

ADJOURNMENT	23939
ADMINISTRATION OF THE GOVERNMENT OF THE STATE	23924
ASSENT TO BILLS.....	23892
ASSISTED BOARDING HOUSE COMPLIANCE MONITORING	23917
AUDITOR-GENERAL'S REPORT	23893
BENDEELA WOMBAT COLONY	23920
BUDGET ESTIMATES AND RELATED PAPERS	23935
BUSHFIRE RISK MANAGEMENT	23908, 23923
BUSHFIRE SEASON	23905
BUSINESS OF THE HOUSE.....	23931
CARERS SUPPORT	23915
CARERS WEEK.....	23914
CENTRAL COAST WATER CORPORATION	23923
COAL SEAM GAS MINING.....	23941
COASTAL PROPERTY PROTECTION	23921
COBBORA COAL PROJECT	23923
COONABARABRAN BUSHFIRES	23943
DEATH OF MARK FOWLER.....	23924
DEFERRED ANSWERS.....	23918
DEPARTMENT OF FAMILY AND COMMUNITY SERVICES CASEWORKERS	23894, 23920
DIABETES TYPE 2.....	23940
DOG CONTROL	23921, 23923
DOMESTIC VIOLENCE LIAISON OFFICERS	23924
DRAFT LIQUOR PROMOTION GUIDELINES.....	23894
EARLY CHILDHOOD INTERVENTION SERVICES	23910
EMERGENCY SERVICES VOLUNTEERS MEMORIAL SERVICE.....	23911
ENTERTAINMENT INDUSTRY BILL 2013	23892
FIRE STATION CLOSURES.....	23916
FIREARMS AND CRIMINAL GROUPS LEGISLATION AMENDMENT BILL 2013	23895, 23931
FULLERTON COVE RESIDENTS ACTION GROUP.....	23922
GALLIPOLI 2015 CENTENNIAL COMMEMORATION	23922
GAME AND FERAL ANIMAL CONTROL AMENDMENT BILL 2013.....	23935
GOSFORD TAFE CAMPUS ASSETS.....	23924
GRAFFITI CONTROL AMENDMENT BILL 2013.....	23892
GRANVILLE STATION PEDESTRIAN SAFETY	23920
GUN CRIME	23919
HAWKESBURY WATER SUPPLY	23916
HEAVY VEHICLE SAFETY.....	23906, 23907, 23909, 23911
HOUSING FOR THE DISABLED AND ELDERLY.....	23924
HUNTER VALLEY WATER SUPPLY	23916
INDEPENDENT COMMISSION AGAINST CORRUPTION	23892
KOONA BAY SEWAGE WORKS	23919
KURNELL SEWERAGE SYSTEM	23922
LEGISLATION REVIEW COMMITTEE	23893
MINING EXCLUSION ZONES.....	23921
MIRANDA FIRE STATION.....	23916
MONA VALE ROAD UPGRADE	23912
MOUNT OUSLEY ROAD UPGRADE	23917
NATIONAL DISABILITY STRATEGY NSW IMPLEMENTATION PLAN.....	23921
NEWCASTLE PORT CORPORATION	23917
NEWCASTLE PORT TRANSACTION	23910, 23916
NORTHERN BEACHES SPRING CONCERT	23893
OMBUDSMAN	23925
OUTLAW MOTORCYCLE GANGS.....	23905
PAYROLL TAX REBATE SCHEME.....	23919
PETITIONS	23894
POLICE TRANSPORT COMMAND.....	23922
POLITICAL LOBBYING	23921
POLITICAL LOBBYISTS	23894
PUBLIC HOUSING BED TAX.....	23920

QUESTIONS WITHOUT NOTICE.....	23905
RACING INDUSTRY AND GAMBLING	23918
REGIONAL YOUTH PARLIAMENT	23895
REGISTER OF DISCLOSURES BY MEMBERS	23892
RENEWABLE ENERGY INDUSTRY COUNCIL RATES	23922
ROADS AND MARITIME SERVICES STAFFING	23914
SMALL BUSINESS COMMISSIONER BILL	23921
SOUTH COAST TRAIN TIMETABLES	23906
STANDING COMMITTEE ON SOCIAL ISSUES.....	23925
STATE EMERGENCY MANAGEMENT PLANS.....	23920
STATE EMERGENCY SERVICE FINANCES.....	23914
SUGARLOAF STATE CONSERVATION AREA MINE SUBSIDENCE	23917, 23924
TABLED PAPERS NOT ORDERED TO BE PRINTED	23893
TEACHER IMPROVEMENT PROGRAMS	23918
TELEVISION TIME ZONE RESTRICTIONS	23918
TOBACCO OUTLETS	23912
TRANSPORT FOR NSW CONTRACTS	23894
TRIBUTE TO MICHAEL MAHER	23941
WESTCONNEX MOTORWAY.....	23913
WHALE PROTECTION	23942
WILDERNESS AND HERITAGE AREAS ACCOMMODATION	23923
WIND FARMS PLANNING GUIDELINES	23922
WOLLONDILLY NATIONAL PARKS AND WILDLIFE SERVICE STAFFING	23917

LEGISLATIVE COUNCIL

Tuesday 15 October 2013

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

The President read the Prayers.

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

ASSENT TO BILLS

Assent to the following bills reported:

Drugs and Poisons Legislation Amendment (New Psychoactive and Other Substances) Bill 2013
Heavy Vehicle (Adoption of National Law) Amendment Bill 2013
Police Integrity Commission and Independent Commission Against Corruption Legislation Amendment (Inspectors) Bill 2013
Entertainment Industry Bill 2013

GRAFFITI CONTROL AMENDMENT BILL 2013

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

Motion by the Hon. Michael Gallacher agreed to:

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

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

ENTERTAINMENT INDUSTRY BILL 2013

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

INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The President tabled, pursuant to the Independent Commission Against Corruption Act 1988, the following reports:

- (1) Report entitled, "Investigation into the Possession and Supply of Steroids and Other Matters Involving a Corrective Services NSW Corrections Officer", dated September 2013, received out of session and authorised to be made public on 26 September 2013.
- (2) Report entitled, "Investigation into Allegations of Corrupt Conduct in the Provision of Security Products and Services by Suppliers, Installers and Consultants", dated September 2013, received out of session and authorised to be made public on 26 September 2013.

Ordered to be printed on motion by the Hon. Michael Gallacher.

REGISTER OF DISCLOSURES BY MEMBERS

The President tabled, pursuant to the Constitution (Disclosures by Members) Regulation 1983, a copy of the Register of Disclosures by members of the Legislative Council for the period 1 July 2012 to 30 June 2013.

Ordered to be printed on motion by the Hon. Michael Gallacher.

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

NORTHERN BEACHES SPRING CONCERT

Motion by the Hon. Marie Ficarra agreed to:

- (1) That this House notes that:
 - (a) on 18 September 2013 Mrs Josephine and Mr Roy Mustaca, OAM, of Warriewood United Cinemas with the Rotary Club of Pittwater held a fundraising concert with proceeds going to Mona Vale Hospital's Palliative Care Centre and local projects of Pittwater Rotary;
 - (b) the concert featured internationally acclaimed free spirit classical flautist Jane Rutter with the Northern Beaches Orchestra and conductors Martin Hardy and Alex Pringle;
 - (c) dignitaries who attended the fundraising concert included:
 - (i) His Excellency Sergio Martinez, Consul General for Italy;
 - (ii) Mr Rob Stokes, MP, member for Pittwater and Parliamentary Secretary for Mining and Energy;
 - (iii) Pittwater Mayor, Her Worship Councillor Jacqueline Townsend; Deputy Mayor, Councillor Kylie Ferguson; and Councillor Bob Grace;
 - (iv) Warringah Councillor Vincent De Luca, OAM;
 - (v) Emeritus Mayor of Warringah John Caputo, OAM; and
 - (d) sponsors included Pittwater RSL Club, Johnson Bros Mitre 10, Lifestyle Financial Services, Eric and Carole Martel, Emile and Shelagh Jansen, Woolworths Balgowlah, Escape Travel, Centro Warriewood, Balgowlah and Warringah Mall, Royal Motor Yacht Club Broken Bay, Adina Vineyard and Olive Grove, G Brothers Volvo, Style Communications, Pittwater Place and LJ Hooker Avalon.
- (2) That this House acknowledges and commends for their outstanding efforts in raising funds for Mona Vale Hospital's Palliative Care Centre:
 - (a) Mrs Josephine and Mr Roy Mustaca, OAM;
 - (b) Ms Jane Rutter, the Northern Beaches Orchestra and its conductors, Dr Martin Hardy and Mr Alex Pringle;
 - (c) the Rotary Club of Pittwater; its board, Roger Digby, President; Lorraine Hall; Rob Haines; Gail Carew; Bob Barrack; Bruce Lakin; Emile Jansen; and all volunteers that helped to organise the concert; and
 - (d) sponsors of and donors to the concert.

TABLED PAPERS NOT ORDERED TO BE PRINTED

The Hon. John Ajaka tabled, pursuant to Standing Order 59, a list of all papers tabled in the previous month and not ordered to be printed.

LEGISLATION REVIEW COMMITTEE

Report

The Hon. Dr Peter Phelps tabled a report entitled, "Legislation Review Digest No. 45/55", dated 15 October 2013.

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

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of the following reports of the Auditor-General:

- (1) Performance Audit report of the Auditor-General entitled, "Government Advertising 2012-13: Department of Premier and Cabinet, NSW Ministry of Health—Cancer Institute NSW, Transport for NSW—Rail Corporation NSW", dated September 2013, received out of session and authorised to be printed on 23 September 2013.
- (2) Performance Audit report of the Auditor-General entitled, "Management of Casual Teachers: Department of Education and Communities", dated October 2013, received out of session and authorised to be printed on 3 October 2013.

DEPARTMENT OF FAMILY AND COMMUNITY SERVICES CASEWORKERS**Production of Documents: Return to Order**

The Clerk tabled, pursuant to resolution of the House of Thursday 29 August 2013, documents relating to an order for papers regarding the Department of Family and Community Services caseworker numbers received on Thursday 19 September 2013 from the Director General of the Department of Premier and Cabinet, together with an indexed list of documents.

POLITICAL LOBBYISTS**Production of Documents: Return to Order**

The Clerk tabled, pursuant to resolution of the House of Thursday 12 September 2013, documents relating to an order for papers regarding lobbyists received on Thursday 26 September 2013 from the Director General of the Department of Premier and Cabinet, together with an indexed list of documents.

Production of Documents: Claim of Privilege

The Clerk tabled a return identifying documents received on Thursday 26 September 2013 from the Director General of the Department of Premier and Cabinet, which are considered to be privileged and should not be made public or tabled. The Clerk advised that, pursuant to standing order, the documents are available for inspection by members of the Legislative Council only.

TRANSPORT FOR NSW CONTRACTS**Production of Documents: Return to Order**

The Clerk tabled, pursuant to resolution of the House of Thursday 12 September 2013, documents relating to an order for papers regarding Transport for NSW contracts received on Thursday 26 September 2013 from the Director General of the Department of Premier and Cabinet, together with an indexed list of documents.

Production of Documents: Claim of Privilege

The Clerk tabled a return identifying documents received on Thursday 26 September 2013 from the Director General of the Department of Premier and Cabinet, which are considered to be privileged and should not be made public or tabled. The Clerk advised that, pursuant to standing order, the documents are available for inspection by members of the Legislative Council only.

DRAFT LIQUOR PROMOTION GUIDELINES**Production of Documents: Further Return to Order**

The Clerk informed the House that, following a query from Dr Kaye as to whether all relevant documents had been provided according to resolution of the House of Tuesday 25 June 2013 relating to draft liquor promotion guidelines, he wrote to the Director General of the Department of Premier and Cabinet seeking clarification.

The Clerk tabled, pursuant to the resolution of the House of Tuesday 25 June 2013, additional documents relating to draft liquor promotion guidelines received on Tuesday 1 October 2013 from the Director General of the Department of Premier and Cabinet, together with an amended indexed list of documents.

PETITIONS**Marriage**

Petition stating that marriage is state instituted and ordained by God for the lifelong relationship between a man and a woman to the exclusion of all others and that marriage protects the relationship between parents and their children for the good order of society, and requesting that the House ensure the current legal and religious procedures for the institution of marriage are maintained as a lifelong relationship between a man and a woman to the exclusion of all others for the good order of society, received from the **Hon. Rick Colless**.

Public Libraries

Petition stating that libraries are a fundamental part of the educational and cultural vibrancy of the community, providing lifelong learning and opportunities for social interaction and that total funding has decreased, shifting the burden to local government, and calling on the Government to recognise the social and economic benefits provided to the community by public libraries and to increase funding to reinstate the previous percentage level of contribution, received from the **Hon. Jan Barham**.

REGIONAL YOUTH PARLIAMENT

The PRESIDENT: I inform the House that from 25 to 28 September 2013 a regional youth parliament was held at the National Parliament of the Solomon Islands. The youth parliament involved students from New South Wales and the Solomon Islands. Unfortunately, students from our other twin parliament, the Autonomous Region of Bougainville House of Representatives, were at the last minute unable to attend due to passport difficulties. I congratulate all participants in the youth parliament on their efforts and acknowledge the fine representatives of New South Wales at the event: Theodora Von Arnim, Jehannah May, Dylan McCuaig-Walton, Kieren Kresevic and Ciara Morris. The students were accompanied by two staff from the Parliament of New South Wales: Education Officer Rita Bila and Twinning Coordinator Simon Johnston.

I extend my appreciation to the Speaker of the National Parliament of the Solomon Islands, Sir Allan Kemakeza, the Clerk of the National Parliament, Taeasi Sanga, and her enthusiastic staff, Peter Topura, Director of Procedure of the Bougainville House of Representatives and the staff of the Solomon Islands Government whose organisation and effort made the youth parliament a success. I also thank and acknowledge the New South Wales branch of the Commonwealth Parliamentary Association and Virgin Australia who made the attendance of the New South Wales students possible.

