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# LEGISLATIVE COUNCIL

Wednesday 28 August 2013

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

**The President** read the Prayers.

**Pursuant to sessional orders Formal Business Notices of Motions proceeded with.**

## POSS-ABLE IDEAS EXPO

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

- (1) That this House notes that:
  - (a) on Friday 3 and Saturday 4 May 2013 the Poss-ABLE IDEAS Expo was held at the Newcastle Entertainment Centre, and was organised by Information on Disability and Education Awareness Service [IDEAS];
  - (b) the Poss-ABLE IDEAS Expo showcases the best equipment and technology available for supporting people with disabilities, in conjunction with workshops and sessions to educate, discuss and raise awareness of disability related issues;
  - (c) the Poss-ABLE IDEAS Expo provides an opportunity for people living with a disability, their families and carers, service providers and disability professionals to come together and share ideas and information to help enable people to achieve an independent and fulfilled life; and
  - (d) Poss-ABLE IDEAS Expo is the largest disability event ever in Australia with over 100 exhibitors and more than 5,000 visitors.
- (2) That this House notes attendance by the following guests:
  - (a) the Hon. Andrew Constance, MP, member for Bega, Minister for Ageing, and Minister for Disability Services;
  - (b) Mr Andrew Cornwall, MP, member for Charlestown;
  - (c) the Hon. Melinda Pavey, MLC, Parliamentary Secretary for Regional Health;
  - (d) Mr Tim Owen, MP, member for Newcastle;
  - (e) the Hon. Bob Baldwin, MP, Federal member for Patterson, shadow Minister for Regional Development and shadow Minister for Tourism;
  - (f) Ms Sonia Hornery, MP, member for Wallsend; and
  - (g) Jamie Abbott.
- (3) That this House acknowledges:
  - (a) the historic agreement between the New South Wales Government and the Federal Government with the introduction of the National Disability Insurance Scheme, which will see an increase in funding from the current \$2.5 billion, to \$6.4 billion by 2018;
  - (b) the National Disability Insurance Scheme will support 140,000 people living with disabilities within five years;
  - (c) the New South Wales Government for its annual recurrent funding for the 2012/13 budget of \$1,030,973 for IDEAS; and
  - (d) the New South Wales Government for supporting the Poss-ABLE IDEAS Expo with their additional contribution of \$112,500.

## SALVATION ARMY RED SHIELD APPEAL

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

- (1) That this House notes that:
  - (a) the Red Shield Appeal is the Salvation Army's primary annual fundraising drive and was first held in 1965 in response to concerns about the need for funds to meet the demand on The Salvation Army's services;

- (b) the Red Shield Appeal Doorknock takes place on the weekend of 25 to 26 May 2013 and the national fundraising target for this year is \$79 million; and
  - (c) funds raised through the Red Shield Appeal are used exclusively to support Australians and maintain the Salvation Army services in the local community.
- (2) That this House notes the \$200,000 donation by the New South Wales Government to the Salvation Army's Red Shield Appeal by the Minister for Family and Community Services, the Hon. Pru Goward, MP.
- (3) That this House acknowledges:
- (a) that the Salvation Army helps more than one million disadvantaged Australians each year, including people who are hungry, homeless, abandoned or abused, which is one person every 30 seconds;
  - (b) that in a typical week, across Australia, the Salvation Army provides approximately:
    - (i) 100,000 meals for the hungry;
    - (ii) 2,000 beds for the homeless;
    - (iii) 5,000 to 8,000 food vouchers;
    - (iv) 1,000 people assistance to find employment;
    - (v) refuge to 500 victims of abuse;
    - (vi) assistance to 500 people addicted to drugs, alcohol or gambling;
    - (vii) 3,000 elderly people with aged care services; and
  - (c) the prevention and early intervention strategies and programs run by the Salvation Army including:
    - (i) camps for disadvantaged children;
    - (ii) counselling and support for children with special needs;
    - (iii) the Reconnect Programs that work with the families of youth at risk of leaving home to improve relationships before they choose life on the streets;
    - (iv) street outreach programs that aim to connect with new runaways before they become entrenched in chronic homelessness; and
    - (v) alternative education programs to assist children at risk of leaving school early, or those who have left school early, to get their education back on track.
- (4) That this House commends the outstanding contribution of the Salvation Army and their tireless work to provide support services and networks.

### **GIO NATIONAL WHEELCHAIR RUGBY CHAMPIONSHIP**

#### **Motion by the Hon. MARIE FICARRA agreed to:**

- (1) That this House notes that:
- (a) the 2013 GIO National Wheelchair Rugby Championship took place at Sydney Olympic Park Sports Centre between Wednesday 14 and Friday 16 August 2013;
  - (b) the Hon. Graham Annesley, MP, Minister for Sport and Recreation, officially welcomed elite Wheelchair Rugby players from both Australia and New Zealand during a special reception on Tuesday 13 August 2013;
  - (c) Minister Annesley announced at the Championships that the O'Farrell Government will provide \$5,000 in funding towards the NSW Wheelchair Rugby Development Program;
  - (d) wheelchair rugby is a vibrant Paralympic sport which is enjoying growing popularity in Australia and beyond; and
  - (e) the championships ended with the triumph of the Suncorp Queensland Cyclones, who defeated Victoria Protect Thunder, 63 to 48.
- (2) That this House acknowledges:
- (a) that, in its support for a major Paralympic sport, the O'Farrell Government is seeking to celebrate and foster rugby in all its diversity; and
  - (b) all those that competed and officiated at the GIO National Wheelchair Rugby Championships, particularly the Championship winners, the Suncorp Queensland Cyclones, runners-up Victoria Protect Thunder, and both Vero New Zealand Te Waka Hou and the GIO NSW Gladiators, who competed for the bronze, with the former's victory.

## BUSINESS OF THE HOUSE

### Formal Business Notices of Motions

**Private Members' Business item No. 1437 outside the Order of Precedence objected to as being taken as formal business.**

### AMERICAN AUSTRALIAN ASSOCIATION

#### **Motion by the Hon. MARIE FICARRA agreed to:**

- (1) That this House notes that:
  - (a) on 6 June 2013, the American Australian Association held a Benefit Dinner at the State Convention Centre in honour of Mr Richard Warburton, AO, LVO, and Mr Andrew Liveris;
  - (b) Mr Richard Warburton, AO, LVO, is currently Chairman of Westfield Retail Trust, Magellan Flagship Fund and Citigroup Pty Ltd, Chairman of the Commonwealth Studies Conference, Vice Chair of the Council on Australian Latin American Relations, a Member of the Advisory Council of the Centre for Social Impact, a former Chairman and Chief Executive Officer of Dupont Australia and New Zealand, has worked with Dupont for 30 years in marketing, manufacturing, technical and management roles in Australia, United States of America and Thailand, was a Board Member of the Reserve Bank of Australia, was a Chairman of the Australian Board of Taxation and Chairman of Caltex Australia Ltd, David Jones Ltd, Goldfields Ltd, Tandou Ltd and Wool International, and was a Director of Southcorp Ltd, Tabcorp Holdings Ltd, Nufarm Ltd and other companies; and
  - (c) Mr Andrew Liveris is President, Chairman and Chief Executive Officer of The Dow Chemical Company, has been a member of Dow's Board of Directors since February 2004, Chief Executive Officer since November 2004 and was elected as Chairman of the Board effective 1 April 2006, holds a bachelor's degree with first class honours in Chemical Engineering from the University of Queensland, was awarded an honorary doctorate in science by his alma mater as well as being named Alumnus of the Year, was appointed Inaugural Chair to the University of Queensland in America Foundation in 2011, his career has spanned the continents of Asia and North America, with roles in manufacturing, engineering, sales, marketing, and business and general management with his reign as Chief Executive Officer, Dow being ranked fifteenth on Corporate Responsibility Officer [CRO] Magazine's list of top 100 best corporate citizens of 2008, he serves as Co-Chair of President Obama's Advanced Manufacturing Partnership, has authored 'Make it in America', Chairs the United States of America Business Council, is Vice Chair of the Business Roundtable, is a member of the President of the United States of America's Export Council and sits on the Board of IBM and the Special Olympics.
- (2) That this House acknowledges:
  - (a) the Board of Directors of the American Australian Association, being Malcolm Binks, AO, Mark Baillie, Hon. Michael Baume, AO, Jeffrey Browne, Andrew Butcher, Frances Cassidy, Sir Leo Hielscher, AC, Dr Graham Macdonald, Greg Medcraft, Hon. John Olsen, AO, James Rees, Ian Saines, Ezekiel Solomon, AM, and Dr Michael Warczak, OAM;
  - (b) the Dinner Chairpersons, being Kim Williams, Frank Lowy, AC, Leigh Clifford, AO, Prof. Bates Gill, Prof. Peter Hoj, Gregg Johnston, Stephen H. Roberts, Bill Marynissen, Mike McGrath, Anthony Pratt; Darren Thomas; Co-Chairpersons: Christian Bennett, Mark Baillie, Gail Kelly, Craig Drummond, Tom Harley, Chris Lawton, Prof. Peter Gray, Glenn Cooper, Dennis McDonald and Mark Monaghan; and
  - (c) those granted Fellowships by the Education Fund, being Michael Pucket, Natalie Smillman, Caitlan Breare, Ryan Edwards, Sarah Ryan, Tony Aitchison, Maria Wang, Maryam Jahanshahi, Stanley Artap, Nicholas Blair, Julie Fetherston, Elizabeth Mason, Caroline O'Brien, Ligaya Maceda, Sean Murphy, Megan Brewer, Monkol Lek, Gita Pendharkar, Rachel Dreyer, Dr Ling San Lau, Rebekah Grindlay, Jason Ross, Samuel Boone, Steve Doo, Tamara Hartke, Robert Hoelzle and Yashar Kalani.
- (3) That this House notes that the event was addressed by Peter Macreadie, Rachelle Johnson, Rebecca Sweet, Jason Ross, the Honourable Andrew Stoner, MP, Deputy Premier, His Excellency United States of America Ambassador Jeffrey L. Bleich, the Honourable John Howard, AC, OM, Tony Shepherd, AO, Professor Peter Hoj, the Honourable Julia Gillard, MP, then Prime Minister, Andrew Liveris and the Honourable Julie Bishop, MP, Deputy Leader of the Federal Opposition.
- (4) That this House congratulates and commends the American Australian Association and its Board, Mr Richard Warburton, AO, LVO, and Mr Andrew Liveris on their outstanding achievements and all Fellowship recipients.

### KAPOOKA TRAGEDY 1945

#### **Motion by the Hon. CHARLIE LYNN agreed to:**

- (1) That this House notes:
  - (a) the sixty-eighth anniversary of the tragic accident in Kapooka when 26 Sappers lost their lives at the engineers training area;

- (b) that on 21 May 1945, in a single blinding flash of gelignite, 26 young lives were snuffed out in an underground bunker;
  - (c) that when they buried the victims three days later, half of the population of Wagga Wagga, being 7,000 men, women and children, lined the streets to bow their heads at the passing parade of coffins, and it remains to this day the nation's largest military funeral; and
  - (d) at the time, the *Wagga Daily* newspaper wrote:

"Once in uniform, a person is a soldier of the King, and should death come swiftly in peaceful surrounds far removed from the battlegrounds, a life has been given for the King, as surely as if the soldier had died in combat!"
- (2) That this House pays tribute to the 26 servicemen who lost their lives that day.

## BUSINESS OF THE HOUSE

### Formal Business Notices of Motions

**Private Members' Business item No. 1441 outside the Order of Precedence objected to as being taken as formal business.**

## SELECT COMMITTEE INTO MINISTERIAL PROPRIETY IN NEW SOUTH WALES

### Membership

**The PRESIDENT:** I inform the House that this day the Leader of the Government has made the following nominations for membership of the committee:

Government members:      Mr Khan  
   Mr Mason-Cox

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

## MARINE PARKS AMENDMENT (MORATORIUM) BILL 2013

### Second Reading

**Debate resumed from 27 August 2013.**

**The Hon. CATHERINE CUSACK** [11.20 a.m.]: For those who doubt the commitment of the Liberal Party and The Nationals to Australia's extraordinary and precious marine environment, I take this opportunity to acknowledge the internationally acclaimed work of the former Howard Federal Government in protecting the Great Barrier Reef. This was accomplished under the visionary leadership of a former President of this place, the Hon. Virginia Chadwick. Indeed, 98 per cent of the sanctuary and other protected zones in the Great Barrier Reef have been proclaimed by just two Federal governments, both of them Liberal: the Fraser and the Howard Governments. It is a record we are very proud of.

**The PRESIDENT:** Order! Government and Opposition members will take their seats and give their attention to the member with the call.

**The Hon. CATHERINE CUSACK:** Virginia Chadwick is remembered with admiration and affection for her many political achievements in New South Wales, particularly as Minister for Education. She was the first female Liberal Minister in the Legislative Council—in fact our only female Minister—and the first female President of this place. It is not well understood that Virginia is globally famous and even revered for her work protecting the reef—

**The Hon. Duncan Gay:** I thought Carmel was a Minister.

**The Hon. CATHERINE CUSACK:** Yes, but the Liberals have had only one Minister. Virginia's work protecting the reef was commenced by former Minister for the Environment, Robert Hill, and was ultimately guided through the Cabinet and the Government by another inspirational Minister, Dr David Kemp. Virginia was Chair and Chief Executive Officer of the Great Barrier Reef Marine Authority from 1999 to 2007.

The centrepiece of this period was the world-famous 2004 rezoning plan. Subsequent evaluations of the Howard Government's decision to back the plan and significantly expand the sanctuary rezonings have resulted in spectacular recovery of species—which does not surprise.

The most amazing finding is the speed at which average fish size has increased on the Great Barrier Reef. That was projected to take far longer. It has been a spectacular success. Dr Kemp and I both serve alongside Virginia's husband, Bruce, and daughter, Amanda, as directors of a special charitable foundation established in her memory. The other directors include two of her former colleagues at the Great Barrier Reef Marine Park Authority, John Tanzer and Jon Day. The foundation is chaired by another former chair and great friend of Virginia, Fay Barker of Townsville. The foundation's mission statement reads:

During her time as Chair of the Great Barrier Reef Marine Park Authority (1999-2007) Virginia Chadwick did much to ensure the long term protection and sustainable use of Australia's Great Barrier Reef—the world's largest coral reef system.

As an educator Virginia was a passionate advocate for sharing the knowledge and experience of lessons learnt with the rest of the world and building networks of people to support each other in their efforts to conserve and manage coral reef ecosystems. Virginia believed in the practical application of available knowledge and expertise to deal with environmental harm rather than waiting for perfect solutions.

Coral reefs and their associated ecosystems are biologically diverse and productive. Areas like the Great Barrier Reef are special places in their own right because of their natural beauty and the wonder they inspire. Moreover, the Great Barrier Reef contributes significantly to the economic and social wellbeing of Australia mostly by supporting major tourism and recreational activities worth billions of dollars and employing many thousands.

Recognising these interests, she believed that strong partnerships with traditional owners, communities and reef industries were critical to conserving and managing the Reef.

In many places around the world coral reefs play a fundamental role in providing for food security and livelihoods for hundreds of millions of people. From the highly diverse reefs of the Coral Triangle to Australia's north in the Asia Pacific Region to the dispersed reefs of the Caribbean and in many seas in between, these complex assemblages provide food, protection and income for people and communities in over 100 countries.

However like the world's rainforests these important areas are under threat and in many cases in steep decline. Shore based pollution; overfishing and destructive fishing practices, poorly managed tourism and climate change are all contributing to an increasing inability of these areas to sustain life. Close to a third of the world's reefs have already been lost and it is estimated that 60% may be gone by 2060.

The Virginia Chadwick Memorial Foundation has been established to carry on Virginia Chadwick's work and build on her achievements especially in regard to the Great Barrier Reef and through education, networking and knowledge sharing around the world.

As a non-profit organisation, the Foundation will raise funds and harness resources to promote the conservation and sustainable management of coral reefs and their associated ecosystems by supporting the development of skills, sharing of lessons learned and encouraging effective advocacy.

Virginia was a highly respected leader, mentor and friend who won the admiration of colleagues and stakeholders alike. She was an inspiration to all those who knew her. I thank the House for its indulgence in allowing me to refer to Virginia's accomplishments in relation to marine parks, which were enabled and enacted by the Howard Government. Members are aware that I live at Lennox Head on Seven Mile Beach, which is entirely subsumed in the Cape Byron Marine Park. In fact the iconic Lennox Headland is the southern boundary of the park. I live about 50 metres from what locals call "the bream hole" or "the moat". It is a huge rock formation next to the beach. The rocks encircle shallow waters that are a haven for fish and for feeding birds. It is a privilege and a joy to the thousands of visitors to Lennox who snorkel there. The waters are protected and safe for small children. Last time my son and his friends swam there a baby wobbegong shark visited, much to their delight. Many other parts of our beach are popular with fishermen.

There is a long offshore sandbank that is perfect for fishing. I have often visited it to watch the sunrise or sunset and observed dozens of fisherman out there in their waders enjoying their sport. There is plenty of good fishing at Lennox and a huge amount of good fishing around Ballina. Responsible fishermen all leave the moat alone, and the locals appreciate that. The O'Farrell Government's independent scientific audit of marine parks has made it clear that business as usual regarding fishing in fish nurseries is not an option that can be sustained. This bill is the first step towards a new management approach that incorporates assessments of threats and risks to the marine estate, ensuring that scientific evidence is at the heart of all decisions. I am confident that science will support the importance of the moat—a small, special place in Cape Byron Marine Park. I thank the Minister for her commitment to a genuine process. I hope that protections allowing fishing at plenty of other good spots around Lennox will be considered for reinstatement.

**The Hon. CHARLIE LYNN** (Parliamentary Secretary) [11.26 a.m.]: I support the Marine Parks Amendment (Moratorium) Bill 2013. This bill will allow the community of New South Wales to take a fresh look at Batemans Marine Park. Batemans Marine Park is an important part of the New South Wales marine estate and is valued highly by the communities of the South Coast. The park includes numerous iconic areas, such as the Murramarang Coast, Durras Lake, the Clyde River, the Tollgate Islands, Burrewarra Point and Broulee, the Mullimburra Coast, Coila and Tuross Lake, Potato Point, Brou Lake, Wagonga Inlet, Montague Island and Wallaga Lake. People of the Far South Coast rely on the marine park for fishing, tourism, boating, scientific research, cultural practices, scuba diving, education, beach-going, surfing, nature appreciation and inspiration. It is clear that there are strong views in the community about this marine park, including about the protection of threatened species, access to some high-value recreational fishing areas and prohibitions on some fishing methods.

This bill will allow the community to revisit these and other issues and plot a new course for Batemans Marine Park. This will result in improved management of the ecological, economic and social values of the park for the people of New South Wales and for future generations. It will provide a better balance for people who value and use Batemans Marine Park. Decisions made will be explained—not hidden—under the reviews enabled by this bill. There will always be gaps in knowledge, and the Government will be honest about them. As with all types of management, it will be essential to use good judgment underpinned by the best scientific information available to achieve evidence-based decision-making. The New South Wales Liberal-National Government's new approach to marine park management will ensure that the objectives of managing Batemans Marine Park are clear and that community views are heard. I commend the bill to the House.

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [11.29 a.m.], in reply: I thank all the members who contributed to debate on the bill—the Hon. Luke Foley, Dr John Kaye, the Hon. Paul Green, the Hon. Steve Whan, the Hon. Trevor Khan, Mr David Shoebridge, the Hon. Rick Colless, the Hon. Helen Westwood, the Hon. Robert Brown, the Hon. Niall Blair, the Hon. Catherine Cusack and the Hon. Charlie Lynn—and acknowledge that one inaugural speech was made during the debate. The Independent Scientific Audit of Marine Parks was clear that the way in which our marine estate is managed needs to better incorporate the diversity of values, interests and uses of all stakeholders. This bill is about us getting on with the job of starting to implement the recommendations of the audit.

The New South Wales marine estate includes marine waters out to the three nautical mile State limit, coasts and estuaries—and, of course, it includes our marine parks. The Marine Parks Amendment (Moratorium) Bill amends the Marine Parks Act 1997 by repealing two of the three components of the current moratorium. The amendments will once again allow for the review of marine park zoning plans and for changes to be made to sanctuary zones, where appropriate. The bill is the first step in implementing reform. It will allow us to review marine park zoning plans and, if deemed appropriate, make changes to those plans. That will allow appropriate and considered change to occur before the new statutory framework takes effect. Any such changes will of course be consistent with the new approach. The bill does not create new powers; it is a sensible first step in response to the audit. As to the point raised by the Hon. Luke Foley concerning "a genuine policy disagreement between the Australian Labor Party and the Coalition parties" I make this comment: And rightfully so. The New South Wales Liberals and Nationals approach is about basing future decisions on science.

**The Hon. Dr Peter Phelps:** Not politics.

**The Hon. DUNCAN GAY:** This Government is taking politics out of it. That is not what was done under Ian Macdonald and the former Government, under whose administration it was all about politics. For far too long we witnessed haphazard decisions made for quick votes. In our management approach to marine parks we intend to spell out park management objectives and strategies including zoning, compliance, education, communications that are intended to deliver on the objectives and, as the Hon. Robert Brown said, the economic circumstances of communities, which so often had been overlooked. We also will include monitoring and reporting provisions. This will be an improvement from the previous Government's approach of obscuring information in separate zoning plans and operational plans for each park. We also will be improving community engagement in determining how the social, economic and ecological values of marine parks will be maintained.

I emphasise that the need to tinker with the moratorium is to allow for the threat and risk assessment framework to inform the review of zoning plans, which currently is prohibited. This is the start of a process. By lifting this component of the moratorium, a review process can commence. I am confused: The Opposition opposed the five-year moratorium when it was implemented and now opposes parts of it being lifted. What



position does the Opposition take? It too seems confused in relation to this area of policy. Comments made by the Leader of the Opposition go much broader than this bill in terms of the audit. The bill does not implement the full suite of reforms that is still being developed by the new Marine Estate Management Authority and the Marine Estate Expert Knowledge Panel. This bill simply lifts some aspects of the moratorium to allow that reform work to begin. This bill gives the Government flexibility to review and then change sanctuary zones. The New South Wales Liberal-Nationals Government will do that based on scientific evidence and incorporating community consultation to achieve an appropriate balance, which the previous Government failed miserably to do.

There seems to be a lack of understanding of the objective of having a system of marine parks. Throughout the debate the Opposition referred frequently to marine parks protecting our fish stocks. Marine parks are primarily about protecting the diversity of marine life, including habitat, seaweed, coral and mammals. The Opposition might recall our Fisheries Management Act 1994. It is under that Act, not the Marine Parks Act, that we sustainably manage our State's fish stock. The new approach is about managing our entire marine estate, including the ecological, biodiversity and socioeconomic values and assets, not one of which can be left out. I pay tribute to the hundreds of people I worked with when in opposition and when the Coalition rallied along the length of the New South Wales coast.

I particularly pay tribute to the hard work and passion of Ken Thurlow of ECOfishers. Ken Thurlow is a former member of the Labor Party who left the party to campaign in relation to this legislation. He is a man of great integrity and passion. I also pay tribute to Professor Bob Kearney, who led a scientific approach rather than a political science approach which The Greens would base their argument on—and hence the approach taken by the previous Labor Government, which was in lock step with The Greens. I am pleased to speak in reply today to this bill, which will allow common-sense amendments to be made. The amendments will permit the management of marine parks to be aligned with the new integrated, consultative and evidence-based approach to managing the entire New South Wales marine estate. I commend the bill to the House.

**Question—That this bill be now read a second time—put.**

**The House divided.**

**Ayes, 19**

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

**Noes, 16**

Ms Barham	Mr Moselmane	Ms Westwood
Mr Buckingham	Mr Primrose	Mr Wong
Mr Donnelly	Mr Secord	
Dr Faruqi	Ms Sharpe	<i>Tellers,</i>
Mr Foley	Mr Shoebridge	Ms Fazio
Dr Kaye	Mr Veitch	Ms Voltz

**Pairs**

Mr Ajaka	Ms Cotsis
Mr Lynn	Mr Searle
Mrs Mitchell	Mr Whan

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

### In Committee

**Clauses 1 and 2 agreed to.**

**Dr MEHREEN FARUQI** [11.45 a.m.]: I move The Greens amendment on sheet C2013-109:

Page 3, schedule 1 [1] and [2], lines 3–6. Omit all words on those lines. Insert instead:

**[1] Section 17B Regulations relating to zoning plans for marine parks**

Omit section 17B (5). Insert instead:

- (5) A regulation that reduces the area of an existing sanctuary zone within a marine park may not be made during the moratorium period.

**[2] Section 17B (6)**

Omit the definition of *new sanctuary zone*.

This amendment seeks to enable the Minister to increase sanctuary zones but removes the ability to reduce them. The major change seeks to omit section 17B (5) and insert in its place:

A regulation that reduces the area of an existing sanctuary zone within a marine park may not be made during the moratorium period.

This amendment is an opportunity for the Government to prove its good faith on conservation. Our oceans already face major threats from overfishing, pollution and climate change. We need an integrated ecosystem approach with an emphasis on precautionary principles in order to avoid irreversible damage. A network of marine protected areas is the only way to make our marine environment more resilient and protect its precious biodiversity. A lot has been said here about the science of marine parks by those supporting this motion, but I note that no-one has referred to the Australian Marine Sciences Association. The Australian Marine Sciences Association is a national non-profit organisation dedicated to promoting marine science and coordinating discussion and debate on marine issues in Australia. The Australian Marine Sciences Association has been active since 1962 and it is the largest and most broadly representative national professional body of marine scientists in Australia with a multidisciplinary membership of about 1,000. I quote from the Australian Marine Sciences Association's various position statements:

Well-planned, managed and enforced "no-take" marine protected areas (IUCN category I and II) generally harbour denser populations, larger individuals, and higher biomass of previously exploited species ...

Following establishment of "no-take" marine protected areas, recovery of exploited predatory and/or herbivorous species often results, over time, in striking differences in the community ecology of marine protected areas compared to surrounding areas ...

Recent research now provides strong evidence for the fisheries benefits from marine protected areas.

The association also has expressed its disappointment in the small portions of marine park areas zoned as protected no-take zones. The scientific evidence is clear: A strong and expanded marine park system and uncompromised sanctuary zones are essential for conserving and enhancing biodiversity in the long term and for future generations to enjoy. Expanded marine parks and sanctuary zones will deliver us a healthy tourism industry, a healthy fishing industry and a healthy marine environment. I commend the amendment.

**The Hon. DUNCAN GAY** (Minister for Roads and Ports) [11.48 a.m.]: The Government opposes the amendment. I live in hope that one day The Greens will actually follow what they say they believe in. They say they believe in real science. They say they believe that there should be a scientific outcome on sanctuary zones in marine parks. Yet, at the first opportunity, they move a stupid amendment that flies in the face of a belief in the actual science. The actual science dictates that sometimes the sanctuary zones should be increased and sometimes they should be decreased. The Greens are not happy with that. They talk about and eulogise science, but they do not believe in it because this amendment removes the ability to reduce a sanctuary zone if the science indicates that should be the outcome. The amendment states in part:

Omit section 17B (5). Insert instead:

- (5) A regulation that reduces the area of an existing sanctuary zone within a marine park may not be made during the moratorium period.

The Greens say—

**The Hon. Marie Ficarra:** Ignore science when you want to.

**The Hon. DUNCAN GAY:** Ignore science, exactly. The Greens believe only in political science. With their coalition comrades, the Labor Party, they continue to support this myth. Forever and a day you will be condemned as hypocrites on this alone. This amendment indicates how hypocritical you are.

**Dr John Kaye:** Point of order: First, the Minister should know that he should address the Committee through the Chair. Secondly, he said, while pointing directly at Dr Faruqi and me, "You are hypocrites." I take offence to that. I ask the Minister to retract that remark.

**The Hon. Dr Peter Phelps:** To the point of order: Collective insults are in order. The member would be well aware that insults not directed towards a member but towards a group of members or a political party, which is what the Minister was doing, does not fall within the remit of a point of order. The Minister was talking about The Greens as a broad political party.

**Dr John Kaye:** To the point of order: If the Minister had been looking at you, Madam Chair, and said, "The Greens are hypocrites" the statement would be in order, but the Minister did not do that. The Minister said, looking and pointing directly at Dr Faruqi and me, "You are hypocrites." *Hansard* will show that he said that. That is an insult. It is also unparliamentary and ill behoves a Minister of his experience to say such things in Parliament. He should apologise.

**The Hon. Dr Peter Phelps:** Further to the point of order: If the Minister was, in fact, a Medusa or some other mythical character that could turn people to stone with a glance, I can understand the member's concern. However, the Minister not being a Medusa, I suggest that merely looking at another member is probably not within the remit of being out of order.

**The CHAIR (The Hon. Jennifer Gardiner):** Order! Past rulings state that individuals being labelled in a particular way is unparliamentary. There is no point of order.

**The Hon. DUNCAN GAY:** The Greens are hypocrites. Frankly, hypocrisy is the nicest thing I can say about them because they have destroyed communities on an altar of bogan science.

