced debate on the report of the inquiry by the Joint Select Committee on the Parliamentary



Budget Office. I acknowledge the following committee staff who played an important role during hearings and in writing the report: Ms Carly Sheen, director of Legislative Assembly committees; Ms Dora Oravez, acting inquiry manager; Mr John Miller, research officer; and Ms Amy Bauder, committee officer. They all did a fine job during what was at times a challenging inquiry.

The Parliamentary Budget Office was established by the previous Labor Government in October 2010 and became operational in February 2011. Despite being established by the Labor Government for use during the 2011 State election, Labor failed to provide its costings until 10 March 2011—just two days before the Parliamentary Budget Office was required to complete a draft budget statement on policies. Furthermore, Labor provided only half its policy costings. I place on record that in opposition the O'Farrell Government supported the establishment of a Parliamentary Budget Office that was truly independent. However, in 2010 the Labor Government rammed the bill through Parliament, with no regard for the standing orders that require members to have at least five clear days to examine legislation in detail. At the time there were claims that the office could cost taxpayers up to \$16 million over the next four years. In introducing the bill the then Minister for Finance, the Hon. Michael Daley, said:

It is envisaged that the office will require approximately 12 to 16 qualified and experienced economists, accountants, and financial analysts covering the key spending areas and requisite support staff. The office will receive up to \$4 million—recurrent and capital funding combined—in 2010-11 in order to establish the Parliamentary Budget Office, and up to \$3 million recurrent in the years 2011-12 to 2018-19 for the ongoing operational costs of the office.

It is only fair to ensure transparency when allocating taxpayers' funds and, following the 2011 election, the O'Farrell Government announced the establishment of the Joint Select Committee on the Parliamentary Budget Office to hold an inquiry into the future of that office. The committee was tasked to investigate the purpose of the office and whether the terms of the Act were appropriate, the role of the office—including its functions, structure, staffing and resourcing—and its accountability and oversight mechanisms. In addition, the committee was tasked to investigate the establishment and operation of offices in other jurisdictions. It was important for the committee to investigate the value for money for the taxpayers of New South Wales in operating the office and the role of government in providing advice to members in addition to available existing resources.

Furthermore, the committee was keen to seek to work constructively with all members to ensure the accurate costing of promises made by candidates during the campaign period. Both domestic and international submissions were sought, as well as submissions from non-government stakeholders. The committee received 13 submissions. It is worth noting that all international submissions advocated establishing an office. However, it was difficult to confirm whether a successful office had been established at a State level because all submissions came from national or Federal jurisdictions. There was limited opportunity to receive primary evidence from other Australian parliaments because none has established a Parliamentary Budget Office or a similar body.

I acknowledge the varied opinions of committee members and the vigorous debate during deliberations—although at times comments from Opposition members seemed to be more deliberately disruptive than constructive and they appeared to be making most of their amendments on the run rather than having them prepared. As I have said, the committee has made nine recommendations that it believes will improve transparency and deliver value for money for taxpayers. Finally, I thank the committee chairman, Mr David Elliott, who did an outstanding job despite hostility and at times appalling behaviour towards staff by some Opposition members. Again, I thank all staff for their assistance with the inquiry and the report. I commend the report to the House.

**Question—That the House take note of the report—put and resolved in the affirmative.**

**Motion agreed to.**

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

#### **Report: Budget Estimates 2011-2012**

**Debate resumed from 21 February 2012.**

**The Hon. NATASHA MACLAREN-JONES** [5.42 p.m.]: As Chair of General Purpose Standing Committee No. 3, it is with great pleasure that I present to the House the committee's report on budget estimates 2011-2012. Before I refer to some of the portfolios examined by the committee, I begin by thanking members of

the Legislative Council who participated in the hearings and the committee staff for their assistance. I thank also the Ministers and departmental officials for appearing and answering the committee's questions, and I note the role their staff played in the process. As per the guidelines, General Purpose Standing Committee No. 3 was required to examine the proposed expenditure for the portfolio areas of Regional Infrastructure and Services, The Legislature, Special Minister of State, the Central Coast, Transport, Roads and Ports, and Tourism, Major Events, Hospitality, Racing and the Arts.

Estimates hearings are a vital part of the parliamentary process. It is about examining not just the budget papers for each portfolio but also annual and agency reports. It is important to place on record the orderly and constructive manner in which the committee conducted the hearings, allowing plenty of time—allocated fairly—for all members to ask questions and pursue issues of importance to them and to their constituents. The estimates hearing process also provides members of the committee with an opportunity to follow up issues either directly with the Minister or by submitting supplementary questions on notice to Ministers or their department officials. With this in mind, the committee resolved not to hold supplementary hearings, as has been the practice of this committee for the past four years.

The committee held six public hearings and received 14 hours of evidence. The report was adopted at its meeting of 9 December 2011. At the hearing dealing with Regional Infrastructure and Services, the committee heard from Minister Andrew Stoner. Prior to the March 2011 election the O'Farrell-Stoner team committed to delivering key health, transport and infrastructure projects to regional New South Wales. To address the infrastructure backlog left by Labor, the Coalition Government has committed to record spending, including over \$1 billion for hospitals across New South Wales. I am pleased to advise the House that in the 2011-2012 budget the Government invested more than \$210 million to health infrastructure in rural and regional areas, including \$48 million to commence construction of the Wagga Wagga Base Hospital redevelopment, \$16 million to expand services at the Port Macquarie Base Hospital, and \$4 million towards planning for Lachlan Health Service, which administers the Parkes and Forbes hospitals.

A further \$3 million has been allocated for planning at Tamworth Base Hospital, \$4 million for planning a south-eastern regional hospital at Bega, \$4 million to commence the multipurpose services at Gulgong, and \$1 million for the upgrade of a renal dialysis unit at Cooma. In addition, the Government is delivering key transport projects for rural and regional New South Wales, including a \$4.2 billion investment in the regional and rural roads network and the upgrade of the Pacific and Princes highways. To tackle crime in rural and regional areas, the Government has committed in the budget to increase the size of the NSW Police Force to record levels. The Minister advised the committee that \$214 million will be spent over four years to employ an additional 550 police officers across the State.

At the hearing into The Legislature, the key issues referred to the President concerned the Parliamentary Budget Office, replacement of analogue televisions in members' offices, replacement of the Chamber broadcasting system and the Regional School Outreach Program. I commend the President and Department of the Legislative Council for their commitment to the Regional School Outreach Program. The program improves community awareness about the Legislative Council and its committees, and is also cost-effective as staff from the Procedural Research and Training Unit take spare seats on committee charter flights and travel to locations to conduct outreach sessions while a hearing is being conducted.

During questioning of the Special Minister of State, and Minister for the Central Coast, the Hon. Chris Hartcher, the committee focused on the Central Coast. I am pleased to inform the House that a number of services promised by the previous Government but never delivered are now being delivered by the O'Farrell Government. Wyong police station was announced in 2004 and promised to be delivered by 2009. However, in 2009 the Labor State Government pushed it back to 2011. Following the election of the O'Farrell Government Wyong police station was constructed and it became operational last year.

In relation to one of the State's most important portfolios, Transport, the committee heard from Minister Gladys Berejiklian. As the House is aware, the Government has implemented reforms in organisational arrangements to improve delivery of public transport for the people of New South Wales. The Minister noted that to improve public transport performance in New South Wales it is critical that all public transport agencies work to the same objectives, ensuring consistent and clear delivery of services and making sure that the customer is the key focus. To this end, the transport system will be designed around the needs and expectations of the customer. The new Customer Experience Division will be responsible for understanding the customer's realistic expectations and ensuring that services are delivered to those expectations.