FIREARMS AND CRIMINAL GROUPS LEGISLATION AMENDMENT 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) [3.11 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 Government is pleased to introduce the Firearms and Criminal Groups Legislation Amendment Bill 2013. This bill amends the Firearms Act 1996 as follows:

- (a) to empower police officers to enter and search premises occupied by a person who is subject to a firearms prohibition order in order to determine whether the person is complying with the order,
- (b) to prohibit such persons from acquiring or possessing firearms, firearm parts or ammunition, and from residing at premises where firearms are present, and from attending certain other places such as gun shops and shooting ranges,
- (c) to modify existing offences in relation to the sale of firearms, firearm parts, and ammunition, so that they apply instead to the supply (which includes disposal by gift), and to create an offence to give possession of a firearm or firearm part to a person who is not authorised to possess it, and
- (d) to provide that any person who attempts to commit an offence under the principal Act is liable to the penalty for that offence,

The bill also amends the Restricted Premises Act 1943 to increase penalties for offences relating to reputed criminals attending premises declared by the Supreme Court or the District Court under that Act, and to allow police to search such premises for firearms and other weapons.

The bill also amends the Crime Commission Act 2012 to enable the Crime Commission to investigate matters relating to the criminal activities of a specified criminal group without the need for the reference to relate specific offences or individuals.

Firearm Prohibition Orders

Firearms prohibition orders are an order, issued by the Police Force, preventing a person from possessing a firearm if they are considered not fit, in the public interest, to possess a firearm. The new part 7 of the Act, set out at item [38] of schedule 1, contains a number of substantial amendments to the operation of firearm prohibition orders which I will outline.

Service of an order

The new section 73 of the Act provides that a firearms prohibition order takes effect when a copy of it is served personally on the relevant person by any police officer. This amendment will facilitate service by ensuring that the original order will not be required to be served on a person of interest.

Prohibition on possessing and supplying firearms, etc

The new section 74 (1) and (2) expands the existing offence for a person subject to an order to acquire, possess or use a firearm to also make it an offence to acquire, possess or use a firearm part or ammunition. The maximum penalty for possession of a pistol or prohibited firearm in contravention of an order will be increased to a maximum 14 years imprisonment.

The new section 74 (3) and (4) expands the existing offence of giving a firearm to a person subject to an order to also include the supply of firearm parts and ammunition, and increases the maximum penalties for the supply of pistols or prohibited firearms to 14 years imprisonment.

Reside at or attend premises with guns

The new section 74 (5) to (8) makes it an offence for a person who is subject to a firearms prohibition order to reside at a premises on which a firearm, ammunition or firearm part is kept or found, or to attend without a reasonable excuse the business premises of a licensed firearms dealer, a shooting range, the premises of a firearms club or premises of a kind prescribed by the regulations. These amendments are intended to ensure that a person who is subject to a firearms prohibition order is not in a position to access or use a firearm.

Powers of search and entry

The proposed new section 74A empowers police officers, without a warrant, to detain a person who is subject to a firearms prohibition order, enter any premises occupied by such a person, stop and detain a vehicle occupied or controlled by such a person and conduct a search of the person, premises or vehicle for the purposes of determining whether the person has committed an offence in respect of the order.

Ombudsman's scrutiny

The new section 74B requires the Ombudsman to monitor and report on the exercise of the new powers of police officers after 24 months, in recognition that the bill creates significant new powers, penalties and offences.

Appeals to the Administrative Decisions Tribunal

Item [39] of schedule 1 provides that a person who is otherwise already disqualified from being issued with a firearms license or permit due, for example, to having been convicted for specified offences, will no longer be able to apply to the Administrative Decisions Tribunal for a review of the decision of the commissioner to make a firearms prohibition order against the person. These amendments are intended to help ensure that the appeals process is not abused by criminals making vexatious or frivolous appeals.

Delegation of powers

Item [40] of schedule 1 provides that the functions of the commissioner in relation to firearms prohibition orders may be delegated only to a commissioned police officer (that is an officer of the rank of inspector or above).

Other amendments to the Firearms Act 1996

This bill also provides for a number of broader reforms to the Firearms Act 1996 to help police combat those who would trade in firearms or attempt to commit crimes under the Act.

Supply of firearm

Items [1] to [9], [11] to [15], [18] to [25], [27] to [33] and [35] to [37] of schedule 1 update the existing offences relating to the illegal or improper sale of a firearm so that they capture the supply of a firearm. "Supply" is more broadly defined than "sale" and includes the disposal of a firearm even if money does not change hands.

These provisions have been carefully drafted to ensure that "supply" has been deliberately and exhaustively defined with the intent of capturing only those transactions which involve intent to permanently dispose of a firearm. These provisions will not affect licensed firearm owners who may lend or otherwise temporarily hand over a firearm to another appropriately licensed person.

Give possession of firearm

Item [26] of schedule 1 creates an offence of giving possession of a firearm or firearm part to a person who is unauthorised to possess it. This offence will, for example, capture the distribution of firearms between members of criminal groups or other criminals where a financial transaction does not take place.

Attempt an offence

Item [34] of schedule 1 provides that any person who attempts to commit any offence under the Act shall be liable to the penalty for that offence. This provision is modelled on section 344A of the Crimes Act 1990. This new provision will provide the NSW Police Force with significant additional opportunities to prosecute persons who deal with illegal firearms.

Restricted Premises Act 1943

Schedule 2 of the bill relates to the Restricted Premises Act 1943. This Act provides for police to apply to the District or Supreme Court to declare premises as a disorderly house.

Items [1] and [2] of schedule 2 provide a definition of such criminals to provide certainty and guidance for police officers in preparing applications for a declaration. These amendments will make it easier for police to get premises declared on the grounds that they are routinely used by serious criminals—such as gang clubhouses.

Such a declaration triggers increased search powers for police, which will also be expanded at item [6] of schedule 2, so they can specifically search for firearms and other weapons on the premises.

Items [4] and [5] of schedule 2 will increase penalties for offences under the Act for premises declared on these grounds, to bring them into line with similar offences. Item [12] of schedule 2 requires the exercise of police powers under these new provisions will also be kept under scrutiny by the independent Ombudsman.

Crime Commission to investigate criminal groups

I now turn to schedule 3 of the bill which relates to the Crime Commission Act 2012.

Item [1] of schedule 3 inserts a definition of "criminal group" into the Act in line with that found at section 93S of the Crimes Act 1900. Items [2], [3] and [6] of schedule 3 will allow the management committee to refer to the commission, and for the commission to investigate, matters related to the criminal activities of a criminal group. In effect, this will allow the commission to investigate the activities of a criminal group, without the reference specifically identifying all of the criminal offences and particular persons to be targeted.

Consequential amendments

Schedule 4 of the bill makes consequential amendments to provisions of the Criminal Procedure Act 1986 that deal with the procedure for prosecuting indictable offences.

Conclusion

This bill will equip the NSW Police Force with powerful new weapons to help tackle criminals with guns.

I commend the bill to the House.

The Hon. STEVE WHAN [3.12 p.m.]: The Opposition supports the Firearms and Criminal Groups Legislation Amendment Bill 2013. In the other place, the shadow Minister for Police, Nathan Rees, made a number of comments on this proposed legislation, some of which I will utilise today. As was stated in the other place, this Government has been dragged kicking and screaming to introduce this bill to Parliament. It is a poor reflection on the Government that this bill was introduced only after the Leader of the Opposition in the other place had introduced a similar bill to Parliament and indicated that Labor wished to pursue it. Since then the Premier, rather than supporting the Opposition's bill, has introduced an almost identical bill, but with a couple of differences I will highlight later in my contribution. Recently in New South Wales and Sydney there have been a large number of shooting incidents.

Far too often the Government has given excuses and made comparisons with the past saying it is not as bad as it has been. It forgets that more than 80 per cent of the shooting incidents are concentrated in Western Sydney and south-western Sydney and in those communities it is having a significant impact and causing significant concern for residents. Labor took on face value the Premier's indication that the bill was urgent legislation. Labor made an effort to continue to debate the bill on the last sitting day of the last parliamentary session to ensure that the bill was dealt with in a timely manner. Unfortunately, the Government did not support that. Labor believes this is urgent legislation that should have been introduced and debated in the Houses in a more timely fashion. Over the past two years there have been many shootings in New South Wales, particularly in Western Sydney. It was clear the Government needed to act further. This bill goes some way towards that. The object of this bill is to amend the Firearms Act 1996 as follows:

- (a) to empower police officers without warrant to enter premises or a vehicle occupied by a person who is subject to a firearms prohibition order, and to conduct searches for firearms, firearm parts and ammunition, for the purposes of determining whether the person is complying with the order,
- (b) in addition to the existing prohibition on possessing or using a firearm, to prohibit a person who is subject to a firearms prohibition order from acquiring or possessing firearm parts or ammunition, from residing at premises where there are firearms and from attending certain other places such as gun shops and shooting ranges,
- (c) to make other amendments in relation to firearm prohibition orders,

- (d) to modify existing offences in relation to the sale and purchase of firearms, firearm parts and ammunition so that they apply instead to the supply (ie the transfer of ownership by sale, gift or otherwise) and acquisition (ie accepting or receiving by supply) of those things,
- (e) to create a new offence of giving possession (which would include lending) of a firearm or firearm part to a person who is not authorised to possess it,
- (f) to provide that any person who attempts to commit an offence under the principal Act is liable to the penalty for that offence.

I will look briefly at a number of issues in this bill. The bill does modify offences in relation to the sale and purchase of firearms. It has, in that respect, a number of similarities to the bill introduced by the Leader of the Opposition in the other place. However, it also has a couple of differences, which we believe make this a weaker bill than the one proposed by the Opposition. Labor's bill proposed to make it an offence for a person who is subject to a firearms prohibition order to be in the company of a person in possession of a firearm. Under the Government's proposed law it will only be illegal for someone on a firearms prohibition order to be located on the same premises where a firearm is kept. It is not illegal if the person is in the company of someone holding a firearm just outside the premises.

Labor's view is clear: if the Commissioner of Police has deemed a person unfit to possess a firearm and it is not in the public interest for that person to have one, that person should not be associating with people that possess firearms. Labor makes no apologies for calling for this provision and believes it should be in the bill. It is a very tough provision and there is no doubt it encroaches on the rights of individuals. However, it is a necessary provision to keep those people who have been subject to a prohibition order away from firearms. Another notable difference is that the Opposition's bill banned individuals from being present at a place that is home to the business of manufacturing or repairing or modifying or testing firearms. The Opposition's bill also stopped a person from being, or seeking to become, a member of a firearms club or a shooting range, or from participating in firearms safety courses. Bizarrely, in section 74(9) the Government's bill acknowledges that persons subject to a firearms prohibition order may continue to be members of firearms clubs. The Opposition's bill would have made it illegal for a person to apply to be a member.

With respect to restricted premises, in addition to amending the firearms prohibition order the bill also enabled the Supreme Court or the District Court, in declaring premises to be disorderly houses, to state that the declaration is made on the basis that reputed criminals attend the premises or control or manage the premises. There are a number of matters included in the bill introduced by the Opposition that are not included in the Government's bill. The Opposition believes its proposed legislation was superior. Unfortunately, the Opposition did not have the numbers in the other place to bring its bill forward for consideration in this House. That does not mean that the Opposition is satisfied with the Government's response.

It is very clear that the Government's bill has been introduced in response to the Opposition's declaration that it was going to introduce legislation on the matter. The Government was shamed into introducing the bill. The Government only introduced the bill because the Opposition had made this issue a priority and had been out in the community suggesting that new legislation was needed. It is disappointing that the Government chose to go about introducing the bill in this way. Unfortunately, often in this place the Minister for Police resorts to attacking members of the Opposition and accusing them of not supporting the work that police do rather than addressing the Opposition's considered questions on this subject.

Of course the Opposition supports the work of police officers. However, it wants to give them greater capacity to do that work and the appropriate resources and the legislation. The Minister often says during question time that things were worse when the Opposition was in government. The people of Western Sydney and south-western Sydney do not believe that because they are the focus of shootings. The shooting statistics for other parts of New South Wales may be far less worrying, and that is good; however, the people of south-western Sydney and Western Sydney want this serious issue to be addressed and they do not want the Opposition to be subjected to political attacks when it seeks information from the Government about what it is doing. This issue is causing concern to people throughout New South Wales. With those criticisms of the Government's attitude, the Opposition recognises that even though this legislation does not go far enough it is at least a step in the right direction. I point out that the Government has been forced to take this step as a result of the work undertaken by the Labor Party. The Opposition therefore supports the legislation.

Mr DAVID SHOEBRIDGE [3.21 p.m.]: The Greens support substantial elements of the Firearms and Criminal Groups Legislation Amendment Bill 2013. However, we have some significant concerns about the lack of checks and balances, which I will address now and during the Committee stage. The object of the bill is to:

- (a) ... empower police officers without warrant to enter premises or a vehicle occupied by a person who is subject to a firearms prohibition order, and to conduct searches for firearms, firearm parts and ammunition, for the purposes of determining whether the person is complying with the order ...

That power is codified in proposed section 74A, which provides:

Powers of police to search for firearms in possession of person subject to firearms prohibition order

- (1) The powers of a police officer under this section may be exercised as reasonably required for the purposes of determining whether a person who is subject to a firearms prohibition order has committed an offence under section 74 (1), (2) or (3).

The key search power is provided in proposed new subsection (2), which states:

- (2) A police officer may:
- (a) detain a person who is subject to a firearms prohibition order, or
 - (b) enter any premises occupied by or under the control or management of such a person, or
 - (c) stop and detain any vehicle, vessel or aircraft occupied by or under the control or management of such a person, and conduct a search of the person, or of the premises, vehicle, vessel or aircraft, for any firearms, firearm parts or ammunition.

Proposed subsection (3) provides:

In this section, premises includes any place, whether built on or not.