**Dr John Kaye:** Bogan science?

**The Hon. DUNCAN GAY:** Bogan science.

**The Hon. Marie Ficarra:** Bogan science. That's a good one.

**The Hon. DUNCAN GAY:** It is a new one for them to grapple with. It is probably an insult to bogans as well, if I actually knew what a bogan was. Bogan science is a subset of political science, one The Greens—

**The Hon. Dr Peter Phelps:** As opposed to Bogan shire.

**The Hon. DUNCAN GAY:** Bogan shire is one of the most fabulous places, based around Nyngan in the Western Division of New South Wales. I will not take up the time of the Committee. The fact is that The Greens are hypocrites. This amendment indicates that The Greens preach about proper science but do not want to practise it. If The Greens believed that proper science should apply, they would not have moved an amendment that prevents reducing the number of sanctuary zones. We believe that if proper science is put in place, sanctuary zones will be increased on some occasions and decreased on others. But that will be done using proper science, not political science. You are hypocrites.

**The Hon. LUKE FOLEY (Leader of the Opposition) [11.53 a.m.]:** The Greens amendment, to the best of my knowledge, was not seen by the Opposition prior to the last few moments. I suspect, in part, it was advanced so that Dr Mehreen Faruqi would have the opportunity to address this bill; I do not object to that. The Opposition will not support this amendment for the very good reason that there should not be rules that forbid a Government either reducing or increasing sanctuary zones. A Government should have the opportunity, based on the science, to reduce sanctuary zones and should also have the option and ability to increase them when scientific advice indicates that is the proper course.

**The Hon. Robert Brown:** Or relocate them.

**The Hon. LUKE FOLEY:** I acknowledge the Hon. Robert Brown's interjection, "Or relocate them." The Labor Party objects first and foremost to the five-year moratorium this Parliament established in the bill introduced last year by the Hon. Robert Brown. The Opposition objects to this amendment bill because we know it is designed to do the opposite to what Dr Mehreen Faruqi's amendment seeks to do. This bill is designed to reduce sanctuary zones—we know that. Dr Mehreen Faruqi's amendment is designed to handcuff the Government to only ever increase sanctuary zones. We respect the role of independent science in making reports to Ministers, governments and parliaments about the appropriate course of action to protect biodiversity. For that reason we oppose this amendment for the same reason we oppose this substantive bill.

**The Hon. JAN BARHAM** [11.56 a.m.]: I support the amendment. I should like to clarify some points made by the Leader of the Opposition. The amendment was circulated on 25 or 26 June and again on 21 July by my colleague Dr John Kaye. My understanding is that the amendment was discussed after its circulation. So the surprise element is not a valid call for opposing the amendment. This amendment ensures only the ability to expand sanctuary zones if the science allows. Having been involved with the long declaration process of the Cape Byron Marine Park, I witnessed extensive consultation and various rounds of reporting, discussion papers and science. I saw also some misrepresentations. A very important process for Byron Shire Council, of which I was part for a long time, was to ensure that when talking about science we had not only a science report but also a good peer review process. One criticism is that all levels of government do not adhere to good practice by ensuring peer review when using science for decision-making.

**The Hon. Duncan Gay:** So you should withdraw the amendment.

**The Hon. JAN BARHAM:** No. Part of the debate—

**The Hon. Duncan Gay:** You are arguing for good science and the results of good science should stand.

**The Hon. JAN BARHAM:** The science has shown increasingly that expanding marine parks and protected areas is required if we truly are going to commit to ecologically sustainable development as well as economically sustainable development because we know how valuable ecological protection is for the economy. We have seen it over and over in many coastal areas and many tourism-related areas and in enhancing industries that rely on sustainability as a branding and marketing point. I remember when the former President of the House the Hon. Virginia Chadwick made her distinguished move to Chair of the Great Barrier Reef Board that we saw with good science the expansion of protected areas under her leadership.

**The Hon. Duncan Gay:** So it is only bad science that says that they should be reduced? There are two types of science now, are there?

**Dr John Kaye:** Point of order: I find it hard to listen to what I think is an interesting contribution from the Hon. Jan Barham because the Leader of the House seems to think it is okay to foghorn his way into her speech.

**The CHAIR (The Hon. Jennifer Gardiner):** Order! The member will be heard in silence. The Hon. Jan Barham has the call.

**The Hon. JAN BARHAM:** I raise concerns about the quality of the science that is used. If the Government brings in a bill that refers to the fact that every science report it relied on has undergone a proper science-based peer review process, there might be greater confidence. Unfortunately, it has occurred not just under this Government. The genuine history of government is that it has not kept up to speed on what real science is and I think—

**The Hon. Duncan Gay:** Real science is what you agree with.

**The Hon. JAN BARHAM:** Real science is peer-reviewed science and that is not being relied on. The Greens have concerns.

**The Hon. Duncan Gay:** Why did you vote against the CSIRO report on the M5 tunnel?

**The Hon. JAN BARHAM:** I have not seen one marine park report that has not sought to expand. I also know, and I go back to my experience with Cape Byron, due to the political lobbying that happened around that time, the misinformation that was provided and the fear that was evoked about a political backlash, Cape Byron did not receive any sanctuary zones. The same applies for terrestrial. We have seen political decisions override scientific findings. We are now living in a world in which it is unlikely that we will ever see a true science report propose the reduction of protected areas. That is a belief that The Greens have. It follows on from good science and the unfortunate reality that we have seen too many decisions made without a peer-reviewed science-based opinion.

If an ecologically sustainable development approach is not applied and the precautionary principle is ignored removing something without applying good science and without doing a longitudinal study can cause very big mistakes to be made about future reliance on the sustainability of that area. There is caution and it is fair to say it is about a lack of trust. "Science" means good science: evidence-based science, peer-reviewed science. In light of that, it is sensible that The Greens have said it is not willing to accept that there be a reduction by at least applying the precautionary principle that you retain what is here. If a report indicated there could be a reduction, then perhaps the fall-back position would be to have another series of studies to investigate whether that applies over a period of time. When we are dealing with nature, we need to be very careful about the decisions we make.

**The Hon. Duncan Gay:** And then what happens with this amendment? It cannot be moved. It is too late; you have got this silly amendment.

**The Hon. JAN BARHAM:** If it were the case that this amendment was successful, perhaps the Government might introduce a bill to give an assurance of ecologically sustainable development and peer-reviewed science reports. Perhaps then it might be different.

**The Hon. Duncan Gay:** That is what we have.

**The Hon. JAN BARHAM:** The Minister refers to the fact that this is what they have by using the word "science". Unfortunately, that does not dictate that good science will be followed, and that is the understanding. Science has become a word that is used when someone with a science degree can be found to write a report and accept that it might justify a political decision.

**The Hon. Duncan Gay:** What is good science? It is science you agree with.

**The Hon. JAN BARHAM:** Good science is defined as science that goes through the rigorous process of being peer reviewed. It is a blind review by three independent scientists who are experts in their field, which then confirms or denies the outcome. That is good science. Until we know that decisions are not made because of political interests and that the decision making relies on the future political stability of a particular party, then, unfortunately, the trust of the community and particularly the trust of The Greens will be absent. Decisions on this basis are unacceptable when they put at risk the long-term sustainability of our most precious resource, which is our natural environment.

**The Hon. ROBERT BROWN** [12.02 p.m.]: In response to the Hon. Jan Barham's dissertation on science, the honourable member has trapped herself leg before wicket. The science that created the marine parks has been peer reviewed. It was peer reviewed by an independent scientific panel created by the former Labor Government, which found that the science was only half done, it was flawed and that fallacious paradigms were used in coming to conclusions. It was peer reviewed and it was rejected. That is why I put the original moratorium bill to the Labor Government, but because of its political needs with The Greens, the Labor Government knocked it back. Science is either relied on or it is not. My interpretation is that, in the past, too much of the science has been done poorly. There are at least two independent reports that now support my position. That is why this amendment cannot be supported.

**Dr JOHN KAYE** [12.03 p.m.]: In response to the rather extraordinary contribution by the Leader of the House, the Minister at the table, the Hon. Duncan Gay, let us be clear: It is not the science that The Greens do not trust; it is the Minister that The Greens do not trust. It is not the science that The Greens do not trust; it is the Government that The Greens do not trust. We do not trust the Minister for Primary Industries because of her track record in this area. The first thing she did when she got to office was to try to destroy the very heartland of marine science in New South Wales: the Cronulla Fisheries Research Centre. She immediately went after it to destroy any independent scientific advice she would get from anyone within her department. She simply did not want anyone in her department to speak up for marine parks.

**The Hon. Duncan Gay:** Point of order: The honourable member is delivering a substantive attack on the Minister for Primary Industries. The standing orders of this House indicate—

**Dr JOHN KAYE:** So it is okay to call us hypocrites? It is okay to call me a hypocrite?

**The Hon. Duncan Gay:** You are a hypocrite.

**Dr JOHN KAYE:** Point of order: I ask the Minister to retract that comment immediately.

**The Hon. Duncan Gay:** I retract that comment. But the fact remains that the honourable member is embarking on a substantive character assassination, including the fact that he indicated that the Minister was not trustworthy and that he did not trust her. That is only able to be done under our standing orders by a substantive motion. I move that you rule him out of order and bring him back to the motion before the House.

**Dr JOHN KAYE:** You cannot move that. You can ask.

**The Hon. Duncan Gay:** Do you want to repeat that?

**Dr JOHN KAYE:** You cannot move; you can ask. It is a point of order; it is not a motion. You can ask. To the point of order: I am not launching an attack, I am saying that The Greens do not trust the Minister. To be clear—

**The Hon. Duncan Gay:** Then you went on.

**Dr JOHN KAYE:** I went on. I said that the reason The Greens do not trust the Minister—let us be clear because there are two Ministers in this statement—the Minister at the table, the Hon. Duncan Gay, says that The Greens do not trust the science. I responded to that by saying that The Greens do not trust the Minister for Primary Industries. I am giving evidence to the House why The Greens should not have trust in the Minister. I am defending The Greens against the accusation of the Minister for Roads and Ports by explaining why we do not trust the Minister for Primary Industries and what is behind this motion, which is designed not to distrust the science but to express our concern that the Minister will make unscientific decisions.

**The CHAIR (The Hon. Jennifer Gardiner):** Order! It is correct that allegations of a personal nature against members should be made only by way of a direct and substantive motion. Members are able to engage in robust political debate in this place, but I ask Dr Kaye to be mindful of that when making reflections on trust and in relation to a member of the other place.

**Dr JOHN KAYE:** Madam Chair, I seek a clarification of your ruling—and I am not seeking to question your ruling. In response to the Minister's remarks, the defence is that The Greens do not have trust in the Minister because of things that the Minister has done. Madam Chair, would you see that as a reasonable line to pursue?

**The CHAIR (The Hon. Jennifer Gardiner):** If you are making a political expression of opinion about whether a member's performance on policy issues is untrustworthy or trustworthy then that falls under the heading of "robust political debate".

**Dr JOHN KAYE:** Thank you for your ruling, Madam Chair. To that point, The Greens do not trust the Minister because of the Minister's track record. The Minister set about to destroy the Cronulla Fisheries Research Institute, and in doing so it was clear that she was seeking to remove the key scientific advice this Government was getting. So why should The Greens, or anybody who cares about the future of marine parks, have any trust in this Government and in its Minister that they would listen to the marine science. Indeed marine science is an evolving field; all science is an evolving field. I take the point of the Hon. Robert Brown, who said that the science was immature. Maybe the science was immature.

But if the science creates any doubt as to whether there should be a marine park—and since extinction is irreversible and the collapse of fish stocks takes a long time to recover from, and that recovery is a risky process—then surely the precautionary principle should apply and we should freeze those marine parks. Certainly we should not let them be handed over to a Government that has consistently played against the science of marine conservation to win a few votes and to avoid a leakage of their votes to the Shooters and Fishers Party. Let us be absolutely clear about this: any government that came to this issue without a mind to

stirring up trouble amongst the coastal communities, who are vulnerable to being manipulated into believing that their rights to fish are being taken away from them, and was not vulnerable to the cheap politics of an attack on—

**The Hon. Dr Peter Phelps:** Point of order: Previous rulings of chairs in this place have indicated that, while wide latitude is generally granted on second reading speeches, debate on amendments in the Committee stage should be related specifically to the amendments themselves. The member appears to be heading into the territory of a second reading speech. Madam Chair, I ask you to draw him back to the substance of the amendment before us.

**Dr JOHN KAYE:** To the point of order: This amendment is about removing the right of the Government to destroy marine parks. This amendment is about not allowing regulations to be made that reduce the area of an existing sanctuary zone within a marine park—and I shortened that to "destroy marine parks", which I accept was only partially accurate. This amendment is specifically about what a government may or may not do by regulatory power. The Minister himself introduced the trust issue. Therefore the behaviour of the Government and the motivation of the Government are directly relevant as to why The Greens would move such an amendment. The underpinning reason for an amendment such as this is that we do not trust the Government on matters to do with marine national parks. To say that the track record of the Government is not relevant to that argument shows that the Government Whip has not been following the arguments closely enough.

**The Hon. Robert Brown:** To the point of order: The point of order made by Hon. Dr Peter Phelps was in relation to the comments that the member made about communities on the coast. It had nothing to do with the previous point of order about whether or not he could say that The Greens mistrusted the government.

**Dr JOHN KAYE:** You are not following the debate.

**The Hon. Robert Brown:** I am following the debate; I am following it very carefully. I do not think the contribution Dr John Kaye made, on the point of order taken by Hon. Dr Peter Phelps, was a point of order at all.

**The CHAIR (The Hon. Jennifer Gardiner):** Order! I call upon Dr John Kaye to direct his remarks to the amendment before the Committee.

**Dr JOHN KAYE:** I appreciate your ruling, Madam Chair. On the amendment, the reason why this amendment is essential is that this is a Government that has played to and been part of stirring up antagonism against marine national parks—antagonism that is not based on the science. My point was fairly clear: If we had a government that was absolutely committed to the science, whichever direction it pointed them in—and on top of that was concerned about the precautionary principle and therefore did not want to plunge the State into a position in which they were losing fish stocks at a rate from which they were at risk of not recovering—then such an amendment would not be necessary. This amendment becomes necessary because this is not such a Government. This amendment is important because this is a Government that one could fully expect—without the backing of peer-reviewed science, as my colleague the Hon. Jan Barham said so eloquently—to dodgy-up the science and bring in a regulation that would reduce existing sanctuary zone areas.

How many times has the Government Whip come into this Chamber to attack the concept of peer-reviewed science? Whenever we mention the words "climate change" he instantly gets to his feet to attack peer-reviewed science. He is a senior member of this Government and he constantly launches into attacks on peer-reviewed science. The Minister for Primary Industries has, to put it mildly, an equivocal position on the science around climate change. The Leader of the House in the Legislative Council, the Hon. Duncan Gay, who is at the table, has, to put it mildly, a strange attitude to wind farms. This is not a Government known for its commitment to peer-reviewed science. Therefore such an amendment is extremely important. Of course, if we had a Government that showed a 100 per cent commitment to peer-reviewed science, and did not seek to mislead people about the science and could therefore be trusted with the science, then such an amendment would not be needed.

**The Hon. Amanda Fazio:** For heaven's sake, just put the stupid amendment—I am bored with this. This is rubbish.

**The Hon. Dr Peter Phelps:** I acknowledge that interjection. The honourable member, Dr John Kaye, has raised the peer-reviewed practices. I refer him to the scholarly journal *Behavioural and Brain Sciences*.

**The Hon. Amanda Fazio:** Point of order: We are in the Committee stage of this bill and members are required to be speaking to the amendment before the Committee. I do not believe that the Hon. Dr Peter Phelps is doing that. He is engaging in an argument with Dr Kaye about the manner in which you peer review scientific papers and opinions, and that is outside the leave of the amendment. Therefore, I believe his comments are out of order.

**The CHAIR (The Hon. Jennifer Gardiner):** Order! I ask any further contributors to the Committee stage to address themselves to the amendment before the Chair.

**Question—That The Greens amendment [C2013-109] be agreed to—put.**

**The Committee divided.**

**Ayes, 5**

Dr Faruqi  
Dr Kaye  
Mr Shoebridge

*Tellers,*  
Ms Barham  
Mr Buckingham

**Noes, 30**

Mr Blair  
Mr Borsak  
Mr Brown  
Mr Clarke  
Ms Cotsis  
Ms Cusack  
Ms Fazio  
Ms Ficarra  
Mr Foley  
Mr Gallacher  
Mr Gay

Mr Khan  
Mr MacDonald  
Mrs Maclaren-Jones  
Mr Mason-Cox  
Mr Moselmane  
Reverend Nile  
Mrs Pavey  
Mr Pearce  
Mr Primrose  
Mr Searle  
Mr Secord

Ms Sharpe  
Mr Veitch  
Ms Voltz  
Ms Westwood  
Mr Whan  
Mr Wong

*Tellers,*  
Mr Colless  
Dr Phelps

**Question resolved in the negative.**

**The Greens amendment [C2013-109] negatived.**

**Schedule 1 agreed to.**

**Title agreed to.**

**Bill reported from Committee without amendment.**

### **Adoption of Report**

**Motion by the Hon. Duncan Gay agreed to:**

That the report be adopted.

**Report adopted.**

### **Third Reading**

**Motion by the Hon. Duncan Gay agreed to:**

That this bill be now read a third time.

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



**ROAD TRANSPORT AMENDMENT (ELECTRONIC TRAFFIC INFRINGEMENT NOTICES TRIAL) BILL 2013****Second Reading**

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [12.29 p.m.]: 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 Road Transport Amendment (Electronic Traffic Infringement Notices Trial) Bill 2013 amends the Road Transport Act 2013 to provide for a "proof of concept" trial by the NSW Police Force [NSWPF] for the service of electronic traffic infringement notices—or TINS as they are more commonly known—in the field.

The project will occur in five local area commands [LACs] for four weeks to allow a systems testing and data matching process to occur.

The project findings will be used by the NSW Police Force to determine if a larger production trial followed by an independent evaluation should occur.

To undertake this four-week project certain legislative amendments are required to enable a TIN to be issued in this manner, if agreed to by the offender.

The bill therefore inserts a new section 196A after section 196 of the Road Transport Act 2013 to provide that a traffic infringement notice may also be sent via electronic transmission by the NSW Police Force upon the consent of the person concerned.

The new section:

- clarifies when the infringement notice will be deemed to have been served;
- provides for the voluntary provision of email addresses and mobile phone numbers;
- includes a sunset clause; and
- provides that children under the age of 16 will not be issued infringement notices electronically.

The legislative amendments required for the project have been the subject of consultation with the Office of Liquor, Gaming and Racing, Roads and Maritime Services, Transport for NSW, the Department of Attorney General and Justice and the Department of Finance and Services.

Agreement has been reached to limit the amendments to the statutory provisions necessary for the proof of concept to be conducted.

The NSW Police Force also consulted agencies including the State Debt Recovery Office, the Police Association of New South Wales and other Australian law enforcement jurisdictions.

Without the legislative amendments, police will be unable to issue electronic traffic infringement notices in the field.

In the five local area commands involved in the project, police will only issue electronic notices with consent of the individual concerned. Should the person refuse, infringement notices will be issued manually by police and sent by post, in line with current practice.

Twenty tablets have been supplied to police for the duration of the project.

Pending the outcomes of the proof of concept, police will go to open market to determine which device best suits their needs.

The tablets will be returned to the manufacturer at the conclusion of the four-week trial.

As the current communications supplier to the NSW Police Force, Telstra has supplied 20 individual 4G routers for the duration of the pilot. The provision of this infrastructure has been "locked" in for September 2013 and is unable to be deferred.

Now turning specifically to the provisions in the amendment bill:

- The bill inserts the new section 196A into the Road Transport Act 2013 to establish a trial for the service of penalty notices to email addresses or mobile phone numbers that are voluntarily provided by the person on whom the notice is to be served.

- The new section provides an additional means of service to that set out in section 196 of the Act.
- Section 196 currently provides that a penalty notice may be served personally or by post.
- The section has effect for two years, unless otherwise prescribed, to allow for the proof of concept and any further production trial.
- If the project does not proceed the section may be repealed or lapse after two years.
- The section applies to a police officer who will be taking part in the trial.
- As there are other "authorised officers" currently included under section 196, the scope of this amendment is limited only to officers of the NSW Police Force.
- The section provides that a police officer may serve an infringement notice by causing the infringement notice to be sent to an email address or mobile phone number, but only if:
  - The police officer has been authorised by the Commissioner of Police to serve infringement notices in that way for the purposes of the trial; and
  - The person who is being served with the infringement notice elected to have the infringement notice served on them in that way, and has voluntarily provided an email address or mobile phone number for the purposes of that service.
- The new section also provides that a police officer is not to serve an electronic infringement notice on children under the age of 16 years.

Electronic traffic infringement notices will only be issued to individuals who are of legal driving age. Juveniles under the age of 16 years who commit traffic offences are dealt with pursuant to the requirements of the Young Offenders Act 1997.

The proposed amendment would have, if not qualified, captured a range of other offences beyond those which are usually dealt with under the Young Offenders Act 1997.

For example, had this provision not been included, police would have been able to serve infringement notices electronically to young people who have committed offences under the Road Transport Act 2013 such as travelling on public transport without a valid ticket, or riding a bicycle without a fitted and fastened helmet, and riding a bicycle on a footpath.

Section 196A also provides that an infringement notice will be taken to have been served on a person if it is sent to an email address or mobile phone number that is recorded by a police officer as having been provided by the person for the purposes of the new section.

The section clarifies that the provision of email addresses and mobile phone numbers is voluntary.

The need to obtain consent is consistent with recommendation 6.2 of the New South Wales Law Reform Commission's Report 132: Penalty Notices, which was tabled in Parliament on 29 March 2012.

Recommendation 6.2 proposed an amendment to the Fines Act 1996 to allow agencies to serve penalty notices and subsequent notices (including reminder notices and enforcement notices) electronically where the penalty notice recipient has provided consent in advance.

Police's initiative aligns with NSW 2021 and complements the goals of the NSW Government ICT Strategy.

It is also the first foray for the NSW Police Force into ways to support and promote both the State and Commonwealth commitment to using "cloud" technology.

By a limited proof of concept, we can test the security and applicability of this next stage in efficient and cost-effective ways of Government agencies doing business.

The application will be fully integrated with the NSW Police Force Computerised Operational Policing System [COPS] database.

The project commences on 2 September 2013. It will run for four weeks across five locations—the Hunter Valley, Rose Bay, Sutherland, Moree and Goulburn.

Utilising both urban and regional local area commands will ensure that the efficacy of the cloud technology will be tested in remote sites.

It is anticipated that the project will return significant time savings for front-line police by eliminating unnecessary data duplication and entry requirements.

The State Debt Recovery Office [SDRO] has estimated that \$1.2 million could be saved each year by eliminating the manual handling of traffic infringement notices.

The NSW Police Force Highway Patrol has estimated that approximately an hour per day per police officer will be saved through the service of traffic infringement notices electronically.

This equates to around 240,000 hours a year, and will allow more time working on the front line rather than undertaking administrative tasks.

I will now describe the process of the trial.

Police will first seek a person's consent to send the traffic infringement notice via email or text message, not both; or should the person prefer, by Australia Post.

This transaction will be recorded on "in-car video" which will be available for review in the event there is a problem or complaint about the conversation.

As the pilot is testing the efficacy of electronic transmission as a means of serving infringement notices, personal service will not be provided.

The application contains a number of fields which police populate with all necessary data in connection with one or multiple offences.

These include the person's proof of identity—his or her driver licence details, the location, date and time of the offence, vehicle registration number and the offences which are alleged to have been committed.

The location field uses GPS technology and a map to pinpoint the exact spot the offence occurred.

For the purpose of the proof of concept, all traffic infringement notices will be issued electronically including:

- Exceed speed limit less than 10 kilometres per hour
- Exceed speed limit greater than 10 kilometres per hour and less than 20 kilometres per hour
- Exceed speed limit greater than 20 kilometres per hour
- Failure to stop at a red light
- Use handheld mobile phone when not permitted
- Driver not wear seatbelt correctly fitted or fastened
- Use unregistered vehicle
- Use uninsured vehicle
- Not carry licence

If consent is given, a PDF of the infringement notice will be sent to the person via email or text message which they will then be able to download and print; or pay via a hyperlink to the State Debt Recovery Office site.

The electronic infringement notice will contain the same information as that found on the existing paper-based notice.

However, unlike its paper counterpart, the electronic infringement notice will have the capacity for multiple infringements to be entered on the one notice, effectively reducing the amount of paperwork required.

If the person receiving the notice chooses to pay one and challenge another in court, they will be able to do so via the unique penalty numbers.

As with current practice, the electronic infringement notice will provide a number of payment options for the person concerned.

If a person wishes to have one or all of the offences determined by a court, then he or she will be required to complete and submit the court election format provided at [www.sdro.nsw.gov.au](http://www.sdro.nsw.gov.au).

If submitting the request electronically, the online court election format requires the person to enter the penalty notice number for the matter they want dealt with.

It is anticipated that additional paperwork and administration will be eliminated as the police officer will not be required to re-enter data from his or her notebook onto COPS when they return to the station. The data will automatically upload to the COPS database from the field.

If the person declines to provide a mobile phone number or email address then the officer will issue the infringement notice manually and send it by post, in line with current practice.

In the event that a person fails to provide a bona fide email address or phone number then he or she will be dealt with via the State Debt Recovery Office's follow-up procedures.

The State Debt Recovery Office issues reminder notices 28 days after the initial notice has been issued. These reminder notices are mailed to the person's residential address as shown on their driver licence.

If a police officer believes at the time that the email address or mobile phone number being provided is false, they may choose to proceed with a manual paper notice.

In this way avoidance of service, in terms of an electronic penalty notice, will not differ from the current process where issues may occur with the person not receiving a paper fine.

In the event that an electronic infringement notice is issued to an email address or mobile phone number which belongs to a person other than the intended recipient, a disclaimer will be provided on the infringement notice with instructions requesting that the person contact police and, quoting the infringement notice number, advise that the notice has been sent in error.

A link will also be provided which will take the person to the NSW Police Force "Contact Us" page on its website. There the person will be able to select the area they wish to contact, in this case the Customer Assistance Unit, and enter all necessary details. Should the person wish to provide additional details, such as their name, email and contact number they can; however, it is not compulsory to do so.

The Police Assistance Line [PAL] number will also be available and Police Assistance Line staff advised on how to record and deal with issues relating to the project.

People who contact the police may be spoken to by a project team member to determine the issues which will be incorporated into the findings from the pilot.

On notification, police will send the infringement notice to the correct recipient by mail.

If a tablet is lost, police will have the capability to locate, lock and wipe the device remotely. This is more secure than the current process if a notebook is missing.

Accountability mechanisms have also been built into the infringement notice application to ensure that all of the required fields have been entered and checked prior to sending. This will mitigate any instances of an error occurring.

The evaluation of the proof of concept focuses on the testing of the software, with no capability to determine broader issues such as the level of productivity savings to be achieved through the elimination of manual handling and data duplication or the suitability of the handheld device.

These will be part of a larger evaluation if the project proceeds to a production trial.

These are straightforward amendments that serve a good purpose: they enable the NSW Police Force to test a technological response in a highly technological society where electronic communications are fast replacing more traditional methods.

I commend the bill to the House.

**The Hon. PENNY SHARPE** [12.29 p.m.]: I lead for the Opposition in the debate on the Road Transport Amendment (Electronic Traffic Infringement Notices Trial) Bill 2013. The object of this bill is to establish a trial for the service of penalty notices under the Road Transport Act 2013 to email addresses or mobile phone numbers if the persons on whom those penalty notices are to be served elect to have the penalty notices served on them in that way. The bill inserts a new section 196A into the Road Transport Act to establish a trial to last for up to two years, although the length of the trial can be extended by regulation. The trial will commence next week, on 2 September 2013, in five local area commands: the Hunter Valley, Rose Bay, Sutherland, Moree and Goulburn.

Under the bill, a penalty notice is taken to be served on a person if it is sent to an email address or mobile phone number that is recorded by a police officer as having been provided by the person for the purposes of the proposed section. The penalty notice can be served by email or by mobile phone only with the consent of the person who is the subject of the notice. As other members have noted, this reflects recommendation 6.2 of the Law Reform Commission's report No. 132 entitled "Penalty Notices", which proposed an amendment to the Fines Act 1996 to allow agencies to serve penalty notices and subsequent notices, including reminder and enforcement notices, electronically where the penalty notice recipient has provided consent in advance. The bill also provides that penalty notices cannot be served electronically on a person under the age of 16 years.

According to the Government, this bill is about reducing police red tape and costs. Of course, the Opposition supports those aims. It supports anything that will reduce the administrative burden on front-line police. This bill is essentially aimed at traffic offences and low-range driving offences, including using an uninsured vehicle, not carrying a licence, not wearing a seatbelt correctly, and using a hand-held mobile phone when not permitted. The Opposition believes that the legislation works quite simply. Drivers will be given an opportunity to provide an appropriate email address or mobile phone number, and they will then be sent a notice electronically. As the Minister has indicated, police in-car video will record the person providing the email address or phone number. The video will be available for review in the event of a problem or a complaint about the conversation.

Although this sounds like a good process, the Opposition has some concerns about its rollout. The Minister will be familiar with those concerns if he has read the points my colleague raised in the other place.

The Government says that the scheme will raise around \$1.2 million and a significant amount of police time. It claims that the scheme will save about one hour per day per officer. Mr Ryan Park, shadow Minister for Roads in the other place, sought clarification about how this figure was derived. I ask the Minister to outline how the Government established this figure, what evidence will be presented in the trial phase to authenticate the estimates of time and money and whether this information will be made public. The Opposition wants to ensure that the administrative burden does not increase if the trial does not go entirely well. The trial should be evaluated and the results made public. Concerns about how the scheme could roll out during the trial include if a wrong email address is given at the point of infringement will that cause the system to fall down altogether?