Transport for NSW will be the driving force for transport reforms, bringing together the coordination, procurement, policy and planning functions currently performed by the Department of Transport, RailCorp, the Roads and Traffic Authority, the State Transit Authority, Sydney Ferries, the Maritime Authority of New South Wales, the Transport Construction Authority and the Country Rail Infrastructure Authority. To improve the planning and development of transport investment programs, one division has been created to be solely accountable and responsible for the delivery of major public transport projects. To make travelling on public transport easier in the greater Sydney area, this year the Government will roll out the Opal, the electronic ticketing system for greater Sydney. The new ticket, or smart card, will transform travel for customers who use Sydney Ferries, CityRail, and government and private buses. It will give them the freedom to explore Sydney, the Blue Mountains, the Illawarra, the Hunter, the Southern Highlands, the Central Coast and everywhere in between using the same card as their ticket.

I am pleased to say the hearing reaffirmed that the Government is committed to ensuring greater efficiency and effectiveness in the administration of public transport in New South Wales, further ensuring that transport projects are delivered on time and on budget. Providing major and key infrastructure in both Sydney's north and south-west is a priority for the Government. It is expected that by 2036 the north-west will expand by an estimated 394,000 extra residents, placing a huge demand on rail services. The North West Rail Link project, at 23 kilometres in length, is the biggest expansion of Sydney's rail network since the 1930s. The O'Farrell Government has allocated \$314 million for the North West Rail Link in 2011 to allow the project team to progress essential design and planning work and to finalise the project's scope and approvals. In the south-west it is estimated that 110,000 new homes will be built over the next 30 years and the population is estimated to increase by 300,000. The Government is committed to working hard now to ensure the infrastructure is in place to cope with this growth and the Government has made the South West Rail Link a priority.

On Friday 28 October 2011, the committee heard from Minister Souris on Tourism, Major Events, Hospitality and Racing, and the Arts. The Minister outlined the Government's commitment to the regional tourism sector. Three distinct funding programs are available to help grow regional tourism: the Regional Tourism Partnership Program, the Regional Tourism Development Program and the Regional Flagship Events Program. The Regional Tourism Partnership Program provides \$5 million per year to regional tourism organisations to assist them with operational costs and funding for the marketing of regional New South Wales. The Regional Flagship Events Program provides funding specifically to help market and promote events in regional New South Wales. The program offers grants of \$10,000 to \$20,000 each year for three years. In 2011, \$412,000 was provided to assist and advertise 21 regional events including the Lithgow Flash Gift, Byron Bay International Film Festival, Wings over Illawarra, the Grenfell Henry Lawson Festival of Arts and Moree on a Plate.

The Government knows that tourism is more than just a business for regional communities; it is also an opportunity to share and grow Aboriginal culture in the domestic market. An important initiative being undertaken by Destination NSW is the development of the Aboriginal Tourism Action Plan. This plan will identify ways in which Destination NSW, other government agencies and the tourism industry can partner with the Aboriginal tourism sector to deliver successful outcomes. One action that will feature in the final plan is the Aboriginal tour guide program, which is now being piloted in Sydney with the intention of conducting further programs in regional New South Wales. This program supplements TAFE training with on-the-job work experience with government and private sector tourism operators, creating strong links to potential employment opportunities.

Having a vibrant culture and arts industry is essential for contributing to economic activity and enriching the lives of the people of New South Wales. It is estimated that 60 per cent of international visitors seek out cultural attractions as part of their experience. The Government is committed to the arts industry and has invested more than \$349 million to support the sector. Of that amount, \$58.2 million is for the Arts Funding Program supporting artistic opportunities in theatre groups, dance companies, galleries, emerging artists and community projects. Each year this important program supports approximately 400 artists, individuals, and arts and cultural organisations from across the State for creative programs, projects and tours. The Government has also allocated \$272 million to cultural institutions including the Art Gallery of New South Wales, the State Library, the Powerhouse Museum, the Australian Museum and the Sydney Opera House.

Finally, the committee heard from the Minister for Roads and Ports, the Hon. Duncan Gay, on a number of topics including Port Botany, the M5 widening and tunnels, cycleways, and various road safety initiatives such as the very important congestion and safety package, which has been allocated \$200 million over four years. This financial year the Government is delivering \$41 million worth of congestion and safety projects

including \$1 million for Bathurst roads upgrades, \$600,000 for the Narromine to Tullamore Road upgrade, \$500,000 for the Queanbeyan roads upgrade, \$500,000 for the Wisemans Ferry upgrade, \$1 million for the Woy Woy Road upgrade, and \$1 million for the Princes Highway Heathcote upgrade. In addition to these important safety upgrades, the Government is currently investing \$35 million in building and upgrading rest areas to ensure that drivers, particularly heavy vehicle drivers, have appropriate rest sites to stop and revive. Furthermore, the Government has committed \$13 million to doubling the number of flashing lights at schools to protect our children. In conclusion, I again thank the committee staff for their assistance and I commend the report to the House.

**The Hon. PENNY SHARPE** [5.54 p.m.]: Members will not be surprised to learn that in my contribution to debate on the General Purpose Standing Committee No. 3 report on the budget papers I will deal in part with transport. I refer first to the O'Farrell Government's budget and note that it is hurting people across New South Wales. We already know that the Government is slashing 5,000 jobs from essential public services and is signalling that there are more to come. The Government has cut funding to programs like VisionCare so that pensioners will no longer have access to free glasses. Just think about that for a minute: People rely on free glasses from the State Government but the O'Farrell Government has just said, "No, you can make do without." The Government has cut and then partially reinstated funding for foster carers. This funding should be reinstated in full. Failure to do so will only hurt the most vulnerable young people in New South Wales—kids who deserve better and foster carers who need the support.

But it is also a budget that left the people of New South Wales, especially the commuters of New South Wales, underwhelmed. The Minister made much of the budget as one that delivered on rail. But what has actually been delivered? The Government has dumped the western express and city relief line. It has dumped the Parramatta to Epping link. What has happened to the North West Rail Link? The Government has produced lots of glossy brochures and an information centre but allocated only \$314 million over the next financial year. There has been no funding for the accessibility upgrades promised at Oatley, Narwee or Wentworth Falls stations and there are no lifts for Pendle Hill, Toongabbie or Waratah stations. The planned work on Cardiff station that was fully funded was put under review and now will not be completed until 2013 or perhaps 2014.

I refer now to the North West Rail Link. Only \$314 million has been committed to this project in the next financial year, with a total of \$2 billion over the next four years. I have said before that Labor supports the North West Rail Link, but we want to make sure it is constructed properly. At this point in time the project is not funded. Last year I toured the proposed route and locals told me that they were concerned about a lack of commuter car parking, the impact of and potential for graffiti, and issues of community safety. Infrastructure NSW is also worried that the Government does not know how much the project will cost. The O'Farrell Government has allocated \$314 million, \$278 million of which is for land acquisition. Yet as was revealed in the *Daily Telegraph* on 6 October, and I quote:

ONLY 30 per cent of land along the proposed North West Rail Link is owned by the Government, with the project's boss admitting negotiations are still to be held with the remaining 70 per cent of landowners along the yet-to-be-finalised 23km route.

There is still no update on land acquisition. In the meantime, the consultant bills pile up. The Minister makes a great deal about the number of tenders that have been let but millions of dollars are going to consultants without much to show for it so far. There is still no plan to deal with congestion on the northern line when commuters arrive at Chatswood. Under the O'Farrell Government, the North West Rail Link will essentially become a shuttle service between Rouse Hill and Chatswood, forcing passengers to get off at the already congested Chatswood station and wait for a service to the city.