This is the key power in this legislation; in effect, it provides police officers with the power to conduct random searches of people who are the subject of a firearms prohibition order. It is therefore not a power that can be exercised at large; it can be exercised only with regard to persons who have been issued with a firearms prohibition order by the Commissioner of Police. The very real concern is that this legislation gives police officers a warrantless search power. There is an argument that police officers should be able to conduct random searches of persons who are the subject of a firearms prohibition order to ensure that they do not have a firearm in their possession, that they are not attending a gun club, that they do not have ammunition in their possession, and that they are not staying at a premises at which someone has a firearm or ammunition.

Indeed, The Greens support the extended scope of firearms orders as proposed in this legislation to the extent that it extends the effect of an order. However, we are extremely concerned that these powers are being provided without any checks and balances. As it stands, a person who has been the subject of a series of random searches at their workplace, their home or while driving a car cannot request a review of the exercise of those powers. The Greens are proposing an important and essential amendment that would allow such persons to lodge an application with the Local Court to declare a search to have been unlawful on the basis that it was unreasonable, unjust, oppressive or otherwise an abuse of power.

It also proposes to allow such persons to seek remedies, including an order about the inadmissibility of the evidence gained and a form of modest relief if the police have been found to have conducted one or a series of searches that were found to be unreasonable, unjust, oppressive or otherwise an abuse of power. An order could then be issued that the police are not entitled to conduct a further search under proposed section 74A for a period not exceeding three months. Of course, that would not prevent the police, if they had criminal intelligence, from obtaining a search warrant. The amendment will provide an important check on what would otherwise be a warrantless search power. I say that in the context of the understanding that, provided there are sufficient checks and balances, it is not entirely inappropriate for the police to have the ability to conduct random searches of people who are the subject of a firearms prohibition order.

In addition to the existing prohibition on possessing or using a firearm, the bill proposes to prohibit a person who is the subject of a firearms prohibition order from acquiring or possessing firearm parts or ammunition, from residing at premises where there are firearms, and from attending certain other places such as gun shops and shooting ranges. The Greens support that aspect of the bill. People are the subject of firearms prohibition orders for a variety of reasons. Briefings provided by the Government indicated that a number of people have been the subject of a firearms prohibition order because they have been involved in domestic violence or have significant mental health issues, which means that they would be a substantial threat to people known to them or to the community at large if they were allowed to get their hands on a firearm.

The police also want to be able to issue orders against people who they have good reason to believe are members of organised criminal groups and thereby have access to firearms. It is important in those circumstances that the police have the capacity to check whether the order is being observed. Indeed, it is only rational that those who are the subject of firearms prohibition orders not only be prevented from owning a firearm but also that that prohibition include acquiring or possessing firearm parts or ammunition, going to gun shops and shooting ranges, or residing with people who own firearms. The Greens support that aspect of the legislation.

The bill also proposes to modify the existing offences relating to the sale and purchase of firearms, firearms parts and ammunition so that they apply instead to the supply or the transfer of ownership, by sale, gift or otherwise, and acquisition—that is, accepting or receiving those things. The broadening of those offences is consistent with the 1996 National Firearms Agreement. The bill also includes a new offence of giving possession, which includes lending a firearm or firearm part to a person who is not authorised to possess it. I am surprised that that is not already an offence and The Greens support that provision. It also provides that any person who attempts to commit an offence under the principal Act is liable to the penalty for that offence. Again, that is a necessary clarification of the existing law, and particularly the Firearms Act.

The bill amends the Restricted Premises Act 1943 to increase penalties under that Act for offences relating to reputed criminals attending premises declared by the Supreme Court or District Court under that Act, and to empower police officers without warrant to enter such premises and conduct searches for firearms. That updates the penalties in an Act that has been on the statute books for 70 years. The updating of the penalties, which is all that part of the amending bill relates to, appears to be consistent with penalties for similar offences in other parts of the New South Wales statutes.

There has been some vociferous opposition to this legislation from what I would call the firearms lobby. That lobby group has attacked the Government's moves on the basis that they infringe people's rights to have firearms, people's rights to have a firearms licence and to be free from police oversight if they have a firearms licence. That is an analysis that The Greens comprehensively reject. There is no right to have a firearm in New South Wales under New South Wales statute law. There is no right to bear arms in this State. In fact, there is no right to bear arms in any of Australia's States or Territories. The attempt by the firearms lobby to convince the Australian people they ought to have a right to bear arms—a right that has led the United States down a deeply troubling and violence-filled path—needs to be rejected by all political parties in this Chamber.

The Greens reject the argument that a curtailment of people's rights as firearms owners is somehow a fundamental curtailment of their civil rights. It is not. However, the one aspect of this bill that greatly troubles The Greens is the lack of oversight and the lack of review of those warrantless searches by the New South Wales police. It is a matter about which we have been involved in some dialogue with the Government over previous days. I hope that the Government and other members will support The Greens amendment to give reasonable oversight of warrantless searches in this bill. I will save the balance of my contribution in relation to the warrantless searches aspect of the bill until the Committee consideration.

Reverend the Hon. FRED NILE [3.33 p.m.]: On behalf of the Christian Democratic Party, I am pleased to support the bill before the House, the Firearms and Criminal Groups Legislation Amendment Bill 2013. I congratulate the O'Farrell Government and the Minister for Police and Emergency Services, the Hon. Michael Gallacher, for proceeding with this legislation, which is urgently needed in this State. As members know, the current New South Wales legislation allows the Commissioner of Police to make and issue firearm prohibition orders prohibiting a person from having possession or use of any firearm if in his opinion the person is not fit in the public interest to have a firearm. The legislation providing for firearm prohibition orders has been under review in various national forums, particularly in Queensland and in Victoria, including in the Council of Australian Governments, since June 2012.

Other legislation in New South Wales, the Restricted Premises Act 1943, already allows for the District or Supreme Court to declare premises as disorderly houses and provides for their closure where certain illegal activities are suspected of being carried on. Disorderly houses legislation, as members know, was originally designed to prohibit brothels in New South Wales. The Firearms and Criminal Groups Legislation Amendment Bill 2013 will amend the Firearms Act 1996 in three main ways. Firstly, the firearm prohibition orders introduce new search powers, prohibitions and offences to apply to firearm prohibition orders. Orders will also apply to firearm parts and ammunition. Secondly, it will apply to the supply and/or give possession issue, create offences for the supply of a firearm rather than just to the sale, or giving possession of a firearm to unauthorised persons. Thirdly, it will attempt to make sure criminals are prosecuted for attempting an offence under the Act even if they do not succeed.

It is very important to have this legislation before the House. It is long overdue and there have been frequent calls for this legislation because of the activities of bikie gangs, in particular in New South Wales, and as is now occurring in Victoria and in Queensland. On 13 August, the police seized illegal guns and explosives linked to the Hells Angels bikie gang. The Deputy Commissioner of Police, Catherine Burn, said the haul was found in the boot of a car in a secure parking space. Guess where—in Sydney's central business district. She said police found 10 sticks of Powergel explosives with detonators, four rifles, a shotgun, three pistols including a key ring pistol, three silencers, a large quantity of ammunition, 10 firearm magazines, various firearm parts,

two stun guns, three kilograms of the illicit drug Nexus, night-vision goggles, balaclavas and gloves—in other words, all the equipment needed to attack another bikie gang, a clubhouse, tattoo parlours or various individuals belonging to those bikie gangs or to carry out criminal acts in Sydney.

We have seen cars crashing into bank windows and the recent attack on a fruit shop in a suburb near Parramatta. A man who tried to restrain one of the robbers was shot in the head and chest by the other robber and sadly died. We should acknowledge the bravery of that young man in trying to apprehend these violent criminals who were heavily armed. It is very clear that these violent organised criminals will go to any length as these weapons are displayed to protect their so-called business interests. In March this year, the police conducted a series of raids after a long-running investigation into the supply of drugs, guns and explosives to organised criminal groups.

Detectives from Strike Force Alistair arrested and charged 36 people, who remain before the court on serious drug, firearm and other offences. The police believe that the vehicle was being used as a storage safe house for the Hells Angels. There are many of these examples. On 6 October, a matter of days ago, an alleged Nomads outlaw motorcycle gang chapter vice-president had his firearm licence revoked and more than 240 ammunition rounds seized. The New South Wales police firearms registry revoked the 42-year-old man's firearm licence after Strike Force Raptor confirmed that he held a senior bikie gang position. The police also seized two semiautomatic pistols, a revolver, a rifle and 247 rounds of ammunition from the man's Cumberland Road house at Greystanes, near Parramatta.

There were similar successful raids by the police. In one, on 5 September, guns, drugs, ammunition and cash were seized when a bikie clubhouse was raided by police investigating an alleged murder plot in south-west New South Wales. This Vikings bikie gang house at Griffith was searched by police investigating allegations that a number of people had attempted to solicit another person to murder two men. A 12-gauge shotgun, three rifles, ammunition, a small amount of cannabis, three ecstasy pills and handcuffs were found at the Hanwood home. These police raids and the evidence secured demonstrate the seriousness of the situation in New South Wales.

We have seen the same problems happening in Queensland and Victoria. On 10 October, Victorian police seized guns, drugs and a large amount of cash in massive raids on bikie premises across Melbourne. More than 700 officers from Victoria Police, the Australian Federal Police and Customs and Border Protection were involved in an operation targeting more than 59 properties linked to the Hells Angels. The gates and signs of the Hells Angels clubhouse in Fairfield, in Melbourne's northern suburbs, were torn down as police stormed in at about 6.00 a.m. The police had to get the assistance of the Australian Army to provide heavy equipment to tow away stolen property. All these cases—and I could list many others—illustrate the urgent need for this legislation.

This bill will also amend the Restricted Premises Act 1943 to make it easier for police to enter and search premises frequented by serious criminals, such as gang clubhouses, and to bring penalties for offences under this Act into line with equivalent offences. The bill will also amend the Crime Commission Act 2012 to allow the Crime Commission to investigate the activities of a criminal group, such as an outlaw motorcycle gang, without specifically identifying all criminal offences and particular persons to be targeted. The range of reforms contained in the bill will help the NSW Police Force and the Crime Commission to combat gun crime and the organised criminal groups that use, sell and supply illegal firearms. That is why the Christian Democratic Party will not be supporting The Greens amendments, which, as usually happens with The Greens amendments, would take the guts out of the legislation.

The Greens amendment No. 1 states that a police officer may not conduct a search. Amendment No. 3 states that a declaration could be made that a search is unlawful. It proposes an amazing amendment, which we often hear about in connection with the law in the United States of America, that any evidence obtained from the search that is the subject of the declaration would be inadmissible as evidence in any legal proceedings, even if the search found a modern Army firearm. The Greens amendments would only frustrate the police, whereas the proposed legislation is designed to assist the police to carry out their duties in this State in order to protect the community and to show bikie gangs that they do not have a free hand in trying to run New South Wales and cannot do what they like. The legislation will make bikie gangs subject to the provisions of the law. That is why I support the remarks of the Premier in his second reading speech when he concluded:

This bill will equip the NSW Police Force with powerful new weapons to help tackle criminals with guns. This legislation has been put together with the advice of the NSW Police Force to ensure that police have the power, the resources and the powerful new weapons to help tackle criminals with guns, in particular to target gun crime across Sydney. I say again: Nothing in this legislation affects legitimately licensed gun owners. Nothing in this legislation should concern innocent citizens of this State. This legislation will concern those who are involved in criminal activities involving guns. This legislation will ensure that those people have no place to hide.

I totally agree with that comment: Those people will have nowhere to hide in New South Wales. The Christian Democratic Party supports the bill.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.43 p.m.], in reply: I thank members for their contributions to this very important debate on the Firearms and Criminal Groups Legislation Amendment Bill 2013, particularly Reverend the Hon. Fred Nile, who made it very clear that he supports the legislation as it stands, as does the Opposition. I congratulate the Opposition on that concession, but it is stretching a very long bow for it to suggest that the Government's legislation bears any resemblance to the legislation it put forward.

At the very core of both the Opposition's legislation and the amendments put forward by The Greens is a fundamental weakness in the approach that gives the type of people who should not be entitled to have firearms in this State access to an appeal right. Why in heaven's name should we give people who ordinarily would never be entitled to be anywhere near a gun an appeal right? That is exactly what the Opposition was hoping to do with its legislation—for people to have full access to the Administrative Decisions Tribunal—and The Greens have outlined today their so-called appeal mechanism in relation to this very important legislation. I will wait until the Committee stage to further debate The Greens amendments. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Mr DAVID SHOEBRIDGE [3.46 p.m.], by leave: I move The Greens amendments Nos 1, 2 and 3 on sheet 2013-136 in globo:

No. 1 Page 8, schedule 1 [39], proposed section 74A. Insert after line 37:

- (3) Despite subsection (2), a police officer may not conduct a search under this section in relation to a person the subject of a declaration under section 74B, at any time during the period determined by the Local Court under that section.

No. 2 Page 8, schedule 1 [39], proposed section 74A. Insert after line 38:

- (4) This section is repealed on the fifth anniversary of its commencement.

No. 3 Page 8, schedule 1 [39]. Insert after line 38:

74B Declaration that search is unlawful

- (1) A person in relation to whom a search has been conducted pursuant to section 74A (2) may apply to the Local Court for a declaration that the search was unlawful.
- (2) The Local Court may make such a declaration if satisfied that the conduct of the search was unreasonable, unjust, oppressive or otherwise an abuse of power.
- (3) On making such a declaration, the Local Court must determine, and notify the Commissioner of, the period during which section 74A (3) is to apply in relation to the person, being a period that starts on the day of notification and does not exceed 3 months.
- (4) A declaration under this section renders any evidence obtained from the search the subject of the declaration inadmissible as evidence in any legal proceedings.
- (5) The Local Court may revoke a declaration made under this section on the application of the Commissioner if the Local Court is satisfied that it is appropriate to do so in the circumstances.
- (6) An application under subsection (1) may only be made within 3 months of the date of the conduct of the search the subject of the application (or, where the application relates to a series of searches, within 3 months of the date of the most recent of those searches).