**The Hon. Michael Gallacher:** No, it goes back to the default position.

**The Hon. PENNY SHARPE:** It reverts to the fail-safe mechanism, which involves sending the notice through the mail. That is in the bill. The Opposition is concerned—although it is not a huge concern—that if the police have to go back and send the notice that will involve double handling. We are interested in how many times that happens during the trial and whether it is a significant percentage. We are simply asking the Government to make the evaluation results public so that we can look at them. We also ask the Government to release the evidence showing that the scheme will save the police one hour per day per officer. We want to support this bill and we believe it is a good idea, but we would like to see a little more evidence about how that figure was calculated.

The Opposition supports this bill. We simply want to see a little more information in relation to the estimates. We also want to see a commitment to publicly releasing the evaluation of the trial. Members are aware that I am interested in online service delivery. This is something that the Opposition welcomes, particularly if it delivers the savings the Government is claiming it will. I commend the bill to the House.

**Dr MEHREEN FARUQI** [12.34 p.m.]: I speak on behalf of The Greens to support the Road Transport Amendment (Electronic Traffic Infringement Notices Trial) Bill 2013. The bill seeks to establish a trial in four New South Wales local area commands to allow police to issue traffic infringement notices by email or short messaging service when a motorist elects to do so. This is a sensible step that provides greater convenience for both police and motorists and it reflects the changing nature of our society. We are moving into the twenty-first century. However, not everyone would be able to take up this service, so I am very pleased to see that it is an opt-in system.

We ask the Minister to address the concern that an officer may incorrectly input an email address or phone number—something that is easy to do. I understand that, if the electronic notice is not acted upon, a physical notice will be mailed to the address on the driver's licence 28 days later. This potentially means the loss of 28 days for the person to plan to appeal or to pay the fine. I ask the Minister to consider an extension of 28 days in such cases. I understand there are contingencies for the unintended recipient of a notice to report it, but I think many people would miss such a notice or disregard it as spam. Overall, this is one of the more sensible bills to come to the House, so The Greens support it.

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [12.36 p.m.], in reply: I thank honourable members for their contributions to this debate. To follow on from the final words of The Greens speaker, this is a very sensible bill—like so many bills the Government introduces. It is designed to assist the police. The Opposition mentioned the costings. These costings were indicated to me by the NSW Police Force. It calculated them based on the number of infringement notices issued each year and its experience in dealing with roadside issuance and having to go back to a station later and complete the remaining parts of the infringement notice process. The figure is based on the number of hours each year police officers spend performing these tasks and the cost per hour.

The ability for police to utilise technology offers endless opportunities. We live in a world in which there is ever-increasing appreciation and expectation with regard to technology. The young community leaders in the gallery today would see the serving of infringement notices using modern technology as a common-sense step forward and one that they would fully appreciate. The Greens raised a concern about the unintended consequences of somebody missing an infringement notice. It is fair to say that someone who has just been pulled over by a police officer, asked questions and told that they will be served with an infringement notice with their concurrence via electronic means will probably be aware of it.

There will still be opportunities, as there are now, for people who lose an infringement notice to report that to the police and have it re-served. A degree of generosity is exercised to ensure that people complete the requirement either to elect to go to court about an infringement notice or to pay it within a certain time frame. This proposition really changes nothing in that regard. Instead of being issued with a paper infringement notice as a normal part of the process of being stopped for a traffic offence in New South Wales, motorists will have the opportunity to elect to receive the notice either as a text message to their mobile phone or as an email.

We are conducting the trial to obtain feedback from general duties police officers in both high-volume metropolitan areas and regional areas, such as Moree. Sadly, the greater the distance from metropolitan areas, the higher the possibility of experiencing difficulties caused by telecommunication black spots. One of the issues I raised related to serving an infringement notice on someone who is some distance from a metropolitan area and for whom a telecommunications service may not be available. I asked whether a notice would drop out of the system and was told that the device stores the message and will transmit it when the person returns to a telecommunications zone, thereby effecting service of the notice.

A degree of thought has been given to the implementation of this legislation. The brilliant officers of the NSW Police Force deserve a pat on the back for their search for modern methods by which to do their job. The Opposition mentioned red tape. Members may recall when I became the Minister for Police that, through local area commanders, I spoke with rank and file police officers throughout the State and said that the Government wanted to know what red tape problems were taking them away from doing their job. The Minister for Family and Community Services, Pru Goward, the Attorney General, and Minister for Justice and I made significant inroads into resolving problems associated with domestic violence orders. We discovered that a very bureaucratic and slow process was preventing police from serving domestic violence orders.

Just as the Ministers of this Government make significant inroads, equally reforms are suggested by front-line police officers, who understand the challenges of policing both metropolitan and country areas and who, more importantly, also understand the endless opportunities afforded by providing police officers with tablet technology with which to do their job. I commend the bill to the House. I thank all members who contributed to this debate. I look forward to reporting to the House on outcomes of the trial. I wish the trial well.

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

**Motion agreed to.**

**Bill read a second time.**

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

### **Third Reading**

**Motion by the Hon. Michael 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. 3 postponed on motion by the Hon. Michael Gallacher.**

## PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT (ILLEGAL WASTE DISPOSAL) BILL 2013

### Second Reading

**The Hon. MARIE FICARRA** (Parliamentary Secretary) [12.43 p.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

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

#### Leave granted.

The Government is pleased to introduce the Protection of the Environment Operations Amendment (Illegal Waste Disposal) Bill 2013. This bill makes it clear that this Government will not tolerate serial waste dumpers. The bill provides additional powers to the Environment Protection Authority and increased sentencing and penalty provisions to the courts to crack down on illegal waste dumpers and to break the business model of organised illegal waste activities.

It is estimated that \$100 million is lost to the New South Wales Government each year from incidents causing significant and long-lasting environmental harm, associated clean-up costs and unpaid waste levies. There is a strong expectation from the community that companies and individuals that pollute the environment and place human health at risk as a result of their actions should face heavy penalties. Unfortunately, the current fines and penalties for environmental crimes handed out by the courts are low enough to be viewed by unscrupulous operators as simply the cost of doing business.

#### Waste Amendments

Recently we have unfortunately seen examples of waste operators who have no regard for the wellbeing of the environment or the community, emptying truckloads of asbestos outside preschools and flouting court-imposed orders to stop illegally dumping waste on innocent private citizens' property.

These issues are not limited to a couple of individual rogue operators. Over the past 12 months the Environment Protection Authority has conducted the largest covert intelligence operation in the organisation's history. The operation has uncovered that organised illegal waste disposal activities and waste levy fraud is systemic in some parts of the industry.

The current options available to the courts to penalise both individuals and businesses that break the law do not outweigh the profits that can be made from these unlawful waste-related actions. This important bill will ensure that sufficient penalties are in place to deter environmental criminals and sufficient options are available to the courts to punish the offenders.

This bill includes five significant reforms that crack down on illegal dumping and waste activities and strengthens the penalties available to address and deter serious and repeat environmental crimes. These are:

- (1) restructuring the waste levy to remove the incentive for illegal waste disposal and to ensure an even playing field across the waste industry;
- (2) introduction of a new penalty of imprisonment available to the courts to punish repeat waste-related strict liability offences;
- (3) providing the Environment Protection Authority with powers to seize vehicles for repeat waste-related offences and allowing forfeiture of the vehicles on conviction of an offence;
- (4) introduction of a new offence, that includes an imprisonment penalty, for fraudulently providing false or misleading information in relation to waste; and
- (5) ensuring that a monetary benefits calculation model can be prescribed by regulation for use by the courts.

#### Custodial sentence for repeat offenders

The bill includes a new offence for committing a repeat waste-related offence within a period of five years that may be prosecuted in the Land and Environment Court. On conviction, the court may sentence the offender to a term of imprisonment. This will act as a strong deterrent to those offenders who feel that the current fines are too small to warrant changing their unlawful behaviour.

The bill will add to the range of prosecutorial options currently available to the Environment Protection Authority. Although there is currently a tier one offence for illegal waste disposal that potentially includes a custodial sentence, this offence requires the Environment Protection Authority to establish wilfulness or negligence on behalf of the perpetrator. This bill however provides the option of a strict liability offence with potential custodial sentences for repeat commission of waste offences. This important amendment will apply to specific waste offences regardless of whether that waste is disposed to land, water or to an unlicensed industrial premises. Recalcitrant illegal waste operators will be put on notice that waterways and land in New South Wales are not dumping grounds.

#### Changes to the waste levy

The waste levy is the key economic instrument used by the Government to drive waste avoidance and resource recovery in New South Wales. The waste levy has traditionally been applied at the landfill gate to drive increased waste avoidance and the recovery, reuse and recycling of these materials.

The waste levy has helped drive New South Wales's overall recycling rate from 45 per cent in 2002-03 to 63 per cent in 2010-11.

We know from Environment Protection Authority intelligence that illegal waste activity is occurring at waste storage, recycling and transfer facilities. Waste transported from these facilities for disposal is not showing up at lawful landfills and is likely to have been illegally disposed of on private property, State forests and national parks.

Other unscrupulous operators have been stockpiling large volumes of waste at recycling yards in the name of recycling, but many of these waste piles are never processed. The community wears the risk for the eventual clean-up of these alleged recycling sites. That is, if a rogue waste operator walks away from these stockpiles, the community will have to pay for them to be disposed of appropriately.

To break the business model of these illegal waste operators, the bill proposes to make changes to the waste levy regime so that all waste received at any licensed waste facility, not just landfills, will be liable to pay the levy.

Concerns of councils have been raised in the other place that this proposal equates to a levy on recycling. Let me be very clear, this is not a new levy or tax on recycling. This Government is committed to increasing recycling and diverting waste from landfills. In February this year, the Government announced the Waste Less, Recycle More initiative, which will invest \$465.7 million over the next five years to transform waste management in this State. At the centre of this initiative is a \$250 million investment in recycling and recovery infrastructure. We are not intending to undermine the very industry we are supporting by applying a "new tax".

The objective of this amendment is to curtail the illegal operations that are becoming systemic in the industry, not to penalise legitimate council and industry recycling facilities. Concerns were raised in the other place that the new system would require facilities to pay the levy upfront, ensuring that until the waste was processed and moved off-site a facility may be required to be out of pocket large amounts of money.

I can confirm that the proposed system will apply a liability to all waste received at a recycling facility. However, payment of the levy will not be triggered until the waste is sent off-site for disposal or stockpiled on-site for more than 12 months or stockpiled above any legal stockpile limits.

The liability will be entirely extinguished on waste that is transported off-site for further processing or reuse. It is important to note that it is a liability—not a levy payment—that will be incurred by recycling facilities on receipt of waste. The Environment Protection Authority will not be requiring payment of the levy on waste received that is stored on-site below legal stockpiling limits and awaiting processing unless it remains onsite for 12 months.

For those legitimate recycling businesses, there will be no net effect on the amount of levy they currently pay on waste going to landfill. However, all other operators will need to account for the waste leaving their facility and pay the levy on waste leaving the site intended for disposal. This new system will provide an even regulatory and financial playing field for the lawful operators and expose the illegal operators.

The Environment Protection Authority has consulted with the Australian Council of Recyclers, Waste Contractors and Recyclers, the Australian Organics Recyclers Association, Local Government NSW, Bankstown City Council, the Southern Sydney Regional Organisation of Councils and Lake Macquarie City Council who have all expressed in-principle support for the new levy framework I have outlined today. Stakeholders have expressed the desire to engage in a robust consultation process on the detailed mechanism.

The *Protection of the Environment Operations (Waste) Regulation 2005* is due to be remade as part of the Government's staged statutory repeal program. The details around the waste levy reforms will be part of the remade regulation and will be included in the extensive public consultation process for the remade regulation as required by the Better Regulation Office and subject to a regulatory impact statement as required under the *Subordinate Legislation Act 1985*.

The Environment Protection Authority is planning to consult on a draft regulation and regulatory impact statement that will include both the details of the levy reforms and the broader review of the regulation in the coming months. The consultation will be comprehensive and cover all councils across the State, relevant Government agencies and industry associations including the Australian Council of Recyclers, the Waste Management Association of Australia, the Waste Contractors and Recyclers Association and the Australian Organics Recyclers Association.

In addition to these levy reforms, the Environment Protection Authority will be consulting on a range of amendments to the current regulation including a proposal to enable operators of levy-paying facilities to claim operational purpose deductions for quarried and recycled materials used in making roads at licensed landfills.

The Centre for International Economics, experts in economic analysis have already been commissioned by the Environment Protection Authority to undertake a rigorous cost-benefit analysis that will underpin the changes to the levy system and ensure legitimate operators are not negatively impacted by these changes. The consultation process will provide council and industry with the opportunity to provide valuable feedback to ensure the new reforms deliver the right outcomes.

The Government has already listened to concerns expressed in the other place by councils and industry regarding the issue of moisture loss associated with the composting of garden, food waste. To address this issue, the Government is committed to exempting waste facilities that process only garden waste, biosolids or food waste, or a combination of those waste types from the levy. These facilities will be exempted under the current exemption powers that exist in the regulation. In addition, drum reconditioners, being those waste operators who clean and refurbish used drums, will also be exempted.

Requiring facilities to account for the movement of waste on and off their site, and pay the levy when waste leaves the facility for disposal, removes the incentive for unscrupulous operators to transport waste long distances and to dump their waste at unlicensed sites to avoid paying the levy. It also removes the incentive for unscrupulous operators to run illegal waste dumping or dubious stockpiling operations through waste storage, recycling and transfer facilities.



The new system will introduce a higher degree of transparency into a sector worth an estimated \$2.5 billion. The amendments will require that licensed recycling and storage facilities now keep records and report the movement of waste to the Environment Protection Authority in accordance with the regulations. This information is already kept by legitimate operators in the sector and will not represent a significant increase in red tape or costs.

To ensure that the data collected is accurate and verifiable; weigh bridges will be required to be installed at all licensed waste facilities.

The Environment Protection Authority estimates that there are approximately 20 licensed waste facilities across almost 100 licensed waste facilities that do not have a weighbridge to record incoming and outgoing movements of waste, with only four of the 20 sites operated by local councils. These 20 waste facilities are not keeping accurate business records on the amount of waste received.

The implementation of weighbridge systems can be beneficial to small business operators because it can help to improve business practices. The waste operators have a better understanding on the movement of waste onto and off the site. Having weighbridges installed means that the business has real-time and accurate data on material movements, and better stock control.

The cost of installing a weighbridge can be up to \$150,000 and there are additional costs for software, installation and ongoing operating costs. To mitigate the costs to councils and small business, under the Waste Less, Recycle More initiative, the Government will fund up to \$75,000 of the cost of the installation of weighbridges at licensed recycling, storage and processing operations.

I note that concerns had also been raised by the other place regarding the application of this new levy system to small community drop-off and recycling centres. I can confirm that the levy will only apply to waste facilities that are required to be licensed by the Environment Protection Authority. Small community drop-off centres are likely to fall below the relevant licensing thresholds for waste storage or processing.

#### **Environment Protection Authority powers to seize vehicles**

Recent high profile court cases have illustrated that some illegal dumpers have a reckless attitude towards the environment, the community and the orders of the court. This bill includes provisions for the Environment Protection Authority to seize vehicles used to commit repeat waste offences and for the court to be able to order those vehicles to be forfeited if the offender is found guilty.

This is an important amendment that will act as a circuit breaker for repeat offenders who would otherwise continue to break the law while they have access to their vehicle.

#### **New offence for fraud**

Recent Environment Protection Authority investigations have uncovered sophisticated waste levy evasion schemes. In a recent example, the authority uncovered a levy evasion scheme between a landfill and recycler which amounted to \$3 million in unpaid waste levies.

These operators are not only defrauding the New South Wales Government of millions of dollars, but they are also distorting the waste market and undermining legitimate waste and recycling businesses.

These are serious crimes. While there is already a tier two, strict liability offence for providing false or misleading information about waste, this bill includes a new offence for **knowingly** supplying false and misleading information.

I note that one council raised concerns that the defence for a person that has taken all reasonable steps to ensure the information was not false or misleading for the current offence under section 144M had been removed by the bill. I can confirm that this is not the case. The original offence for providing false or misleading information about waste and the current defence will remain in place. The bill introduces a new offence for knowingly supplying information that is false or misleading.

This new offence carries significant fines of \$500,000 for corporate offenders and \$240,000 for individual offenders. It also allows the court to sentence individual offenders to up to 18 months imprisonment instead of or in addition to a fine.

This will ensure that the penalties for waste levy evasion schemes are consistent with penalties in other legislation for fraudulent activities.

#### **Prescribing monetary benefits**

A court can currently order a person convicted of an offence against the Protection of the Environment Operations Act to pay an additional financial penalty equal to the monetary benefit they gained from committing the crime. The monetary benefit could include, for example, avoided waste disposal costs and additional market share/business acquired by undercutting legitimate waste operators.

This bill will enable the regulations to prescribe a protocol that can be applied by the courts to consistently and transparently calculate the size of the monetary benefit. The use of an agreed/prescribed calculation model will allow the courts to readily and consistently calculate the size of the monetary benefit penalty and ensure that the offender does not benefit from the offence. It will also act as a greater deterrence to all offenders.

**Conclusion**

By way of conclusion, this bill is an important enhancement of the range of powers available to the Environment Protection Authority and the courts to crack down on illegal waste operations. In an industry where the monetary incentive to break the law often outweighs the existing penalties, this bill provides a range of strengthened and expanded penalties and sentencing options to seriously deter unscrupulous operators from continuing to commit illegal waste activities.

I commend the bill to the House.

**The Hon. LUKE FOLEY** (Leader of the Opposition) [12.43 p.m.]: I lead for the Opposition in debate on the Protection of the Environment Operations Amendment (Illegal Waste Disposal) Bill 2013 and indicate that the Opposition will support the bill. The objects of the bill are to amend the Protection of the Environment Operations Act 1997 to, firstly, create an offence of knowingly supplying false or misleading information about waste in the course of dealing with the waste that will be punishable by a maximum period of imprisonment of 18 months as an alternative or in addition to a maximum fine of \$500,000 for a corporation and \$240,000 for an individual. At present the offence is a strict liability offence that is punishable only by a maximum fine of \$250,000 for a corporation and \$120,000 for an individual.

Secondly, the bill will create an offence of committing a strict liability waste offence, which includes polluting waters with waste, polluting land, illegally dumping waste or using land as an illegal waste facility within five years of any previous conviction for such an offence that will be punishable by a maximum period of imprisonment of two years as an alternative, or in addition to a fine. At present a strict liability waste offence is punishable by a fine only. The bill also will authorise the Environment Protection Authority to seize a motor vehicle or vessel it has reason to believe has been used to commit any repeat waste offence and to enable the Land and Environment Court to order the forfeiture of the motor vehicle or vessel to the State if it convicts the person of the repeat waste offence.

The bill will extend the offence of using land as a waste facility without lawful authority to using any place so as to cover illegally using a body of water as a waste facility. It also will remove from the Act an exemption from payment of the contribution by licensees of waste facilities that are engaged in reusing, recovering, recycling or processing waste other than liquid waste, so that the operation of any such exemption can be dealt with in the regulations. The bill also will enable the regulations to prescribe a protocol that will be used in determining the amount that represents the monetary benefit acquired by the offender in committing an offence, which the offender may be ordered to pay as an additional penalty for the offence. The bill reflects the Government's response to community disquiet concerning the lenient punishment meted out in a specific case heard this year by the Land and Environment Court.

A man received a three months suspended sentence after dumping 80 tonnes of waste that included asbestos at Picnic Point. The bill will give additional powers to the Environment Protection Authority to curtail illegal waste dumping and increase penalties for that offence. The Opposition is pleased to join with the Government in sending a strong message to repeat offenders and illegal dumpers, particularly those who dump asbestos, that the Government and the Opposition of this State take a most dim view of their actions. I note the contribution to debate on this bill made by my Labor colleague in the other place, the member for Heffron. I commend to honourable members his detailed contribution to debate on this bill. He questioned whether the Environment Protection Authority was strong enough in dealing with a repeat offender in the case, Mr Hanna. I cite a small part of the member's speech in the other place:

When one looks at Justice Pain's decision and the circumstances relating to this conviction, one is concerned about the way the Environment Protection Authority mishandled one of the most serious criminal environmental acts that a person can commit. Indeed, that criminal act should not have been dealt with in the way Mr Hanna was dealt with but should have been dealt with in another way.

The member for Heffron used his extensive legal experience to make a persuasive case that the Environment Protection Authority should and could have thrown the book at this character, Mr Hanna. I commend the speech of the member for Heffron to all members of this House. However, I acknowledge that the Minister, the Hon. Robyn Parker, is acting appropriately in this bill and the Opposition will support it. There have been some discussions between my office and the Minister's office about some matters raised by local government, including proposed new section 88. The Minister and her office have been good enough to provide my office with perhaps an advance copy of where the Government may be heading in respect of a regulation. Far be it from me ever to seek to steal the thunder of the Minister for the Environment, so I will leave it for her at the appropriate time to make such a regulation.

However, I indicate that her office and my office have had some discussions regarding the future use of the Minister's power to make a regulation that we think should satisfy the concerns raised by numerous local

councils with the Opposition. To be fair to the Minister, she has indicated that she has some way to go in terms of finalising the regulation—it is subject to the standard legal scrutiny and so on—but we do think that the direction in which the Government is heading on a regulation should be satisfactory. The Opposition is happy on this occasion to join with the Government to introduce tougher penalties for repeated waste dumpers. We want to send a strong message to the community that the serial dumping of waste, including asbestos, is not on and will be met by strong action by the State and by the courts. I commend the bill to the House.

**Dr MEHREEN FARUQI** [12.52 p.m.]: On behalf of The Greens I speak to the Protection of the Environment Operations Amendment (Illegal Waste Disposal) Bill 2013. Illegal dumping is a very serious matter that has had a significant impact on human and environmental health, as well as placing a monetary burden on the public purse with the clean-up costs. The health effects of illegal dumping are many. I am a strong believer in extended producer responsibility, including the producer of waste taking responsibility for the health effects of their products. One particularly dangerous material that we are all aware of is asbestos. As a unionist, I am proud of the work of the trade union movement in highlighting this issue. Australia has one of the highest rates of asbestos-related disease and cancers in the world. That someone would illegally dump such hazardous waste material is unconscionable.

Illegal dumping also has significant aesthetic effects on the land on which it occurs. This is particularly pertinent when in close proximity to housing and also when it occurs in our natural environment, such as national parks. There is then an ongoing effect on all parts of the environment, including water contamination through stormwater and the leaching of chemicals into the soil. Illegal dumping has real costs. Instead of companies and individuals who dump waste illegally paying the costs for their waste, it often falls on local councils to foot the bill, taking up valuable council funds that should be spent on parks, libraries and child care. It is estimated that New South Wales councils spend around \$10 million a year cleaning up illegal dumping. Marrickville council alone estimates costs to ratepayers to be around \$1 million a year for cleaning up illegal dumping. Rural and regional councils are particularly affected. I know about that from my time at Port Macquarie-Hastings Council.

The Greens' position on waste management is focused on the hierarchy of avoid, reduce, reuse and recycle. This is a very deliberate order of hierarchy. The best waste management strategy is to reduce waste in the first place, not just to recycle it. Nonetheless, recycling is very important and a cornerstone of waste management in this State. The exemption of recycling from the waste levy in the Protection of the Environment Operations Act was an important decision and one which has increased rates of recycling in New South Wales. The bill we are debating today aims to combat illegal dumping in two ways: a steep increase in the punitive response to illegal dumping as well as a fundamental change to the waste levy.

The first set of measures in this bill are punitive and essentially introduce a new offence for supplying false or misleading information about waste, an offence of repeat offending, the seizing of motor vehicles that have been used to commit offences relating to illegal dumping, and widening the offence to include a body of water as well as use of land as a waste facility without lawful authority. Our policies should focus on a mix of regulatory and behaviour change strategies with the aim of preventing the dumping of waste by a change in attitude as well as high enough penalties that are a deterrent for those thinking about committing these unlawful acts. Whilst traditionally we prefer measures other than punitive, it appears that the changes will increase deterrence of prospective offenders and will contribute to reducing illegal dumping in the public domain.

The second measure in this bill is a suggested change to the waste levy by amending section 88 to remove from the Act the exemption from payment of a contribution by licensees for waste facilities used for reusing, recovering, recycling or processing waste, other than liquid waste. On paper, this is concerning and sets alarm bells ringing, especially regarding the potential cost impact on local government. The Greens' reading of the bill suggests that the Government was seeking to completely remove a key part of the current recycling incentive strategy, the recycling exemption from section 88. Removing this exemption would mean that a levy would be charged on material that can be recycled, thus imposing a large cost burden on local governments.

However, I have been assured by the Minister's office that this is not the intention of the exemption from section 88 and a regulation is currently being prepared to ensure that the operators of recycling facilities, not local government, incur a levy liability if the waste in their facilities has not been recycled within a certain period. This is to make recycling operators responsible for actually doing what they have been set up to do and not just using their facilities as landfills for material that is classified as recyclable, including construction and

demolition waste. I thank the Minister and her office for taking the time to have these discussions with us. My office has also received a briefing from the Minister's office, the Office of Environment and Heritage and the Environment Protection Authority, who have assured me that the system that will replace it will be effective in combating illegal dumping with little impact upon local councils. This will essentially be in a regulation to be issued by the Minister.

In general, we are a little reluctant to move items out of legislation and into regulations as this leads to a centralisation of power that lies with the Minister of the day rather than with the expression of this Parliament as the democratic voice of the people. We have seen the draft regulation proposed by the Government and we understand that it is just a draft and subject to an extensive consultation process. As it stands, we are broadly satisfied that if this regulation is introduced it will make a real impact on reducing illegal dumping, especially by dodgy operators who horde waste under the claim that it is going to be recycled one day. But there remains some scope for unintended consequences, something The Greens remain concerned about. Nonetheless, on balance, The Greens support this measure as well. This bill is an important step. However, it is not a panacea for illegal dumping in this State.

The Government can undertake a range of other initiatives to reduce community and environmental waste, such as extending the producer's responsibility to the post-consumer stage of a product's life cycle. Our interest in this matter will not wane. We will be involved in the consultation, mobilising our stakeholders to ensure positive outcomes are achieved for communities and the environment. When the regulation eventually is published we will make sure it passes the test of good public policy. The Greens will support this bill, but urge the Government to consult more deeply with the community, local councils—particularly regional councils—and environment groups to make sure that the regulations achieve their intention, that is, to reduce illegal dumping and to make sure that those doing the wrong thing comply without imposing another burden on councils or the community. I commend the bill to the House.

**The Hon. MARIE FICARRA** (Parliamentary Secretary) [1.00 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank the Hon. Luke Foley and Dr Mehreen Faruqi for their positive and supportive contributions. This bill is incredibly important to members of the public who were horrified to read some of the outrageous media reports not only about the volume of illegal dumpers but also the substance. People were horrified as asbestos is such a dangerous killer fibre. The Minister reacted swiftly but consulted the many important stakeholders, particularly, local government.

Many members in this place and the other place have a local government background, including me. I was a member of Hurstville City Council for 16 years and we knew the importance of consulting on this important issue. Again, I acknowledge the compliments of the Opposition and The Greens on our consultation with local government. I note also the contribution of the member for Heffron and his extensive local government and legal background on this issue. This bill is a good example of the wonderful outcome that can be achieved for New South Wales when an important issue is treated in a non-partisan manner. I thank all members for their support of this legislation.

**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. Marie Ficarra, on behalf of the Hon John Ajaka, agreed to:**

That this bill be now read a third time.

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

*[Deputy-President (The Hon. Paul Green) left the chair at 1.03 p.m. The House resumed at 2.30 p.m.]*

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

## QUESTIONS WITHOUT NOTICE

### YARALLA ESTATE

**The Hon. LUKE FOLEY:** My question is directed to the Chair of the Select Committee into the Agistment of Horses at the Yaralla Estate. What effect will the announcement on 22 August in the other place by the Minister for Health and Minister for Medical Research concerning the Yaralla Estate paddocks have on the activities and, in particular, the administrative operations of the Select Committee into the Agistment of Horses at the Yaralla Estate?

**The Hon. ROBERT BORSAK:** I thank the honourable member for the question. The Minister's announcement in the other place did take me by surprise. After all, we had written to the Chief Executive of the Sydney Local Health District, seeking that they wait for the final report of the Committee before making any decision. Given that this year we are celebrating 25 years of effective governance of this State because of the contribution that our committee system has made, my concern is that the Government now appears to be treating this House and its committee system with contempt.

**The Hon. Duncan Gay:** Point of order: The standing orders of this House are clear, particularly when it comes to anticipating a report from a committee. It is my understanding that question and, in particular, the answer appears to be anticipating a report.

**The Hon. Luke Foley:** To the point of order: I point to a ruling of the distinguished former President Primrose that a question may be put to the chair of a committee in regard to an inquiry on which the committee has not yet reported if it is in relation to the administrative operations of the committee. That ruling was given on 29 October 2009. My question was deliberately drafted to comply with that ruling.

**The Hon. Michael Gallacher:** To the point of order: It may well be seeking advice from the chairman of the committee, but given the comments that have been made thus far it would appear that certain assumptions are being made in relation to the potential hearing of the committee and, therefore, I concur with the comments of the Hon. Duncan Gay. I think they are out of order.