The Sydney Harbour Bridge can accommodate only 20 trains per hour and it currently has 18 services per hour during peak periods. A new harbour crossing will be needed to allow for more capacity. Without a plan to deal with these capacity constraints, at best there will be two trains to the city an hour from the north-west. The Government knows this but has not, as yet, outlined any plan to deal with it. This will leave a pretty ordinary service for commuters from the north-west. Advice from the experts is clear: In order to introduce trains from the north-west, cuts will be required to services on other lines unless the issues of capacity and congestion are dealt with.

The budget was also disappointing for active transport users. The O'Farrell Government "permanently deferred" the inner west GreenWay—the cycling and walking track that was to be built along the length of the inner west light rail extension. A 10-year commitment from the local communities across the inner west to bring the GreenWay to fruition has been unceremoniously dumped. The Friends of the GreenWay produced a petition signed by more than 10,000 people in support of building the GreenWay now. I doubt that we will see any

movement from the Minister on this issue. This is a Government that claims that Sydney needs an active transport strategy. Minister Berejiklian stated this on 702 ABC Sydney shortly after announcing that the GreenWay would be "deferred".

The inner west GreenWay corridor would provide a safe cycling route connecting Cooks River in Dulwich Hill with Sydney Harbour at Iron Cove in Leichhardt. Twenty-five schools and educational centres, including three high schools, are located along the route, as well as 20 large parks and numerous pocket parks, two swimming centres, three bowling clubs and a golf course. The GreenWay would connect the community to all these resources in an environmentally sustainable way and provide a safe route to schools, parks and community facilities for the entire inner west and beyond. This is a project that has 10 years of community support behind it and 10 years of goodwill. But the new transport Minister, Gladys Berejiklian, has now deferred the GreenWay without a single mention on a line of the budget papers.

There has been a lot of talk about light rail and a so-called light rail revolution. The Government is all talk. Again there has been plenty of money for consultants but no action on light rail. The Government made much of its light rail revolution, but it committed only \$103 million to expand light rail, with funding going to the inner west light rail, a project already started under the former Labor Government. Even then the Government has deferred it and it will take two years longer to complete despite work already having started. Jacob Saulwick in the *Sydney Morning Herald* recently summed it up:

It took engineers in China 20 months to build a 200 kilometre high-speed rail line from Shanghai to Hangzhou for trains that run up to 420km/h.

It will take the New South Wales Government four years to deliver a 5.5 kilometre light rail line from Lilyfield to Dulwich Hill for trams travelling about 40 km/h, on tracks that are already laid.

The inner west extension should have been running by the end of 2012. The tracks were to be refurbished between August last year and April this year. The work should be finishing on schedule, unless it is not a priority and unless this Government just does not have the will to fund this project properly. These are not the only reasons commuters will be left underwhelmed about the commuter car parks and accessibility work that has been planned or was promised during the election campaign. What about work on the park and ride commuter car parks for Cabramatta, Granville and Blaxland that have been cancelled? The interchanges cut at Fairfield, Sutherland and Narwee. In addition, promises have not been delivered on. For example, the member for Oatley was keen to promise that he would fight for a lift at Oatley station, but there is no money in the budget for that lift or a lift for Narwee station. It is not in the budget papers either.

What about the long list of commuter car parks promised by other members? The member for Penrith promised funding for commuter car parks in the lower mountains. Guess what? They were not funded. The member for Epping advocated a car park over the northern rail line or a double storey garage at Rawson Street, Epping station. They are nowhere to be seen. The member for Granville, Tony Issa, promised a commuter car park at Granville station. This was his one and only big ticket item. Where is it? Nowhere. There has been no commitment. He even mentioned it in his inaugural speech, but what was delivered? Nothing. The member for Hornsby had his picture taken with the now Minister for Transport during the lead-up to the election. He said that Hornsby station was close to top of the list. It is not close enough, because it is not mentioned either.

The member for Ryde, Victor Dominello, said he would lobby for improved commuter parking at West Ryde and Eastwood stations. Guess what? They are nowhere to be seen. The member for Strathfield, Charles Casuscelli, said that commuter car parking at Ashfield and Strathfield was a priority. I am glad he thinks it is a priority, because his Government clearly does not. Today we have been told that the Government is still reviewing the commuter car park program accessibility. We will see what happens with that review. We asked the Minister for the time frame of these reviews that are being undertaken. We have had no answers to that question. There has been no process and no planning. There have been reviews and more reviews.

I refer to the much-trumpeted 135 new express services promised to commuters from the Blue Mountains, Central Coast and western Sydney at the last election. Where are they in the budget papers? They are nowhere. Not one single service has been delivered. Not one of the new promised peak express services has been delivered. Experts suggest that they are not likely to be delivered any time in the near future. Without a plan to deal with congestion, the CityRail network will not have the capacity for extra services.

I shall reflect briefly on two matters: the committee and the RailCorp review in relation to transport. On top of all the money going to consultants—at least \$18 million—we have not one new bus service and not one

metre of track laid. We have had a four-month review, with \$6.3 million paid to the favoured consultant—which was used in the Greiner years—to find savings in RailCorp. We will wait to see what is under consideration because the Minister says that that is everything. In particular, station staff are the most vulnerable. We will await that result. This committee was curtailed by the majority on the committee. Members from the crossbench and from the Opposition sought additional opportunities to question and dissect the very large budget that makes up the Transport portfolio. This was ceremoniously rejected by the Government, which was too arrogant to expose itself to accountable government.

**Dr JOHN KAYE** [6.04 p.m.]: I address the General Purpose Standing Committee No. 3 report on the budget estimates. I will not talk on a range of important portfolio areas, including Transport and Roads and Ports. I will leave that to my colleague the Hon. Cate Faehrmann, who will have many things to say about those portfolio areas. I will focus on three portfolios: Tourism, Major Events, Hospitality and Racing; Special Minister of State; and the Central Coast. The current Government inherited two major events from its Labor predecessor, neither of which has proved to be of benefit to New South Wales and neither of which has this Government been able to control.

I refer to the World Rally Championship, which was moved to Coffs Harbour. It had its first race at Coffs Harbour last year. Despite warnings from local environmentalists, the local business community, local birdwatchers and The Greens, the race went ahead with what is called a super special stage conducted on the Coffs Harbour foreshore between 6.30 p.m. and 10.30 p.m. each evening. This event involved a substantial number of lights from both the headlights of the racing vehicles and the floodlights that illuminated the event. The noise from vehicles reached Mutton Bird Island, which is the home for the short-tailed shearwaters, *puffinus tenuirostris*, commonly known as mutton birds.

The timing of the super special stages was completely coincidental with the return of the mutton birds for their mating season. As members know, the mutton birds mate for life. They choose a mate and they re-unite with their mate through a series of courting rituals that are sensitive for those birds. The annual migration and courtship ceremonies were disrupted by the race. Almost the entire population left the island. They were distracted and disoriented by the lights. These birds navigate by the light of the moon and many of them disappeared.

By the third night of the event observers on the ground were able to find only two birds left on the entire island. It is estimated they stayed away for between five and seven nights, and 95 to 99 per cent stayed away for at least three nights. The long-term impact on the shearwater community is unknown at this time. What is known is that these shearwaters live a difficult life; they live on the edge. There are real risks that what happened in Coffs Harbour in September 2011 may well have done lasting damage to the shearwater population. Local businesses were also damaged. The former Government and this Government oversold the event to local businesses, who ended up buying too much perishable stock for the event. Many of them lost substantial amounts of money.