These amendments do two things, and I will speak about them separately. Amendment No. 2 would provide a sunset clause to the powers in section 74A, the warrantless searches by police. I have been critical previously of the effectiveness of sunset clauses in security legislation, so I recognise that in moving this amendment I have previously criticised their efficacy as, in part, putting off critical consideration of an increased power being given to security authorities. However, The Greens are moving this amendment in the context of the additional scrutiny proposed in The Greens amendments Nos 1 and 3.

The Greens amendment No. 2 would provide that section 74A is repealed on the fifth anniversary of its commencement, consistent with a number of other laws that have been enacted that give increased powers to the Australian Security Intelligence Organisation federally and to the Crime Commission, in particular, in New South Wales. The Greens submit that a sunset clause would be prudent in this case because the warrantless search power is a very broad and new police power, which is not ordinarily granted under our legal system. The Greens amendments Nos 1 and 2 work together to put in place an oversight of the warrantless police powers proposed in section 74A. I repeat that The Greens believe there is an argument for random searches of people who are the subject of a weapons prohibition order.

The Greens believe that if that power is to be available to the police then it should be subject to some oversight to ensure that it is not exercised in a manner that is unreasonable, unjust, oppressive or otherwise abusive. The flaw in the Government's legislation is not so much that it allows the undertaking of random checks of a limited class of people who are the subject of a weapons prohibition order; it is that nothing in the legislation stops police using that power in an oppressive fashion. Nothing stops them from searching a person's home in the morning, their vehicle and work premises in the afternoon, then their homes again that night—and doing that around the clock, day in and day out, as a show of strength against someone they think might be involved in gun crime; that is, using this power to provide a direct, 24-hour-a-day impingement of someone's civil liberties.

If police have evidence that someone has committed a crime, they should put that evidence before the courts and have the person tried. If police have evidence that someone is in possession of illegal material, they ordinarily convince a court that they are entitled to obtain a search warrant in order to seize that material. In a limited number of cases, if police properly believe that someone should be the subject of a weapons prohibition order then there is a case—and The Greens accept there is a case—for random searches of that person's house or vehicle. But those search powers need to be subject to oversight. Proposed section 74B put forward by The Greens is in fact that oversight model. Our amendment No. 3 proposes as follows:

- (1) A person in relation to whom a search has been conducted pursuant to section 74A (2) may apply to the Local Court for a declaration that the search was unlawful.

I pause there to note that The Greens have chosen the Local Court rather than the Administrative Decisions Tribunal for two reasons: first, the Local Court has expertise in dealing with matters of violent crime and sees the impacts of firearms and firearm crime, and therefore has a practical understanding of police powers and the need for proper oversight of people who are the subject of weapons prohibition orders; and, second, Local Court procedure is much quicker and will lead to a speedier turnaround than the Administrative Decisions Tribunal, as was proposed in the oversight model put forward by the Labor Opposition. Subsections (2) to (6) of proposed section 74B read:

- (2) The Local Court may make such a declaration if satisfied that the conduct of the search was unreasonable, unjust, oppressive or otherwise an abuse of power.
- (3) On making such a declaration, the Local Court must determine, and notify the Commissioner of, the period during which section 74A (3) is to apply in relation to the person, being a period that starts on the day of notification and does not exceed 3 months.
- (4) A declaration under this section renders any evidence obtained from the search the subject of the declaration inadmissible as evidence in any legal proceedings.
- (5) The Local Court may revoke a declaration made under this section on the application of the Commissioner if the Local Court is satisfied that it is appropriate to do so in the circumstances.
- (6) An application under subsection (1) may only be made within 3 months of the date of the conduct of the search the subject of the application (or, where the application relates to a series of searches, within 3 months of the date of the most recent of those searches).

The scheme that would apply if this amendment were successful would allow people who believe that they have been the subject of unreasonable, unjust, oppressive or otherwise abusive exercise of the power in proposed section 74A to make application to a court; they would then have a hearing before a Local Court magistrate, with the Commissioner of Police being represented. It would only be if a magistrate—and I have a lot of faith in the common sense of magistrates—concluded that a search or a series of searches—and The Greens are most concerned about a series of searches being conducted by police—offended that test that a declaration could be made. The declaration needs to have some effect, and that is why the declaration would state that the evidence obtained in such searches would not be admissible in any legal proceedings. Reverend the Hon. Fred Nile erroneously suggested that if illegal weapons were found in the course of that search then they would have to be returned. That is untrue. That is not the effect of the section.

The section applies only to the admissibility of evidence in other proceedings. There would be no requirement to return illegal weapons, illegal drugs and so on found in the course of that search. That was a misreading of The Greens' amendment by Reverend the Hon. Fred Nile. The ability to order that there not be a search for a period of up to three months is aimed at providing some kind of remedy and some kind of discipline in the proceedings. However, that would only apply in circumstances where a Local Court had found that the actions of the police had, under proposed section 74A, been unreasonable, unjust, oppressive or otherwise an abuse of power. If a remedy were not provided in those circumstances, if there were no power to implement some remedial action, there would be no check and balance on the police. We need checks and balances in legislation that proposes warrantless searches.

This amendment is not designed to defeat the Government's original intent, which is to have a reasonable number of random searches of people who are the subject of prohibited weapons orders. The amendment is designed—I am not embarrassed to say it is the very purpose of the amendment—to have a reasonable balance between these powers and civil liberties. The police can do their random searches, but the courts, and the Local Court in particular, can oversight the exercise of those police powers. The Greens believe the Local Court is an entirely appropriate body to oversight the exercise of these police powers, and they tend to be quick and practical. The magistrates who constitute our Local Courts are reliable and dependable and should be considering the making of those declarations. I commend the amendments to the Committee.

The Hon. STEVE WHAN [3.56 p.m.]: The Opposition will not be supporting the amendments. The shadow Minister for Police has examined these amendments in the short time that they have been available.

The Hon. Duncan Gay: Who is that?

The Hon. STEVE WHAN: Nathan Rees is the shadow Minister for Police. He does not feel that these Greens amendments are justified. I acknowledge that The Greens take a consistent position in support of civil liberties; and that is certainly an admirable position to take. I did acknowledge briefly in my contribution to the second reading debate that taking the strong action proposed could be said to infringe people's liberties. However, to the extent that it is necessary to overcome the problem, it is justified, but it must be carefully considered. Mr David Shoebridge spoke, in effect, about police harassment in the form of multiple searches and so on. In this case, as in so many other cases, we must rely on the police to exercise their powers properly and to ensure that they do not use them to harass people. There are some cases where that is justified, and where it may be in the interests of the community to do so. I leave it at that.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.57 p.m.]: I have put on the record the types of people who will be the subject of weapons prohibition order searches. People who currently have a firearm or a lawful entitlement to have a firearm or a firearms licence—people who do not have a criminal record, or who would not be excluded from possessing a firearm because of their current history—will continue to be subject to the current legislation with regard to appeals. We have drawn a line in the sand for those who should not, by virtue of their pre-existing criminal record or some other matter, have access to a firearm. We do not know how someone who did not have a pre-existing entitlement because of a criminal record would be able to appeal.

This legislation draws a distinction between law-abiding citizens who have access to firearms or who wish in the future to have access to firearms or a firearms licence, and the people who should not be anywhere near firearms. Everyone in this Chamber purports to have a very strong view that the people in the latter category should not have access to guns. The Greens' amendments are an attempt to weaken the intent of this legislation. It is extremely important that people have confidence in the approach that the Government has taken in this legislation. It draws a distinction between law-abiding citizens and those who have a pre-existing criminal record or other criminal influences or involvements sufficient to preclude them from having access to firearms or, indeed, having a firearms licence. As I indicated in my opening comments, the Government strongly opposes The Greens' amendments. I thank them for moving the three amendments in globo because it will make it easier for me to address them than it would have been had they been moved seriatim.

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

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

QUESTIONS WITHOUT NOTICE

OUTLAW MOTORCYCLE GANGS

The Hon. LUKE FOLEY: My question is directed to the Minister for Police and Emergency Services. What is the Government's response to community concerns about biker gangs relocating to the Tweed region on the North Coast to escape Queensland's anti-biker laws?

The Hon. MICHAEL GALLACHER: We do not hold back for one moment that this Government represents all of New South Wales—from Tenterfield, to Tweed Heads, to The Entrance and anywhere else in between.

The Hon. Sophie Cotsis: The Entrance.

The Hon. MICHAEL GALLACHER: Or Terrigal. We will hunt down bikies no matter where they are by giving support and the necessary legislative tools and resources to the police so they can do their job. Anyone who believes that any part of the State near a border will somehow be a safe haven is delusional, to say the least. I have every confidence in the Commissioner of Police, Andrew Scipione, and equal confidence in Deputy Commissioner Kaldis. He has taken control of Operation Talon by bringing together all proactive resources within the NSW Police Force. That has allowed local detectives and uniformed police—that is, those who formerly specialised in dealing with high-level crimes—to work side by side to address organised crime and gun crime in New South Wales.

I refer to the recent selection of Mr Jeff Loy, the Assistant Commissioner of Police for the Northern Region, who is a highly skilled and respected detective. He has a significant police career behind him—and ahead of him. If anyone believes that moving to Tweed Heads or anywhere else on the North Coast will take them out of the eye of the NSW Police Force they have another think coming.

BUSHFIRE SEASON

The Hon. SARAH MITCHELL: My question is addressed to the Minister for Police and Emergency Services. Will the Minister update the House on the preparedness of New South Wales government agencies for the 2013 bushfire season and recent fire activity?

The PRESIDENT: I welcome back the Hon. Sarah Mitchell.

The Hon. MICHAEL GALLACHER: I thank the honourable mum for her question. On behalf of all members I welcome back the Hon. Sarah Mitchell. In recent years only a few members of this Chamber have brought more children into our wonderful world. It is great to see a continuing trend towards younger women being elected to all sides of the House. The bushfire season is once again upon us. As at 8.30 a.m. today 63 bushfires or grassfires were continuing to burn throughout the State. New South Wales government agencies are ready to act and help prevent and fight fires as and when they develop and to support New South Wales communities through this high-risk period. Sadly, as has been the case in previous years, it may be that some bushfires that occur in New South Wales between now and March 2014 or at any other time are found to have been deliberately lit.

For example, I am advised that between October 2012 and March this year legal action was taken against 87 persons for 117 bushfire-related offences, 55 of whom were juveniles. That being the case, the NSW Police Force and emergency services agencies are asking for the public's help to identify and catch fire bugs over summer 2013-14 by keeping an eye out for any suspicious activity and reporting it to police immediately. This can be reported to the Police Assistance Line on 131 444 or 000 in the event of an emergency. Such assistance may just help to prevent a disaster and all reports will be treated seriously. Anyone found to have deliberately caused a bushfire will be arrested and put before the court, where they could face penalties of up to 25 years imprisonment.

New South Wales has experienced several days of significant bushfire activity, including days of extreme and severe fire conditions in many areas across the State. During the height of the fire activity, thousands of firefighters and 48 aircraft were deployed. Fire crews continued to work to bring fires under control and monitor those that had already been suppressed. The main areas of fire activity were Salt Ash, the

Mooreland fire and Hank Street in the Port Stephens local government area, and Webbs Creek in the Hawkesbury local government area. This situation follows several days of heightened fire activity in many areas across New South Wales under very hot and windy conditions. For example, on Thursday 10 October areas such as Williamstown, Tocal and Sydney airport experienced extreme fire danger, and severe fire danger was experienced in Newcastle, Cessnock, Shoalhaven, Wollongong, Bega and areas across Sydney.

On Friday 11 October there were 48 bushfires and grassfires burning across New South Wales, of which 16 were uncontained. Over Saturday 12 October and Sunday 13 October bushfire activity escalated in the Singleton, Oberon and Clarence Valley local government areas. By the morning of Monday 14 October there were more than 60 fires across New South Wales, including 46 bushfires and grassfires, of which 24 were uncontained. Fire crews have continued to work to bring fires under control and monitor those that have already been suppressed. They are also preparing for what is likely to be hot weather at the end of the week, which will again pose a risk of bushfire activity and provide a threat for all communities. These fires are an important reminder to all of us to prepare for natural disasters, especially bushfire survival plans. I congratulate all firefighters and all emergency services on their work, particularly over the past couple of days.

HEAVY VEHICLE SAFETY

The Hon. ADAM SEARLE: My question is directed to the Minister for Roads and Ports. Will the Minister advise when he first raised concerns about the way interstate safety checks are made for large transport companies? In particular, did the Minister raise this issue with his ministerial colleagues at any one of the five Standing Council on Transport and Infrastructure meetings he attended before the tragic fuel tanker accident that occurred at Mona Vale earlier this month?

The Hon. DUNCAN GAY: I can indicate quite clearly that when I returned from leave about 1½ weeks ago I first raised concerns about this incident when two people lost their lives in New South Wales. It became apparent to many of us who were not formerly aware that the problem with regulation goes back many years. If the Deputy Leader of the Opposition wants me to blame someone I have not yet done that. I am being very fair. This Federal system has been in place for some time. Immediately on my return from leave it became apparent to me that the regulatory control was not doing its job. I wrote a letter on the morning of my first day back at work from information I was given the previous weekend. It was a matter that had to be acted upon quickly. It is important to act in a Federal matter because currently trucks can be on New South Wales roads with yellow and black number plates that do not go over our pits at all.

We have the toughest and the best checking system in the country yet under this problem, which many of us had failed to notice, trucks that had never been checked or been over our pits were operating in New South Wales. In fact, they were certified by an independent certifier, put on board by the company involved and registered in another State. I was not aware of it and I do not think anyone else was aware of it. To be fair, if Opposition members were aware of it they would have been asking questions. I am apportioning blame; I am saying there is a problem that needs to be fixed for the future.