**The PRESIDENT:** Order! The Leader of the Opposition points to President Primrose's ruling in 2009, which is relevant, as is President Burgmann's ruling in 2010. The rules for questions to members are different than they are to Ministers. The question has been drafted to comply with those rules and past rulings. The ruling is clear: The question must be about the administrative operations of the committee, but so must the response. The latitude given to Ministers is not extended to other members of the House. When the honourable member responds, he must limit himself absolutely to the administrative operations. In his latter remarks, he was moving beyond the administrative operations in drawing a conclusion, which is arguably anticipating the report of the committee. So long as the honourable member confines himself to the administrative operations, he is in order.

**The Hon. ROBERT BORSAK:** Based on your ruling, I will leave it as it stands.

### NATIONAL DISABILITY INSURANCE SCHEME

**The Hon. NATASHA MACLAREN-JONES:** My question is directed to the Leader of the Government. Will he update the House on the latest example of the Federal Government's consultation with the disability services sector?

**The Hon. MICHAEL GALLACHER:** I thank the honourable member for her question. It is sad to say, yet again, that it is disappointing but not surprising that the Federal Labor Government has failed to consult with the New South Wales Government before making announcements that affect the people of this State. In a repeat of the practice we saw yesterday, we have the news that the Federal Government has announced the proposed New South Wales sites for the National Disability Insurance Scheme without consulting with the New South Wales Government or, it appears, the rest of the stakeholders in the disability services sector. In an example of a Government that is putting spin before people's lives less than two weeks out from a Federal election, Jenny Macklin, the Federal Minister for Disability Reform has announced further National Disability Insurance Scheme launch sites in New South Wales without consulting with members of the New South Wales Government.

Jenny Macklin is well aware that New South Wales is contributing almost half of the funding for this rollout and that the heads of agreement between the Commonwealth and New South Wales Government require the Federal Government to collaborate with the New South Wales Government. In fact, the agreement states that the parties will continue to work together to settle design and operational matters as well as the legislation, including interoperability of the New South Wales laws. The New South Wales Government has acted in good faith on this important bipartisan issue.

**Mr Scot MacDonald:** Point of order: I cannot hear the Minister's answer.

**The PRESIDENT:** Order! There is far too much audible conversation coming from both sides of the Chamber. The Minister will be heard in silence. The Minister has the call.

**The Hon. MICHAEL GALLACHER:** I again make the point that the New South Wales Government has acted in a bipartisan way and in good faith and, sadly, the announcement today was not in fact made with us.

**The Hon. Walt Secord:** Point of order: Why is the Minister answering the question? There was no ministerial announcement about the reallocation of responsibilities.

**The PRESIDENT:** Order! There is no point of order. The honourable member will resume his seat.

**The Hon. MICHAEL GALLACHER:** On 26 July this year I was told that the previous Minister for Disability Services, the Hon. Andrew Constance, MP, wrote to Jenny Macklin seeking to commence negotiation on transitioning from 10,000 people in the National Disability Insurance Scheme Hunter launch site to the full scheme implementation of 140,000 people with disability in New South Wales by July 2018. There has been no reply from Jenny Macklin in response to the correspondence by Mr Constance. There has been no letter or phone call to Minister Ajaka. There has been no acknowledgment of the promised consultation with the New South Wales Government and no response to the so-called bipartisan support. Jenny Macklin did the same thing in Queensland just last Monday when she again failed to consult or contact Tracy Davis, the Queensland Minister for Disability Services. The disability community has a right to be angry over being kept in the dark and being used by this Federal Government. Yesterday *The Australian* newspaper reported:

DisabilityCare Australia said the agency charged with implementing the national scheme has not been consulted.

The Federal Government does not have the power to unilaterally declare which sites will be part of the next phase of the National Disability Insurance Scheme rollout, and along with the Queensland Minister for Disability Services, this State's Minister for Disability Services is concerned that the disability services sector is being run roughshod over by a Federal Labor Government desperately trying to hold on. Last week in this Parliament, we saw the Labor Opposition abandon bipartisanship—

**The PRESIDENT:** Order! The convention is that if a Minister is going to be absent then an announcement is made in the House about which Minister will respond to questions for that portfolio.

**The Hon. MICHAEL GALLACHER:** As honourable members are aware, the Leader of the Government in the Legislative Council can answer any question. However, for the convenience of honourable members I advise that in the absence of the Hon. John Ajaka I will answer questions relating to his portfolio. I also advise honourable members that I will take questions on behalf of the following Ministers in the other place:

The Hon. Pru Goward, MP	Minister for Family and Community Services, and Minister for Women
The Hon. Victor Dominello, MP	Minister for Citizenship and Communities, and Minister for Aboriginal Affairs
The Hon. Anthony Roberts, MP	Minister for Fair Trading

I further advise honourable members that the Hon Duncan Gay will take questions on behalf of the following Ministers in the other place:

The Hon. Adrian Piccoli, MP	Minister for Education
The Hon. Graham Annesley, MP	Minister for Sport and Recreation
The Hon. Robyn Parker, MP	Minister for the Environment, and Minister for Heritage
The Hon. Don Page, MP	Minister for Local Government, and Minister for the North Coast

But again, for the edification of members, the Leader of the Government in the Legislative Council can take any question.

**The PRESIDENT:** Order! The conventions of the House should be adhered to.

### SMALL BUSINESS COMMISSIONER BILL

**The Hon. ADAM SEARLE:** My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Small Business. Given that it has now been more than 29 months since the Coalition promised a Small Business Commissioner with real power, why has the Government failed to proclaim the Small Business Commissioner Bill, which passed through this Parliament three months ago and as at today has still not commenced?

**The Hon. DUNCAN GAY:** I thank the honourable member for his question. Certainly that was a promise, and it is one that we are enacting. As to the details of the question, I will, quite properly, refer it to my colleague the Minister for Small Business for her prompt and studious response.

### POLICE TRANSPORT COMMAND

**The Hon. PENNY SHARPE:** My question without notice is directed to the Minister for Police and Emergency Services. The Police Transport Command took over patrolling guardian train services on Friday 23 August. Will the Minister confirm that the Police Transport Command officers are on board these dedicated security services for the entire journey?

**The Hon. MICHAEL GALLACHER:** As I have indicated previously, operational measures that the New South Wales police will take in regard to services are matters that I will seek a response on. But the member is correct: The New South Wales Police Transport Command has taken over responsibility for the guardian train services.

### RENEWABLE ENERGY INDUSTRY COUNCIL RATES

**The Hon. ROBERT BORSAK:** My question without notice is directed to the Minister for Police and Emergency Services, representing the Premier. Has the Premier yet been approached by the Upper Lachlan Shire Council over concerns that wind farm operators on agricultural lands are not paying enough in council rates? If not, will the Premier meet with the mayor of the Upper Lachlan shire to discuss zoning changes so that renewable energy projects are related as industrial or commercial rather than as agricultural?

**The Hon. MICHAEL GALLACHER:** I thank the honourable member for his question. As requested, I will take that question on notice.

### RURAL AND REGIONAL ROADS FUNDING

**The Hon. MELINDA PAVEY:** My question is directed to the Minister for Roads and Ports. Will the Minister update the House on funding levels for country roads in New South Wales?

**The Hon. Walt Secord:** Point of order: This is a ministerial statement.

**The PRESIDENT:** Order! The honourable member is taking a point of order about the question, I presume. The question did not seek a ministerial statement and, therefore, there is no point of order.

**The Hon. DUNCAN GAY:** The sad fact is that the honourable member is nearly right—there are so many good things happening out there that this could be a ministerial statement. This issue has been discussed in letters to the editor. It has been discussed in press releases. But the member opposite, part of the inner-city Left of the Labor Party, would not be interested in this. The honourable member probably will not be one of the five out of the nine who maintains his or her position—

**The Hon. Walt Secord:** What about the Stanmore branch?

**The Hon. DUNCAN GAY:** The member opposite, the self-professed chairman of the Stanmore branch of the Labor Party, does not care about the bush. The last one of the bushies—the Hon. Mick Veitch—will be out of here at the next election; the Hon. Walt Secord will be gone too, probably.

**The Hon. Steve Whan:** Point of order: I believe the Minister was asked a question about something to do with his portfolio. He has gone nowhere near his portfolio so far. I was going to say he has not gone within a bull's roar of his portfolio, but I resisted the temptation. Mr President, please ask him to be more relevant to the question.

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

**The Hon. DUNCAN GAY:** It is obvious that I forgot the Hon. Steve Whan, but he is easily forgotten. On the eve of the budget estimates I had the distinct pleasure of issuing a media release entitled, "How the NSW Coalition Outspends Labor on Country Roads—13 Years of Past Funding Levels Revealed". I issued a similar release entitled, "How Country Labor Deserted Country Roads" before the 2013-14 State budget in June. The purpose of these announcements is to remind people how Country Labor deserted country roads in New South Wales. It is little wonder when you look at their representatives in this place. The Hon. Steve Whan sits on the loser's lounge.

The Hon. Mick Veitch will be one of the nine that will not fit into the five spots. There is no representation of the country left in this place—just the Left of the Labor Party and the chairman of the Stanmore branch. Significantly, these media releases contain facts that the Opposition cannot possibly contest or counter. The figures for funding speak for themselves and are a damning indictment of Labor's record in office. The New South Wales Liberal-Nationals Government has delivered more than \$15 million for roads in its first three State budgets, with \$3.7 million spent on rural and regional roads in 2011-12.

**The Hon. Steve Whan:** That is not much.

**The Hon. DUNCAN GAY:** The Hon. Steve Whan says, "That that is not much." It is a lot more than those opposite ever spent when they were in Government—listen and weep. This Government has delivered historic levels of road funding in a tough, post-global financial crisis environment. This places the Liberals and The Nationals a country mile ahead of Labor's dismal track record. Despite basking in rivers of property and land tax revenue from the mid-nineties onwards, average annual funding for country roads under Labor—*[Time expired.]*

#### COONABARABRAN BUSHFIRES

**The Hon. ROBERT BROWN:** My question without notice is directed to the Minister for Emergency Services. Is the Minister aware of criticism regarding the Rural Fire Service management of the Coonabarabran bushfire that destroyed 53 homes and burned for a week, and the claim that had it be managed differently it would have been less devastating? What formal investigations are being carried out, other than the Coroner's report, into the cause and management of that fire and what findings have been made thus far?

**The Hon. MICHAEL GALLACHER:** I am very mindful of a police investigation that is underway in relation to that fire. That matter will therefore be presented to the Coroner as part of a coronial investigation. I will await any response from the police in that regard.

#### NSW WATER SAFETY STRATEGY

**The Hon. JENNIFER GARDINER:** My question without notice is addressed to the Minister for Police and Emergency Services. Will the Minister inform the House about the New South Wales Water Safety Strategy?

**The Hon. MICHAEL GALLACHER:** I thank for their patience Bridget Glanville, Liz Foschia and Sarah Gerathy from the ABC team in Parliament, who are passionate advocates for water safety and are eagerly awaiting this announcement. I am pleased to inform the House about the Government's recent approval of the New South Wales Water Safety Strategy 2013-15. When we came to Government we made important commitments to the people of New South Wales regarding water safety. One of those commitments was to task the Water Safety Advisory Council to develop the New South Wales Water Safety Strategy. Among other water safety commitments, we have fulfilled that promise.

As well as the council members, a number of organisations affiliated with water safety, education or rescue activities were included in the consultation for the strategy. That is the important thing: we consulted with experts in water safety. They included various groups that make up key components of water safety such as experts in water safety for children, Royal Life Saving, professional surf life savers and boardriders associations. The strategy will be sent to key water safety agencies and stakeholders for circulation amongst their networks. It will also be published on the Government's website, [www.watersafety.nsw.gov.au](http://www.watersafety.nsw.gov.au). The progress of projects being implemented under the strategy will also be updated on the website.



The oversight of the implementation of the strategy rests with the council—with those people who know what they are doing. They have the expertise; however, I will be provided with an annual report at the end of each calendar year. The overall objective of the strategy is to contribute to a reduction in the rate of drowning in New South Wales. Improving water safety culture is first and foremost about education, skills improvement and increasing participation. To do this the strategy will provide the framework for water safety initiatives drawing on the work already done in previous years. The time frame of the strategy is until 2015; however, it is intended that it will be reviewed and continued from that date, so some actions under the strategy will have an end date beyond 2015.

The strategy aims to meet the challenges of reducing the rate of drowning deaths in New South Wales via three principles: adopting a partnership approach, addressing drowning black spots, and addressing drowning challenges. The key priorities that lie under these principles are to continue the NSW Water Safety Advisory Council, maintain the New South Wales Government water safety website and encourage cooperation among water safety organisations; develop or amend appropriate legislation to address water safety laws, regulations, rules and orders; create and administer the Water Safety Black Spots Fund with \$8 million over four years; work towards meeting the targets under the Australian Water Safety Strategy 2012-15; and participate in national projects.

Other key priorities are to increase the uptake of personal safety equipment and behaviour, especially for high-risk activities; strengthen water safety culture and improve rescue capability at high-risk geographic locations; strengthen water safety and boating safety culture; and increase the number of higher-risk population groups that are improving their swimming ability, including children aged nought to five years, people with a disability, Aboriginal communities, culturally and linguistically diverse communities, and people aged 55 years and over. The final key priorities are to reduce the number of drowning deaths attributed to alcohol or drug use and promote a culture of responsible use of alcohol on the water and around the water, especially among young people; and strengthen water safety and boating safety culture in general. I look forward to all agencies working together to make a real difference to water safety in the future.

#### **FULLERTON COVE RESIDENTS ACTION GROUP**

**The Hon. JEREMY BUCKINGHAM:** My question is directed to the Minister for Roads and Ports, representing the Minister for Trade and Investment. As the Minister is aware, the Fullerton Cove Residents Action Group is a community group of volunteers with limited funds that is acting to ensure that the Newcastle region water supplies are protected from the risks associated with coal seam gas mining. Why is the Government seeking costs in relation to the Fullerton Cove legal challenge, and what is it costing for the Government to do so?

**The Hon. DUNCAN GAY:** Despite my widespread knowledge, I have not got the answer to that question at my fingertips. I am sure that the question was asked with good intent, so I will make it my business to find out the detail to answer the member's question if I can.

#### **CRIMINAL UNEXPLAINED WEALTH CONFISCATION**

**The Hon. PETER PRIMROSE:** My question without notice is directed to the Minister for Police and Emergency Services. Given that the New South Wales Crime Commission obtained only one unexplained wealth order in the 2012-13 financial year, will the Minister commit to providing the commission with additional resources to seize the assets and wealth of criminals?

**The Hon. MICHAEL GALLACHER:** I thank the member for his question. Again, I congratulate members on my side of the House on the rebuilding process that took place in the New South Wales Crime Commission upon our coming to government. I will seek advice from the commission in relation to the assets seizures about which the member has asked. I must say that in the past there was a great deal of uncertainty about matters involving the Police Integrity Commission and the New South Wales Crime Commission. However, I am pleased to say that following the restructure the confidence of the people in the organisation has been rejuvenated. There is no doubt that the staff are committed and incredibly skilled. The tragic circumstances involving the criminality of one of their own impacted all of the personnel at the commission. Of course, the Police Integrity Commission conducted subsequent investigations into certain aspects of the way in which the Crime Commission operated.

As the member is aware, since that time we have embarked upon a significant rebuilding process to increase transparency at the Crime Commission to guarantee that the personnel have the confidence to go after

assets with great vigour. Sadly, the former Labor Government allowed the important task of providing the commission with legislative certainty to fall by the wayside. I am proud of the fact that we have provided the commission with the certainty it needs. I am also proud that the new personnel who have come in to complement those already doing tough work at the Crime Commission are getting on with the job. I will check the figures in relation to the assets. If I find anything of concern I will bring the figures back to the House.

### HEAVY VEHICLE ROAD SAFETY

**The Hon. CHARLIE LYNN:** My question is directed to the Minister for Roads and Ports. Will the Minister update the House on the tough new penalties for overheight or overlength trucks travelling in restricted areas on the State's road networks?

**The Hon. DUNCAN GAY:** The New South Wales Liberal-Nationals Government has rolled out significant reforms for the heavy vehicle industry in close consultation with broad sections of the sector. Some of these reforms are changes that the heavy vehicle industry cried out for under Labor for 16 years. It took a Liberal-Nationals Government to deliver. Whether it is cutting red tape to help them improve efficiency or adjusting mass limits, we can hear a sigh of relief and a chorus of Jake brakes across regional New South Wales. On the flip side of this industry is a handful of rogue operators who can bring our Sydney road network to a standstill by refusing to steer clear of restricted areas. Our roads and tunnels are critical infrastructure assets that service our communities and the State's economy.

When overheight or overlength trucks are driven in Sydney's tunnels or Galston Gorge, for example, the flow-on effects extend beyond the traffic chaos. There is an economic cost to the State, including the cost of damage done to the road and infrastructure. Any company that threatens the operation of these public assets by disobeying size restrictions will find its own asset off the road. Regulations came into effect earlier this month that enable Roads and Maritime Services to suspend the heavy vehicle registration of rogue operators for three months. We already have heavy penalties for the drivers, and this penalty in addition to the \$2,200 fine and the loss of six demerit points that we already hit drivers with. This is about holding operators responsible for failing to meet their obligations to ensure that vehicle journeys are planned and truck drivers are informed of the most appropriate route.

The changes also apply to interstate vehicles. In those cases we can suspend the visiting rights of the vehicle in New South Wales for three months. That is something we would like to do to the Prime Minister at the moment—remove his visiting rights—because every time he comes here he wants to remove something we need. Most truck drivers do the right thing and stick to the roads they are allowed to use. We will go about this fairly, ensuring that there is signage to make the new penalties crystal clear. Signs have now been installed in Galston Gorge. The rollout will extend to other areas, including the Sydney Harbour Tunnel and the M5 East Tunnel, in the next few weeks. We know that this reform will send a message back to base. Our enforcement team at Roads and Maritime Services [RMS] will have no hesitation in calling on the new penalties when it is appropriate.

### WESTERN SYDNEY LIGHT RAIL NETWORK PROPOSAL

**Dr MEHREEN FARUQI:** My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Transport. Yesterday Parramatta council unveiled the second part of its plan for light rail to help commuters move around Western Sydney, not just to funnel more cars into the Sydney central business district. The Lord Mayor of Parramatta, Councillor John Chedid, noted:

We're now calling on the State and Federal Governments to invest in this project to take it to the next stage. This could involve public consultation and preparing a business case, which would require approximately \$10 million to \$20 million of investment.

Why can the New South Wales Government find \$140 million for WestConnex this year—before even releasing the business case for public scrutiny—but nothing for real intra-Western Sydney transport solutions such as the Parramatta light rail?

**The Hon. DUNCAN GAY:** Sometimes Christmas comes early. I was hoping and praying that The Greens would ask this question today. Over the last couple of days The Greens have put forward another plan, one of the great thought bubbles that come from the world of The Greens—not the bogan green politics of the Hon. Jeremy Buckingham's area. The Greens suggested that the money the State Government and the Federal Opposition—we are having trouble finding out where the current Federal Government money is coming from—is spending on WestConnex would be better spent on light rail.

I ask members to imagine rolling into Bunnings by light rail, parking the tram outside on Parramatta Road, buying a ladder, a fridge and a couple of brooms, and taking the tram back to 27 Pitt Street, Tempe. Tram, go ahead! The Greens' answer to moving traffic in Sydney is replacing WestConnex with light rail. But they would not use it. Under their rules—and under the Hon. Jeremy Buckingham's bogan environmental science—they could not use it, because the electricity is generated by fossil fuel.

### KURNELL SEWERAGE SYSTEM

**The Hon. WALT SECORD:** My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Finance and Services. Given that 931 Kurnell residents are being forced to use 40 portaloos, what is the Government's response to community members' concerns that the \$50 compensation rebate offered to them is inadequate as they have suffered months of sewage overflows?

**The Hon. DUNCAN GAY:** I am unaware of this situation. Unfortunately, the honourable member has a track record of not being terribly correct in some of his assertions of fact, inside and outside Parliament. However, I will take him on his word today and I will ensure that I obtain a proper explanation.

### FIRE AND RESCUE NSW AUSTRALASIAN ROAD RESCUE CHALLENGE

**Mr SCOT MacDONALD:** My question without notice is addressed to the Minister for Police and Emergency Services. I ask the Minister to update the House about the 2013 Australasian Road Rescue Challenge.

**The Hon. MICHAEL GALLACHER:** I am pleased to advise the House that Fire and Rescue NSW literally made a clean sweep of the 2013 Australasian Road Rescue Challenge held in Canberra over the weekend of 22 and 23 June, winning every category and the overall championships. The Australian Road Rescue Challenge was hosted this year by ACT Fire and Rescue and held at Exhibition Park in Canberra. This annual three-day event, coordinated and judged by the Australasian Road Rescue Organisation, aims to reduce the number of road deaths by lifting the skill levels of firefighters and other rescue workers through participation in a cutting-edge road accident rescue forum and competition.

After participating in a learning symposium, emergency services workers from across Australia and from New Zealand, Hong Kong and Singapore put their skills and equipment to the test, competing in a range of events simulating very different rescue scenarios. Firefighters from two Fire and Rescue NSW rescue stations, Yass and Hurstville, competed against 18 other rescue teams representing fire services, State Emergency Services and a mines rescue unit to rescue simulated victims. I am delighted to advise the House that the Fire and Rescue NSW Hurstville team, led by Station Officer Clayton Allison and Station Officer Tony Waller and comprising firefighters Alan Rourke, Steven McDonnell, Matt Lynch and Letitia Harris, won all seven categories of the gruelling challenge, including best team leader—Station Officer Allison—best technical team and best medical team.

This outstanding achievement underlines the fact that Fire and Rescue NSW is a world leader in all aspects of rescue. Indeed, several members of the competing team were deployed to disaster scenes in New Zealand and Japan in 2011 as members of the Urban Search and Rescue Task Force, which last year achieved coveted United Nations accreditation as an internationally deployable heavy rescue team. Commissioner Greg Mullins has advised me that this is not the first time Fire and Rescue NSW has been on the winners' podium at a rescue challenge. It has in the past been not only the Australasian champion but also the world champion. The Fire and Rescue NSW team is now eligible to represent Australasia at the next World Rescue Championships, to be held in bonny Scotland in 2014.

Fire and Rescue NSW is Australia's largest provider of rescue services, carrying out almost 70 per cent of all rescues in New South Wales and operating primary and secondary specialist rescue units in 182 locations across the State. Around 2,700 Fire and Rescue NSW officers are qualified and registered with the State Rescue Board as specialist rescue operators. In addition to specialist rescue vehicles, every fire engine carries rescue equipment and every fire officer is trained in basic road accident and rope rescue. They are also trained in advanced first aid.

The Fire and Rescue NSW Hurstville team is a fine example of what our fire officers are capable of and dedicated to doing. Their motivation is to save lives, property and the environment; it is not trophies or other awards. I am delighted that the Hurstville and Yass rescue teams saw their participation as a means of learning

new techniques so that they could improve. Winning the challenge was simply a by-product of their commitment to constant improvement. Their dedication—and the dedication of all our emergency services workers—is something of which we should all be very proud.

### **POLICE ACT 1990 REVIEW**

**The Hon. JEREMY BUCKINGHAM:** My question is directed to the Minister for Police and Emergency Services. Will the Minister update the House on the review of the Police Act 1990, including who is undertaking the review and when public submissions will be sought?

**The Hon. MICHAEL GALLACHER:** I thank the Hon. Jeremy Buckingham for his newly found interest in policing.

**The Hon. Dr Peter Phelps:** Where is Shoebridge?

**The Hon. Walt Secord:** He is at the rally.

**The Hon. MICHAEL GALLACHER:** The pins are in the voodoo doll and he cannot be here today. The Ministry for Police and Emergency Services has completed work on the statutory review of the Police Act. The purpose of the review is to ensure that policy objectives of the Act remain valid and whether amendments are appropriate to fulfil the Act's objectives. During that process, there will be a period of public consultation at an appropriate time. I look forward to a submission on behalf of The Greens by the Hon. Jeremy Buckingham.

### **RURAL PROPERTY CRIME**

**The Hon. MICK VEITCH:** My question is directed to the Minister for Police and Emergency Services. In the light of reports that rural property crime is costing \$100 million a year—with stock, grain and fuel theft among the most common offences—what action will the Minister take to protect farmers and other property owners in rural areas of New South Wales?

**The Hon. MICHAEL GALLACHER:** We have well-resourced and well-supported police officers, who specialise in rural stock theft, as the Hon. Mick Veitch would know.

**The Hon. Duncan Gay:** He is the last one left and he will not be here much longer.

**The Hon. Mick Veitch:** This is a serious issue.

**The Hon. MICHAEL GALLACHER:** It is a serious issue. I will make a point to which the Minister for Roads and Ports has drawn my attention: A Labor member has asked a question related to an important rural issue. I suspect he will be the only Labor member who will ever ask me a question about rural policing.

**The Hon. Duncan Gay:** Not for much longer.

**The Hon. MICHAEL GALLACHER:** Sadly, as the Minister for Roads and Ports rightfully points out, the Hon. Mick Veitch will not do so for much longer. But the Liberal and Nationals members will continue to represent country people.

**The Hon. Trevor Khan:** And do it incredibly well.

**The Hon. MICHAEL GALLACHER:** We will do that incredibly well. The other point to make is that the real advantage to people throughout New South Wales, particularly those who live on isolated properties that are outside local towns, is the strong focus by Eyewatch on rural areas. That has been a real asset to them.

**The Hon. Mick Veitch:** Are you going to speak to those individual Facebook hits?

**The Hon. MICHAEL GALLACHER:** One by one I am speaking to them.

**The Hon. Lynda Voltz:** It is taking a while, is it?

**The Hon. MICHAEL GALLACHER:** It is taking a while because they just want to continually congratulate the Government on such a fantastic initiative. As the Hon. Mick Veitch is well aware, the rural

crime investigators continue to work closely with other New South Wales Government agencies and jurisdictions, particularly the Queensland stock squad. It is important for people who live in geographically isolated environments of country New South Wales not to feel isolated. With the introduction of Eyewatch, they are given an understanding of what is occurring around their local community. If equipment, cattle, other property and increasingly expensive fuel is being stolen from outlying properties, it is extremely important for people to know that they have a means by which they can understand what is happening in their local environment, virtually on a daily basis.

Through the work of police who are involved in the Eyewatch program and rural crime investigation identifying areas throughout the State where there are problems, people know that there is a suitable police response to crime. I thank the Hon. Mick Veitch for his question. His interest in this matter is consistent and he has asked me questions about it in the past. I know this problem matters to him, which is why he maintains his focus on addressing it. I thank him for his interest.

### REGIONAL RELOCATION GRANT SCHEME

**The Hon. TREVOR KHAN:** My question is directed to the Minister for Roads and Ports, representing the Deputy Premier. Will he update the House on how the Government is supporting the growth of regional communities?

**The PRESIDENT:** Order! Opposition members will contain their enthusiasm.

**The Hon. DUNCAN GAY:** I thank the Hon. Trevor Khan for his question. I can see the enthusiasm of the Opposition, which I will come to in a moment. The New South Wales Liberal-Nationals Government is delivering on its commitment to generate growth in regional communities, manage the State's predicted population growth and deliver greater opportunities for local decision-making to regional communities. Revised incentives have been announced as part of the Government's response to the final report of the New South Wales Decentralisation Taskforce, which was released today. I would be failing if I did not single out the Opposition's spokesperson on rural and regional affairs. I am told by the Deputy Premier that the Hon. Mick Veitch appeared to show support for amending the program during the 2012-13 budget estimates hearing when he suggested that the grant be extended to include renters.

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

**The Hon. DUNCAN GAY:** The Deputy Premier told me that it was like having Bambi in estimates. His big eyes nearly teared up. If the Deputy Premier had said no, it would have been like kicking the family labrador. The Deputy Premier was absolutely moved. I am told that *Hansard* reports the Hon. Mick Veitch saying:

Do you think it should be opened to renters in Sydney? Is that one aspect of the criteria that could be looked at?

I am told that since that time, the Hon. Mick Veitch has departed from that position and has decided that playing politics is more important than growing regional economies. He told the *Sydney Morning Herald* that it had been "a dud from the start". One day he has got the big eyes pleading for regional New South Wales, like the Bambi of budget estimates, but the next day he is putting the big size four boot in. The task force made a range of recommendations with regards to the Government's decentralisation policies. We will be implementing a number of those policies immediately.

In particular, we will be making the following changes to the Regional Relocation Grant scheme: extending the \$7,000 Regional Relocation Grant to people with a rental history of two years; creating a new \$10,000 Skilled Regional Relocation Incentive to encourage people to relocate for a minimum period of two years and take up jobs not filled by local workforce; introducing a new 100 kilometres distance requirement for grant applicants; and developing a new targeted and evidence-based marketing campaign to ensure that the Regional Relocation Grant and the new Skilled Regional Relocation Incentive reach target audiences, including young professionals, recent graduates and young families who are interested in moving to the regions.

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

**The Hon. Sophie Cotsis:** You could move from Darlington.

**The Hon. DUNCAN GAY:** I say to the Hon. Sophie Cotsis: How dare you insult me. I do not reside in Darlington. That is where all the lefties and Labor Party people are. When I am in Sydney, I am in Redfern with the real people. [*Time expired.*]

#### GALLIPOLI 2015 CENTENNIAL COMMEMORATION

**Reverend the Hon. FRED NILE:** I ask the Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council, representing the Premier, the Hon. Barry O'Farrell the following question: What action is the Government taking in response to the threats by the Turkish foreign affairs department to ban New South Wales members of Parliament who voted for the Armenian, Assyrian and Greek genocide motion from visiting Gallipoli for the 2015 centennial commemoration?