**The Hon. Dr Peter Phelps:** Don't shearwaters spend a lot of money?

**Dr JOHN KAYE:** I note the interjection of the Government Whip. I note his lack of concern for small business, which is surprising given his politics. He does not care about small businesses in Coffs Harbour. He is quite happy for them to waste money on an event that his Government over-promoted. People invested in stock for that event for people who did not turn up. Those businesses were damaged by this event, as was the shearwater population. That was not the only grubby hold over the Labor Government. I refer also to Ian Macdonald's V8 Supercar Race deal at Homebush Bay.

The Auditor-General's June 2010 report makes interesting reading. It savaged the deal negotiated by the then Minister for State Development, Ian Macdonald, that resulted in the Government's signing a contact with V8 Supercars Australia to provide financial assistance for the race at Sydney Olympic Park for five years from 2009. The Auditor-General found unequivocally that there was something very dodgy about that deal. In his June 2010 performance report he stated:

... direct negotiations with the proponent were not well handled. The approach to assessing the proposal and negotiating an agreement did not follow established procedures for investing public funds.

In short, the people of New South Wales invested \$35 million—which has now grown to \$45 million—in an event the genesis of which was marked by substantial irregularities that included advice being provided to Cabinet by Ian Macdonald's department which was inadequate and which failed to consider other options. At the

same time, Events NSW, the more appropriate body for dealing with such proposals, was shut out of the process before Cabinet made its in-principle decision to support the event, there was no business case for financially supporting the event, the Government's negotiation strategy was not coherent and the Department of State Development did not agree to a negotiating protocol with the proponent.

The Auditor-General went on to point out that there were potential conflicts of interest that were not dealt with actively through the use of negotiating strategies to ensure that controls were operating. He also stated that the Department of State Development failed to engage a legal firm to oversee the process and that the Labor Government overstated the benefits to the taxpayers of staging the event at Sydney Olympic Park by at least 24 per cent. He further stated that the only independent assessment of the event was subsequently conducted by an individual who had previously held a position with the Department of State Development. Apart from the Auditor-General's inquiry, this Government has not instigated an independent review. It continues to allow this event to suck money out of the New South Wales taxpayers' pockets without appropriate oversight or any attempt to analyse whether the deal should be cancelled or renewed when it expires in 2013.

That is hardly surprising given the O'Farrell Government's \$285 million payback to its mates in the club industry. Barry O'Farrell and Andrew Stoner's intensive promotion of their policies on alcohol and gambling in the members' magazines sent out by the club movement and in a media blitz provided a very handy boost to the then Opposition's campaign to win the March 2011 election. However, as soon as the Coalition came to office it handed \$285 million back to the club movement. That is tax revenue that could have generated employment, but it is now in the hands of the clubs and it is being spent to boost the \$12 billion that is already being spent on poker machines annually.

The O'Farrell Government has completely failed in the task of controlling the problem gambling that so badly afflicts New South Wales. In fact, this Government is now considering the establishment of a second casino. I note that the Premier rapidly and positively responded to the proposal put forward by Mr Packer about a new gambling venue. Sydney does not need another casino. This State is already home to 1.3 per cent of the world's poker machines. That is astounding given that we have only 0.1 per cent of the world's population. That is a 13-fold over-representation.

**The Hon. Dr Peter Phelps:** We are number one.

**Dr JOHN KAYE:** We are not number one, but we are close to it. That demonstrates that this Government is pushing the State towards further gambling opportunities, which will only entice more potential addicts to gambling. I will conclude my contribution by referring to Mr Chris Hartcher, who is now not only the Special Minister for State—which is a portfolio with no responsibilities—but also the Minister for the Central Coast. The Minister has completely failed to discharge the duties of that portfolio. When we asked him about Gosford Public School and the Empire Bay substation and powerlines he declined to answer or to fulfil any of his obligations to the Central Coast. The people of the Central Coast voted overwhelmingly for Coalition members and their reward is the transfer of a major local public school to a high school and the ongoing construction of substations and powerlines that they profoundly oppose. This is not good enough.

**The Hon. MICK VEITCH** [6.14 p.m.]: There was a fair degree of dissatisfaction about the budget estimates process last year. I refer specifically to the severe truncation of the time allocated for the examination of various portfolios. Some portfolios that were allocated three or four hours in 2010 were allocated only one or two hours in 2011.

**The Hon. Matthew Mason-Cox:** Name them.

**The Hon. MICK VEITCH:** Primary Industries was one. That was clearly an attempt to protect some Ministers. Although I do not want to anticipate what will happen in this place in the next couple of days, this morning the Leader of Government Business gave notice of a motion dealing with this year's budget estimates timetable. It makes interesting reading because the time allocated to some portfolio areas is even less than the time allocated last year. Some very important portfolio areas will be subjected to even less scrutiny. The parliamentary website contains an explanation of the budget estimates process and states:

Each year Government ministers and senior public servants attend an annual Budget Estimates inquiry to answer questions about the expenditure, performance and effectiveness of their departments.

Budget Estimates is a key process for government accountability and transparency. The Budget Estimates inquiries involve hours—

not minutes—

of detailed questioning by members of the Legislative Council on the decisions, actions and advice of ministers and public servants.

No-one would deny that it is critical that the New South Wales Legislative Council have the opportunity to question Ministers and senior public servants about the role, actions and budgets of government departments. However, some Ministers and portfolio areas will have less scrutiny, and the Special Minister of State is one such Minister.

Having quoted the parliamentary website and highlighted the discrepancy between the stated aims of the budget estimates process and the time allocated to each portfolio area, I will now compliment a Minister. The Hon. Duncan Gay paid due respect to the process and allowed appropriate time for questions, which he answered in his own unique style. He was accompanied by senior public servants who also answered questions. That is how the budget estimates process is supposed to work. Ministers in the lower House could learn a lot from the way that the Hon. Duncan Gay conducted himself. His performance was in stark contrast to that of some other Ministers, particularly those from the lower House.

The first Minister to appear at the General Purpose Standing Committee No. 3 hearing on the Tuesday morning was the Deputy Premier, and Minister for Regional Infrastructure and Services, the Hon. Andrew Stoner. Unfortunately, the Deputy Premier did not want to answer questions.

**Dr John Kaye:** He was Stoner-walling.

**The Hon. MICK VEITCH:** Yes, he was. Government members—specifically, the Hon. Niall Blair and the Hon. John Ajaka—ran protection for the Deputy Premier because he did not want to answer the questions being put to him. The situation deteriorated to the point at which we had to move dissent against the chair. That is a very serious step that is not taken very often. It was a bizarre situation. When the chair invited the witnesses back into the room, the Deputy Premier made a statement to the committee addressing the questions that members had been asking. It was a fantastic statement obviously written on a scrap of paper while the Deputy Premier was waiting outside the hearing room. Clearly the issues being raised were important enough to warrant the Deputy Premier's making a statement, but apparently they were not important enough to allow members to ask questions.

What does that say about the process undertaken for budget estimates this year? I reiterate what is said on the Parliament's website about answering questions. Clearly, for some Ministers, that is not the way it was going to be done. A lot could be learned from some of the older hands. Ministers who have been here for a while—particularly those in this place—paid due respect to the process. Other Ministers did not pay due respect to the process. It makes a mockery of the function of the upper House, which is supposed to review government process, government decisions and government expenditure in the budget estimates process. To say that the Deputy Premier, Mr Andrew Stoner, was forthcoming with information would be drawing a long bow. He was not. That was in stark contrast to the Minister for Roads and Ports.