SOUTH COAST TRAIN TIMETABLES

Dr MEHREEN FARUQI: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Transport. My office has been contacted by commuters on the South Coast and southern train lines whose services seem to have been slashed by proposed new timetables. For example, residents of Stanwell Park have lost many direct services and residents of Mortdale are saying that this is the third year running that services have been cut. Given the significant impact on workers, the elderly and those with limited mobility, can the Minister explain why these services have been cut and based on what evidence?

The Hon. DUNCAN GAY: I thank the honourable member for her question. Certainly I will be referring her question in detail to the Minister for Transport. If Opposition coalition members from the Labor and The Greens alliance come to this from the jaundiced view that everyone is doing it wrong, one would immediately think everything is wrong.

The Hon. Penny Sharpe: It is community consultation about timetables.

The Hon. DUNCAN GAY: You should learn. You could be nearly half as good as the Minister for Transport if you sat around and learned.

The Hon. Penny Sharpe: I don't want to be anything like the Minister for Transport, thanks.

The Hon. DUNCAN GAY: Just listen for a moment. There are extra services in place.

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

The Hon. DUNCAN GAY: The premise that we are cutting services out of New South Wales is completely at odds with the reality. The Opposition wants to play politics but does not base that on reality or the facts. The facts are that there are extra services in New South Wales. The Opposition can bring up particular times and particular spots, and I will have to go away and get a detailed answer. Overall there is an improvement in services.

HEAVY VEHICLE SAFETY

The Hon. NATASHA MACLAREN-JONES: My question is directed to the Minister for Roads and Ports. Will the Minister update the House about the tragic crash on Mona Vale Road involving a Cootes transport fuel tanker?

The Hon. DUNCAN GAY: I thank the honourable member for her question, especially in light of the question asked by the Deputy Leader of the Opposition. As I indicated, the tragic crash on Sydney's Mona Vale Road that resulted in two fatalities and serious injuries to innocent road users has highlighted the need to look at a national approach to truck maintenance and roadworthiness. New South Wales can no longer be expected to carry a disproportionate amount of the national compliance and enforcement task. We have the most comprehensive heavy vehicle inspection regime in Australia, with the largest annual funding commitment of any State in the country. At more than \$70 million a year the New South Wales program accounts for more than 50 per cent of the \$130 million spent nationally on heavy vehicle compliance and enforcement. We are spending more than half of the Commonwealth of Australia—\$70 million out of \$130 million.

The Hon. Amanda Fazio: But what is the proportion of trucks registered in New South Wales? Come on, tell us the truth.

The Hon. DUNCAN GAY: I do tell the truth, unlike your lot over there. That is something you will always get from us. That is a snivelling, despicable comment from someone who was part of a snivelling, despicable Government. How dare she say something like that during an answer on an issue such as this. She is an absolute disgrace. Why such a large commitment? Being the through State for the eastern seaboard of Australia, New South Wales carries 60 per cent of the national road freight task. We have more than 300 vehicle inspectors of which 285 are front-line officers; some States have fewer than 40 inspectors—300 here, 40 in some other States. We also have the largest network of heavy vehicle checking stations, point-to-point and Safe-T-Cameras in the country. Since the crash Roads and Maritime Services and the NSW Police Force have inspected 300 Cootes petrol and gas tankers, issued 85 major defect notices and grounded 10 trucks. I understand defect rates in the Cootes tanker fleet are higher in other States.

We have expanded our current inspection activities to other fuel tanker companies. Because road freight travels across State borders, all jurisdictions must play their part. That is why I have written to both the Chairman of the National Heavy Vehicle Regulator and the Chief Executive of the National Transport Commission seeking an urgent review of the National Heavy Vehicle Accreditation Scheme, notably in relation to maintenance management. I am particularly alarmed at examples of trucks with New South Wales numberplates that are enrolled in the national scheme in other States, but proper auditing of maintenance in the host State of the scheme has clearly not taken place.

I am concerned that under the national scheme transport operators can select their own maintenance auditors. Mechanical defects are significant contributory factors in crashes and evidence suggests that New South Wales registered trucks that are subject to annual inspections have lower rates of defects compared to interstate registered trucks. Roads and Maritime Services and the Environment Protection Authority will be writing to all registered fuel tank operators requesting that as a matter of priority they conduct an audit of their fleet maintenance and dangerous goods handling procedures. I have also asked Transport for NSW and Roads and Maritime Services to work with the NSW Road Freight Industry Council and the new national regulator to investigate the feasibility of implementing the Intelligent Access Program [IAP]—that is, black box technology—on trucks that carry dangerous goods. [*Time expired.*]

BUSHFIRE RISK MANAGEMENT

The Hon. PAUL GREEN: My question without notice is directed to the Minister for Police and Emergency Services. Given the devastation of the recent fires in Salt Ash and public comment by the Rural Fire Service Commissioner that the area had not been back burned for the last six years due to "biodiversity" and "ecological factors" as well as "fuel load", will the Government further commit to reducing green tape and allow emergency services to take full control of hazard reduction measures across all of New South Wales?

The Hon. MICHAEL GALLACHER: The Hon. Steve Whan would be the first to know, because he was previously Minister for Emergency Services, that emergency services personnel—in the context of this question Rural Fire Services—are very much part of the local decision-making team through the bushfire management committees, not bureaucrats, politicians or people sitting behind a desk somewhere in Sydney. It is those people on the ground locally who have expertise in the risk but, more importantly, the fire ground history of the respective areas for which they are responsible.

In fairness to the mayor, I think it must have been a momentary oversight where he may well not have been reminded at the time that Port Stephens council is very much involved in its bushfire management committee. In fact, Port Stephens council is well over 90 per cent and one of the State's high achievers in meeting its requirements under the hazard reduction plan for its respective areas. I congratulate councils such as Port Stephens on working closely with experts on the ground such as land managers, public or private, and members of the Rural Fire Service to ensure the history.

I was there when we had discussions with local residents yesterday with regard to the fire that went through that area six years ago. There has been extensive work done in that area and around the State with regard to hazard reduction. The Hon. Steve Whan would be the first to tell us that there are various forms of hazard reduction and one of the most visible is the use of fire to reduce risk in an area. There are also clearances using machinery and work done at a local level advising local residents in respect of reducing the risk around their homes. Many things can be done. The Government gave assurances to the mayor and the poor residents of Salt Ash that their concerns would be addressed.

I visited the area with the Premier and the local member, Craig Baumann. When I spoke to the member for Port Stephens the previous night he was on the fire ground talking to residents at Fingal Bay. I rang him at 6.00 a.m. the next morning to tell him we were on our way and he was already out talking to residents—he works tirelessly for the local community. I can assure those in Government who have concerns for and support the suffering residents of Salt Ash that the Commissioner of the Rural Fire Service met with residents, the Rural Fire Service, council and other interested parties to ensure that if there are problems they can be addressed.

The early work has been done. Discussions I have had overnight and this morning indicate that there have not been a significant number of complaints raised in relation to delays with regard to decision making. It is still early in respect of the interrogation of the correspondence holdings within council and with regard to others. We are looking at that. People can be assured that we have a responsive Rural Fire Service that will return—with the commissioner—to communities that feel there is a problem or a perception of a problem and talk to them about those issues—*[Time expired.]*

The Hon. PAUL GREEN: I ask a supplementary question. Given the Minister's response, could he elucidate his answer with respect to the six-year interval?

The Hon. MICHAEL GALLACHER: As I was reminded by the commissioner this morning, it is horses for courses. The approach taken by the Rural Fire Service depends on topography, fuel loading and the fire history of the area. The important thing is that it is not done by looking at a map somewhere in an office in Sydney. The local Rural Fire Service controllers work with the council and local residents to identify the risks and to ensure the work is done. I have to say that the amount of hazard reduction work has doubled in the time we have been in Government. In the last 12 months we have doubled what was done under the previous Government. Those figures are there for all to see. The Government will continue to work with communities. The Government has given the Rural Fire Service the encouragement, support and resources to do it. It is up to the Rural Fire Service working with councils, residents and landholders to work out where the risks are and what the priorities are.

HEAVY VEHICLE SAFETY

The Hon. AMANDA FAZIO: I direct my question to the Minister for Roads and Ports. Will the Minister inform the House whether, in light of the fuel tanker accident in Mona Vale, changes will be introduced so that all heavy vehicles are required to install black box technology?

The Hon. DUNCAN GAY: I thank the honourable member for her question. I heard the Opposition spokesman at the accident scene saying the same thing. First of all, black box technology is pretty much a global positioning system. Under the intelligent access program monitoring happens in the vehicle so that the right truck ends up with the right load and on the right road. That is the importance of it. Certainly it is an issue pushed by many transport operators across the State. People who are well respected have a point of view. It is important and I believe it is something that should be considered for the fuel industry. It is a point of view that I support.

Would the intelligent access program have stopped the accident at Mona Vale? No. If people are fair dinkum, they know that it would have told them what had happened afterwards. It would not have been proactive in ensuring that the mechanics were right on that vehicle. I cannot talk about the exact details of that accident. However, as I drove down Mona Vale Road last week I saw at the top of a hill a sign that said, "Trucks must engage low gear." At the bottom of the hill, right beside the cemetery, there was a sign that said, "Trucks may disengage low gear now." I ask members whether a vehicle using low gear would have attained that speed at the bottom of the hill. What would an intelligent access program or black box have done about that? We need to ensure that a proper authority is looking at the vehicles making sure that they are roadworthy and the proper procedures have been adhered to, particularly when a vehicle is carrying flammable liquids.

As many members would know, fuel tankers are not allowed in tunnels and must use specific roads above ground, for obvious reasons. The only place I know where trucks carrying flammable liquid pass through a tunnel is Lyttelton, outside Christchurch in New Zealand. The road fell away from the cliff and trucks use the tunnel from the port and out of Christchurch. To make sure that those trucks stay on specific routes is an important addendum. A black box cannot fix brakes, faulty steering, a faulty tail shaft or faulty spring hanger—that is about proper maintenance checks. This Government has gone to the Federal body and said that we need to look at this because out of this accident, and out of our surveillance following the accident, there is a glaring omission in our ability to check the roadworthiness of those vehicles. My answer is: It is a great suggestion if one is playing catch-up politics. If one wants to fix the trucks before accidents happen one has to go the other way.

The Hon. AMANDA FAZIO: I ask a supplementary question. Given the Minister's response, could he elucidate his answer in relation to the safety regime of truck inspections that he mentioned? Can he confirm to the House that he is now abandoning his proposal to have private inspectors working on the New South Wales truck safety inspection regime?

The Hon. DUNCAN GAY: I would have thought there is an ability to rule out a question that is an entirely new question, but I am happy to answer it.

The PRESIDENT: Order! At least part of the question required elucidation of an aspect of the answer that the Minister had given. If the Minister wishes to respond to that part of the question he may do so.

The Hon. DUNCAN GAY: Frankly, the part of the question concerning private certifiers was out of order. However, I am happy to answer.

The PRESIDENT: Order! I require no assistance from Opposition members.

The Hon. DUNCAN GAY: Nor do I.

The PRESIDENT: Order! I call the Hon. Luke Foley to order for the first time.

The Hon. DUNCAN GAY: Had the Opposition member and Opposition spokesman done their homework, they would have found that there was no reduction in inspectors. The only area where there has been a change is with lighter vehicles. The regulations relating to heavy vehicles and fuel tankers have not been changed. Members opposite are playing politics because the Government has been trying to help smaller operators and people in regional New South Wales, which simply demonstrates how desperate those opposite are.

EARLY CHILDHOOD INTERVENTION SERVICES

The Hon. MATTHEW MASON-COX: I direct my question to the Minister for Ageing, and Minister for Disability Services. Will the Minister update the House on what the New South Wales Government is doing to build the capacity of early childhood intervention services?

The Hon. JOHN AJAKA: I thank the honourable member for his question.

The Hon. Walt Secord: Point of order: The question is out of order because it does not relate to the Minister's portfolio responsibilities.

The PRESIDENT: Order! The honourable member took the point of order after the Minister had commenced his answer. The convention of the House is that the answer can therefore be given.

The Hon. JOHN AJAKA: Early childhood intervention services relate to children with disabilities. Every child, regardless of his or her needs, has the right to participate fully in the community and to have the same choices, opportunities and experiences as other children have. Children with disabilities should be provided with additional support to access those opportunities and to participate in an inclusive society that enables them to fulfil their potential. The Government is committed to building the capacity of early childhood intervention services to ensure that children with disabilities are supported as early as possible in inclusive mainstream settings. For children with a disability, prevention and early intervention services and supports aim to build their skills, to improve family wellbeing and resilience and to support the child and family at key life stages and transition points, such as starting preschool, primary school or high school.

The Government has recently provided a significant one-off boost in funding for early childhood intervention and services for children with disabilities. An investment of \$1 million has been made in Lifestart for a three-year project involving the establishment of clinical practice outreach support service hubs. The project will develop clinical leadership and therapy capacity in the early childhood intervention sector in the Illawarra local planning area, and will investigate opportunities for potential collaboration in metropolitan Sydney. Lifestart's clinical practice outreach and support service will comprise a multidisciplinary team that will build the clinical skills and therapy capacity of early childhood intervention services to support and to empower staff and families to support the child's learning and development. It will also provide packaged therapy services tailored to the needs of each family. At the same time, the service hubs will help to build the capacity and skills of mainstream service providers to include children with additional learning needs.

Staff training and resource packages covering a range of topics relevant to child disabilities will also be delivered. This transitional service model will enable the sharing of skills and knowledge, and assist professionals to integrate this expertise into their professional practice when working with children, families and mainstream services. This project is one of a number of strategies being implemented as part of the Government's Strengthening of Supports for Children and Families 0-8 Years Strategy, which aims to improve the way services are provided for children with disabilities and their families. The long-term aim of this strategy is to support children aged zero to eight and their families in local, inclusive, mainstream settings supported by the specialist system. The strategy is supported by evidence that the best outcomes for children with disabilities are achieved when effective support is provided as early as possible within a child's natural environment, such as at home or preschool, supported by specialist services in these settings. As part of this strategy, the Government will invest \$74.6 million in 2013-14 to support approximately 16,000 children—*[Time expired.]*

NEWCASTLE PORT TRANSACTION

Dr JOHN KAYE: I direct my question to the Minister for Police and Emergency Services, representing the Treasurer. Has a scoping study or other similar analysis been prepared in respect of the proposed Port of Newcastle transaction; and, if so, will the document be made public? If not, is such a document in preparation; and, if so, when it is completed will it be made public?