**The Hon. MICHAEL GALLACHER:** I thank the Reverend the Hon. Fred Nile for his question. As he requests, I will refer the matter to the Premier and seek a suitable response.

#### TEMPE SCHOOL ROAD SAFETY

**The Hon. LYNDA VOLTZ:** My question is directed to the Minister for Roads and Ports. Will he take action to protect students at Tempe Public School and Tempe High School and stop articulated vehicles from using Unwins Bridge Road as a back route to access the container terminal on Canal Road in Sydenham?

**The Hon. DUNCAN GAY:** One of the key matters that I will always take notice of is when an honourable member asks me to take action to protect students. I take the question at face value and certainly will investigate whether a problem exists. I have been handed some information that indicates, as I said, the safety of all road users is the highest priority for Roads and Maritime Services. Safety concerns about the Richardsons Crescent and Unwins Bridge Road intersection at Tempe were raised in February this year with the Pedestrian, Cyclist and Traffic Calming Advisory Committee, of which Roads and Maritime Service is a member. Both roads are under the care and control of Marrickville Council. Is that a Liberal council? No. Repairs are carried out by the council. Since the safety concerns were raised, Roads and Maritime Services has worked with the committee on safety recommendations.

The recommendations include providing road safety education to students and investigating turning restrictions for heavy vehicles to improve student and motorist safety. Marrickville Council adopted most of the recommendations in July 2013. Roads and Maritime Services will review the timing for pedestrians to cross at the intersection. If required, crossing time may be increased to further improve safety for students. Roads and Maritime Services has installed 40 kilometre-an-hour school zones on Unwins Bridge Road, Collins Street, Way Street, Hillcrest Street, Union Street and Foreman Street for Tempe High School and Tempe Public School. As I indicated earlier, Roads and Maritime Services will continue to work with Marrickville Council to resolve any unresolved safety issues.

**The Hon. LYNDA VOLTZ:** I ask a supplementary question. Could I ask the Minister to elucidate his answer in regards to the turning of articulated vehicles onto Unwins Bridge Road?

**The Hon. DUNCAN GAY:** You could, but I refer to my answer and will continue to look carefully at it.

#### NSW RURAL FIRE SERVICE SUPPORTIVE EMPLOYER PROGRAM

**The Hon. DAVID CLARKE:** My question is directed to the Minister for Police and Emergency Services. Will the Minister inform the House about the contribution many employers make towards enabling our volunteers to protect our communities in emergencies?

**The Hon. MICHAEL GALLACHER:** I thank the honourable member for his question. The New South Wales Rural Fire Service is built on the commitment and professionalism of more than 70,000 volunteers who give of themselves to protect our communities in bushfire and other emergencies. Our Rural Fire Service volunteers come from all walks of life and their personal circumstances are varied. During the course of their involvement with the Rural Fire Service, volunteers are supported by many others, including their colleagues, families, friends and employers.

Today I pay particular tribute to the employers who have supported New South Wales Rural Fire Service volunteers by releasing them from their work to attend emergencies. Some volunteers work in the public

sector, others in private businesses, and many are self-employed. Despite their economic and staffing circumstances, businesses across the State are extraordinarily supportive of their employees' volunteering commitments. Often this employer support goes unnoticed by the wider community. Undoubtedly, there would be fewer volunteers protecting our community without the generosity and community spirit of their employers.

Indeed, the importance of this support is evident from the availability of volunteers over the difficult bushfire season we experienced earlier this year. Approximately 6,000 fires burned some 1.4 million hectares in some of the worst conditions we have seen in our State's history. While we lost many homes, livestock and other property, there was no loss of life. There is no doubt that losses would have been far greater if employers had not released their volunteering staff to join the firefighting effort.

Twelve businesses have received special commendations in recognition of their support under the New South Wales Rural Fire Service Supportive Employer Program, which I launched earlier this year. These businesses range from self-employed volunteers through to small and medium enterprises as well as large corporations. They are The Armidale School, BHP-Illawarra Coal, Braidwood and Bungendore Community Bank, Brunswick Byron Pest Control, Chesterfield Australia Pty Limited, Gow-Gates Insurance Brokers Pty Limited, Impact One, Junction City Transport, Schweppes, Telstra Corporation, Wentworthville Leagues Club and Zoetis Australia. I congratulate those businesses on the commendations they have received and thank them for their ongoing support for the work of the Rural Fire Service.

The Government encourages businesses to visit the Rural Fire Service website at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and, in particular, the "Publications—For Employers" section, which contains information on arrangements that may be suitable for employers who are considering ways that they can support staff involved in emergency Rural Fire Service volunteer work. The same also applies in relation to the State Emergency Service. We are blessed with volunteers, and equally with the support around them from family, friends and employers.

#### WIND FARMS PLANNING GUIDELINES

**Dr JOHN KAYE:** My question is directed to the Minister for Police and Emergency Services, representing the Minister for Planning. Will the Minister provide the House with a date for the release of the finalised wind planning guidelines? Will the Minister provide an explanation for the 20-month delay that has elapsed since the draft version of the guidelines was first released in December 2011?

**The Hon. MICHAEL GALLACHER:** I thank the honourable member for his very detailed question, which will require a detailed answer. I will acquire one from the Minister as requested by the member.

#### KEMPSEY POLICE RESOURCES

**The Hon. STEVE WHAN:** My question is directed to the Minister for Police and Emergency Services. Given that incidents of crime, including violent crime, in the Kempsey local government area have increased 19.5 per cent in the last two years, what representations has the local member of Parliament made to him to obtain additional police resources for the local area command?

**The Hon. MICHAEL GALLACHER:** I have to say I am very pleased with the number of conversations that I have had with the local member for Kempsey, who is known to all members on this side of the Chamber. He has done an excellent job in advocating, not just in relation to Kempsey; he has spoken to me about Wauchope and other areas—

**The Hon. Walt Secord:** But are you ignoring it?

**The Hon. MICHAEL GALLACHER:** No, it is not a case of ignoring. The member has most certainly sat down with local police as well to talk about these ongoing issues on behalf of his community. One matter that comes to mind is a number of armed robberies that occurred in a particular region of his electorate that he was gravely concerned about, and so too were the rest of the community. The police are doing an absolutely excellent job in that region because they are using an intelligence-based approach to policing; they are targeting offenders and they are achieving results.

They use a number of means by which to identify spikes that occur in outlying communities and to identify offenders. They need to be congratulated on the results that they are achieving in having arrests made. But they do not rest on their laurels. They have a local member who happens to be a senior member of the Government

who does not lose sight of the fact that he is a local member first and foremost. He is prepared to meet with local constituents, advocate on their behalf, talk to senior members of the NSW Police Force to ensure they are aware of the issues. I think he can be very pleased with the job that he has done thus far as the local member.

**The Hon. STEVE WHAN:** I ask a supplementary question. Will the Minister elucidate his answer to clarify that in all those consultations with the member for Kempsey he has asked the Minister for additional police?

**The Hon. MICHAEL GALLACHER:** Members opposite just do not get it. The Commissioner of Police puts resources into country and regional New South Wales. We had an opportunity, and continue to have an opportunity, to sit down and ensure that the police are aware of issues. We seek their response and closely watch their response. It is an operational matter. I do not put the police into those locations; the commissioner puts the police in those areas.

## RECREATIONAL FISHING PROJECTS

**The Hon. RICK COLLESS:** My question is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Will the Minister update the House on how the Government is supporting recreational fishing in New South Wales?

**The Hon. DUNCAN GAY:** I thank the member for his question and interest in our recreational fishing resources. Many people know he is a keen recreational fisher and has one of the largest fishing boats in southern New South Wales complete with Corinthian columns on the flying bridge.

**The Hon. Dr Peter Phelps:** Not Doric or Ionian?

**The Hon. DUNCAN GAY:** No, Corinthian. From the north to the south of the State and inland areas between, fishing is one of our State's greatest pastimes. Each year millions of dollars from the sale of fishing licences are reinvested into recreational fishing in New South Wales. Anglers can rest assured that their licence fees are being used to fund worthwhile recreational fishing projects for their benefit. To date, the Recreational Fishing Trust has funded more than \$100 million worth of projects, improving recreational fishing for the State's avid angling community. Last month the Minister for Primary Industries announced the creation of a new opportunity for fishing on the New South Wales South Coast, in which the Hon. Rick Colless would be interested. The NSW Liberals-Nationals Government will further strengthen the South Coast as one of Australia's favourite places to go fishing by installing the State's second offshore artificial reef in that region. Its exact location will be decided following further consultation with recreational and commercial fishers, the relevant government agencies and other stakeholders.

The New South Wales Government is committing over \$900,000 to the project using funds from the New South Wales Recreational Fishing Trust. This is just another example of how funds from recreational fishing licence fees are reinvested to enhance fishing opportunities in New South Wales. The reef will consist of clusters of concrete shaped units of up to four metres in height and weighing up to 17 tonnes each. I know that both the fish and fishers will love it. Like many recreational fishers, I have been watching with amazement the progress of the first artificial reef deployed off the coast of Sydney's South Head in October 2011. Now nearly two years on, monitoring by fisheries experts from the New South Wales Department of Primary Industries has shown more than 20 fish species enjoying all that the reef offers. Many popular species, such as yellowtail kingfish, snapper, silver trevally, bream, leatherjacket and flathead, have moved in and call the reef home. The South Coast offshore reef is expected to be just as successful and popular with fishers, and will provide another reason to go fishing on the South Coast. I look forward to keeping the House updated on the progress of these reefs and others we have planned.

**The Hon. MICHAEL GALLACHER:** The time for questions has expired. If members have further questions, they should place them on notice.

**Questions without notice concluded.**

## BUSINESS OF THE HOUSE

### Postponement of Business

**Government Business order of the day No. 5 postponed on motion by the Hon. Matthew Mason-Cox and set down as an order of the day for a later hour.**



**TOTALIZATOR AMENDMENT (EXCLUSIVITY) BILL 2013****Second Reading**

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.35 p.m.]: I move:

That this bill be now read a second time.

By leave, I table a deed poll made by TAB Limited dated 19 June 2013, together with a document entitled, "NSW Exclusivity Deed" referred to in the Totalizator Amendment (Exclusivity) Bill 2013.

**Documents tabled.**

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

**Leave granted.**

The Totalizator Amendment (Exclusivity) Bill 2013 will give effect to an in-principle agreement that the Government reached with Tabcorp to extend the TAB's totalisator licence exclusivity for a further 20 years.

These arrangements are a demonstration of the Government's commitment to supporting the viability of the racing industry, which provides significant social and economic contributions to the State.

TAB Limited holds a 99-year licence issued in March 1998 to conduct offcourse and oncourse totalisator betting in New South Wales.

New South Wales racing clubs also hold 99-year licences for the conduct of oncourse totalisator betting with the TAB undertaking this by agreement on behalf of the racing clubs.

These licences included a 15-year exclusivity period, which expired on 22 June 2013.

During the exclusivity period TAB has been the sole holder of an offcourse totalisator licence in this State.

Under the Totalizator Act 1997 TAB was required to enter into commercial arrangements with the New South Wales racing industry as a prerequisite to it being granted a licence. Those statutory obligations recognise that at the time of the privatisation of the TAB the racing industry was, and continues to be, recognised as a major contributor to the State's economy.

The extension of the exclusivity arrangements underpins the estimated \$1 billion annual contribution to the State's economy and 50,000 jobs the industry supports, many in regional areas.

The major source of funding for the New South Wales racing industry comes from the Racing Distribution Agreement between the TAB and the three codes of racing. Approximately \$250 million per annum is distributed to the racing industry in New South Wales.

The TAB totalisator pool also ensures that the New South Wales public has access to a strong and stable wagering service which offers totalisator and fixed odds on racing and sport.

At present the TAB provides this through approximately 2,130 agencies, which consist of TAB retail outlets, outlets in clubs and hotels, as well as its oncourse and internet and telephone services.

The TAB and the Racing Distribution Agreement is an important element of a viable funding model for the New South Wales racing industry and it enables the optimal development, operation and marketing of the New South Wales racing industry and its race meetings.

Wagering on racing also makes a significant contribution to the State's economy with around \$157 million being received by the Government in wagering taxation per annum to be utilised for public services such as health education and law enforcement.

With the view to providing both continuity and revenue certainty on behalf of the racing industry and to securing an important revenue stream for the people of New South Wales as a whole, the Government examined options for the future provision of totalisator betting within the State.

Recognising the object of the continued effective and productive operation of the New South Wales racing industry it was decided to enter into negotiations with Tabcorp for the extension of the TAB's totalisator licence exclusivity.

These negotiations were undertaken by PricewaterhouseCoopers under the guidance of an interagency steering committee.

The steering committee was chaired by the Office of Liquor, Gaming and Racing and comprised representatives of that agency, the Treasury, the Department of Premier and Cabinet, and the Crown Solicitor's Office, and was assisted by an independent probity adviser.

Throughout the process PricewaterhouseCoopers provided ongoing legal assistance while the Crown Solicitor's Office also helped guide the Government's consideration of this significant matter.

On 20 June 2013 the Government announced it had reached an in-principle agreement with Tabcorp for it to pay \$75 million to extend TAB's exclusive licence for oncourse and offcourse totalisator activities, including through club and pub outlets and their existing fixed odds activities across the State, for a further 20 years until June 2033.

The \$75 million payment from Tabcorp will consist of an initial payment of \$50 million with the balance to be paid over 10 years from 2024.

The legislation before the House will enable the Minister to accept the offer made by the TAB to enter into the deed entitled "NSW Exclusivity Deed", which is set out in Attachment 1 to the deed poll that I have just tabled.

The legislation will also amend the Totalizator Act 1997 to extend the exclusivity period that applies in relation to the granting of totalisator licences to the TAB and racing clubs for an additional 20 years.

The proposed amendments will also extend the exclusive right of racing clubs to conduct their oncourse totalisators. This maintains existing arrangements whereby racing clubs are able to enter into commercial arrangements with the TAB to provide that service so that all can continue to benefit from maximising from the pooling of oncourse and offcourse.

The existing commercial arrangements between TAB and the racing industry including the operation of the oncourse totalisator will not be affected. The amendment to extend the exclusivity of racing clubs to conduct oncourse totalisators was at no cost to those clubs and, indeed, the industry as a whole.

Racing across the three codes—thoroughbred, harness and greyhound racing—provides enjoyment and a recreational outlet for many more thousands of enthusiasts throughout the whole of New South Wales.

This is a recreation that is accessible to everyone in the community with many racecourses across New South Wales. It can be through experiencing the colour and atmosphere while attending race meetings, viewing television coverage or listening to broadcasts over the radio. Following a champion racecourse like Black Caviar adds to the enjoyment. For many it is having a bet on their favourite runners.

We are fortunate here in New South Wales to have the best of the best to showcase the racing industry.

We have the living legend Bart Cummings. His training achievements are unlikely to be matched.

We have the leading jockeys in the industry in Hugh Bowman and Nash Rawiller with the two currently locked in a fierce battle to win the Sydney Jockeys Premiership. I wish both Hugh and Nash the very best in what is going to be an interesting race to that title this year.

New South Wales is also home to many of the best and most talented trainers. We are fortunate to see horses trained by the likes of Gai Waterhouse and Chris Waller race at tracks all around the State.

It would be remiss of me not to mention our award-winning racing journalists, with Ray Thomas deserving a special mention for showcasing the New South Wales racing industry.

In New South Wales we are ready to embark on a golden age of racing with Royal Randwick racecourse undergoing a \$150 million facelift to provide world-class facilities.

Carnival days are important events to promoting Sydney as the destination to visit at those times. The Autumn Carnival is recognised as the premier racing in Australia at that time.

Nevertheless, it is also true that racing is community based and all race clubs must have non-proprietary status, meaning that profits must be directed back into racing if they are to be registered by a racing controlling body.

Whether a race club is a city, provincial or country club, they each have their carnival day. They each have their showcase that demonstrates local pride and tradition. This sense of community identity represents much more than the simple economic contribution.

The popularity of racing to a broad spectrum is well demonstrated this weekend. This Saturday is San Domenico Stakes day at Rosehill Gardens, an important lead-up race for three-year-olds for the Spring Carnival, and Narromine Turf Club conducts its Gold Cup on Sunday.

Racing events are therefore a part of the group of leading sports which capture the community to provide both entertainment and employment opportunities. They are an important part of the social and economic fabric of the Australian community.

Confirming the oncourse and offcourse totalisator licensing exclusivity arrangements with the TAB by way of legislation will allow for the continued viability and growth of the racing industry in this State and will be a win for the people of New South Wales.

I commend the bill to the House.

**The Hon. STEVE WHAN** [3.36 p.m.]: The Opposition will support the Totalizator Amendment (Exclusivity) Bill 2013, but seeks from the Minister answers to a number of questions. The legislation formalises an agreement the Government reached with Tabcorp to extend the exclusive licence for totalisator activities, including through club and pub outlets, and existing fixed odds activities, for a further 20 years. New South Wales TAB is a wholly owned subsidiary of Tabcorp and in 1998 had a 99-year licence issued to conduct

totalisator betting in New South Wales. The key question is: Are the people of New South Wales getting the best return for granting extended exclusivity? I acknowledge the briefing from the Minister's office—this Minister is always good at providing briefings—that indicated the Government commissioned PricewaterhouseCoopers to negotiate on its behalf, and assembled a steering committee of the Office of Liquor, Gaming and Racing, Treasury, the Department of Premier and Cabinet, and the Crown Solicitor's Office. As I understand, PricewaterhouseCoopers determined what was to be a fair price. I have asked for access to the report to see what assessment was undertaken about the price.

Courtesy of the Minister's office, Tabcorp has indicated that it will give me a briefing on its perspective, but is concerned about the release of the PricewaterhouseCoopers report because of commercial-in-confidence information contained within it. I can understand that to an extent, although I still would like to take advantage of those offers of some briefing. I believe also that it would be reasonable for the public to have some background on why this price is considered fair. The Opposition would like more information and also for more information to be made public. However, in the absence of seeing the PricewaterhouseCoopers assessment, the Opposition believes that the price appears to be reasonable. The situation in New South Wales is different from that in Victoria, where its Government received \$410 million for a 12-year exclusive licence.

The New South Wales TAB already has a 99-year licence to conduct totalisator betting. It had also a 15-year exclusive licence and, of course, it owns the network across New South Wales. With that licence in place, albeit without the benefit of seeing the PricewaterhouseCoopers assessment, the price seems to be reasonable. Given that the business already owns the 99-year licence, it comes down to a question of whether the Government should have allowed another operator to come into New South Wales to set up a rival business. There are already many competing betting products, particularly in the online market; for instance, Sportsbet, Centrebet, Tom Waterhouse, bet365, and so on.

One of those businesses or another gambling business might like to set up a retail network in New South Wales. That is possible, but the question we must ask is whether that would be in the interests of the people of New South Wales, the racing industry or the three codes that benefit from the existing agreement. Interestingly, in the past few days I heard it suggested that another operator should have been allowed to enter the industry so that the greyhound sector could have negotiated a new share of revenue. That would not be of overall value to the industry or to New South Wales. The people of this State would not have benefited from a proliferation of new shopfront betting outlets because that would have increased opportunities for betting more than many of us would like.

The Minister has suggested that racing would not benefit from another operator entering the industry. He referred to the value of the revenue that flows to the three racing codes from this ongoing agreement. Those earnings are valuable and weakening that revenue stream would require much more consideration and consultation than we have seen so far. The Opposition feels that the community would be concerned if another operator entered the field with an accompanying proliferation of new gambling sites and opportunities. Therefore, we support the Government's decision to leave this as an exclusive licence. The licence held by New South Wales TAB means there is not much choice about who would get the exclusive agreement. Given that, the price would not be significantly higher than it is now.

The Opposition has concerns about the process. It is clear that the Government has been working on this issue for some time. Tabcorp released a media statement on 20 June 2013 announcing an in-principle agreement, and the Parliament is now being asked to endorse that agreement retrospectively. That is a rather sloppy way to manage this situation. The Government needs the Opposition to support retrospective legislation that seeks to give effect to liabilities commencing from 23 June 2013. If we had done the same thing when we were in government, I have no doubt that members opposite would have criticised us. The Opposition also notes that the Government has promised compensation for any decision that would "prevent or restrict the TAB from receiving the benefit of the scheme". I have sought and received assurances from the Minister's office that the scope of this compensation is limited to any change in regulation covering the gaming and racing industry that involves changing or terminating the exclusive arrangement that this bill addresses. It is not extended, for instance, to a change in regulations or any other aspect of gaming and racing such as signage in TABs.

The New South Wales Opposition supports the thoroughbred, greyhound and harness racing industries. They provide great enjoyment for millions of residents in New South Wales and they are major economic contributors to our State. We appreciate the efforts of trainers and owners in all three codes. The arrangements put in place by the Labor Government have benefited the racing industry and enhanced its economic viability.

Some interesting developments are happening in racing at the moment, including the recent passage of a Greens' motion to establish an inquiry into the greyhound industry. That was in response to the representations that all members have had from those involved in the greyhound industry. It has been suggested that a number of areas require scrutiny and that members of the industry wish to have a say about some aspects of their industry, such as its financial viability, management of the codes, drug-testing arrangements, and so on. That will be a difficult inquiry, but one which I hope will give a number of concerned people an opportunity to present their views to Parliament.

Significant improvements in revenue opportunities have resulted from the Labor Government's implementation of trackside initiatives. As a result of the High Court ruling, additional revenue is flowing to the racing codes, which has enabled investment in a number of facilities. The most obvious improvements have been the major upgrades undertaken at Royal Randwick, but other facilities throughout country areas have also benefited from investment. That is very important because, as a country Labor representative in this place, I have heard from country racecourse representatives for many years about the importance of investment in their facilities so that they can remain competitive and, importantly, retain TAB meetings and televised meetings, which produce a great deal of revenue. We must continue to be aware of problem gambling. One positive aspect of the New South Wales TAB and Tabcorp is that they have had consistently good reviews of their work on problem gambling, but we must continue to be vigilant.

A racing issue raised with me in the past week causes me some concern. I refer to the industrial action involving veterinarians at Royal Randwick. For some years they have been trying to negotiate a new enterprise agreement. Without wishing to express an opinion about a desired outcome, it concerns me that after a short strike last Monday a number of vets were locked out for two weeks. That is a rather antiquated industrial relations practice; it is not a positive way to negotiate an agreement with employees. A lock-out of any period should be a last resort, but a lock-out lasting two weeks is an overreaction to a single day or several hours of industrial action. I hope that the conflict will be resolved soon because this situation could potentially seriously delay veterinary testing, which is critical to the integrity of racing in New South Wales. As I said, the Opposition supports this legislation. It is important for racing industries, which have a positive economic impact on New South Wales.

Many members on this side of the House have close contact with the trainers and racing industries in their local areas and enjoy attending race meetings. On a local note, on Friday I will have the great pleasure of attending Frank Cleary's induction into the Australian Capital Territory's Sports Hall of Fame. Frank is a well-known Queanbeyan trainer and this is a well-deserved recognition of a lifetime's contribution to the racing industry. Frank is very pleased and I know that the people of Queanbeyan will join me in congratulating him on his induction. The Opposition supports this legislation, but I ask the Minister to confirm the Government's intentions with regard to the provisions of the bill dealing with the possibility of compensation in the event of any changes. I ask the Minister, again, to address the issue about the PricewaterhouseCoopers report and the reasons it cannot be publicly released.

**Reverend the Hon. FRED NILE** [3.49 p.m.]: The Totalizator Amendment (Exclusivity) Bill 2013 will amend the Totalisator Act 1997 to enable the Minister to accept the offer made by TAB Limited to enter into the New South Wales exclusivity deed and to extend the exclusivity period that applies in relation to the granting of totalisator licences to TAB Limited and racing clubs under the Act for an additional 20-year period if the New South Wales Exclusivity Deed comes into force. I note that this bill arose from an offer made by TAB. The background paper published by the Legislation Review Committee states:

This Bill enables the Minister administering the Totalizator Act 1997 to accept the offer made by TAB Limited to enter into the deed entitled 'NSW Exclusivity Deed'.

It is obvious that this bill was initiated by TAB Limited and it gives it a great economic advantage in New South Wales. TAB must pay \$75 million to extend its right of exclusivity for a further 20 years. The Opposition spokesperson said that he thought that was a fair amount, but I am wondering how one could establish what the amount should be to cover a 20-year period. I recommend that the Government—although it probably will not do this—ask the Auditor-General to investigate whether this deal for \$75 million is in the best interests of the people of this State and of the budget. It is an offer from TAB, so obviously it is in the interests of TAB rather than the Government.

Obviously there has been no question of going out to tender. A number of areas are causing concern—the discussions about the James Packer Crown Limited project come to mind—because deals have been done without any tender process and no other organisations or companies have had an opportunity to get involved.

That is true of this legislation; that is, no provision has been made to go to tender. As the previous speaker said, that raises questions. We do not want to see another thousand or so betting shops opened by another company and the further expansion of gambling. Gambling is already a major social problem in New South Wales.

We already have too much gambling, and I have spoken about that many, many times over the 32 years that I have been a member of this place. Nothing has ever really changed. Both Coalition and Labor governments have been very tolerant of and soft on gambling. I know that is because of the income they receive from gambling, and I think that often affects their objectivity when dealing with this issue. Because this bill does not expand gambling—it is simply dealing with the TAB's operations and its ability to continue them—the Christian Democratic Party does not have any objection to it. However, I believe that we should get the Auditor-General to conduct an investigation—it would not take very long—to see whether the financial aspects of this arrangement are in the best interests of the people of this State.

**Dr JOHN KAYE** [3.53 p.m.]: I speak on behalf of The Greens on the Totalizator Amendment (Exclusivity) Bill 2013. The Greens are extremely uncomfortable with this legislation, but we do not have much choice in terms of opposing it. It presents a number of substantial problems, the first of which is that this matter was negotiated behind closed doors. A committee was established and was chaired by the NSW Office of Liquor, Gaming and Racing. It comprised representatives from that agency, Treasury, the Department of Premier and Cabinet, the Crown Solicitor's Office and an independent probity adviser. As we understand it, that committee negotiated with Tabcorp, the owner of TAB Limited, and came to an agreed amount of \$75 million to be paid for an exclusive licence for 20 years. It will consist of an initial payment up-front of \$50 million and the balance to be paid over 10 years from 2024.

As the Reverend Fred Nile said very eloquently, the great public policy concern with this process is that nobody will know whether that is the appropriate price. The Opposition spokesperson, the Hon. Steve Whan, said that he thought it was about right and explained why it was different from the much larger figure that applied to the Victorian TAB exclusivity arrangement, which of course ran for a much shorter period. But these are the thoughts of members of Parliament; they are not the detailed analysis in the PricewaterhouseCoopers report, which is being kept hidden from the people of New South Wales. We have no idea what the reality is. We certainly cannot have any confidence in the figures because they have never been tested in the marketplace.

I find it remarkable that the Liberal Party and The Nationals talk until they are blue in the face about the importance of contestability—it is good enough for TAFE to be abandoned to a competitive market and it is good enough for a whole range of public services, such as adoption services, to be abandoned to a competitive market—yet when it comes to what seems to be the all-important Tabcorp arrangement that organisation gets a sweetheart deal, a special deal negotiated behind closed doors, and we are told it is okay. No doubt the Minister will tell us that part of the reason it is a good deal is that there was an independent probity adviser. Both the Minister and I were in this House when The Greens and the then Opposition were questioning the deals being done around the privatisation of the electricity industry. We were told repeatedly by Ministers, such as former Minister for Energy Ian Macdonald, "Don't you worry your pretty little heads about that. It is all okay."

**The Hon. Steve Whan:** I do not think he said "pretty".

**Dr JOHN KAYE:** In my case he certainly did not; he might have in yours. He said, "Don't you worry yourself about that; we have a probity adviser." The probity adviser, as the expression goes, sprinkled holy water—and my apologies to the Protestant members of the House—on the deal and it was all going to be okay.

**The Hon. Catherine Cusack:** I am a Catholic and I am just as offended.

**Dr JOHN KAYE:** I apologise to the Catholics as well. The harsh reality is that the probity adviser was completely worthless. He provided no in-depth analysis of whether this was the appropriate deal for New South Wales or whether we were getting a good deal. We got that information after the event from the Auditor-General, and he said it was shocking. We also got information from the independent commission of inquiry set up by the O'Farrell Government, which also stated that it was a very bad financial deal. The General Purpose Standing Committee No. 1 inquiry chaired by Reverend the Hon. Fred Nile also determined that it was a bad deal. All of that came too late. These deals were okay at the time because they had been sanctioned by the probity adviser. I do not know why we should suddenly trust an independent probity adviser appointed by the Coalition when the track record of so-called independent probity advisers appointed by the Labor Government is

so appalling. The second issue of concern is that the committee was chaired by the Office of Liquor, Gaming and Racing. Mr Deputy-President, I suspect you agree with me that the Office of Liquor, Gaming and Racing has two functions which are mutually exclusive and which create a major conflict of interest.

The first function is regulatory and the second function is promotional. We can see that through its relationships with the alcohol industry. This House sensibly forced the liquor promotion guidelines into the public domain and exposed some major problems with the way in which that matter was negotiated with the alcohol industry. This office does not know whether it is facilitating or regulating the gaming and racing industries. Because of those dual roles, it behaves in a way that largely disrespects the public interest. We are concerned that we will again see that in this \$75 million deal for 20 years of exclusivity.