I refer to the ability of some Government members to run protection for Ministers when they are in trouble. Mobile phones and BlackBerries were clearly working overtime, receiving text messages from people who were not at the table—they were probably at the back of the room. They were saying what should and should not be done, and what action should be taken to prevent Opposition and crossbench members from asking questions. We were all frustrated by the process. When the notice of motion for this year's budget estimates is before the House we should ensure that there is ample time for the committees to scrutinise the affairs of Ministers and departments, particularly significant departments.

Curtailing or truncating the time available is not the way to do this. If the Government were true to its commitment to the people of New South Wales about open and transparent government, it would allow the budget estimates process to happen. Last year it did not; I hope that this year it will. I know that other members want to talk about the startling performance—that is being too generous—of the Special Minister of State, who turned up for 45 minutes of questions with no public servants. He does not have any.

**Mr David Shoebridge:** No employees—

**The Hon. MICK VEITCH:** That is right.



**The Hon. Dr Peter Phelps:** He is a lone wolf.

**The Hon. MICK VEITCH:** Yes. Clearly, he was waiting to be told what to do, he was waiting for it to fly by or drop from the sky, but there was absolutely nothing for him to answer. We had 45 minutes of nothing from the Special Minister of State. That highlighted the utter contempt some Ministers, particularly those in the lower House, have for this process. There seems to be contempt for the upper House on a regular basis these days. That is the way to go about it. It was in stark contrast to the Hon. Duncan Gay. I see the Hon. Niall Blair nodding, because he was one of the main protectors of the poor performing lower House Ministers. That is the way we should provide due process to budget estimates.

It made a mockery of the whole process and was very difficult. I draw members' attention to the dissenting report at the back of the tabled document, which was submitted by the Hon. Penny Sharpe and me. Those who have been members for a while would know that dissenting reports to budget estimates are rare. General Purpose Standing Committee No. 3 performed well in that it received a dissent motion against the chair's ruling, which is unusual, and a dissenting statement to the report, which is also unusual. Could I suggest that this year the General Purpose Standing Committee No. 3, and the Ministers who attend it, provide due diligence, due process and due courtesy to the process of this House. Perhaps then it will be a much more effective process than it was last year.

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

#### **STANDING COMMITTEE ON LAW AND JUSTICE**

##### **Report: Fourth Review of the Exercise of the Functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council**

**Debate resumed from 21 February 2012.**

**Mr DAVID SHOEBRIDGE** [6.24 p.m.]: I commend the hard work of the Standing Committee on Law and Justice, the work of the chair and other members of that committee on the report entitled, "Fourth Review of the Exercise of the Functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council". During my time on that committee, it has been very much a search for the truth, as best as committee members can do without falling into partisan politics, particularly on the review of the Lifetime Care and Support Authority. It was one occasion where, as parliamentarians, we all worked together—admittedly with different emphases and different political inclinations—to try to work out whether the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council were doing what they were set up to do, which is to support those people catastrophically injured in motor accidents in New South Wales.

Plenty of criticisms can be levelled at the previous Government about what it did or did not do in office over 16 years, but one of the genuine reforms that it put in place was the Lifetime Care and Support Scheme, which provides no fault compensation for anyone who is catastrophically injured in a motor accident, whether a pedestrian, a pillion passenger on the back of a motorbike, an at-fault driver, or an infant or child. Anyone who is catastrophically injured in a motor accident in New South Wales is now guaranteed to get world-class care and attention. That is not only essential for the victim, the person who has been catastrophically injured, but it also provides a level of support and comfort to his or her family members, who otherwise are required effectively to end their independent life to become a full-time carer for someone who is catastrophically injured. It has been a genuine reform and it has had strong support from all political players in this House throughout the life of the scheme, which is reflected in the fourth review. I note the chair's foreword states:

The report highlights that overall the Scheme is working very well to provide support to people who are catastrophically injured in motor vehicle accidents. ...

This year, as in previous reviews, the Committee has heard from a range of stakeholders including medical professionals, legal specialists and advocacy groups. A number of these groups have commended the Lifetime Care and Support Authority for its ongoing work to improve its processes and for operating in a spirit of collaboration with other stakeholders.

That was the tenor of the evidence that came before the committee. A number of players had critiques of some aspects of how the Lifetime Care and Support Scheme worked. A number of people from the Brain Trauma Institute at Westmead and some of the paediatric care specialists at Westmead said they had difficulties with the extent to which some of the administrative arms of the Lifetime Care and Support Authority were taking on

board a clinical role. They were critical about where the clinical and administrative roles should be divided. They said that there was goodwill within the Lifetime Care and Support Authority to come up with a clear set of protocols about delineating between the role of administrator in the insurance scheme and the role of clinician. There did seem to be genuine goodwill from all parties to make sure that what I would call those relatively minor grievances could be worked out in the future.

It is important to realise that the Lifetime Care and Support Scheme in New South Wales is a growing scheme. In its first year of operation it had only 76 participants. In its second year it grew to 233 participants. In its third year it had 379 participants. As at 30 June 2011, the number had grown to some 536 participants—that is, 536 people who had been catastrophically injured, including quadriplegics, paraplegics, those with serious brain trauma and injury, people in desperate need of care, who are now getting that care because of the Lifetime Care and Support Scheme. It needs to be stressed that many of these people would not have received that care had they been required to prove that someone else was at fault, which is what happens in the balance of the motor accidents scheme. This has provided an incredible safety net for victims of motor accidents in New South Wales.

When one drills down into the type of those 536 participants one finds that the bulk of them were male. As at 30 June 2011 the numbers were 378 males and 158 females as well as 64 children. It is a warning to those of us about my age that there is a spike in catastrophic injuries in men aged 40 to 50—men with the money and the resources who thought it a good idea to buy that high-powered motorcycle that they wanted when they were young adults. They might have suddenly thought how nice it would be to take a ride down Galston Gorge, forgetting that their reflexes were no longer what they were 20 years ago and that the motorbike they were riding had three times the power of the one they rode at 18. But probably the biggest spike in participants in those young males—

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

**Item of business set down as an order of the day for a future day.**

## **ADJOURNMENT**

**The Hon. MATTHEW MASON-COX** (Parliamentary Secretary) [6.30 p.m.]: I move:

That this House do now adjourn.

## **ABORIGINAL HOUSING OFFICE AND LAURINNE CAMPBELL**

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [6.30 p.m.]: In the nine months since I became the shadow Minister for Housing my strong appreciation of the hard work done by our public servants in delivering housing outcomes for the most vulnerable in our State has increased. Many of the public servants who work for Housing NSW and the Aboriginal Housing Office do an exceptional job and they deserve recognition in this place. Laurinne Campbell is one such person. Laurinne is the Western Regional Manager for the Aboriginal Housing Office. Last year she was awarded the Inspirational Colleague Award for professional excellence in housing at the Australasian Housing Institute awards. These awards recognise professional commitment and success stories in social housing across Australia and New Zealand. They also provide an opportunity for us to acknowledge the dedication that public servants such as Laurinne demonstrate every day in the workplace.

Laurinne, who is based in Dubbo, is responsible for implementing the key priorities of the Aboriginal Housing Office across the entire west of the State—a geographical area bigger than Germany. She works closely with Aboriginal communities to deliver improved housing outcomes through the Build and Grow Aboriginal Community Housing Strategy and the Remote Indigenous Housing National Partnership Agreement. She is a proud Aboriginal woman who is also engaged in extensive voluntary work in the Dubbo community. She has campaigned to ensure that children with learning disabilities can access services locally, following her own experiences in trying to get help for her son, and she has helped set up a local charity to assist and support Aboriginal youths. According to the Aboriginal Housing Office newsletter, Laurinne was surprised about her nomination and on receiving the award she said:

I am very honoured to have won this award because it means that my work is not only making a difference in the community but also to my colleagues.