The Hon. MICHAEL GALLACHER: As requested by the member, I am happy to refer his question to the Treasurer. Last Friday I had the good fortune to join between 200 and 300 people at a luncheon in Newcastle at which support for the Government's decision about the Port of Newcastle was overwhelming. It is great to go to a city like Newcastle, and to see smiles on people's faces and a spring in their step because a dream they thought would never materialise is now becoming a reality.

The Hon. Steve Whan: What, your visiting?

The Hon. MICHAEL GALLACHER: I was there with our good friend Michael Costa talking about what the city will look like. It was good to be there with someone who has some progressive and good ideas. The member for Wallsend, Sonia Hornery, also attended the luncheon and I am sure she got as much out of it as we did. Be that as it may, it was great to be in Newcastle and to see people realising a dream. I suggest that if Dr John Kaye wants to see happy people realising a dream he should go to Newcastle and meet with small and medium business operators who, for the first time in their lives, will see their city developed.

This Government is providing the people of Newcastle with the opportunity to be employed and to be educated at a university that is very focused on relocating to the city. The Government is also providing a transport interchange facility, which I suspect will be the envy of every capital city in the country. All of this is only a couple of hours' drive from this place. Newcastle is a great city. I hope that The Greens finally realise the error of their ways and start to listen to what the community wants, and work with the people of the Hunter rather than constantly criticise them and try to drag them down.

Dr JOHN KAYE: I ask a supplementary question. Will the Minister elucidate his answer by telling the House when it was announced that the University of Newcastle is being relocated to the central business district?

The Hon. Duncan Gay: Point of order: That is a new question. The question was about the port scoping study.

Dr JOHN KAYE: To the point of order: The Minister clearly said that the University of Newcastle would be relocated to the city. I want to know when that announcement was made.

The PRESIDENT: Order! While it may have been relevant to something the Minister said, it is nevertheless a new question.

HEAVY VEHICLE SAFETY

The Hon. MICK VEITCH: I direct my question to the Minister for Roads and Ports. Why has the Government failed to act on a New South Wales Deputy State Coroner's 2011 recommendation that it be mandatory for tankers carrying dangerous goods to be fitted with stability control systems that apply the brakes automatically?

The Hon. DUNCAN GAY: This issue, of which the Minister for the Environment has carriage, has been acted on and is being acted on. It has been dealt with by Transport for NSW and has been forwarded for legislative action. The Government has also referred the issue to the National Heavy Vehicle Regulator because, once again, it cannot be dealt with in isolation by individual States. It was stated earlier that 60 per cent of transport movements in this country are through New South Wales, so there is no point in passing legislation in this State only; we must have national regulations. The tragic accident that happened on the Princes Highway on the South Coast just before the election involved the electronic stability control mechanism. I must be careful what I say because that accident is still the subject of a coroner's inquiry. However, I suspect that that mechanism was not the main cause of the accident: The cause of the accident was a trailer breaking away. However, in this accident it may have been something else.

EMERGENCY SERVICES VOLUNTEERS MEMORIAL SERVICE

The Hon. MELINDA PAVEY: My question is directed to the Minister for Police and Emergency Services. Will the Minister inform the House about the memorial for emergency services volunteers?

The Hon. MICHAEL GALLACHER: I thank the honourable member for her question; she is a great supporter of emergency services workers around the State. We are aware that the bushfire season has started early this year—our firefighters have been on alert and put to the test battling fires across the State. These bushfire emergencies are a constant reminder of all that our emergency services workers do, particularly our volunteers. We are incredibly lucky to have more than 80,000 emergency services volunteers in the State—not just firefighters—belonging to the NSW Rural Fire Service, the NSW State Emergency Service, the NSW Volunteer Rescue Association and Marine Rescue NSW.

Whilst we do all we can to ensure the safety of all emergency services members, tragically sometimes these men and women make the ultimate sacrifice in their endeavours to keep us safe. Each year a memorial service for our emergency services volunteers is held at the Volunteers Memorial in the Domain. This year's service was held on Sunday 13 October and I was proud to attend it. In 2001 the Governor of New South Wales, Her Excellency Professor Marie Bashir, AC, dedicated the Volunteers Memorial to honour emergency services volunteers, particularly those who have lost their lives as a result of that service. Each year we gather at the memorial to honour the men and women from these volunteer organisations, who turn out to assist their communities in times of need in all kinds of weather and at all times of the day and night.

These emergency situations can be extremely dangerous, and the dedication and professionalism of our emergency services workers and their commitment to volunteerism give them the strength and courage to carry out their task in some of the most appalling conditions. Sadly, 86 names of volunteers who have lost their lives are inscribed on the memorial. Those 86 names are a stark reminder of the inherent dangers associated with the work of our volunteers. This year marked the thirtieth anniversary of the deaths of Thomas Bielecke, Keith Campbell and Gregory Moon, members of the Heathcote Rural Fire Brigade, who lost their lives on 9 January 1983, whilst fighting a fire in hot and windy condition at Grays Point in Sydney's south. A special wreath was laid in their memory on Sunday. Thankfully, no new names were added to the memorial this year. I hope we can say the same next year.

The volunteer memorial service on Sunday was an opportunity to pay tribute to those whose names are inscribed on the memorial, but also to remember all of our volunteers without whom our communities would be less resilient and more vulnerable to emergency situations. I wish all our emergency services workers well heading into this busy season of bushfires, storms and floods. We also have people flocking to enjoy our waterways over summer. They may need assistance and rescue. Our volunteers will be on hand to ensure that the people of New South Wales receive the very best response from their emergency services personnel. To all our emergency services volunteers I say thank you. I particularly thank their families, who kiss and wave them farewell as they go off to do their volunteering work in the hope that they return—thankfully, overwhelmingly they do. We are equally grateful for the volunteers who allow them to do the job that they do.

TOBACCO OUTLETS

Reverend the Hon. FRED NILE: I ask the Minister for Police and Emergency Services, representing the Minister for Health, a question without notice. Is the Government aware that there are five times as many places selling cigarettes than there are pharmacies in New South Wales, and that research reveals that more than a quarter of retailers audited were breaking tobacco-retailing laws? Is the Government aware that a recent Cancer Council community-based survey of 2,743 adults found 79 per cent strongly supported or supported requiring tobacco retailers to have a licence to sell tobacco products? Will the New South Wales Minister for Health urgently convene a task force or upper House general purpose committee to evaluate and advise on policies for tobacco retail reform that will further accelerate the reduction in smoking rates in New South Wales?

The Hon. MICHAEL GALLACHER: I think it is wise for me to refer that question to the Minister for Health. We refer all questions for the Minister for Health directly to her. I will get the honourable member a satisfactory response as soon as practicable.

MONA VALE ROAD UPGRADE

The Hon. SHAOQUETT MOSELMANE: My question is directed to the Minister for Roads and Ports. Why is the Mona Vale Road upgrade still at the planning stage, despite being a key Liberal-Nationals election commitment?

The Hon. DUNCAN GAY: I thank the member for that question. I am sure it is no coincidence that Mona Vale Road is a matter of concern for the Opposition. As I indicated to the *Manly Daily*, there are problems on Mona Vale Road. The road needs to be fixed in certain areas, and it will be, particularly the areas around the accident site. Frankly, there are not just problems coming down the hill. The frustration going up the hill is an equally potent mix that, according to the local community, could well cause more accidents. We need to look at regulation. As I indicated earlier, there is currently a sign at the top of the hill, prior to the site of the recent accident involving the tanker, indicating that trucks must engage low gear. If they engage low gear, even without front brakes, there is a good chance of avoiding an accident.

We will look at whether we need stronger regulations in that area involving speed limits and/or cameras and passing lanes. I have to say, whether it is that road or any other road in the State, if vehicles are mechanically defective nothing can be done to the roads that will ultimately prevent an accident. That is the situation we face. Whilst I acknowledge we have already spent money on that road, we have committed to spending extra money and we will commit to spending even more money, because this accident highlights inadequacies in the area and reinforces the concern of the local member who has been on my back for some time—that is, Rob Stokes. I need to go elsewhere to deal with vehicles with mechanical faults.

Some questions today contained an inference that we might have been cutting the number of vehicle inspectors. In fact, we have not—we have 300 of them. We are short of about nine vehicle inspectors at the moment, and we are trying to replace them. We are allowing heavy vehicle authorised inspections to do the checks on some of the lower-tier vehicles, the parcel delivery-type vehicles. But all high-risk vehicles—that is, heavy vehicles and fuel vehicles—will continue to be, and have been, monitored properly. Smaller vehicles will be subject to random testing as well. The inference that we have tried to lower the standard is wrong.

We have already conducted enforcement campaigns. In fact, the company involved was number 66 on our list. Sometimes vehicles are not picked up if they do not hit the highways, but the vehicle involved in the accident had been picked up for smaller infringements. It was only when we did targeted testing that we found additional infringements. People will notice the dramatic decrease in speeding of heavy vehicles in New South Wales. That is because of Operation Steel 1, Operation Steel 2, Operation Steel 3 and Operation Steel 4 that we have been running across the State. [*Time expired.*]

WESTCONNEX MOTORWAY

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Roads and Ports. Will the Minister update the House on progress of the WestConnex motorway project?

The Hon. Amanda Fazio: They have to spend money on printing.

The Hon. DUNCAN GAY: It is worth spending money on printing if a government actually does something. The problem arises when a government prints glossy brochures with no intention of undertaking the project. I thank the member for her important question. WestConnex is a game-changing project for Western Sydney and for the New South Wales economy. I am delighted with the enormous momentum that is now behind the project. The Government is wasting no time in moving ahead with WestConnex since the approval of the business case last month and the lodgement of the planning application for the M4 widening.

We have since announced the awarding of the first major tender for the project. A joint team from SMEC/RPS has been appointed to prepare an environmental impact assessment for the WestConnex M4 widening. The environmental impact statement for the M4 widening will be exhibited for public comment early next year. We have released the concept design for the M4 widening, which involves widening the motorway to four lanes in each direction from Church Street to Homebush Bay Drive. Local communities and businesses are receiving information on the concept design and community forums by post.

The Government is embarking on one of the broadest community consultation programs of any infrastructure project in Australia. This includes advertised community forums, which begin next week in areas including Westmead, Granville, Homebush and Newington. Also this month we begin displays in major shopping centres along the M4 corridor, including Westfield Parramatta, Rhodes shopping centre, Westfield Penrith, Westfield Burwood, DFO Homebush and Wentworthville Shopping Plaza. Those are areas that Opposition members have never visited, which is why they are so quiet. These displays are being staffed by Roads and Maritime Services employees, who will be answering questions about the project from members of the public, and explaining its benefits and the construction timetable. Later this month we will hold the first large-scale industry briefing for all three stages of WestConnex.

The PRESIDENT: Order! I call the Hon. Penny Sharpe to order for the second time. I call the Hon. Amanda Fazio to order for the first time.

The Hon. DUNCAN GAY: This briefing, which follows two briefings on the first stage of the project, was attended by more than 100 industry leaders. This is the biggest infrastructure project underway anywhere in Australia and industry is keen to be involved. The Government will welcome innovative ideas from the market to deliver the best value for money for New South Wales taxpayers. WestConnex will be delivered in three

stages over 10 years. The infrastructure and finance sectors are being invited to help shape the delivery plan for the project. I am delighted to inform the House that this project is well on track for the start of construction in early 2015.

STATE EMERGENCY SERVICE FINANCES

Mr DAVID SHOEBRIDGE: My question without notice is directed to the Minister for Police and Emergency Services. Why did neither the Minister nor his office commence an investigation into alleged financial irregularities in the NSW State Emergency Service after being advised of them in October 2012 by the then Deputy Commissioner of Corporate Services and Planning?

The Hon. MICHAEL GALLACHER: As has been reported in the media, this matter may or may not be a matter that is currently subject to an investigation by the Independent Commission Against Corruption. Therefore I will be making no comment in relation to it.

ROADS AND MARITIME SERVICES STAFFING

The Hon. WALT SECORD: My question is directed to the Minister for Roads and Ports. In light of recent staff cuts at Roads and Maritime Services, how many safety compliance officer positions have been removed since 2011 and are there plans to further reduce their numbers?

The Hon. DUNCAN GAY: I think I just answered that question. Is this a question about road safety compliance officers? We have lots of safety compliance officers; which ones is the member referring to? Is the member referring to the heavy vehicle inspectors?

The Hon. Lynda Voltz: Point of order: The Minister is debating the question. The question was quite clear: It asked about safety compliance officers. The Minister should know the numbers of his safety compliance officers and whether they have been reduced.

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

The Hon. DUNCAN GAY: I am going to take a wild guess to help the Opposition and suggest that the question probably refers to the heavy vehicle safety compliance officers.

The Hon. Penny Sharpe: No.

The Hon. DUNCAN GAY: It is not the heavy vehicle ones? Is it the taxi ones?

The Hon. Penny Sharpe: It's all of them.

The Hon. DUNCAN GAY: Which ones do you want? Name one. Name any one.

CARERS WEEK

The Hon. NIALL BLAIR: My question is directed to the Minister for Ageing, and Minister for Disability Services. Will the Minister update the House on how the Government is supporting Carers Week in 2013?