The best explanation that I can give for a process conducted behind closed doors is that it is a Petri dish for corruption. I am not saying there was corruption in this case. I am not saying that Tabcorp sought to corrupt the Office of Liquor, Gaming and Racing, the Treasury, the Department of Premier and Cabinet, the Minister or the Crown Solicitor's Office, but we have a terrible and frightening track record on corruption in New South Wales. The most profitable environment for corruption is one in which deals are made behind closed doors between private sector entities and governments. That was demonstrated by the coal licences, involving Ian Macdonald and Eddie Obeid, that the Independent Commission Against Corruption found to have been corruptly obtained. The fear is that we are perpetuating the environment of secret, behind-closed-doors deals in the totalisator industry.

This is a behind-closed-doors deal. The Government tells us to trust it and that it is going to be okay. The Government says that it will keep the PricewaterhouseCoopers report secret but that the report is all right because the Government says so. With all due respect to the Government and the Minister, it is not okay in New South Wales in the second decade of the twenty-first century to tell people, "It's all okay. Trust us." The track record shows that it is not okay when governments do these deals—mates prosper and the public loses out. There is real concern that this legislation is authorising a deal behind closed doors that may have been obtained in a way that does not represent the best interests of the people of New South Wales.

The Opposition spokesperson raised the issue of exclusivity, which is an issue that also concerns The Greens. Exclusive licences lock in and create penalties for future governments. Future governments may have a different attitude to the thoroughbred, trotting and greyhound racing industries and may seek to curtail the massive amounts of money collected by the TAB. About \$2 billion goes through the TAB around Australia every year. That is a massive amount, particularly when we compare it to the \$65 million that circulates through oncourse betting. It is a substantial industry. We must ask ourselves whether we want to lock in future governments with penalty clauses to make sure that continues.

The Greens second concern mirrors the concerns raised by Reverend the Hon. Fred Nile. The University of Sydney's Gambling Treatment Clinic, within the School of Psychology, estimates that between 80,000 and 160,000 adults, or between 0.5 per cent and 1 per cent of the population, suffer significant problems with the gambling. An additional 230,000 to 350,000 adults, or 1.4 per cent to 2.1 per cent of the population, experience moderate risks which may make them vulnerable to a problem with gambling. Around Australia, as a social problem gambling costs about \$4.7 billion a year. The serious costs include suicide, depression, relationship breakdown, lower work productivity, job losses, bankruptcy and crime.

The gambling industry in Australia is associated with a terrible human toll that is hidden behind the undoubted entertainment that many members of the public derive from it. But what is seen in public and what goes on behind closed doors are different things. Our image of gambling is created by glamorous advertising and the glamour of horseracing on the track. Hidden behind the glamour are the relationships that break down, the families that are destroyed and the people who take their own lives because they cannot go on with the financial burden created by their gambling. People suffer depression because they cannot break free of their habit. They might also lose their job or be downgraded to a lower job because they are so comprehensively addicted to gambling. None of that was mentioned by the Minister in his second reading speech or by members of the Opposition

**The Hon. Steve Whan:** I don't think that's true.

**Dr JOHN KAYE:** I retract that statement in respect of the Opposition. It was a boutique add-on at the end of the contribution by Opposition members. As always, they said, "Oh, and there is problem gambling; we need to do something about it."

**The Hon. Steve Whan:** You waited for five or six minutes before you got into it.

**Dr JOHN KAYE:** Yes, but my statement is not an add-on at the end of my contribution. Neither the Coalition nor Labor Party members mentioned the tiny number of people who seek assistance for their problem gambling. Every time we raise the issue of problem gambling Government members talk about all of the great programs they have created and how fabulous the industry is at dealing with problem gambling. In fact, only a tiny percentage of people who have problems with gambling seek assistance. The vast majority of the poor benighted souls who have been trapped in the web of gambling never get any assistance; yet this legislation seeks to lock in a key component of the gambling web for another 20 years without any analysis of the social impacts.

Further, the Government has not undertaken any analysis of the animal welfare impacts of the legislation. That issue has not been mentioned by members of the Government, the Opposition or the Christian Democratic Party. I hope we will start talking about the appalling toll on animals in the racing industry during hearings of the select committee chaired by the Hon. Robert Borsak, which this Parliament yesterday agreed to set up. However, the committee will deal only with dogs. Around Australia each year 17,000 dogs are so-called euthanased, which is nothing more than a polite term for the horrible death the dogs suffer.

The dogs particularly at risk of being euthanased are owned by larger-scale trainers. The smaller-scale owners look after their dogs, and I pay my respects to those whom I have been talking to recently. Some of them have houses full of dogs that were deemed inappropriate for racing but have become family pets. However, that is not the fate that awaits many thoroughbred horses or harness horses when their day is done or they prove to not be successful runners. The Minister for Police and Emergency Services and I have been through this before. I maintain that what we say is right and that this industry only survives because of the appalling toll paid by the animals.

If we want to read a sanitised account of the racing industry we can go to the Minister's second reading speech in the Legislative Assembly in which he spoke about the joy and happiness of racing and made no mention of its impact on animals or humans. While completely ignoring the social costs, the Minister talked about how racing across the three codes of thoroughbred, harness and greyhound racing provides enjoyment and a recreational outlet for many thousands of enthusiasts. The Minister said that the recreational activity is accessible to everyone in the community because of the many racecourses across New South Wales, and he talked about how wonderful it is. He did not talk about problem gambling in any significant way. He did not talk about the consequences for animals.

The Minister occupies a parallel universe. He is more interested in talking about the San Domenico Stakes at Rosehill Gardens Racecourse, a race for three-year-olds, at the Spring Racing Carnival, and the Narromine Turf Club Gold Cup on Sunday. He spent a good 20 per cent of his speech boosting horseracing. Good for him. But as a Minister he is a regulator, not a booster. It deeply concerns me that, as with the Office of Liquor, Gaming and Racing, for which he is the responsible Minister, there is inadequate separation between the role of regulation—the role of writing laws to benefit all of the people of New South Wales—and the self-appointed role of promoting the industry, of being a booster for the industry and for the gambling that effectively funds the racing industry.

A more sensible approach to this problem would not start just with the recreation and enjoyment—which I have acknowledged—that people get from a flutter on the races or from going to the trots or the dogs. It would start from an honest, open account of the downside of racing and of the wagering that funds it. It would include an analysis of the toll on the hundreds of thousands of people—probably up to a million and maybe as many as 1.6 million people around Australia—who are affected by a problem gambler or are themselves a problem gambler. These are people whose lives and whose loved ones' lives are being destroyed. It would include an analysis of the impact on animals, the horses and dogs, some of whom live appalling lives with unacceptably low levels of animal welfare. It would include an analysis of the impacts on the economy, both the upside and the downside.

The Minister responsible for the gaming and racing industry likes to talk about the 50,000 people who have jobs in the industry, which I presume includes the horse industry, the dog industry and the totalisator and wagering industries. He does not like to talk about the other side. But we have to look at both sides of the ledger to make sensible decisions about gambling, wagering, horseracing and dog racing. Without that honesty—and the openness and accountability the O'Farrell Government promised and is not delivering in this deal with the TAB—this legislation is authorising a deal that is extremely dangerous for the people of New South Wales.

**The Hon. Dr PETER PHELPS** [4.12 p.m.]: The New South Wales racing industry contributes an estimated \$1 billion to the State's economy annually. Let us consider that for a moment: \$1,000 million every year into the State's economy. The advantages that accrue from that are not just financial. The industry also supports some 50,000 full-time and part-time jobs. Those of us in political parties that like economic growth and like people having jobs are happy about that. Needless to say, The Greens are not happy about it. They do not care about growth or jobs. They just care about going to boycott, divestment and sanctions rallies at Sydney University. They are not interested in what makes this economy grow.

There are 192 registered racing clubs in New South Wales: 136 thoroughbred, 31 harness and 25 greyhound racing clubs. All registered racing clubs hold a 99-year licence issued in March 1998 under the previous Government to conduct an oncourse totalisator at their race meetings. There are 191 licensed racecourses in the State: 125 for thoroughbred horseracing, 31 for harness racing and 35 for greyhound racing. Twelve of these are in the greater Sydney metropolitan area. This means that the overwhelming bulk of racecourses are in rural and regional New South Wales. Do The Greens care about that? They do not. The Greens vision extends as far as Erskineville. Their idea of far western New South Wales is Strathfield. That is The Greens' world view. They seek to deny pleasure, industry, jobs and income to people in rural and regional New South Wales, because they have a ridiculous agenda that does not care a dime for rural and regional areas. Overlying this is a sort of mawkish puritanism: the view that no-one should be able to have any fun. It is all very serious and terrible.

In 2012-13, 2,565 race meetings were conducted in New South Wales. That is more than 2,500 events where people voluntarily went to have fun. Some of them may even have had a flutter. Some would also have bought food. Some would not have had a flutter; they would have gone just for the spectacle of the event. Do The Greens care about that? They do not care about that at all. Racing events are leading sporting events that capture the interest of the community. They provide both entertainment and employment opportunities. They are an important part of the social and economic fabric of many communities across New South Wales. The Greens might consider entertainment to be limited to going to a cafe in Marrickville and ordering a fair trade soy eco-chino—

**Dr John Kaye:** Decaf.

**The Hon. Dr PETER PHELPS:** —decaf, and discussing how terrible the world is and how we should all be filled with misery, repentance and hatred of humanity. That may be a fun day out for the average Green. But the majority of people in New South Wales may find a small amount of entertainment at their local racecourse, dog track or trots. How is this industry to survive? The primary source of revenue for the New South Wales racing industry and its participants is its commercial arrangements with the TAB for a revenue stream derived from wagering turnover. Under the 1997 Act, the TAB was required to enter into commercial arrangements with the New South Wales racing industry as a prerequisite for being granted its 99-year lease to conduct offcourse and oncourse totalisators. The New South Wales racing industry receives about \$250 million per annum from this source.

The TAB is a wholly owned subsidiary of Tabcorp Holdings Limited. It has a network of just more than 2,000 agencies. These consist of retail outlets and outlets in clubs and pubs, as well as oncourse and phone and internet services. The Racing Distribution Agreement with the TAB is a vital element of a viable funding model for the New South Wales racing industry. It enables the optimal development, operation and marketing of the racing industry and its race meetings. It has worked well, it is working well and it will continue to work well into the future. The exclusivity period of the TAB's 99-year licence expired on 22 June 2013. Prior to that date, the Government engaged PricewaterhouseCoopers to examine options for the future provision of totalisator betting within the State.

Following consideration of the advice provided by PricewaterhouseCoopers, the Government determined that industry, civility and government were best served by entering into negotiations with Tabcorp for an extension of the TAB's totalisator licence exclusivity. The negotiations were undertaken by PricewaterhouseCoopers at arm's length from the Government under the guidance of an inter-agency steering group. On 20 June this year the Government announced it had reached an in-principle agreement with Tabcorp for it to pay \$75 million to extend the exclusivity licence for some oncourse and offcourse totalisator activities, including through pub and club outlets, and their existing fixed odds activities across the State for a further 20 years until June 2033. The \$75 billion payment from Tabcorp will consist of an initial payment of \$50 million with the balance to be paid over 10 years.



I am not sure why The Greens are so opposed to this legislation. It could just be their general grumpy nature and their desire for people not to have fun. If we are having fun, amusing ourselves or are amused by entertainment we find around us, how can we focus on the oppression of the proletariat? How can we focus on the workers' revolution that is just around the corner? If people are reading the form guide for the Royal Randwick races, they cannot be reading Karl Marx, which, I suspect, is what so upsets The Greens. The idea of people going through life and having fun, without having a perpetual focus on class revolution and socialist ideology as well as a range of matters that The Greens consider to be more important than enjoying life is abhorrent to them.

I would not describe myself as a sybarite, but I nevertheless appreciate having a bit of fun in life. I am sure members on both sides of the House do too. Above and beyond all that, The Greens need to take a good hard look at themselves and ask themselves whether they really want to be such a bunch of sourpuss killjoys, or will they let people do what they want to do? At the heart of this argument is the principle of liberty and freedom. Should people be allowed to do what they want to do? Members on the Government side of the House would say yes, but people on the opposite side of the House, especially in the corner of the House occupied by The Greens, would say, "No, you can't have fun. You can't enjoy your life. You can't go out and have fun because maybe there's someone in the industry who's doing the wrong thing." That is an interesting principle to apply.

Does it also apply to live music venues? If some bands are doing the wrong thing, should we not visit live music venues? Certainly we know one Greens senator who is very unhappy with live music venues and would like to have them closed down. But the question is where The Greens really stand on this. Is The Greens' concern genuine, or is it just part of their misanthropy and overall desire to ensure that life is continually grey and full of drudgery and must remain that way? That is the only way The Greens can convince the proletariat to rise up, start a revolution and install comrade Rhiannon as our overlord and protector. Is that really what The Greens want to do? I am pleased that the bill will receive bipartisan support, but it will not receive multi-partisan support. I congratulate the Minister on introducing this excellent bill. I commend the bill to the House.

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [4.24 p.m.], in reply: I thank all members who contributed to debate on this very interesting legislation. A number of questions were raised by members in their contributions to the second reading debate. One was the value of exclusivity and the other was the process for determining the value of exclusivity, which involves two stages. The first is an independent evaluation of the most effective methodology to determine the value of the licence. The second is a further independent evaluation of the monetary range for a licence of this type. Ultimately, the negotiated outcome was determined to fall within the acceptable range as offering maximum value to government, stability to industry, and a return to the people of New South Wales.

The question was also raised regarding compensation for an adverse regulatory event. A feature of the terms of the New South Wales exclusivity deal is that the State is required to make a refund payment to the TAB in the event of an adverse regulatory event. A sliding scale of refund payment amounts, which depend upon when the adverse regulatory event occurs during the extended period of exclusivity, is set out in schedule 3 to the deed. An adverse regulatory event occurs when the State introduces and Parliament chooses to enact legislation, or the Minister makes an order, imposes a condition or takes any other action under any New South Wales wagering legislation, other than disciplinary action under the Act, that would enable the grant of or provide to a person other than the TAB any licence, authorisation, approval or permission to conduct any or all parts of the offcourse totalisator, or any activity that is similar to an offcourse totalisator, or to conduct any or all parts of an offcourse totalisator or any activity that is similar to an offcourse totalisator, or results in the cancellation, suspension or reduction of the term of the exclusivity period, or prevents or restricts the TAB from receiving the benefit of the scheme.

The existing arrangements whereby the Minister may approve or authorise licensed bookmakers to take bets oncourse or offcourse other than in a public place, including fixed odds and declared events betting, are not adverse regulatory events under the terms of the deed. Any change to bet types permitted in New South Wales by the Minister that applies equally to all bookmakers and other wagering operators providing bookmaking or wagering services in New South Wales is not deemed to be an adverse regulatory event, nor is call of the card betting. Importantly, no refund payment is required of the State if the TAB's new exclusivity arrangements are affected by the repeal or amendment of a provision of New South Wales wagering legislation as a result of a

decision of a court of final appeal which finds that the New South Wales provision, or an equivalent provision in another jurisdiction, is invalid or unenforceable because it contravenes section 92 of the Constitution of the Commonwealth of Australia.

In other words, a successful challenge to wagering laws on constitutional grounds, which requires New South Wales legislation to be changed and results in the TAB's exclusivity arrangements being adversely affected, does not trigger any compensation payments. It is mentioned that the drafting of the terms of the New South Wales exclusivity deed occurred under the direction of an inter-agency steering committee comprising representatives of the Office of Liquor, Gaming and Racing, the Treasury, the Department of Premier and Cabinet and the Crown Solicitor's Office. Throughout the process PricewaterhouseCoopers provided ongoing legal assistance while the Crown Solicitor's Office played an active role in the process. The issue of retrospective legislation also was raised. It is common for legislation to be introduced to give effect to an arrangement or undertaking by the State after it has been announced. In this case it should be remembered that the TAB already holds a 99-year licence, which was issued in March 1998, to conduct oncourse and offcourse totalisators in New South Wales.

The expiration of the 15-year exclusivity period attached to that licence in June this year does not change the fact that the TAB was—and is—the operator of offcourse and oncourse totalisators in this State. The legislation before the House gives effect to the commercial arrangements reached between Tabcorp and the Government for the extension of the TAB's licence exclusivity for a further 20 years. It does not alter the existing arrangements for the provision of oncourse and offcourse totalisator activities. The Crown Solicitor's advice was relied upon throughout the process, and the tabling of the New South Wales Exclusivity Deed with the bill provides transparency to the agreement.

I am sure members would understand that reports such as the one commissioned by the Government and undertaken by PricewaterhouseCoopers contain commercially sensitive material. The process followed as part of this deal is consistent with licensing arrangements made by previous governments. It is essential to the effective working of government that companies such as Tabcorp can disclose sensitive information on a confidential basis to government to enable properly informed and considered decisions to be made. It is for these reasons that the report was not released. I commend the bill to the House.

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

**Motion agreed to.**

**Bill read a second time.**

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

### **Third Reading**

**Motion by the Hon. Michael 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.**

## **ABORIGINAL LAND RIGHTS AMENDMENT BILL 2013**

### **Second Reading**

**The Hon. MELINDA PAVEY** (Parliamentary Secretary) [4.32 p.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

I am pleased to bring before the House the Aboriginal Land Rights Amendment Bill 2013. Thirty years ago, the historic Aboriginal Land Rights Act commenced its operation. That 30-year anniversary gives us an opportunity to make generational reform. In December 2011, Minister Dominello commenced a five-yearly statutory review of the Aboriginal Land Rights Act to determine whether the policy objectives of the Act remain valid, and whether the terms of the Act remain appropriate for securing those objectives.

While this bill represents the initial outcomes of the review with a range of amendments that will enhance the administrative efficiency and effectiveness of the Act, more ambitious work on how the Act can better deliver outcomes for Aboriginal people in the policy areas of housing, land claims and the regulation of land councils is presently in train. This bill is the first instalment of a bigger project to more fully realise the potential of the Act. This broader vision is shared by Stephen Ryan, the Chairman of the New South Wales Aboriginal Land Council. Chairman Ryan has made the following points:

In this the 30th anniversary year of the Aboriginal Land Rights Act 1983, it is appropriate to be taking steps to ensure that Aboriginal Land Right in New South Wales remains strong for the next 30 years.

The proposed amendments to the Aboriginal Land Rights Act are the first critical reforms in an ongoing process of reviewing this landmark legislation. This process has been driven by the vision of the New South Wales Government, working collaboratively with the experience of the New South Wales Aboriginal Land Council, the Registrar of the Aboriginal Land Rights Act and Aboriginal Affairs NSW.

It's a reform process that will deliver a more effective legislative framework for Aboriginal Land Rights in NSW.

The proposals set out in this bill were presented to Minister Dominello by an expert working group, chaired by the registrar of the Land Rights Act. The working group included the New South Wales council and two members of local Aboriginal land councils. Having community members directly involved in the formulation of legislative proposals was a first. Those members ensured that diverse views held by Aboriginal land councils across New South Wales—those most affected by any changes—were represented. The director general of the Department of Primary Industries was an important addition to the group, representing a commitment by our Government to resolve the inefficiencies of the Aboriginal land claims process.

Since winning the 2011 election, this Government has made a special endeavour to make New South Wales number one. Fundamental to this objective has been finding ways to cut red tape and to assist local decision-making, and bolster prosperity in New South Wales. The amendments in this bill do just that. They promote good business administration and will make it easier for Aboriginal land councils to serve and develop their communities. The amendments cover many parts of the legislation and its regulations, but they can be categorised as follows: first, amendments that enhance administrative efficiency of Aboriginal land councils; secondly, amendments that will facilitate the good governance of Aboriginal land councils; and, thirdly, amendments that will reduce unnecessary costs borne by land councils. A number of the amendments will correct minor inaccuracies currently in the legislation.

Some proposals to increase administrative efficiency include a suite of amendments to clarify the delegation of functions. Without diminishing the specific powers of members, such as in the disposal and dealing of land, the new provisions will allow local Aboriginal land council boards to delegate their functions to chief executive officers, and for chief executive officers to delegate functions to other staff members. This will significantly assist the expeditious management of land councils' affairs, including asset management, in a way that is more aligned with a corporate separation of powers.

The amendments provide both boards and chief executive officers with the means by which to delegate certain functions to ensure that Aboriginal land councils are running effectively and are meeting their legislative requirements, and provide the New South Wales Aboriginal Land Council with flexibility and discretion in relation to the financial and administrative reporting obligations of local Aboriginal land councils. The Act currently requires the New South Wales Aboriginal Land Council to cease funding a local Aboriginal land council even if, for example, the local Aboriginal land council provides financial statements as little as one day after the due date set out in the Act. This imposes unnecessary administrative red tape on the New South Wales Aboriginal Land Council and is an unfair burden on the running of small bodies corporate. Many of the delays are not the fault of councils but rather external service providers such as auditors.

Some proposals to facilitate good governance include an amendment to remove the overly broad power of members to delegate the exercise of any of the functions of a council to any person or body. Amendments that commenced in 2007 were intended to significantly improve the governance of land councils by creating a governance model that separated the power and functions of boards, chief executive officers and members. Currently, the Act risks members being able to delegate the functions of the council to any person, potentially in conflict with the reasonable exercise by the board or the chief executive officer of their powers. The proposed amendment will ameliorate this risk.

The amendments will also remove the current prohibition against the board delegating to the chief executive officer any aspect of the use, management or control of land. This aims to clarify the purpose of the

subsection and prevent it from capturing day-to-day management. The inclusion of a new section to clarify that a councillor or board member, while suspended from office, cannot exercise any functions of that office, or collect any remuneration for that office, will provide clarity regarding the exercise of functions when councillors or board members are suspended. Some proposals to facilitate the reduction of costs include an amendment to section 153 to allow local Aboriginal land councils to choose their auditors from a list kept by the New South Wales Aboriginal Land Council rather than have them appointed directly by the New South Wales Aboriginal Land Council.

The proposed amendment allows local land councils greater flexibility to choose the auditor best suited to their budget and situation whilst ensuring that persons appointed are appropriately qualified. There are also a number of other very minor amendments that correct inaccuracies. These include consequential references to other Acts of Parliament that have not been updated accordingly with changes and some references to the regional land councils that were abolished in 2007. The broad range of the proposed amendments presented to this House aims to make the day-to-day activity of Aboriginal land councils more effective in delivering social and economic outcomes for their communities. I commend Minister Dominello for his work and his attention to these important changes. He has worked very collaboratively with all sections of the Aboriginal community. I commend the bill to the House.

**The Hon. MICK VEITCH** [4.39 p.m.]: I lead for the Opposition on the Aboriginal Land Rights Amendment Bill 2013. I commence my contribution by acknowledging that we debate this bill on the lands of the Gadigal people of the Eora nation. I pay my respects to their Elders past and present. I take this opportunity also to acknowledge the Burrowmunditory people of the Wiradjuri. The Burrowmunditory were the custodians of the land that became known in early white settlement as Lambing Flat and is now known as Young. I pay my respects also to Elders across New South Wales. The Opposition understands that these amendments are part of a regular legislative review.

I draw members' attention to the debate on this bill in the other place and particularly to the contributions of the member for Canterbury, Linda Burney, and the member for Liverpool, Paul Lynch. Of course, Paul Lynch was the Minister for Aboriginal Affairs in the last Labor Government, and was responsible for beginning the review process. I draw members' attention particularly to the member for Canterbury's short articulation of land rights history in New South Wales. This bill provides an opportunity for members in this Chamber to reflect momentarily on the narrative that is land rights in New South Wales. Clearly, land rights for the first people of this State did not begin in 1983 when the legislation went through the Parliament. The member for Canterbury said:

Indeed, in 1977 about 200 Aboriginal people gathered at the Black Theatre in Redfern to discuss land rights. In those days activism was much more on the streets, and much more inspired by Vincent Lingiari and the 1972 tent embassy in Canberra. The gathering coincided with the October long weekend: the Koori Aboriginal rugby league carnival was held at the same time to ensure that there were a lot of people in town.

I urge members to read the *Hansard* record of that speech and the full debate in the other place. The member for Canterbury went on to say:

It is important to remind members of the precursor to the 1983 land rights legislation.

The principal Act is an exceptional piece of legislation, both in importance and implication. It was described as little short of revolutionary by Justice Kirby, and I doubt many would disagree with that appraisal. The bill came out of the Keane committee and was introduced into the Parliament by then Minister for Aboriginal Affairs Frank Walker. The bill was rightly seen as a significant achievement of the Wran Government. As most members would know, the Aboriginal Land Rights Act 1983 is subject to a five-yearly statutory review. The objects of the bill are to clarify functions of land councils; alter the requirements relating to the advertising of staff vacancies; clarify the provisions relating to the disqualification of a person to hold the office of a member of a local Aboriginal land council; change the basis on which community development levies payable in relation to certain transactions of local Aboriginal land councils are calculated, which is important; and make other miscellaneous amendments aimed at improving the administration of the principal Act and of Aboriginal land councils.

I understand that the registrar of land rights in New South Wales and the New South Wales Aboriginal Land Council, led by chairperson Stephen Ryan, support these amendments. Many of these amendments are non-controversial. However, I shall take a moment to examine some of them. The amendments to section 68 rectify some situations that arise with casual vacancies. As I understand the intent of the bill, a number of

provisions try to overcome some issues arising from the case of Patricia Laurie, who was a New South Wales Aboriginal Land Council councillor. In particular, the bill tries to resolve the point in time a disqualification takes effect and what may be the implications.

Items [20], [21], [34] and [35] of schedule 1 to the bill contain provisions dealing with the status of people employed by a local Aboriginal land council and the New South Wales Aboriginal Land Council, and their election to those bodies. As I understand it, the bill intends to create almost a cross-fertilisation, which, in my view, is an eminently sensible thing to do. One amendment allows the registrar to call a meeting of a local Aboriginal land council to elect a board if one does not exist and there is no appointed administrator. My colleague the member for Liverpool advises that this is to rectify a void or omission that developed in the Moree Local Aboriginal Land Council. Interestingly, I note that the member for Liverpool referred to it as a lacuna.

Amendments to section 110 of the principal Act deal with a long-term bugbear of the New South Wales Aboriginal Land Council and are sensible. Amendments to section 149 remove "travelling and other allowances" from the list of expenditures that may be paid out of the New South Wales Aboriginal Land Council's account to local board members—another long-term irritant for the New South Wales Aboriginal Land Council. Amendments to section 79A are a sensible alteration to current advertising regulations for vacancies. At the moment the regulations are too onerous and difficult to apply to every vacancy. Amendments to section 133 relate to a New South Wales Aboriginal Land Council councillor's office being vacated if an area changes. These amendments are desirable and, again, the member for Liverpool's view is that they are practical.

The amendments arise from options considered for Quambone Local Aboriginal Land Council, which at one stage was to be divided up, creating a vacancy on the New South Wales Aboriginal Land Council, which was entirely crazy. This sensible amendment deals with that situation. Amendments to section 153 are interesting and also desirable. Currently, section 153 (3) requires that a local Aboriginal land council's accounts must be certified by an auditor appointed by the New South Wales Aboriginal Land Council. The amendment alters that to an auditor appointed by the local Aboriginal land council from a list kept by the New South Wales Aboriginal Land Council. The overall central specification of auditors is kept by the New South Wales Aboriginal Land Council, but the amendment allows local Aboriginal land councils to make the decision on which auditor will be engaged.

That issue has been raised by a range of local Aboriginal land councils over time. Deleting section 163 is helpful. The existing provisions require the New South Wales Aboriginal Land Council to stop providing funding where, in some cases, it is simply too extreme. These amendments will enhance administrative efficiency and are designed to facilitate the good governance of Aboriginal land councils, and reduce unnecessary costs borne by them. Some proposals relate to administrative efficiency, including a number of amendments to clarify the delegation of functions, which will assist in the expeditious management of land council affairs, including asset management that is more aligned with a corporate separation of powers. The Opposition will support the bill.

**The Hon. JAN BARHAM** [4.46 p.m.]: I begin my contribution to the debate on the Aboriginal Land Rights Amendment Bill 2013 by acknowledging the traditional owners of the land on which we meet: the Gadigal people of the Eora nation. I pay my respects to their Elders past and present. I acknowledge also the traditional custodians of our first nations across the State and, specifically, the Arakwal people of Bundjalung country from my home area at Byron Bay. I have been deeply honoured to have worked alongside the Arakwal people for almost 15 years. I pay tribute to the Bundjalung Elders Council, which, when formed in 1989, was the first Elders council in Australia. I believe Elders councils are overlooked in many considerations relating to Aborigines and their issues.

The importance of their role in local communities should not be overlooked. Elders councils are important. They should be recognised and funded to enable their great work to continue. From the outset I indicate that The Greens support the Aboriginal Land Rights Amendment Bill 2013. The bill implements a large number of targeted amendments to the Aboriginal Land Rights Act. In December 2011 Minister Dominello initiated a statutory five-year review of the Aboriginal Land Rights Act. The aim of the statutory review is to ensure that the purposes of the Act, namely, the provision of land rights for Aboriginal people in New South Wales, are being enabled through legislation.