Laurinne is a highly respected and valued member of the Aboriginal Housing Office team, and I congratulate her on this impressive achievement. Many people like Laurinne work in our housing agencies across New South Wales. I take this opportunity to recognise the hard work of all those involved in the delivery of social housing in New South Wales. Many fine public servants across Housing NSW, the Department of Finance and Services and the Aboriginal Housing Office are involved in delivering positive housing outcomes for vulnerable citizens in this State. Because this area is not front-page news, sometimes their work, commitment and diligence is overlooked when it ought not to be.

### BLUE MOUNTAINS EAST TIMOR SISTERS

**The Hon. HELEN WESTWOOD** [6.33 p.m.]: The Blue Mountains community is uniquely diverse and actively demonstrates a great sense of social cohesion. Located on the fringes between city life and the country is a thriving community sector of both funded and unfunded groups and projects. Hundreds of paid workers and volunteers tackle important social justice issues and strive to make a difference both in their communities and the broader environs. The Blue Mountains East Timor Sisters [BMETS] is a thriving example of one such volunteer group. The story of the Blue Mountains East Timor Sisters reminds me of the Paul Kelly song *From Little Things Big Things Grow*.

Blue Mountains East Timor Sisters was established in 2004 and has raised nearly \$400,000 to fund women's projects in East Timor. East Timor, which is located only 400 kilometres from Darwin and is one of the world's newest nations, gained its independence in 2002. After 400 years of Portuguese colonisation and nearly 25 years of Indonesian occupation the East Timorese are rebuilding their country and their society. Whilst we have recently seen significant growth and improvement in the living conditions of East Timor, it remains a poor developing nation and much more needs to be done to improve the lives of its citizens. The sisters play a unique role in responding to the needs of women in East Timor.

Blue Mountains East Timor Sisters is a small community-based organisation of about 30 regular members who come from a broad range of backgrounds and contribute their time, skills and resources on a voluntary basis. The common thread for these women is a strong passion for social justice and to address issues that impact the lives of women and children. As a small non-government organisation it funds very small women's projects. These projects would normally not be considered by large non-government organisations, yet these small projects make an enormous difference in the lives of women and children and provide significant community benefits. The sisters improve their lives by developing leadership skills and empowering the East Timorese women. The group focuses on small sustainable projects that will directly benefit women and it fosters partnerships and friendships between women in the Blue Mountains and East Timor.

Blue Mountains East Timor Sisters works on projects to meet women's immediate needs whilst also enhancing the future capacity of women. Some of the projects include funding of two community development workers in Dili and a number of rural outreach workers who provide education to women in the districts as well as assisting women's groups with advice on income generation, domestic violence and other relevant issues. The sisters have also supported the publication of the book *Secrecy*, which is a collection of stories of the lives of 13 Timorese women who were active in the resistance movement during Indonesian occupation. The Tetun version of this book was launched during International Women's Day in 2010 by Prime Minister Xanana Gusmao. It is considered to be important in establishing the claim by women resistance fighters for veteran status. Its authors, Beba Sequeira and Laura Abrantes, will visit Australia in May to launch the English edition of the book here at Parliament House.

In the village of Bugoro, located in the district of Liquica—the site of one of the worst massacres under Indonesian occupation—Blue Mountains East Timor Sisters have funded and established a women veterans centre that caters for large numbers of widows. The centre provides an important place for the village women and their veteran leaders. It has also seeded a number of other community projects such as agricultural projects, basket weaving, a youth group and preschools. The preschool program was so popular that there are now three preschool classes with over 90 children in attendance. The group has also worked with East Timorese Ambassador Aoie Guterres to establish a Blue Mountains East Timor Friendship Committee.

In 2007 the then mayor of the Blue Mountains, Mr Jim Angel, accompanied members of the sisters to East Timor to sign a friendship agreement with the mountainous village of Hatobuilico. The friendship group is now working with the sisters and their counterparts in East Timor to build and resource an adult learning centre in that beautiful village. Generations of adults whose learning was interrupted by Indonesian occupation and conflict are now direct beneficiaries. I commend the sisters for developing and enriching community life in the

Blue Mountains by providing community garage sales, book sales, public talks and education on East Timor and for raising awareness of the value of volunteer work both here and in East Timor. The sisters also provide a strong sense of social inclusion for their members and supporters.

East Timor is a country rich in its people, natural resources and culture and it has a very positive future. Whilst the oil money is beginning to flow in East Timor, the Timorese people know that it takes more than money to build a nation. In this context women's organisations are critical in building women's leadership to resolve past conflicts and create a cohesive future for Timorese families and communities. This is where the work of the sisters group is so important: operating at the grassroots and providing funding and support as Timorese women take their own steps towards independence.

## WATER MANAGEMENT

**The Hon. ROBERT BROWN** [6.38 p.m.]: Tonight I speak about something of which everyone is aware but, it seems, no-one is keen to do anything about—namely, about 95 per cent of the State is or has been under water for about a month. Indeed, for the last few weeks the Darling River channel has had a 14-metre wall of water flowing down it towards Menindee. It passed through Bourke last week and, while the river channel is nearly 14 metres high, the water spreads out on each side for miles and miles, or kilometres and kilometres we say these days.

It is not just the Darling River that is flood, of course: the Warrego, the Murrumbidgee, the Lachlan, the Bogan, the Snowy and almost every other river in the State is in flood at the moment. But, guess what? Not one extra drop of this water is being harvested for future use. Even worse, the Federal Government is taking back New South Wales farmers' irrigation water for so-called "environmental flows" in some of our rivers. Members will know that I have a notice of motion on the business paper to bring in a bill to take New South Wales out of the ridiculous Federal water agreement, which only seems to serve to keep the water levels in Lake Alexandrina at "pontoon" level for the canal developments in that lake. The Shooters and Fishers Party believes the current wet flooding should finally give the lie to the scientists who just a couple of years ago claimed New South Wales would never again see water storages full.

**The Hon. Robert Borsak:** Tim Flannery.

**The Hon. ROBERT BROWN:** I acknowledge the interjection of the Hon. Robert Borsak. Of course, I am talking about Professor Tim Flannery here. Have these same scientists gone and had a look at Warragamba Dam in the last fortnight? It is a shame that most of our storages are now full to overflowing and about as much water as their total capacity is being wasted because there is nowhere else to store it. The real tragedy of the rain in recent weeks is that most of it has been wasted. It has been two years since the last big drought broke and the almost non-stop rainfall since then has simply flowed down the rivers and out to sea.

In the last decade we had the opportunity to build more water storage facilities. But that did not happen. Why? The Greens, who held sway over most State governments and the Federal Government, made sure that no dams were built. Indeed, there is no reason, apart from The Greens, that plans for the Welcome Reef Dam at Braidwood should not be dusted off and given another run. The proposal was only dumped on the say so of The Greens in the first place. The Greens simply do not like dams. People who are old enough can see the hypocrisy when they remember the green mantra about clean green hydro power for dams. The "leech-ridden ditch", the Franklin, put a stop to that. For some reason The Greens have changed their mind—to the detriment of Australia. I am not alone in being disappointed at the political leadership in this State in recent years.