The Hon. JOHN AJAKA: I thank the member for his question. I note that he and most members in this Chamber are wearing the carers' badge, and I thank them for that. The 850,000 carers in New South Wales make an enormous contribution to the community, often at great personal cost. This week is Carers Week. Celebrated nationally, the theme for Carers Week this year is "Be Care Aware". It reminds us that carers need our support and it challenges us to get to know more about carers in our communities, who they are, what they do and how we can support them. This year the Government provided \$146,000 to Carers NSW to fund local events during Carers Week. About 400 events, including morning and afternoon teas, pamper days and lunches will enable carers to take a break from their caring role and to celebrate their achievements. I was pleased to attend Carers Day Out in Martin Place at 8.00 a.m. today. Organised by Carers NSW, the City of Sydney and the Babana Aboriginal Men's Group—

The Hon. Walt Secord: You roll into the office at noon, kick the chairs, yell at the secretaries.

The Hon. JOHN AJAKA: I did not notice the Hon. Walt Secord there. This event enables carers and others in the city to enjoy the workshops and entertainment, and to learn more about carers. The NSW Carers Awards, held each October during Carers Week, recognise outstanding individuals and organisations that have made an exceptional contribution to caring. The awards provide us with an opportunity to pay tribute to the work and dedication of carers, and help to raise awareness of carers in our community. This year there were 119 award nominations. I was delighted to present the awards at Parliament House on 14 October 2013, to play my part in raising awareness about carers and to publicly thank and acknowledge them for the enormous contribution they make to our community.

I was honoured to meet the award recipients and to listen to their stories. Anne Naylor from West Pennant Hills was awarded Carer of the Year. Anne has four adult children, three of whom need her care because they have a disability. Not only does she provide her children with practical and emotional support so that they can thrive in life, but she also finds time to educate and mentor others. She has completed a Masters in Special Education and is a carer representative with Carers NSW. She has spoken on radio, has written newspaper articles about caregiving and is a published author of *Art from Adversity: A Life with Bipolar*. She is a remarkable woman.

I congratulate the nine highly commended award recipients, all of whom had extraordinary stories to tell of the love and dedication they have given to their loved ones: Brian Attard, Anne Burgess, Angela Chorusch, Wendy Harris, Karrie Lannstrom, Stephanie Pinilla, Sue Sharkey, Harold and Betty Smith, and Elizabeth Smyth. Organisations and support groups were also recognised for their contribution to carers, including Samarpan and Bankstown Dementia Carers Group. The NSW Carers Awards remind us of the remarkable dedication and support of which we are all capable. Our carers, and the organisations and groups that support them are role models for all of us. We should always remember that no government is able to care for all of its citizens without the great and valuable assistance voluntary carers provide to our community.

CARERS SUPPORT

The Hon. JAN BARHAM: My question without notice is directed to the Minister for Ageing, and Minister for Disability Services. I note that this is Carers Week 2013 and today is Carers Day Out. On 27 March this year the House passed my motion calling on the Government to provide accessible education programs for carers to address the information gap that exists between carers and the Carers Recognition Act 2010, which is designed to support them. Can the Minister update the House on progress in improving the access of carers to information about the legislation and services that are available to support them?

The Hon. JOHN AJAKA: I thank the member for her question. It gives me another opportunity to talk about carers. The Government recognises that carers make a significant contribution to the economic and social wellbeing of New South Wales by supporting some of the most vulnerable members of our community. Implementation of the Carers Recognition Act is a key focus for the New South Wales Government to raise recognition of awareness about carers. The Department of Family and Community Services Office for Carers is responsible for leading implementation of the Carers Recognition Act. The New South Wales Carers Recognition Act Implementation Plan 2011-2014 contains clear objectives about educating public sector staff, non-government organisations and carers about the Act. As the Act applies to New South Wales public sector agencies, this Government has focused implantation on those agencies rather than on carers themselves.

In 2012 a comprehensive suite of practical resources was distributed, and the Office for Carers commenced statewide information sessions for public sector agencies, including local councils, to support their understanding of carers and their obligations under the Act. Resources to promote understanding of the Carers Recognition Act include guidelines for public sector agencies, information sheets, brochures and carers charter posters. Resources include a brochure for carers themselves. In 2012-13 the Office for Carers delivered 35 statewide information sessions across the public sector and distributed the resources. Approximately 531 public staff, including local council staff, attended these sessions.

One thousand carer charter posters have been distributed to targeted public sector agencies, including all principal departments and 152 local councils. The New South Wales Government is listening to carers and is committed to strengthening the support currently available to them. That is why the O'Farrell Government is committed to developing a new NSW Carers Strategy, which will include whole-of-government strategies that focus on carers' employment and education, carer health and wellbeing, information about services and other supports, community awareness and carer engagement and improving the evidence base about carers. A wide range of stakeholders will be invited to actively participate in the development of this strategy.

I am confident the honourable member will participate actively in this process. It will include the carers themselves, employers, non-government organisations, industry representatives and other expert stakeholders. By drawing on a range of expertise we will find creative solutions that will make life better for carers in New South Wales. I announced on 14 October 2013 that early in 2014 I will be convening a carers summit to pull together the input from the groups that will be working on the carers strategy over the coming months. After the summit the carers strategy will be finalised. I thank the member for raising these issues and look forward to her active participation.

The Hon. MICHAEL GALLACHER: If members have any further questions, I suggest they place them on notice.

NEWCASTLE PORT TRANSACTION

The Hon. MICHAEL GALLACHER: Earlier in question time Dr John Kaye sought further information about Newcastle university. The member was obviously a bit confused or lacked an understanding of the issue. The New South Wales Government has set aside \$25 million under the Hunter Infrastructure and Investment Fund towards the new city centre university facilities for its business, law and industry engagement programs and digital library facilities. The Government welcomes the funding contribution of \$30 million announced by the Commonwealth Government in April 2013 under its Education Investment Fund. The university campus, which is of course in the heart of Newcastle, will combine with existing providers to develop the new space education precinct and create a vibrant new activity centre for the entire Hunter community.

FIRE STATION CLOSURES

The Hon. MICHAEL GALLACHER: On 10 September 2013 the Hon. Luke Foley asked me a question without notice concerning the closure of fire stations during a bushfire that day. I refer the member to my detailed response to a similar question asked by the Hon. Adam Searle on 11 September 2013 on this subject.

HAWKESBURY WATER SUPPLY

The Hon. MICHAEL GALLACHER: On 11 September 2013 the Hon. Walt Secord asked me a question without notice concerning fire safety concerns in the Hawkesbury area. I provide the following response:

The NSW Rural Fire Service [RFS] has advised me that during major fire incidents, liaison officers from Sydney Water attend the RFS State Operations Centre and Local Fire Control Centres to ensure that strategic reservoirs are at maximum capacity to assist in maintaining water supply and pressure to the community. The RFS recently met with Sydney Water, which advised it has implemented a water pressure management program to ensure appropriate service delivery.

Further questions should be directed to the Minister for Primary Industries, who is responsible for Sydney Water.

MIRANDA FIRE STATION

The Hon. MICHAEL GALLACHER: On 11 September 2013 the Hon. Helen Westwood asked me a question without notice concerning Miranda fire station. I provide the following response:

I am advised by Fire and Rescue NSW that resources are always available to respond to incidents in Miranda and surrounding suburbs.

HUNTER VALLEY WATER SUPPLY

The Hon. MICHAEL GALLACHER: On 10 September 2013 the Hon. Robert Brown asked the Minister for Roads and Ports, representing the Minister for Finance and Services, a question without notice about building a desalination plant in the Hunter Valley in an effort to drought-proof that region, and how much such a plan would cost compared to the cost of the abandoned Tillegra dam project. The Minister for Roads and Ports and the Minister for Finance and Services have provided the following response:

A Lower Hunter Water Plan is currently being developed to determine the best ways of securing future water supplies for the lower Hunter, with a particular focus on developing a resilient mix of measures to respond to a future drought in the region.

Desalination was considered among a list of possible options, but research has shown a large-scale desalination plant is not required in the lower Hunter.

A possible option being considered for an extreme event when both the lower Hunter and the Central Coast are in extended drought is the temporary installation of portable desalination units. These temporary units can be installed if and when needed, and removed when no longer required.

A large-scale desalination plant is estimated to cost over \$800 million. The cost of the previously rejected Tillegra Dam proposal was in the order of \$500 million. Neither of these options is being considered by the NSW Government.

The draft Lower Hunter Water Plan is due to be submitted to the NSW Government in December 2013.

NEWCASTLE PORT CORPORATION

The Hon. MICHAEL GALLACHER: On 10 September 2013 Dr Mehreen Faruqi asked the Minister for Roads and Ports a question without notice about whether the Newcastle Port Corporation would remain its own consent authority for many environmental matters if privatised. The Minister for Roads and Ports has provided the following response:

I am advised:

Future environment consent arrangements will be subject to the outcomes of a scoping study.

Similar to the transaction process undertaken for the long-term lease of Port Botany and Port Kembla, the scoping study will consider the commercial, regulatory, financial and policy issues associated with the proposed lease of the Port of Newcastle.

The scoping study is currently underway and the findings are yet to be considered by the Government.

SUGARLOAF STATE CONSERVATION AREA MINE SUBSIDENCE

The Hon. MICHAEL GALLACHER: On 10 September 2013 the Hon. Jeremy Buckingham asked the Minister for Roads and Ports, representing the Minister for Resources and Energy, a question without notice about longwall mining in the Sugarloaf State Conservation Area. The Minister for Resources and Energy has provided the Minister for Roads and Ports with the following response:

I refer the member to comments made by the Premier to the Assembly on 12 September 2013.

MOUNT OUSLEY ROAD UPGRADE

The Hon. MICHAEL GALLACHER: On 10 September 2013 the Hon. Penny Sharpe asked the Minister for Roads and Ports a question without notice about completion of Mount Ousley Road upgrades. The Minister for Roads and Ports has provided the following response:

I am advised:

The new Commonwealth Government is yet to provide full details of funding commitments for transport infrastructure.

The New South Wales Government remains committed to progressing the Princes Motorway (Mount Ousley Road) Climbing Lanes project. A review of environmental factors is due for completion in mid-2014.

ASSISTED BOARDING HOUSE COMPLIANCE MONITORING

The Hon. JOHN AJAKA: On 10 September 2013 the Hon. Jan Barham asked me a question without notice about boarding house compliance officers. I provide the following response:

With the introduction of the Boarding Houses Act 2012, three boarding house compliance officers and six other officers from within Ageing, Disability and Home Care have been appointed as enforcement officers. While based in Sydney, these officers have a statewide purview.

Five other officers have also received training. While not appointed as enforcement officers, they are available to assist compliance officers on inspections if required.

Ongoing training for the boarding house compliance officers and boarding house caseworkers will be reviewed as necessary as the new Act is implemented.

WOLLONDILLY NATIONAL PARKS AND WILDLIFE SERVICE STAFFING

The Hon. JOHN AJAKA: On 11 September 2013 Dr Mehreen Faruqi asked me, representing the Minister for the Environment, a question without notice about Wollondilly National Parks and Wildlife Service staffing. The Minister for the Environment has provided the following response:

The number of National Parks and Wildlife Service positions at Wollondilly has not been reduced nor are there plans to reduce the number of positions in Wollondilly.

TELEVISION TIME ZONE RESTRICTIONS

The Hon. JOHN AJAKA: On 11 September 2013 Reverend the Hon. Fred Nile asked me, representing the Minister for Family and Community Services, a question without notice about a recommendation to abolish time zone restrictions that protect children. The Minister for Family and Community Services has provided the following response:

The Australian Communications and Media Authority is an Australian Government statutory authority and, as such, the regulation of free-to-air TV is an Australian Government matter.

DEFERRED ANSWERS

The following answers to questions without notice were received by the Clerk during the adjournment of the House:

TEACHER IMPROVEMENT PROGRAMS

On 20 August 2013 the Hon. Paul Green asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Education, a question without notice regarding teacher improvement programs. The Minister for Education provided the following response:

As at 28 August 2013 there are 46 improvement programs being implemented.

The Department of Education and Communities has structured procedures for managing underperforming teachers. Teachers who are identified as experiencing difficulty with their performance are managed in accordance with the Teacher Improvement Program procedures. Procedures are also in place for executive teachers and principals.

A performance improvement program, negotiated with the teacher, is 10 weeks duration. It involves the identification of the areas of performance, the strategies and support to be provided to assist the teacher address these concerns and the monitoring and review procedures to be followed.

In determining the minimum level of satisfactory performance of a teacher, principals are to apply seven key standards:

- The teacher knows their subject content and how to teach it to their students
- The teacher knows their students and how they learn
- The teacher plans, assesses and reports for effective learning
- The teacher communicates effectively with their students
- The teacher creates and maintains a safe and challenging learning environment through the use of classroom management skills
- The teacher continually improves their professional knowledge and practice
- The teacher is an actively engaged member of their profession.

RACING INDUSTRY AND GAMBLING

On 20 August 2013 Dr John Kaye asked the Minister for Police and Emergency Services, representing the Minister for Tourism, Major Events, Hospitality and Racing, a question without notice regarding the racing industry and gambling. The Acting Minister for Tourism, Major Events, Hospitality and Racing provided the following response:

With regard to wagering on racing, sporting and other events, betting services may only be lawfully conducted in New South Wales by TAB Limited, which is licensed by the Government, and by bookmakers licensed by a controlling body of racing i.e. Racing NSW, Harness Racing NSW and Greyhound Racing NSW. The relevant legislation governing the licensing of these operators contains provisions which enable the licensing bodies to ensure that only fit and proper persons are involved in the conduct of betting services.

In the case of sporting and other non-racing events, betting may only be conducted by New South Wales licensed wagering operators on declared betting events—sports betting—approved by the Minister for Tourism, Major Events, Hospitality and Racing. In addition, New South Wales licensed wagering operators are required to conduct betting in accordance with approved rules and operating conditions.

As part of a national approach to address match fixing in sport agreed to by State and Territory sports Ministers, the New South Wales Government introduced new match-fixing offences and penalties in September 2012. The changes introduced a maximum penalty of 10 years imprisonment for anyone found to have engaged in or facilitated conduct that corrupts the betting outcome of an event.