A formal working group was formed to assist in the review. The group comprised, Mr Stephen Wright, Registrar of the Aboriginal Land Rights Act; Mr Geoff Scott, Chief Executive Officer of the New South Wales Aboriginal Land Council; Mr Sean Gordon, Chief Executive Officer of the Darkinjung Local Aboriginal Land

Council; Ms Stacey Meredith, a New South Wales Government recognised Aboriginal owner from central western New South Wales and a member of the Griffith Local Aboriginal Land Council; Dr Richard Sheldrake, Director General, New South Wales Department of Primary Industries, and his alternate Renata Brooks, Deputy Director General, Catchments and Lands Division, New South Wales Department of Primary Industries; and Ms Kristy Masella, Group Manager, Social Justice, Office of Aboriginal Affairs, New South Wales. The working group was given the following broad terms of reference:

- (1) Inquire into and make general recommendations as to whether the aims and objectives of the *Aboriginal Land Rights Act* require expansion or change of the Act in light of developments since 1983,
- (2) Inquire into and make recommendations as to whether administrative and operational provisions within the Act require any change to facilitate and improve the efficacy of the Act, and
- (3) Report all findings and recommendations by 1 November 2012 incorporating public responses following a period of public consultation.

The working group identified six broad topics to be addressed in its work: one, land claims; two, housing; three, regulative framework; four, incentives; five, targeted legislative amendments; and, six, miscellaneous matters for consideration. They were called upon to consider the targeted legislative amendments and were provided a draft of the amendment bill drafted by Parliamentary Counsel to review. This draft bill now forms the basis of what we are considering in the House. It is clear from the working group's report titled, "Facilitation to Enable not Frustration to Disable" that after 30 years of the Aboriginal Land Rights Act there is significant room for improvement. Part of the reconfiguring means having frank dialogue and discussion about the Aboriginal Land Council entities, and the characterisation of funds and assets held by land councils. I doubt any member in this House would be satisfied with how land claims have been managed historically by the Department of Lands. Reform should be a priority for this Government.

Equally important is structural reform around the Local Aboriginal Land Council's provision of social housing that the working group has identified. Approximately 30 per cent of the total Aboriginal social housing stock is owned by local Aboriginal land councils, with local Aboriginal land councils owning 2,670 properties in New South Wales. Previous NSW Local Aboriginal Land Council reports have highlighted that the Aboriginal social housing sector faces significant financial deficits that make repairs and maintenance of existing stock extremely difficult. We will have an opportunity to talk about Aboriginal social housing when the broader reform package comes to Parliament, but I am particularly interested in seeing greater consultation with local communities about the type of housing they want and greater training and employment opportunities for local residents, particularly in trades, in the delivery of any housing.

**The Hon. Mick Veitch:** Hear, hear!

**The Hon. JAN BARHAM:** Yes, it is an important issue. Very often Aboriginal people have ended up with housing that is not of their choosing and does not meet their cultural or domestic needs.

**The Hon. Mick Veitch:** And it is non-sustainable.

**The Hon. JAN BARHAM:** And it is non-sustainable. Workshops are scheduled throughout August and September across New South Wales to obtain feedback and comments on the working group's recommendations. I support the Minister's efforts to have open and transparent consultation on the Aboriginal Land Rights Act review and acknowledge the office of the Registrar of the Aboriginal Land Rights Act for coordinating the next round of consultation.

The bill includes mostly uncontentious—I emphasise mostly uncontentious—amendments because some amendments did raise concerns at the July 2013 NSW Aboriginal Land Council statewide conference. For the most part, the amendments balance the need for workable governance and administrative arrangements with mechanisms for compliance and probity. This does not diminish the need to re-evaluate regulatory frameworks established by the Act and demands placed upon the NSW Aboriginal Land Council in its regulatory role. The key amendments increase flexibility in powers of delegation to local Aboriginal land council boards and allow local Aboriginal land councils to select auditors from a pre-approved list maintained by the NSW Aboriginal Land Council rather than require them to appoint an auditor.

Training in the governance requirements specific to the Aboriginal Land Rights Act and, more generally, corporate governance standards are important issues. I know they are a high priority for the Minister.

I support the removal of the current restriction on only providing training the first time a board member is elected. Building capacity to deal with the governance requirements of the Act is an important function for the NSW Aboriginal Land Council. The NSW Aboriginal Land Council applies significant sums for governance training for board members and it is vital that land councils invest in building capacity in board members. It is equally important that the New South Wales Aboriginal Land Council is sufficiently financially supported to undertake this task. A study of our history reveals nothing is more important at any level of government than to ensure that governance standards and training are in place to protect the interests of the people being represented.

I draw members' attention to amendments relating to notification of the Minister for Crown Lands. Currently the notification requirements in section 42D (c) prevent the NSW Aboriginal Land Council from dealing with land vested in it unless the Minister for Crown Lands is notified of the proposed dealing or transfer. This requirement was introduced in the Act towards the end of 2009 by the Aboriginal Land Rights Amendment Act 2009 No. 58 section 42E of the principal Act and imposes a similar notification requirement on local Aboriginal land councils. The original 2009 amendments beg the question: Why was it envisaged that the then Minister for Lands, the Hon. Tony Kelly, and Warwick Watkins, his then director general, be notified of land dealings of the NSW Aboriginal Land Council or local Aboriginal land?

As a few Government members in the other place questioned, why have a notification provision for a Minister who has nothing directly to do with the Aboriginal Land Rights Act? I disagree that the Minister for Lands has nothing to do with the Aboriginal Land Rights Act but, according to section 36 of the Act, it is apparent that the Minister for Lands is critical in respect of the land claim stage. My 15 years of experience from working with the Indigenous land use agreement taught me that the role of the Minister for Lands was extremely important in respect of the progression of that process. I find it curious that the Minister for Lands needs to be notified of proposed dealings with land by Aboriginal land councils considering the lack of involvement post-settlement and transfer of the land to the local Aboriginal land councils. The land is no longer Crown land, yet the Minister for Lands is again drawn into local Aboriginal land council affairs for no apparent reason.

Further, when we consider many of the battles between the Minister for Lands and Aboriginal land councils over the past five years where, in some cases, the department was found to be acting in ways inconsistent with model litigants, the Minister for Lands is the last person many local Aboriginal land councils would want to deal with when making decisions about asset and land management. Assuming better intentions, it was an example of the unthoughtful creation of red tape in an Act that is designed to empower. The bill that introduced this provision received the full support of the House. It is a prescient and revealing reminder that even with the best of intentions we can still get it wrong. Members of this House eventually will have to consider a much fuller suite of reforms to the Aboriginal Land Rights Act arising from the working group recommendations and ongoing community consultations. I look forward to the reports on the community consultation with the Aboriginal land councils at the conclusion of the forthcoming workshops. I commend the bill to the House.

**The Hon. NIALL BLAIR** [5.04 p.m.]: I support the Aboriginal Land Rights Amendment Bill 2013. Before I commence, and as other members have done, I acknowledge the traditional custodians of the land on which we meet: the Gadigal people of the Eora nation. These amendments will markedly improve the administrative efficiency in governance of the Aboriginal Land Rights Act. In particular, it will make it easier and better for Aboriginal land councils to operate, and enable them to be freed up and more empowered in some of the areas in which they operate. The amendments in the bill provide a range of minor adjustments to the legislation that will assist the 120 local Aboriginal land councils that are constituted across New South Wales to better serve their communities. It is important that we provide sensible amendments that free up the red tape to allow those communities to best serve their organisations.

When I was reading through some of the amendments, I was taken back to a time when I did some work with the Wiradjuri people at Murrin Bridge, which is just outside Lake Cargelligo. At the time it was a self-managed Aboriginal community. They were building their own houses and operating their own vineyard: They had their own wine label. It has been a while since I have been there. I went out there to provide first aid and also construction induction training for community members. It was empowering for me to see a community that was providing local services and employment opportunities for its own people. A good lesson I took away from that experience was that empowering those communities to best serve their needs, particularly those of young people, is something we need more of across all our Indigenous communities. Reading through the amendments in this bill, it is heartening to see that it goes some way to allowing local Aboriginal land councils to better provide services and meet the needs of their communities.

Before I go through the amendments it is probably worthwhile giving a brief overview of the local Aboriginal land council functions that are covered under the Aboriginal Land Rights Act 1983. In particular, the Act provides land rights for Aboriginal persons in New South Wales, provides for representative Aboriginal land councils in New South Wales and vests land in those councils. This happens across New South Wales, from the inner city and suburbia out to the far-flung corners of this great State—as far as Tibooburra in the north-west. There is a diversity of Aboriginal communities and a diversity in the unique network of representative Aboriginal land councils. Since 1983 this vast network of Aboriginal land councils has formed and includes important landowners and business operators throughout the many and varied communities across New South Wales. That point cannot be overestimated. Those businesses are employing local people and providing them with career paths and training opportunities, and that should be commended.

The development of Aboriginal land councils has been enormous over the last 10 to 15 years, especially in places where the property and development boom has been most pronounced. Those property booms have occurred particularly on the coastal fringes. Aboriginal land councils can operate large to medium-sized businesses, some with multimillion-dollar budgets and projects, whilst others are small community organisations located across New South Wales. Being a member of a regionally based political party, I get the opportunity to travel to some of those smaller communities, particularly west of the Great Dividing Range. It is heartening to see some of those smaller businesses doing so well. This bill is not only about looking after the larger businesses with bigger budgets, it is also about smaller businesses. If we did not have those smaller businesses then there might be few options for people to gain employment and to take advantage of the opportunities that are provided.

Aboriginal land councils require practical regulation to support them so they can thrive and not only achieve their best as businesses but also be social and cultural hubs for their communities. They do great work in providing not only employment opportunities but also that social network and that cultural influence. The cafe in Moree is a good example of one of those businesses. It is not only employing young Indigenous people and providing them with opportunities but also fostering a strong link to cultural attributes. It is seen by many as an example they could follow. We should look at some of the benefits these amendments will provide. They will enable these communities to get on with their business with greater ease and efficiency. This Government has been consistent in its approach to the business sector and to reducing red tape and green tape. It is pleasing to see that that consistency from the Government applies to local land councils. This bill will allow them to be freed from the burden of bureaucracy, and red tape in particular, and to get on with the job.

An example of that is the repeal of section 38 (4) of the Aboriginal Land Rights Act. This will remove the restriction on Aboriginal land councils purchasing or taking on lease property unless in connection with the use, development and improvement of the land. As it stands, the Act unnecessarily restricts the efficient operation of many local Aboriginal land councils engaged in a wide range of complex commercial operations and reduces their capacity to realise economic and commercial opportunities. That improvement alone strikes at the heart of the benefits of what we are doing today—that is, removing the shackles from these Aboriginal land councils so they can reach their full potential and maximise their outcomes. The objectives they are trying to achieve ultimately have a flow-on effect and benefits for the communities they represent.

Another way we are freeing up these Aboriginal land councils and removing the burdens placed upon them is to allow them greater choice in appointing auditors. This is a simple amendment to section 153 of the Aboriginal Land Rights Act that allows local Aboriginal land councils to choose their auditors from a list kept by the NSW Aboriginal Land Council. As independent corporations, local Aboriginal land councils should have the independence and autonomy to appoint appropriately qualified auditors who they feel best suit their needs rather than have them appointed directly by the NSW Aboriginal Land Council. Again, nothing empowers a local community or a local organisation more than freedom of choice. That is what we are doing here: allowing them to make a decision as to who will best serve their needs. This amendment to the Act has been requested by many local Aboriginal land councils, and we are happy to let the network know that their request has been granted.

Most importantly, many of the amendments to the Act cut unnecessary red tape and restrictions on land councils so that things can be done more quickly—and in some cases they reduce waste and costs. It makes sense to give land councils that freedom of choice, and in doing so reduce waste and costs and get rid of red tape. As I alluded to earlier, that has been a key commitment of this Government. It was an election commitment and I am very pleased that we have been consistent and that it is now being delivered to local Aboriginal land councils. The bill also removes the requirement that local Aboriginal land councils notify the



Minister for Aboriginal Affairs and the Ministers administering the Crown Lands Act 1989 of any proposed land dealings. Those Ministers do not have any power in relation to land dealings under the Aboriginal Land Rights Act—that duty rests with the NSW Aboriginal Land Council.

The amendment to the Act will remove this unnecessary and time-wasting administrative task and save local Aboriginal land councils both time and money. This is a consistent theme: getting rid of bureaucracy, getting rid of red tape, and saving time and money so that local Aboriginal land councils can be empowered to get on with the job. This bill represents the first stage of amendments stemming from the five-yearly statutory review of the Aboriginal Land Rights Act. Further work on the policy areas of housing, land claims, regulatory roles and the structure of land councils is underway. That may involve future reforms and changes to further assist Aboriginal land councils to prosper.

Making these changes through these reviews to identify the areas in which we can make positive changes to legislation to allow them to best achieve the outcomes that they so desire is key to this. We want members of land councils and their communities to achieve the best outcome for them. It is expected that such reforms will assist local Aboriginal land councils and the Aboriginal people of this State even further. We will welcome any changes that are identified as necessary which they bring before the House so that we can continue to free up these organisations as we are doing today. In the meantime, these minor amendments are the Government's first step to oil the day-to-day machinery of the land rights network and to pave the way for a smoother and more sustainable future.

It is important to acknowledge some of the stakeholders who have played a vital role in enabling us to get to this point. I thank the key players who have invested their time and expertise in the development of this bill, including representatives of the Aboriginal Land Council, the Registrar of the Aboriginal Land Rights Act, the staff of Aboriginal Affairs and the Department of Primary Industries. Most importantly, I offer my thanks to two representatives from local Aboriginal land councils. Mr Sean Gordon, the chief executive officer of the Darkinjung Local Aboriginal Land Council, and Ms Stacey Meredith, Aboriginal owner and member of the Griffith Local Aboriginal Land Council, who generously provided their insight and local knowledge.

Without the input and knowledge of the people concerned we cannot expect to make the great strides offered by these amendments. That is, once again, key to these changes. They have been driven in consultation with the people directly impacted by them, the people who have experienced the system and worked under the framework surrounding the Act up until this point and the people who know their communities better than anyone. Consultation is a common theme of this Government and I am proud that it has once again delivered with these amendments. The Government has driven the need for consultation as a consistent theme from the start of its term, and I am proud that it consults with the local communities that will be impacted by its decisions. In this case, the input of Mr Gordon and Ms Meredith has given the Government and Minister Dominello a direct link back to the people who will be impacted by the amendments in the bill.

The amendments to the Land Rights Act contained in the bill will benefit the land rights network and Aboriginal communities throughout New South Wales. As I said at the beginning of my contribution, I genuinely believe that all of the communities will benefit from being empowered to have more input and control over their local decisions about how their organisations operate. The freedom of choice including the choice of auditor and the ability to look at their resources and to make more informed decisions to generate better returns will provide direct benefits to all of their people and members.

As I said, I have seen firsthand how local decisions can contribute particularly to the lives of our young Indigenous people in regional areas. I acknowledge that I have not been to Murrin Bridge for a while so I cannot comment on how it is at the moment. However, at the time I was there local people were being provided with vocational training and jobs and had the opportunity to gain skills in construction and horticulture. That set a fantastic example for all of our communities and we hope that it continues across the State. When we travel to other regional communities we often see that populations are downsizing and, in some cases, employment and training opportunities for our youth are diminishing. We support any decision the Government can make to allow resources to be better used in regional communities to assist the businesses associated with the local Aboriginal land councils. I commend the bill to the House.

**Reverend the Hon. FRED NILE** [5.15 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Aboriginal Land Rights Amendment Bill 2013. Because the bill deals with matters related to the Aboriginal people of this State, it is proper that I commence my contribution to this debate by acknowledging the traditional custodians of the land on which we meet, the Gadigal people of the Eora nation. I pay my respects to their elders past and present and to the elders of the other first nations of New South Wales.

As members know, it is almost 30 years ago to the day that the historic Aboriginal Land Rights Act was passed and commenced its operation. Being elected in 1981, I had not been in this House very long but I remember those events 30 years ago. The Aboriginal Land Rights Act, which was introduced by the Labor Government, was the first major controversy during my time in this House. Sadly, on that occasion the Coalition vehemently opposed the legislation. Being neither a member of the Labor Party nor the Coalition, I was the ham in the sandwich on the vote on the issue. As I studied the bill and met with Aboriginal people, I saw that I had no option but to vote for the legislation. I voted for the bill and helped the legislation to be passed through this House of Parliament.

In doing that I knew I would lose the votes of a number of my supporters in country New South Wales who had a great fear of the legislation. They had been misinformed about much of it and were under the impression that the bill would allow Aboriginal people to claim private property such as farms. Although that fear was real in New South Wales, it had no justification; the legislation dealt only with Crown land. I often used to call it useless Crown land. It had no value and the Government was prepared to pass it on to the Aboriginal people if they claimed it. However, as we now know 30 years later, a lot of the land that was regarded as worthless has become the most valuable land, especially the land on the coast. The Aboriginal people have finally got their just desserts—the useless land they were granted has become extremely valuable. I am pleased that Minister Victor Dominello involved Aboriginal representatives in drafting this legislation and that it has the support of Stephen Ryan, who is the chairman of the New South Wales Aboriginal Land Council. Mr Ryan said:

In this the 30th anniversary year of the Aboriginal Land Rights Act 1983, it is appropriate to be taking steps to ensure that Aboriginal Land Right in NSW remains strong for the next 30 years.

The proposed amendments to the Aboriginal Land Rights Act are the first critical reforms in an ongoing process of reviewing this landmark legislation. This process has been driven by the vision of the ... [New South Wales Government], working collaboratively with the experience of the NSW Aboriginal Land Council, the Registrar of the Aboriginal Land Rights Act and Aboriginal Affairs NSW. It's a reform process that will deliver a more effective legislative framework for Aboriginal Land Rights in NSW.

As I said, I am pleased that two members of local Aboriginal land councils were involved in drafting this legislation for what I understand to be one of the first times. We often treat Aboriginal people in a patronising way and do things for them. We treat them as though they are children and do not let them have an input or treat them as equals, especially when discussing matters that affect them and their communities. I am pleased that there are now 120 local Aboriginal land councils operating in New South Wales, represented by the New South Wales Aboriginal Land Council, which has an overarching administrative and regulatory role.

This legislation has come about as a result of the working group formed by the Minister to review the Act. That is why it is now before the House. Overall, for land councils the amendments will provide greater capacity for compliance, greater clarity for their regulation and a reduction in unnecessary costs and red tape borne by the land council network. The changes will improve administrative efficiency and governance and remove a range of minor inconsistencies and inaccuracies that have been inadvertently created or need to be updated.

The bill repeals section 163, which requires the NSW Aboriginal Land Council to cease funding land councils for insignificant breaches, such as a report being lodged one day late. Its provisions will allow land council boards to delegate functions to chief executive officers [CEOs] and for chief executive officers to delegate functions to other staff members. This will assist with the speedy management of land council affairs and is more in line with a corporate governance model. The amendment to section 153 will allow local Aboriginal land councils to choose their auditors from a list kept by the New South Wales Aboriginal Land Council rather than auditors being appointed directly by the New South Wales Aboriginal Land Council. I am pleased to support this bill on behalf of the Christian Democratic Party.

**The Hon. LYNDIA VOLTZ** [5.21 p.m.]: The Opposition supports the Aboriginal Land Rights Amendment Bill 2013. Like previous speakers, I acknowledge the Gadigal people on whose land we stand and elders past and present. This important bill amends the Aboriginal Land Rights Act 1983, which arose from the Keane inquiry and was introduced by the Hon. Mr Frank Walker. The purpose of the bill is to increase the Act's effectiveness. The object of the proposed amendments is set out in the overview of the bill. The bill amends the Aboriginal Land Rights Act to clarify the functions of a local Aboriginal land council that may be exercised by the board of the council and to alter the provisions relating to the delegation of functions by the council's chief executive officer.

Further, the proposed amendments in the bill will change the requirements in relation to the advertising of staff vacancies for land councils and the qualifications of persons who fill those vacancies. The proposed amendments also clarify the provisions relating to the disqualification of a person to hold the office of a member of a local Aboriginal land council or of the NSW Aboriginal Land Council and the filling of vacancies for such office. The bill changes the basis on which community development levies payable in relation to certain transactions of a land council are calculated and makes a number of other amendments aimed at improving the administration of the principal Act and of Aboriginal land councils.

The amendments to section 68 rectify situations that arise in relation to casual vacancies. A number of provisions in the bill relate to issues that arose from the case of Patricia Laurie, a NSW Aboriginal Land Council councillor. I understand that Mr Paul Lynch, the member for Liverpool, addressed this issue in the lower House. In particular, the bill addresses the issue of disqualification of an Aboriginal land council office holder. Items [20], [21], [34] and [35] of schedule 1 deal with the status of employees of a local Aboriginal land council or the NSW Aboriginal Land Council and their election to those bodies. A further amendment proposes to allow the registrar to call a meeting of a local Aboriginal land council to elect a board if there is no existing board and no appointed administrator.

The changes to section 110 of the principal Act remedy a long-term problem of the NSW Aboriginal Land Council. These amendments to the Act are sensible. The amendment to section 149 will omit "travelling and other allowances" so that the NSW Wales Aboriginal Land Council will not be required to pay this expenditure in relation to local board members. This amendment remedies another long-term problem that the NSW Aboriginal Land Council had asked to be addressed. The changes to section 79A are sensible. The current advertising regulations for vacancies are considered far too onerous and difficult to apply.

The amendments to section 133 relate to the vacating of office if an area changes. Again, these desirable and practical changes have been requested by local Aboriginal land councils. Currently section 153 requires that a local Aboriginal land council's accounts must be certified by an auditor appointed by the NSW Aboriginal Land Council. It is proposed that an auditor may be appointed by the local Aboriginal land council from a list kept by the NSW Aboriginal Land Council. The overall specification of auditors remains but the amendment allows local Aboriginal land councils to decide on their own auditor. Again, that issue was raised by a number of local Aboriginal land councils.

Schedule 1 [45] omits section 163 from the principal Act, which requires the NSW Aboriginal Land Council to immediately cease providing funding to a local Aboriginal land council under a funding agreement if the local Aboriginal land council fails to comply with certain reporting requirements. The NSW Aboriginal Land Council retains the authority to cease providing funding to a local Aboriginal land council that breaches a condition of the funding agreement. As previous speakers have said, this has led to an onerous situation arising from minor breaches of the Act, and the NSW Aboriginal Land Council has been required to remove funding for breaches that should not apply. This is a significant change and one that has been requested by the NSW Aboriginal Land Council.

Overall, the proposed amendments to the Act go a long way towards fixing problems raised by the NSW Aboriginal Land Council and local Aboriginal land councils. Despite the political spin that some members opposite have put on the bill, I am pleased that there is bipartisan support in this Chamber for these amendments to this Aboriginal land rights legislation—legislation that is as important as the Mabo decision of the High Court. As I have said, the local Aboriginal land councils requested many of the amendments that are included in this bill. Aboriginal land council representatives spoke to members of this House about the Act. However, the bill does not resolve all of the issues raised by local Aboriginal land councils in relation to the use of their land. Some councils want greater ability to develop and use their land. It is important that members of this House listen to their concerns so that when an Act undergoes a five-year review amendments can be made, albeit that some may be miscellaneous, to ensure that the local land councils are provided with assistance.

The bill also makes some consequential amendments to the Aboriginal Land Rights Regulation 2002 and amends the National Parks and Wildlife Act 1974 to provide that land of cultural significance to Aboriginal persons, which is vested in more than one Aboriginal land council under that Act, is vested in those councils as tenants in common rather than as joint tenants. I know those issues were not raised by other members, but it is important to note all the Acts that will be amended by this bill. I note that the Parliament Secretary is nodding in agreement with the views I have expressed. She has spoken to me a number of times about the need to ensure that we get the Aboriginal Land Rights Amendment Bill 2013 right. I believe I have provided a comprehensive view of the bill, and I hope members have appreciated the detail.

**The PRESIDENT:** Order! I welcome into my gallery the family of the Hon. Ernest Wong as well as Consul Wang Yun and Consul Wang Hao from the Consulate-General of the People's Republic of China in Sydney, all of whom are present to hear the Hon. Ernest Wong's inaugural speech.

**The Hon. ERNEST WONG** [5.32 p.m.] (Inaugural Speech): I support the Aboriginal Land Rights Amendment Bill 2013. I thank the House for this welcome. I acknowledge the traditional owners of the land on which we are gathered, the Gadigal people. I offer my respects to them and elders past and present. Today is a deeply humbling experience for me as I make my first contribution within Australia's oldest Parliament. I feel honoured to join my fellow members and feel that I should offer them some introduction to me and what I stand for as a community representative, as a legislator, and as a person. Perhaps I might begin with the latter and provide some personal background: After all, as lawmakers, we are each shaped by our lives before Parliament.

For me, that life began in Hong Kong where I was lucky enough to be born to a middle-class family with devoted parents and two sisters. Slightly different to the Hong Kong of today, this was the Hong Kong of British dominion and as such offered a unique upbringing. My life was from an early age shaped by multiple cultural influences. I was educated in an English school, providing not only my English language but an insight into western culture and education. Yet in my home, this was balanced by the traditional upbringing by my parents and their desire to impart traditional Chinese values to me. These were values such as the closeness of family ties, respect for elder generations, and concern for one's local community.

Another layer of cultural influence was added by my parent's choice of a Jesuit senior school in which the additional values of Catholic social justice, ethical thinking and deep respect for education featured prominently. From these combined influences I emerged as a young adult with two core lessons held close: that life is most rewarding when one gives more than one takes, and that tolerance for diverse cultures and ideas is the door to a richer life. It was perhaps natural then that I would seek to extend my education in another country. With the Australian university timetable the earliest in the year to start, I was bound for Sydney. Arriving in Australia was a revelation of opportunity. People may find this interesting because Hong Kong was, and is, also regarded as a place of great opportunity. Indeed, its historical development is nothing short of miraculous. This is all true. But the opportunities that Hong Kong offered had a different focus: a more economic and material focus. In Australia, money was less important—although probably not everyone would agree with me.

But, more importantly, what Australia proves time and time again is that there are some riches in life that simply cannot be bought. The opportunities that Australia offered were opportunities of freedom—freedom of space, freedom of movement, freedom of career, freedom of ideas. That is not to say that these were suppressed in Hong Kong, but rather that the Australian way of life and the diversity of the Australian population gave these freedoms a strength and prominence in daily life that had to be experienced to be understood. And once you have experienced it, you are changed. It is a story common to all immigrants to this country—the moment of realisation that not only is there nowhere like Australia but, more importantly, there is nothing like what Australia offers. It did not take me long to realise that while I would always love my country of birth, I had now found the country of my life.

It was a conscious decision to choose Australia and to choose New South Wales as well as to say, as an adult, "This is where I want to be, to live my life, to raise my family." It is the best decision of my life and one that I always reflect on with gratitude. Living in Australia also gave me the freedom and space to undertake self-assessment to consider what I wanted to do, free of the expectations of what I should do had I stayed in Hong Kong. From this, two passions would emerge, and they would set my career path in Australia. The first was my passion for social justice and equity. I found that I had no time for unfair dealing and exploitation of those who were vulnerable. While many shrug at minor injustices and say, "The world is a hard place", I find that I cannot. I must intervene. The world may be a hard place, but that does not mean we should be indifferent. I soon found myself volunteering to work with community organisations, in particular assisting migrants with limited English to both improve their language and understand their legal rights. I found from these experiences that supporting communities and standing up for people who need help is a deeply enriching experience.

Perhaps then it was fortuitous that I had chosen the land of the "fair go" as my home. I still believe that our commitment to fairness and equity remains one of the greatest strengths of New South Wales to this day. As a legislator, it is a quality that is worth protecting, always. The second passion was my love for multiculturalism and what it offers any great society. I say this without a hint of irony, but it took immigrating to Australia to make me feel Chinese. Yes, I was raised in a Chinese family with Chinese culture, but when this culture is all you know, then it is all you know, and often that which is all around us is the hardest to really appreciate.

Members who have studied another language will no doubt recall how, for example, learning different grammar suddenly allowed them to see their own language with fresh appreciation for how it works. Similarly, when I came to Australia I had the opportunity to gain a much richer sense of my Chinese heritage, the language and the philosophy. It was a chance to see my home culture, not just from an Australian perspective but from multiple perspectives.

Having access to people from so many different cultures, beliefs and educations served to give me a new appreciation of my own background. It also gave me an instant appreciation for how a diversity of backgrounds creates a diversity of intellectual capital, and how powerful this is for our State. I do not see diversity as something to be accommodated but to be actively pursued. It is one of the driving forces that have made Australia one of the greatest places to live anywhere in the world. Many nations have been enriched by diversity, but it defines the Australian contemporary society and has underpinned our economic transformation in the post-war period. It has been an underlying strength of our industry, innovation and creativity, and our mix of cultures and thinking provides a diversity of knowledge and skill that most countries envy.

As we enter the so-called Asian century, this richness of background is helping New South Wales businesses, both big and small, compete on a global stage every day. Diversity is Australia's great success story, a benchmark that the world looks to. Of course, many cultures have played a role in that success story, but I would be remiss in not noting that Chinese Australians have made one of the longest contributions. The Chinese community was instrumental in building rural New South Wales, with more than 30,000 Chinese coming to help build our regional centres in the nineteenth century. The Chinese community was instrumental in building our early trade and export, with Chinatown sitting next to Darling Harbour, Australia's primary port for 150 years. The Chinese community was instrumental in the defence of Australia, serving in every external conflict since Federation. More recently, the Chinese community has been instrumental in the rapid development of bilateral investment between New South Wales and China. Chinese Australians have played a rich role in our economic and national development. It is a legacy that I hope to make a small contribution to as a member of this House.