The Government built a billion dollar white elephant desalination plant in Sydney and then bowed to The Greens by dumping plans for Tillegra Dam in the Hunter Valley. Then "Toorale", on the Warrego-Darling River junction was bought back—that last statement is not strictly correct—to return water to the basin system. But then it was found that the century-old dams the pioneers built could not be removed. This pandering to The Greens has done nothing for the people of New South Wales. The fact is governments will need to build more water storage facilities and the sooner they start looking at prospective sites the better.

It is also disappointing that members of The Nationals seem to have deserted rural and regional New South Wales insofar as this water issue is concerned. They need to be pushing their Coalition partners, the Liberals, to consider our water options. There is no point being in government if you cannot look after constituents and The Nationals do not have much more time to demonstrate that they care about water issues in regional areas. They should not just talk about them; they should do something about them. People in the bush are watching. They are watching this Government to see what this Government will do about water.

## **GREATER WESTERN SYDNEY GIANTS AUSTRALIAN FOOTBALL LEAGUE TEAM**

**The Hon. CHARLIE LYNN** (Parliamentary Secretary) [6.42 p.m.]: On 7 March 2006 I addressed the House on a matter of great importance to greater western Sydney, the establishment of our own Australian Football League [AFL] team. I advised the House that the Sydney Swans had realised their dream of winning the AFL grand final and fulfilled the vision of the then Victorian Football League administrators back in the seventies. The victory was a fitting tribute to the team's inspirational coach, Paul Roos, and to the courage, skill and teamwork of the players.

The relocation of the then South Melbourne Swans to Sydney, which had well established rugby union and league traditions, was a high-risk strategy. It was never going to be an easy task and the move quickly attracted some questionable marketing techniques from carpetbaggers who knew nothing about Australian rules football, but lots about the culture of the eastern suburbs. The focus of their campaigns was therefore based on Swanette cheerleaders, tight shorts and pink helicopters.

The eventual bankruptcy of the team's major backer almost led to its demise but, fortunately, the club was able to engage a former Victorian Football League football champion and highly credentialed sports administrator, Kelvin Templeton, to get back to basics and focus on the future success of the team on the field. Kelvin Templeton's vision for the code in Sydney, his knowledge of the game, his empathy with players, his leadership and his outstanding management abilities led to the emergence of the Sydney Swans as the most successful sporting club in Australia.

After the completion of Stadium Australia for the 2000 Olympic Games Kelvin Templeton developed three themed games to attract Sydneysiders and their families in western Sydney. The first game was dedicated to the recognition of the Indigenous nature of the game and the contribution of our Indigenous people to its success. It included a display of culture through art, dance and storytelling and the introduction of the Marn Grook trophy. The second themed game was dedicated to the spirit of Kokoda and involved a salute to our veterans, demonstrations and displays from our defence forces and a showcase of Papua New Guinea culture, with dance and sing-sing groups brought down from Papua New Guinea. The inaugural game attracted more than 40,000 people, even though it had no bearing on the finals.

The third theme was directed towards western Sydney and encouraged people to get involved in their local communities. Pre-match entertainment, displays and demonstrations were designed to add value to the family outing, and it was a great success. Soon after Kelvin Templeton moved on from the chief executive's position and the new management of the Sydney Swans withdrew to their heartland in the eastern suburbs. The achievement of the long-term goal of a grand final for Sydney offered a timely opportunity for the AFL to look at the consolidation of the game in western Sydney, the most culturally diverse area in Australia. It has the people, the talent and the economic clout to become a future powerhouse for the AFL, so I am pleased that it has answered the challenge and provided us with our own team, the Greater Western Sydney Giants.

I am also pleased that they have placed the team under the careful tutelage of the wildest coach in the AFL and one of the greats of the game, Sapper Kevin Sheedy. The ethos of western Sydney is reflected in the theme of the Giants because being a Giant is not about the size of your body, it is about the size of your heart and your ambition. It is about daring to dream big. It is about taking every opportunity to challenge yourself. It is about realising your full potential and inspiring others to do the same. It is about courage, commitment and determination. It is about stepping up, standing tall and succeeding against the odds. It is about the spirit of greater western Sydney—to be the best that we can be.

I am proud to say that I have witnessed the spirit in three of my nephews who have played AFL football—Brownlow medallist, triple premiership captain and current coach of the Brisbane Lions, Michael Voss; his younger brother and St Kilda champion, Brett Voss; and an all-Australian school boy centre man and Carlton champion, Tony Lynn. I am also proud to advise the House that I am a foundation member of the Greater Western Sydney Giants. I congratulate the AFL, the city of Blacktown and the New South Wales Government on taking note of my speech in this House on 7 March 2006 and bringing the dream of an AFL team in greater western Sydney to reality. I wish Sapper Sheedy and his young band of Giants every success. I invite all members representing greater western Sydney electorates to mobilise their constituencies in support of this bold endeavour. I look forward to the day the Giants AFL premiership flag is planted on the western side of the Sydney Harbour Bridge.

## **CONSTRUCTION RETENTION FUNDS**

**The Hon. ROBERT BORSAK** [6.47 p.m.]: Tonight I speak on a matter of importance to small business operators and subcontractors, who, it seems, are forced to lose money when big construction

companies go bust. It is a reprehensible situation and one which I think needs addressing in legislation. I speak about the retention requirements in contractual arrangements nearly all of the big construction companies apparently use when contracting subcontractors for work. What happens is that a subcontractor or small business operator is tasked with doing work under contract for the company and at the end of the job gets most, but not all, of the contract price paid. They might get 90 per cent to 95 per cent of the amount due with 5 per cent to 10 per cent held or retained by the company in case there is some problem with the job or a defect.

I have no issue with that. But it is the company which retains the money in its retention fund. The issue is, and always has been: What happens if the big construction company goes bust? We have seen a few examples of that of late. Let me outline what happens: The money in the retention fund, which can be held for up to 12 months after the work is done, simply goes to the company. It is not its money; it is rightfully due to the small operator and in the case of bankruptcy or liquidation it simply disappears and the small operator is left to virtually whistle Dixie for their money. The failed company does not pay the small operators; it looks after itself first.

It is a real hit to small operators who subcontract to do a certain amount of work for a big company to find that when they finish the work they do not immediately get all their money and then a few weeks or months later, when the big company goes broke, to lose, say, \$20,000 or \$80,000-odd. In some cases that amount could be the whole of the profit margin for the work.

**The Hon. Robert Brown:** It could send them down.

**The Hon. ROBERT BORSAK:** It does send them down. They should not be expected to face such difficulties. Efficient business practice should not be that hard. There are hundreds, if not thousands, of small operators who have been caught in this bind. Surely it is a simple matter to sort out. Why is it not possible for the retention money to be deposited by the company in some sort of fund, as is the case with rental bond money, and the company then informs fund operators to pay the money to the small operator, or the small operator makes a claim on the fund, as they now do when they make a claim on the company when the retention period is over.

This way the small operator's money is safe and due to be paid to them and released, either at the expiration of the retention period or when the big operator goes bust. Indeed, I feel so strongly about this issue that I am seeking to introduce a bill to give legal force to such a fund. I hope it has the support of all members of this House. Small business is the backbone of our economy and should not have to suffer at the hands of bigger companies should those companies collapse. It is time that small business was afforded some proper protection in this area. I look forward to legislation being prepared and members of all parties showing their support to small business in a meaningful way, rather than the platitudes we often hear whenever small business is discussed.

#### TRIBUTE TO PROFESSOR NEVILLE HACKER

**The Hon. MARIE FICARRA** (Parliamentary Secretary) [6.51 p.m.]: It gives me great pleasure to speak of the outstanding contribution to our community that Professor Neville Hacker has made over the past 40 years and continues to make in the fields of medical science and women's health, charitable and community organisations. Both Professor Hacker and his wife, Estelle, are people I admire very much for their selflessness and dedication to our community. They have both spent decades devoted to advancing the care and health outcomes of women with gynaecological cancer and to raising funds to support groundbreaking research to treat that cancer. Indeed in 2008 Professor Hacker was a New South Wales Finalist for Australian of the Year in recognition of his devotion to medical science and our community. This is one of the highest accolades in our country and we continue to thank him and his dedicated team at the Royal Hospital for Women, Sydney.

Professor Hacker graduated from the University of Queensland with first class honours in 1967. He trained in obstetrics and gynaecology in Brisbane and then trained in gynaecologic oncology at the University of California in Los Angeles [UCLA] where he studied for nine years. He was Director of Gynaecological Oncology at the University of California in Los Angeles from 1984 to 1986, before returning to Australia to establish the Gynaecological Cancer Centre at the Royal Hospital for Women in Sydney. Currently he is Professor of Gynaecological Oncology, Conjoint, at the University of New South Wales, a past President of the International Gynaecological Cancer Society, a past Chairman of the Oncology Committee of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, and a current member of the International Federation of Gynaecology and Obstetrics Cancer Committee. Professor Hacker was founder

and is an executive member of the GO Fund—the gynaecological oncology fund for cervical cancer research. He has written over 150 peer reviewed articles, over 30 book chapters and two books, both in their fifth editions.

Currently Professor Hacker is extensively involved in research, teaching and clinical work, and is involved in the following specific projects: anatomical and functional changes resulting from the treatment of cervical cancer; the role of a primary surgical approach for stage 1B2 cervical carcinoma; presenting symptoms of ovarian cancer; risk factors in patients presenting to a gynaecological cancer centre; pre-treatment factors influencing the outcome for patients with cervical cancer; lymph node metastases in endometrial cancer; incidence and clinical course of brain metastases in epithelial ovarian cancer; prognostic factors and survival for adenocarcinoma of the cervix; and women's experiences of genital changes following treatment for cervical cancer.

Professor Hacker has saved the lives of many women with not only his surgical skills but also his psychological understanding of gynaecological cancers. He gives women hope and reassurance at a very difficult and frightening time in their lives. As Director of the Gynaecological Cancer Centre at the Royal Hospital for Women and a noted international authority, Neville travels the world to share his knowledge and skills with other specialists in his field in the hope that they can give women with gynaecological cancer a better outcome. Professor Hacker's groundbreaking research on ovarian cancer with his team at the Garvan Institute for Medical Research and the Royal Hospital for Women developed genetic profiling that will lead to more specific diagnosis and life-saving early detection for this most silent but deadly killer.

The New South Wales Parliament has also acknowledged the outstanding work of Professor Hacker on several occasions, most recently during this year's Ovarian Cancer Week, when the Parliament's Legislative Council resolved unanimously to recognise the lifelong dedication to women's health of Professor Neville Hacker and, in particular, his clinical and research initiatives in gynaecological oncology. I feel privileged to count Professor Neville Hacker and his loving wife, Estelle Hacker, as two of my treasured friends and on behalf of all Australians I acknowledge and thank them.

#### INVERELL ROTARY CONFERENCE

**The Hon. SCOT MacDONALD** [6.55 p.m.]: I bring to the attention of the House the district 9650 Rotary Conference in Inverell that I attended last Saturday. The function comprised drinks and a lovely dinner for the 530 delegates and partners from the coastal and northern areas of New South Wales. The approximately 1,000 people who attended the conference, amounting to about 10 per cent of Inverell's population, was a great economic boon for that wonderful town. I attended the drinks session, which was held at the Inverell Art Gallery, along with Martha Weideman, President of Guyra Rotary Club. That wonderful gallery has some reproductions of Tom Roberts, including *Bailed Up*.

We then travelled over to the Holy Trinity School in Inverell, where about 750 people enjoyed the delicious dinner and District Governor Barry Hacker gave a good speech outlining the accomplishments of Rotary. In attendance at the dinner was an exchange group from Florida and District Governor Hacker took the opportunity to speak about how polio had been almost eradicated and gave a small plug for some of their projects across the Pacific, including assistance with school, clean water and sewerage infrastructure. I am a proud member of the Guyra Rotary Club. It was great to meet with friends from far and wide. I congratulate the conference committee on a wonderful conference.

#### NURSING HOME RESIDENTS DENTAL CARE

**The Hon. WALT SECORD** [6.57 p.m.]: As members will know, ensuring proper care for our elderly citizens is a primary concern of mine. This is a legacy from my time spent as chief of staff to the Federal Minister for Ageing. Australians have the longest life expectancy in the English speaking world. Currently in Australia about one million people receive some form of aged and community care each year. By 2050 this will increase to more than 3.5 million. Aged and community care for the elderly is now a priority issue for all levels of government in Australia.

Today I touch briefly on an aspect of aged care that has failed to gain enough attention, that is, dental care in nursing homes. I believe that the test of good government is how we care for our most vulnerable. As a prosperous nation we must ensure that the final years of elderly Australians are lived in dignity. That is why I read with interest the final report of the National Advisory Council on Dental Health released on 23 February

2012 in Canberra. The council was set up to provide independent advice on dental health issues in the lead-up to the 2012-13 budget. The Federal Government is now considering the 136-page report. I was particularly interested in the recommendations regarding aged care as this is an area where there is a clear need for greater support.

In 1979 only 40 per cent of nursing home residents had their own natural teeth, as they grew up before fluoridation. In the 1970s dental care in some nursing homes amounted to collecting the dentures before bedtime, sterilising them in buckets overnight and returning them in the morning. By 1989, 56 per cent of nursing home residents had their own teeth. The Australian Dental Association predicts that within 10 years this figure will hit 80 per cent thanks to lifelong improvements in dental health and our healthy lifestyles. It is shameful then that those who enter nursing homes often discover that, within a year of their entry, their teeth rapidly deteriorate due to a lack of proper care.

Unfortunately, many aged care residents are unable to look after their own dental health due to poor communication or poor motor skills. Let us be clear: dental health is now understood to go well beyond the issue of having a nice smile. Dental problems can lead to malnourishment and can directly trigger life-threatening conditions. This is not widely understood but it needs to be. I note the words of Dr Peter Falton, a consultant dentist to St Vincent's Hospital, Sydney. On 28 February 2012 in an interview on ABC Radio Sydney, where he was asked about the consequences of poor dental health for the aged, his answer was simple and blunt. Dr Falton replied, "Death".

He said one of the leading causes of death of the elderly is aspiration pneumonia, where whole organisms are inhaled into the lungs, and they are responsible for pneumonia that may kill. One of the prime sites for these organisms that cause this form of pneumonia is the mouth. I think many of our citizens would be stunned to understand this link, yet it is clearly established and it only emphasises the need to address this shortfall in the care for our elderly. The Federal dental report makes a number of sensible recommendations. They include: more dentists in aged care, more mobile dental clinics and training of healthcare workers in proper techniques on how to assist residents with dental care, especially those with dementia.

Residents with dementia or cognitive problems often refuse to have their faces touched, bite the toothbrush or refuse to rinse. Too often their teeth are neglected as it is too difficult to assist them. Our aged care workers need our support and assistance with these challenges so that they can help provide good oral health care that is vital to quality of life in old age. I therefore eagerly await the Federal Government's response to the recommendations. Finally, a good dental history is the starting point for good health in aged care. I thank the House for its attention.

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

**Motion agreed to.**

**The House adjourned at 7.00 p.m. until Wednesday 14 March 2012 at 11.00 a.m.**

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