With these principles of diversity and social justice now underpinning my life, it was unsurprising that my interest in community work would expand until it became an interest in community representation. From my community work I had come to see numerous examples of how simple and practical policy decisions can make major differences to the quality of life and opportunity of thousands. I began to pursue an interest in life as a community representative, which led to my election to Burwood Council in 2000, where I would also have the honour of being mayor. As all members know, pursuing a life of public office involves identifying with the political movement that most supports our own aspirations and values. In short, you need to choose a team to play within. No team is perfect. No team ever mirrors our own individual beliefs perfectly. That is not the nature of a democratic process. But all political parties are underpinned by a selection of core values and, given the background I have described, it is no surprise that my choice was always Labor.

Building on legacies of former Labor governments, both Federal and State, Australian Labor's approach to policy and economic management has shattered a long-held myth of economic growth. That myth is that societies need to make a choice between prosperity and fairness. The story of Australia during my time here has broken that myth utterly. We have shown that societies need not choose between fairness and prosperity. They can have both. The reforms of the Hawke-Keating era remodelled Australian economic competitiveness, yet did so in a way that brought every Australian with them. Mocked at the time for being honest with Australians about the necessary pain of reform, history has shown the economic and social reforms of the Hawke-Keating era to be pivotal in lifting the living standards of Australians. Once again, it was never a choice between what was prosperous or fair. The choice was always to serve both. They floated the dollar and created Medicare; they reformed our financial system and our industrial accords.

In New South Wales, the record of Labor during my time here has been equally inspiring. I am proud to represent Labor in New South Wales because Labor's record in New South Wales is a great one. Our record of renewal, reform and practical improvement to the lives of families in this State is impressive. We need only look to the achievements in New South Wales during the life of the last Government. In infrastructure, Labor completed the Anzac Bridge and built the Sydney Orbital Network, the Epping to Chatswood rail line, the Cronulla rail line duplication, the Richmond rail line duplication, the Inner West Light Rail and the Metrobus network.

Labor began testing every child's hearing at birth, ending generations of children who struggled until the early years of primary school before anyone noticed that they had a hearing problem. Labor built an

education system that achieved the best literacy and numeracy results in the nation, and amongst the best in the world. Labor cleaned up our beaches and harbour and protected our great national parks. Labor created the best equipped and most respected police force this State has known, and property crime in New South Wales halved during the life of the previous Government.

Labor in New South Wales took a leadership approach to making disability care a public endeavour, not a private problem, through the investments of Stronger Together and Stronger Together 2. I note the Premier's bipartisan approach to this matter and commend him for signing New South Wales to the Federal Labor Government's landmark National Disability Insurance Scheme. Labor secured a landmark new funding arrangement for the New South Wales health system and ensured that the position that New South Wales took to Canberra was the position that prevailed nationally. The New South Wales Labor Government did all of this while protecting the State's credit rating, even during the worst financial crisis since the Depression, and indeed New South Wales led Australia out of the global financial crisis.

I chose to pursue a career in public office because I believe in community responsibility and recognition; because I believe that our diversity is our strength, both socially and economically; because I believe that our economic success is measured by how the least affluent are brought along; because I believe that politics is a positive response to inequity, with our democratic systems created to act on behalf of people and to allocate resources fairly amid stakeholders and communities. Given that these were the things that I believed, the Labor Party was my natural and only choice.

I wish to thank the Labor Party for bestowing upon me the great responsibility of being a representative of both my community and the Labor movement. It is a responsibility and a legacy that I take most seriously. I particularly thank Senator Sam Dastyari, former General Secretary of New South Wales Labor, for his support and mentoring. I also want to thank Jamie Clements, John Graham and Kaila Murnain, all of whom I have worked very closely with during my time in the party office, and my Burwood Council colleagues who have inspired me in many ways in politics.

A special and personal thank you goes to Mr Hatton Kwok, who is a lifetime member of the Labor Party and who guided me to the Labor Party, a direction for which I will always be grateful. I want to thank the many community groups, some of which are here today, for supporting me and providing me a chance to work with them in serving the community. While time does not allow me to mention every member of my electoral team, they have been my greatest help in every election. I wish to thank Sydney's Chinese language media, many of whom are colleagues of mine from my own writing and presenting roles, who have worked with me on countless occasions to highlight issues of significance to the New South Wales Chinese community. I trust that our positive working relationship will continue.

I must thank my parents, who provided me with the best education and the values of generosity, tolerance and consideration. These became my principles for dealing with people. I also thank my sisters, who have supported me throughout my career in politics, particularly my elder sister, Virginia, who from my childhood taught me English and Mandarin and inspired me to be an outspoken person working for what I believe. I also note my niece who, while pursuing her study in Australia, inspired me about the essence of good parenting, which of course leads me to my family. To my wife Rita and my children, Francesca and Charlton, with whom I have not spent adequate time: I know that sharing your husband and father with the time demands of a public office is not always easy, but I also know that we all share the values of this work, and you have been the bedrock of my career.

Ultimately, my thanks and respect must go to the generations of Australians who have made this day in this place possible; the generations who steadfastly shaped a colony into a State and who peacefully secured a democracy from autocracy; those who migrated with great courage and those who had the courage to welcome them. It is an amazing story of prosperity, law, justice and fairness, one in which a young nation still has much to show the older world and one that I am deeply proud to be able to play a small role in. Australia has provided me with so many opportunities, but none more humbling than to serve in our nation's oldest Parliament as a member of the Australian Labor Party. Before I close my speech, I am going to challenge Hansard by saying the following:

謝謝大家的支持，我承諾以我最大的努力維護澳大利亞民族的和諧，爭取澳大利亞及新南威爾斯州人民最大及最公平的利益

That means—besides "I love you all"—Thank you for your support, I pledge to serve the community in my best endeavour for the harmony of Australia and the best and fairest interest of the people of New South Wales and people of Australia, I thank the House for its consideration.

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

### ADJOURNMENT

**The Hon. MELINDA PAVEY** (Parliamentary Secretary) [5.55 p.m.]: I move:

That this House do now adjourn.

### JUST TERMS COMPENSATION LEGISLATION REVIEW

**The Hon. JENNIFER GARDINER** [5.55. p.m.]: In 1991 the Leader of the then New South Wales National Party and Minister for Roads, and Minister for Public Works, the Hon. Wal Murray, MP, introduced the Land Acquisition (Just Terms Compensation) Bill with a view to, first, providing a statutory guarantee that when private land is affected by an authority's acquisition proposal, the State Government will pay not less than market value unaffected by that proposal as and when it acquires the land; secondly, introducing compensation based on just terms; and, thirdly, establishing a uniform system for the compulsory acquisition of private property by all government and local government authorities. Uniformity was to ensure that all landowners receive fair, consistent and timely treatment whenever government compulsorily acquires their land. The bill codified also the time limits and processes for the compulsory acquisition process, and included a system for resolving compensation disputes expeditiously.

The legislation provided also a mechanism by which owners can compel acquisition when their land is affected by certain types of blight and where hardship is demonstrated. The legislation was to encourage government authorities to acquire land by agreement rather than compulsorily. The introduction of that bill was in line with an important election commitment Wal Murray made during the previous election campaign. He pointed out that the "law on land acquisition has had an extremely long gestation period." Its history dates back more than a quarter of a century. In 1968 the Public Service Board approved the establishment of a committee to consider and recommend to the board any measures thought necessary to improve existing procedures for the resumption of land and related issues. That was known as the White committee and it produced a preliminary report in 1970, which was never acted upon. Six years later in 1978 another committee produced another report, yet its recommendations were never acted upon.

Then there was the Australian Law Reform Commission report on Federal land acquisition in respect of section 51 (31) of the Australian Constitution, which generated new Commonwealth legislation. But Wal Murray decided that no further reports were required; rather, he wanted action. He used the previous reports as the basis of extensive consultation and a draft bill was released in December 1990. Wal Murray and the then National Party were concerned that the New South Wales system of land acquisition was "an outdated system which has been generally unfair to landowners, and which does not meet the requirements of modern government." People whose land was resumed received different treatment depending on which authority acquired their land. Land could be compulsorily acquired without any prior notice to the owner, and different policies related to the amount of compensation payable, depending on the policy of the acquiring authority.

The statutory basis for compensation was inadequate in the case of dispossessed home owners. Even where the policy of a particular authority was to pay discretionary items of compensation on resumption, such as relocation costs, a landowner who challenged in court the amount of compensation offered would miss out on those discretionary items since the court could not include those items in its award. Long delays were encountered in compensation payment, even when a large percentage of the compensation amount was not in dispute, and where land was reserved or zoned for a public purpose there was no avenue for the owner of that land to force acquisition, unless the planning instrument contained an effective acquisition clause.

Wal Murray regarded a review as a long overdue and landmark reform for New South Wales. For the past 30 years, successive governments of both political persuasions have grappled with the complexities of land acquisition. It is timely for a review of the just terms legislation and, in keeping with another commitment, the O'Farrell-Stoner Government has embarked upon the first major review of Wal Murray's legislation. David Russell QC has been appointed to undertake that review. Mr Russell has released already a consultation paper and is looking at a range of issues that perhaps need to be updated. A number of constituents have made

representations to me about just terms legislation, particularly those affected by the Pacific Highway upgrades, for example, around Bulahdelah, which will be completely bypassed. One constituent has been subjected to three separate land acquisitions over the 13 years the project has been underway. The stress she has endured is quite extraordinary. It is hoped that Mr Russell's review takes on board many of the issues raised by such constituents and, ultimately, this House will consider revised improvements to Mr Murray's legislation.

### INTERNATIONAL TREATIES AND STATE LEGISLATION

**The Hon. PETER PRIMROSE** [5.59 p.m.]: Earlier this year I asked the Attorney General whether, when the New South Wales Government enacts legislation, it was obliged to ensure that such legislation was consistent with international treaties that have been ratified by Australia. The Attorney General advised:

Generally, the New South Wales Parliament is not obliged in domestic law to ensure that the legislation it enacts is consistent with international treaties that have been ratified... However, the States, Territories and the Commonwealth have adopted procedures to assist Australia to comply with relevant international agreements.

Trade negotiations are currently underway involving 12 nations in the Pacific, including Australia, to establish what is known as the Trans-Pacific Partnership Agreement. The negotiations are being led by the United States. The United States has indicated that it wishes to include in the agreement a clause entitled, "Investor State Dispute Settlement" [ISDS]. This would enable a foreign investor to sue domestic governments at local, State and national levels for damages if they adopt policies that could reduce the value of the foreign investment. Any dispute would be heard at a special tribunal established under the agreement. The only matter that could be deliberated on is whether or not the investment was harmed. Considerations such as whether the domestic law or policy was in the public interest are specifically not relevant. Under the proposed arrangements, arbitrators can also be advocates, the hearings are secret, and there is no system of appeals.

The Philip Morris Asia tobacco company has already been trying to use an obscure 1993 Australia-Hong Kong investment agreement to sue the Australian Government for damages in an international tribunal over the tobacco plain packaging legislation, despite the fact that the Australian High Court found that it had no right to damages under domestic law. Under the Investor State Dispute Settlement in the 1994 North American Free Trade Agreement, there have been more than 60 cases of governments being sued because they implemented measures to protect public health or the environment. Currently, for example, the United States Lone Pine energy company is suing the provincial government of Quebec for \$250 million for suspending a shale gas mining project pending an environmental study.

In New South Wales, farmers and other concerned members of the community have succeeded in achieving new regulations that restrict coal seam gas activity. This is clearly a major area of public policy where a stronger regulatory regime will have to develop over time. Many of the corporations involved claim that they will lose billions of dollars because of the new laws and regulations. If Australia were subject to the Investor State Dispute Settlement rules, foreign companies could sue the New South Wales Government and local councils for damages. This legal action would take place outside of the jurisdiction of domestic law, and domestic issues such as negative impacts on health and the environment would play no part in the deliberations. Importantly, the investment does not have to be fully or even majority owned by a foreign investor to qualify as an investment and, therefore, would be able to take action under the Investor State Dispute Settlement.

The Trans-Pacific Partnership Agreement has bipartisan support, but the major parties have different approaches to including the Investor State Dispute Settlement clause in the negotiations. The Rudd Labor Government has said that it will not agree to proposals that will give foreign corporations the right to sue governments. However, the Liberal-Nationals Coalition has refused to give such an assurance. Julie Bishop, the Coalition trade spokesperson, has said that she is willing to negotiate on the issue. My question to the New South Wales Coalition Government is this: If, on 7 September, Tony Abbott becomes Prime Minister and Australia signs the Trans-Pacific Partnership Agreement with an Investor State Dispute Settlement, what will it do to ensure that the New South Wales Government and local councils continue to have the right to regulate in important areas like coal seam gas without risking billions of taxpayers' dollars in potential damages?

### FORESTRY CORPORATION LOGGING OPERATIONS

**Mr DAVID SHOEBRIDGE** [6.04 p.m.]: Koalas have a special place in the national psyche. We brag about them to overseas visitors, they feature on our T-shirts and tea towels, and we read books about them to our kids. However, the sad reality is that the koala population in the east of Australia is in free fall. The decline in New South Wales and Queensland has been so dramatic that the number of koalas has fallen by 42 per cent over



the past 10 years and the Federal Government has listed the species as vulnerable. When it did so, the story made international headlines. How could a country that makes so much marketing mileage out of its adorable furry marsupial mascots endanger their existence by the wilful destruction of their habitat?

Given the sensitivity surrounding the declining koala numbers, one might expect that the Forestry Corporation would conduct logging operations with particular attention to compliance with Integrated Forestry Operations Approval [IFOA] licence conditions in areas where koalas are known to be present. An audit by the North East Forest Alliance [NEFA] that details a substantial list of Integrated Forest Operations Approval licence breaches by the Forestry Corporation in areas of Royal Camp State Forest, south of Casino—a stronghold of those beleaguered east coast koalas—therefore comes as a disappointment to those concerned with the welfare of the koala.

The August 2012 North East Forest Alliance audit lists flagrant breaches, including the failure to detect evidence of koala activity, the failure to protect known koala high-use areas during logging operations, and the failure to retain important feed and habitat trees for koalas and gliders. All breaches are meticulously documented with independent expert evidence, global positioning system coordinates and photographic evidence. It has taken the Environment Protection Authority more than a year to produce a response to the North East Forest Alliance audit. When the response finally came from the Environment Protection Authority it was so inadequate that it calls into question the expertise within the Environment Protection Authority and its willingness to regulate the activities of the Forestry Corporation.

Despite the evidence, only three penalty notices worth the grand sum of \$300 each have been issued to the Forestry Corporation for logging koala habitat in Royal Camp State Forest. Even more galling is the fact that there is no requirement for the Forestry Corporation to undertake remedial work or to protect compensatory habitat. It has been bulldozed and lost. The Forestry Corporation received nothing more significant than a warning for retaining only two hollow-bearing trees and three recruitment trees instead of the required 42 hollow-bearing trees and 42 recruitment trees. In three deeply worrying instances, Environment Protection Authority officers who were sent to investigate claimed they were not able to find the sites in question, despite being given global positioning system coordinates.

On 25 August, I visited Royal Camp State Forest—16 kilometres south-west of Casino—in an effort to determine for myself the nature and extent of the breaches in question and to evaluate the adequacy of the response from the Environment Protection Authority. I was accompanied by Dailan Pugh, OAM, from North East Forest Alliance; David Milledge, a well-respected ecologist; and my parliamentary colleague the Hon. Jan Barham. Within five minutes we came upon a stand of half a dozen high-use koala trees. They all bore the distinctive scratches made by the claws of koalas. Under each of them we found a collection of koala scats, or droppings. The remarkable thing was that within five minutes we found the trees that had been missed by the Environment Protection Authority and forestry inspectors whose job it is to find and protect koala habitat.

The failure by the Forestry Corporation to identify koala high-use areas was not the only serious breaches of licence conditions that were identified. A swag of other failures was identified by the North East Forest Alliance and were detailed in its audit of Royal Camp. One that was obvious was that the loggers had spared a tree from logging as a recruitment tree, but had left a pile of woody debris at its base. Recruitment trees are meant to be large and healthy trees that are left standing so that they can replace older hollow-bearing habitat trees when the older trees die. Leaving a pile of woody debris is a serious threat to the recruitment tree because it acts as a funeral pyre for the tree during a bushfire or a burn-off. It is common sense.

The North East Forest Alliance not only photographed the tree for its audit of the logging operation, but it also gave global positioning system coordinates for it. Despite this, the Environment Protection Authority told the North East Forest Alliance in its August 2013 report it could not find the tree and therefore failed to prove the breach. I asked the North East Forest Alliance for the report and a global positioning system coordinate, and I was dropped off at the logging dump to see what I could find. Within five minutes of walking and following the arrow on the global positioning system, I came across the recruitment tree. As was the photograph in the report that I was holding, the tree was surrounded by debris and had a big pink "R" spray-painted on it. I took a short video of the area and walked back to the logging dump, shaking my head at the wilful blindness of the Environment Protection Authority officers. The Royal Camp koalas and the destruction of their habitat at the hands of the Forestry Corporation is particularly well documented, but it is far from an isolated incident.

Over the past decade, the Forestry Corporation has repeatedly been caught logging koala habitat in State forests, but it has never received anything more significant than a slap on the wrist from the Environment

Protection Authority. There is no doubt that the Forestry Corporation has been responsible for the destruction of koalas and their habitat. The only question remaining is whether the sheer number and frequency of breaches of logging conditions suggests these actions are a result of wilful ignorance, incompetence, or something more akin to malice. We need a better result from our environmental regulator when koala numbers are plummeting.

### YOUTH OFF THE STREETS FUNDRAISING DINNER

**The Hon. CATHERINE CUSACK** [6.09 p.m.]: Last Saturday I was honoured to attend a gala fundraising dinner for Father Chris Riley's Youth Off The Streets as a guest of the Hon. Pru Goward, who hosted a table in support of this worthy event. Some years ago I visited Father Riley's school at Canyonleigh, where young offenders rejected by their families, their peers and society itself were working hard every day to turn their lives around. It is a very humbling experience to encounter the honesty and hope of the young people in Father Riley's care. Their stories are unimaginable and unbearable for those of us blessed with happier childhoods. I am sure I am not the only visitor who rushed home from Canyonleigh to fiercely hug my own young sons.

Father Chris Riley is a man who transforms lives. It is something he decided to do when he was just 16 years of age after encountering a busload of children from BoysTown. It is an amazing and very profound calling. Father Riley told us that the event was a chance to, " ... see and hear from some of our shining stars from our programs and services. These young people are the tip of the iceberg when it comes to the talent and skill of our young people ... Tonight we want to shine the spotlight on some of our stars ... But that is just tonight. We want to make sure that our young people can shine every day."

Mr David Koch of Channel 7's *Sunrise* program donated his services as Master of Ceremonies. David and Libby Koch are longstanding supporters of Youth off the Streets and I thank them sincerely for this wonderful service. "Kochie" introduced Father Riley's rising young stars. Songwriter, guitarist and singer Benny Nelson grew up on a farm 150 kilometres north-west of Tamworth and was just 12 years old when he and his three siblings were told their mother had been diagnosed with breast cancer. By all accounts she put up a brave fight, but her children were devastated when she lost the battle four years later. Benny's song *Mother* was written and performed as his Higher School Certificate music piece. He performed to a gobsmacked audience last Saturday night.

This young man has a huge future, having won the Moree SuperStar music scholarship and performed at the Tamworth Country Music Festival. He has performed alongside the likes of Lee Kernaghan and Troy Cassar-Daley. We were also treated to the extraordinary talents of Jason Mobbs-Green and 16-year-old Siobhan Clifford, whom Jason described as, "having the voice of an angel". He was not kidding! Thanks to a Youth Off The Streets scholarship and a mentoring program, Jason and Siobhan began working together in 2012 studying classical music under the tutorship of Trevor Brown of the Opera Australia. Both were selected for the prestigious NSW Talent Development Project, chaired by 2GB radio host Alan Jones and supported by the Sony Foundation. This stunning young partnership literally gave me goose bumps. I had not expected anything like this professionalism and talent—the performances blew us away.

I was lucky to bump into Jason and Siobhan outside the ballroom and thanked them sincerely. I encountered a delightful shyness and warmth, and they repeated over and over how lucky they have been to be tutored by Trevor Brown, whom they clearly admire and adore. Trevor is one of a large network of highly accomplished Australians, like David Koch, Damien Cooley of Cooley Auctions, and many more, who quietly donate their money, talents and time to support Youth Off The Streets. It is so inspiring and reassuring to know that, in the face of so much depressing evidence of poor behaviour, there is great goodness in our community as well. Father Riley told us that a Double Bay dentist who saw him on television decided his teeth did not look too good. This good woman got in touch and is now giving him free implants valued at more than \$20,000. He looks forward to smiling for the first time at next year's event.

Father Riley has assisted more than 70,000 young people through Youth Off The Streets—much of this work funded by private donors. I visited Canyonleigh, but there are also other outreach facilities that have turned entire communities around—at Macquarie Fields, Airds, Rosemeadow, Doonside, Walgett and Griffith. As I speak tonight, some 2,200 young people are being supported through Youth Off The Streets. On Saturday night Father Riley said he is considering a request by local police to open a service in Bourke, which has the highest crime rate in Australia; higher even than many Third World war zones. He made it clear that the decision to go in is a big one. Father Riley is not interested in dabbling—he goes in to make a difference.

I visited Canyonleigh as shadow Minister for Juvenile Justice researching policy solutions for young sex offenders. Youth Off The Streets was the only program I could find in New South Wales willing to take on that deeply unpopular problem. His exasperated staff apologised because he failed to turn up for our appointment; apparently it happens a lot. I realised Father Riley is not really interested in sucking up to politicians, or working on the problems of people who really do not have problems. I get that. I like that. His energy is fully focussed on abandoned and damaged kids. Above all else, he genuinely respects young people—it is this quality that enables them to soar to new heights. He is transforming not only the lives of children in need but also all of us with his saintly example.

### HINDUISM AND BHAGAVAD GITA PRESENTATION

**The Hon. SHAOQUETT MOSELMANE** [6.14 p.m.]: On 26 June this year, I moved, and the Legislative Council agreed to, a motion to present the Hindu holy book, the *Bhagavad Gita*, to the President, the Hon. Don Harwin, to receive on behalf of New South Wales Parliament. I am proud to say that last night the Hon. Amanda Fazio and I formally presented the *Bhagavad Gita* to the President. It was a wonderful ceremony, attended by many members of the Hindu community and a great number of my parliamentary colleagues to whom I say thank you. It was a most auspicious occasion as the presentation of the *Bhagavad Gita* took place in this country's oldest Parliament. It is in my view a historic occasion: a milestone for our Hindu community and the people of New South Wales. It was a tribute to their traditions, their culture and their beliefs. It was also an opportunity to celebrate the Hindu religion, one of the oldest and most profound religions in the world.

The night began with a traditional welcome to country given by the Deputy Leader of the Opposition, Ms Linda Burney. I am grateful to her, as I am to members of this Parliament, for their support and for the message they have sent to the people of New South Wales and the rest of the world. By endorsing the motion to welcome into this House the *Bhagavad Gita*, one of the most fundamental texts that forms the basis of Hinduism, this Parliament has in fact recognised the hundreds of millions of faithful followers around the globe. That message of welcome and acceptance is one received loud and clear by all Australians. The message is that this Parliament welcomes and accepts all Australian irrespective of their race, their colour or their religion. I particularly thank the President of the Legislative Council, the Hon. Don Harwin, who was gracious enough to formally receive the *Bhagavad Gita* as he had received the Holy *Koran*.

I am informed that this is the first time the *Bhagavad Gita* has been presented to any Parliament on this side of the globe. The only other such occasion I know of is when the International Society for Krishna Consciousness presented a set of precious books to Beatrice Ngcobo, Member of the South African Parliament. I am informed that there is no founder for the Hindu religion—rather there are thousands of teachers imparting thousands of practices, spiritual and physical, to reach closeness to God. Put simply, Hinduism is a way of life, a philosophy, a journey of enlightenment. The *Bhagavad Gita* is a 700-verse scripture that is part of the Hindu epic *Mahabharata*, and this scripture contains a conversation between the warrior prince Arjun and Lord Krishna whilst he is experiencing a crisis of conscience and moral dilemma before embarking on a war. The conversation is on a variety of theological and philosophical issues, and is set out in 18 chapters dealing with matters such as devotion, selfless action and self-transcending knowledge. The *Bhagavad Gita* has been a guide to millions around the globe, including prominent leaders such as Mahatma Gandhi, who said:

When doubts haunt me, when disappointments stare me in the face, and I see not one ray of hope on the horizon, I turn to Bhagavad-Gita and find a verse to comfort me; and I immediately begin to smile in the midst of overwhelming sorrow. Those who meditate on the Gita will derive fresh joy and new meanings from it every day.

In a culturally diverse society such as ours, it is a matter of privilege and honour to be able to bring this Holy Book to the New South Wales Parliament. Indeed I hope it will serve as a priceless opportunity when, one day soon, one of our Hindu Australians can come to this place as an elected representative and swear on this very book. I conclude by taking this opportunity to thank Mr Arun Kumar Goel, Consul General of India; the Hindu community; and the many members of Parliament who attended the ceremony, whose names I would like to mention, but time does not permit. I express my gratitude, however, to Ms Aruna Chandrala and Mr Harish Velji for their help and guidance.

I acknowledge a few of the many distinguished community leaders who attended the evening, including Dr Nihal Agar, John Niven, Amarinder Bajwa, Bhupinder Chhibber and Rajeep Kapoor amongst many others. As I have said previously, I truly hope to be able to formally present other holy texts to the New South Wales Parliament. I now look forward to sometime soon presenting this Parliament with other texts of other faiths, including Buddhists and Sikhs. Today is Krishna's birthday. I take this opportunity to wish all of the Hindu faithful a holy and very happy Krishna birthday.

## FORESTRY CORPORATION LOGGING OPERATIONS

**The Hon. JAN BARHAM** [6.19 p.m.]: I will speak about the management of New South Wales State forests and follow on from the speech made by Mr David Shoebridge about his visit to the North Coast. Along the Pacific Highway on the North Coast there used to be a Forestry Corporation sign that read, "Your forests are in safe hands". Unfortunately, few people believed that because of the effective contribution made by members of the North East Forest Alliance who have for years gone into our State forests to check whether the prescriptions and protocols are being observed. The unfortunate reality is that the Forestry Corporation has not been observing the rules.

During seven court cases in the early 1990s the Forestry Corporation was found not to be meeting its legislative requirements in relation to the management of State forests. After 1995 when some protocols and prescriptions were changed and a new forest system was created we still did not see much of a change. Complaints were still made, evidence was still collected by the North East Forest Alliance and, upon inspection, breaches were found. That is a great disappointment to the people of the North Coast.

It was a pleasure to host Mr David Shoebridge on the North Coast on the weekend of 17 August and 18 August. On the Saturday in Byron Bay he spoke at a forum regarding the changes proposed to the State planning Act. People have considerable concerns about the issue, particularly those in the environment movement. The Friends of the Koala representative, Lorraine Vass, spoke with great concern about koala protection in relation to the management of public lands. On the Sunday Mr Shoebridge, members of the North East Forest Alliance, an expert ecologist and I visited the forest. As Mr Shoebridge mentioned, we entered an area that had not been inspected before to see if we could find evidence of koalas. As Mr Shoebridge also stated in his speech, it did not take us long to find the evidence. We found scratches on the trees and koala scats at the tree bases.

**The Hon. Rick Colless:** It just shows how many koalas there are around.

**The Hon. JAN BARHAM:** It does show how many koalas are in the area, and that takes us back to the question of whether the area should be a State forest. It was recognised a long time ago as being of high value, but it was not included in the reserve system perhaps because of its location at the time—a marginal seat for an Australian Labor Party member. At the moment, the Royal Camp State Forest is being logged without meeting the prescriptions—and we only know that because a group of volunteers and conservationists who care about the environment have gone out and checked. They have done what the Government should have done. Since our visit Mr Dailan Pugh of the North East Forest Alliance has sent a letter to the Acting Chief Regulator of the Environment Protection Authority, Mark Gifford, which says:

We are astounded that they are now denying they were able to find clearly documented breaches that were shown to them on the second site inspection. It is outrageous that they have blatantly lied about this and unjustifiably dismissed key evidence shown to, and discussed, with them.

That it has taken the EPA a year to produce such a simplistic, shoddy and inaccurate response to only some of our complaints a poor reflection on the organisation.

I call on the Government to follow through on this complaint and observe that the area is significant. This area of koala habitat is a significant concern. Also of concern is a V notch yellow-bellied glider sap feed tree that was identified and should have been investigated and resulted in a breach and fine. Those things should be observed because this is our natural heritage. We need to have this matter resolved.

## MARTIN LUTHER KING SPEECH FIFTIETH ANNIVERSARY

**The Hon. Dr PETER PHELPS** [6.24 p.m.]: In the brief time remaining I acknowledge that today, 28 August, is the fiftieth anniversary of Martin Luther King delivering his "I Have a Dream" speech on the steps of the Lincoln Memorial in Washington. I will not go into the detail of the speech, suffice to say that its most important sentiment is that we are all created equal and endowed with certain inalienable rights—life, liberty and the pursuit of happiness.

*[Time for debate expired.]*

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

**Motion agreed to.**

**The House adjourned at 6.25 p.m. until Thursday 29 August 2013 at 9.30 a.m.**

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