Another aspect of the national approach to match fixing involves a nationally consistent regulatory framework to govern the relationship between sporting organisations and wagering operators—including agreement on bet types offered. This includes an operational model agreed to by State and Territory sports Ministers involving processes for sports controlling

bodies to enter into integrity agreements with betting agencies, and for sports controlling bodies to exercise rights of veto on bet types under those agreements. The Minister for Tourism, Major Events, Hospitality and Racing, and the Minister for Sport and Recreation are currently taking forward a proposal to implement the operational model in New South Wales.

I am advised that the TAB has recently strengthened internal controls and systems to assess and monitor betting trends and mitigate risk associated with its various wagering options across customer accounts and retail cash transactions. This will provide more robust system reporting and analysis for declared betting events, including sporting events, and fixed price racing betting.

The operation of gaming machines in New South Wales may only be lawfully conducted by hotels and registered clubs holding a liquor licence. The New South Wales liquor laws require that the Independent Liquor and Gaming Authority—the Authority—must be satisfied that only fit and proper persons may hold such a licence. These laws also provide that any member or close associate of a criminal organisation declared under the Crimes (Criminal Organisations Control) Act 2012 is not a fit and proper person.

The manufacture, sale, servicing and repair of gaming machines in New South Wales must be undertaken by persons licensed under the Gaming Machines Act 2001. The Authority must also be satisfied that only fit and proper persons may hold a gaming-related licence.

Provisions also exist to prevent corrupt behaviour such as in the registered club industry. There are provisions within the Registered Clubs Act 1976 that apply strict limits to the circumstances in which an offer of travel can be made and accepted in purchasing goods and services including from gaming machine manufacturers.

Restrictions also apply to key government officials, both current and former officials for a period of four years after ceasing to be a key official, under the Gaming and Liquor Administration Act 2007. For example, staff of the Department of Trade and Investment, NSW Police or the authority must not hold a gaming or liquor licence, or be employed by such a licence holder.

KOONA BAY SEWAGE WORKS

On 20 August 2013 the Hon. Walt Secord asked the Minister for the Illawarra a question without notice regarding Koon Bay sewage works. The Minister for the Illawarra provided the following response:

In 2009, Sydney Water completed work in Koon Bay to reduce the number of wet weather flows and this work has greatly improved the issue.

Since 1 January 2012, Sydney Water has only received one call out to a property for a sewer charge on Koon Road in early July 2013. This was attended to and cleaned up by a Sydney Water crew.

Sydney Water continues to monitor the wastewater system in Koon Bay to identify any improvements required to cope with extreme wet weather.

PAYROLL TAX REBATE SCHEME

On 20 August 2013 the Hon. Peter Primrose asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra a question without notice regarding the payroll tax rebate scheme. The Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, provided the following response:

The New South Wales Government is seeking to maximise the use of the Payroll Tax Rebate Scheme as part of its commitment to increasing employment opportunities for graduates of the Transition to Work [TTW] program.

A Payroll Tax Rebate Scheme factsheet has been mailed to all TTW providers and to members of the Australian Industry Group by Ageing, Disability and Home Care [ADHC]. The fact sheet provides information on how the scheme works and how to claim the rebate.

A roundtable of large employer and disability industry organisations was also hosted by ADHC in June 2013 as part of the efforts to promote the scheme.

GUN CRIME

On 21 August 2013 the Hon. Robert Borsak asked the Minister for Police and Emergency Services, representing the Premier, a question without notice regarding gun crime. The Minister for Police and Emergency Services provided the following response:

I am advised:

The Crimes Act 1900 sets out numerous offences where a higher penalty is available when a weapon is used or even just present during the commission of an offence, including for example aggravated sexual assault, maximum penalty of 20 years imprisonment; robbery being armed, 25 years; and being armed with intent to commit an indictable offence, seven years, amongst others.

Further, criminals that possess firearms may also be charged with unlawful possession of a firearm in addition to any other crimes that they may have committed. The maximum penalty for possession of an unlawful firearm is 14 years imprisonment.

Under the Crimes (Sentencing Procedure) Act 1999 the use or threat to use a weapon in the commission of a crime is also considered an aggravating factor to be considered by a court when sentencing an offender.

PUBLIC HOUSING BED TAX

On 21 August 2013 the Hon. Sophie Cotsis asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra a question without notice regarding the public housing bed tax. The Minister for Family and Community Services, and Minister for Women, provided the following response:

There is no public housing bed tax policy. The New South Wales Government recently announced new incentives to fill vacant bedrooms in public housing.

Further information on the new incentives to fill vacant bedrooms is available on the Housing NSW website.

BENDEELA WOMBAT COLONY

On 21 August 2013 the Hon. Walt Secord asked the Minister for the Illawarra a question without notice regarding the Bendeela wombat colony. The Minister for the Environment provided the following response:

I am advised as follows:

This question should be directed to the Minister for Primary Industries as the Minister responsible for the Sydney Catchment Authority.

GRANVILLE STATION PEDESTRIAN SAFETY

On 21 August 2013 the Hon. Lynda Voltz asked the Minister for Roads and Ports a question without notice regarding Granville Station pedestrian safety. The Minister for Roads and Ports provided the following response:

I am advised:

The existing painted median was not designed to be used as a pedestrian refuge.

Pedestrians wishing to safely cross Parramatta Road and continue onto Granville Station can use the signalised pedestrian crossing at the intersection of Good Street.

DEPARTMENT OF FAMILY AND COMMUNITY SERVICES CASEWORKERS

On 22 August 2013 Reverend the Hon. Fred Nile asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Family and Community Services, a question without notice regarding the Department of Family and Community Services caseworkers. The Minister for Family and Community Services provided the following response:

The Department of Family and Community Services [FACS] is working to fill all budgeted caseworker positions. The Government funds 2068 caseworker positions, and expects to see them on the ground.

Caseworkers are improving how they work with children, young people and their families at risk of significant harm [ROSH]. Caseworkers have increased the number of face-to-face assessments provided to vulnerable children and young people reported at ROSH from one in five, 21 per cent, in 2010 to just over one in four, 27 per cent, in 2011-12. Caseworkers are seeing 4150 more children than they saw in 2010.

Community Services is improving casework practice by trialling different ways of working with the most at-risk families, and is working to improve services and lives for vulnerable children. This enables improved services to children, young people and their families across the spectrum of government and non-government agencies. Details about initiatives and programs are available on the FACS website.

FACS has recently moved to a more localised model by aligning its service delivery networks with the 15 districts of NSW Health. This will promote better integration across the service system, stronger local relationships and better coordination across government and non-government agencies.

Community Services has undertaken a review of child protection legislation to consider reforms that will achieve better outcomes for vulnerable children. These reforms were included in the Child Protection Reform Discussion Paper, and are intended to improve parental accountability and responsibility, and permanency for children in foster care including adoption.

STATE EMERGENCY MANAGEMENT PLANS

On 22 August 2013 the Hon. Jan Barham asked the Minister for Police and Emergency Services a question without notice regarding the State emergency management plans. The Minister for Police and Emergency Services provided the following response:

I am advised:

Recommendation Eight of the committee's report relates specifically to emergency management plans for vulnerable groups, relevant to their geographic settings.

Goal 28 under NSW 2021 is ensuring New South Wales is ready to deal with major emergencies and natural disasters. Under this goal, State-level hazard specific sub-plans are tested by reviewing and conducting exercises every two years.

I can confirm that the planning undertaken by emergency service organisations in New South Wales requires them to take into account the vulnerable members of our community. Both the NSW Rural Fire Service [NSW RFS] and the NSW State Emergency Service [NSW SES] work with local communities to prepare appropriate plans to manage fires in rural fire districts and to protect persons in flood, storm and tsunami respectively.

COASTAL PROPERTY PROTECTION

On 22 August 2013 the Hon. Robert Borsak asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra a question without notice regarding coastal property protection. The Minister for the Environment provided the following response:

The New South Wales Government will continue to seek legal advice on all aspects of its coastal reform program.

MINING EXCLUSION ZONES

On 22 August 2013 the Hon. Jeremy Buckingham asked the Minister for Police and Emergency Services, representing the Minister for Planning and Infrastructure, a question without notice regarding mining exclusion zones. The Minister for Planning and Infrastructure provided the following response:

The Department of Planning and Infrastructure exhibited draft amendments to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 between March and April 2013 to implement the exclusion zones.

The department received more than 600 submissions during the exhibition period. These submissions raised a number of complex matters that required further consideration. The department is considering these matters carefully.

It is expected the final State environmental planning policy [SEPP] will be published in the near future.

POLITICAL LOBBYING

On 27 August 2013 Dr John Kaye asked the Minister for Police and Emergency Services, representing the Premier, a question without notice regarding political lobbying. The Minister for Police and Emergency Services provided the following response:

I am advised:

Meetings with lobbyists are in accordance with the NSW Government Lobbyist Code of Conduct. As I stated in the budget estimates hearing, if people want to come and see members of my Government they do not need to employ lobbyists, they simply need to ring up for an appointment.

DOG CONTROL

On 27 August 2013 the Hon. Sophie Cotsis asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Local Government, a question without notice regarding dog control. The Minister for Local Government provided the following response:

I provide the following details in response to your questions:

The New South Wales Government recently announced a package of measures to respond to the Companion Animals Taskforce and to concerns about dangerous and threatening dogs in the New South Wales community.

In particular, the Government intends to introduce a bill into the spring session of Parliament to introduce "potentially dangerous dog"—termed "menacing dog"—controls. This measure will help councils and police proactively target dogs at risk of attacking and provide them with a broader range of options to prevent dog attacks.

NATIONAL DISABILITY STRATEGY NSW IMPLEMENTATION PLAN

On 27 August 2013 the Hon. Jan Barham asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra a question without notice regarding the National Disability Strategy NSW Implementation Plan. The Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, provided the following response:

The baseline report outlining the progress of the implementation of the National Disability Strategy NSW Implementation Plan 2012-14 is currently being finalised and will be made available on the Family and Community Services [FACS] website in 2013.

All agencies will then be required to provide a 12 month progress report on the implementation of their actions as at December 2013. Subject to all agencies submitting their reports, a consolidated New South Wales progress report will be made available on the FACS website in early 2014.

SMALL BUSINESS COMMISSIONER BILL

On 28 August 2013 the Hon. Adam Searle asked the Minister for Roads and Ports, representing the Minister for Small Business, a question without notice regarding the Small Business Commissioner Bill. The Minister for Small Business provided the following response:

The Small Business Commissioner Act was assented on 7 May 2013. For the Act to be proclaimed, the Small Business Commissioner must be appointed as an independent statutory officer.

This process has now been completed and the Small Business Commissioner Act was proclaimed on Wednesday 18 September 2013.

POLICE TRANSPORT COMMAND

On 28 August 2013 the Hon. Penny Sharpe asked the Minister for Police and Emergency Services a question without notice regarding the Police Transport Command. The Minister for Police and Emergency Services provided the following response:

I am advised:

Operational requirements will dictate whether or not police can service the entire journey. However the majority of guardian services have had police on those services for the entire journey.

RENEWABLE ENERGY INDUSTRY COUNCIL RATES

On 28 August 2013 the Hon. Robert Borsak asked the Minister for Police and Emergency Services, representing the Premier, a question without notice regarding the Renewable Energy Industry Council rates. The Minister for Police and Emergency Services provided the following response:

I am advised:

The Upper Lachlan Shire Council wrote to the Premier in July 2013. The Minister for Local Government, the Hon Don Page, MP, and the Minister for Resources and Energy, the Hon Chris Hartcher, MP, have responded on the Premier's behalf.

FULLERTON COVE RESIDENTS ACTION GROUP

On 28 August 2013 the Hon. Jeremy Buckingham asked the Minister for Roads and Ports, representing the Minister for Trade and Investment, a question without notice regarding the Fullerton Cove Residents Action Group. The Minister for Trade and Investment provided the following response:

Judgement was handed down in this matter on 11 September 2013.

Costs were being sought by NSW Trade and Investment to ensure taxpayers' money was not wasted fighting a case that was unsuccessfully brought against the Government by the Fullerton Cove Residents Action Group in relation to the valid drilling of two sets of pilot appraisal wells at Fullerton Cove.

The Land and Environment Court determined that as the proceedings had been commenced in the public interest, the action group did not have to pay the department's costs of successfully defending the case.

KURNELL SEWERAGE SYSTEM

On 28 August 2013 the Hon. Walt Secord asked the Minister for Roads and Ports, representing the Minister for Finance and Services, a question without notice regarding the Kurnell sewerage system. The Minister for Finance and Services provided the following response:

Mr Secord's accusations are incorrect: 764 Sydney Water customers in Kurnell who were highly inconvenienced by the wastewater incident over three days in July 2013 will have their annual \$570.76 wastewater service charge waived from their Sydney Water accounts. The \$50 rebate was provided to customers in surrounding areas who experienced lesser impacts.

GALLIPOLI 2015 CENTENNIAL COMMEMORATION

On 28 August 2013 Reverend the Hon. Fred Nile asked the Minister for Police and Emergency Services, representing the Premier, a question without notice regarding the Gallipoli 2015 Centennial Commemoration. The Minister for Police and Emergency Services provided the following response:

I am advised:

The New South Wales Government stands by the sentiments expressed in the motion unanimously passed by both Houses of this Parliament.

The matters raised by the Turkish Government in relation to travel by Australian citizens are best dealt with by the Federal Minister for Foreign Affairs.

WIND FARMS PLANNING GUIDELINES

On 28 August 2013 Dr John Kaye asked the Minister for Police and Emergency Services, representing the Minister for Planning and Infrastructure, a question without notice regarding wind farms planning guidelines. The Minister for Planning and Infrastructure provided the following response:

Key elements of the wind farm guidelines are currently being finalised.

COBBORA COAL PROJECT

On 29 August 2013 Reverend the Hon. Fred Nile asked the Minister for Police and Emergency Services, representing the Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW, a question without notice regarding the Cobbora coal project. The Minister for Planning and Infrastructure, and Minister Assisting the Premier on Infrastructure NSW, provided the following response:

Yes. A revised preferred project report [PPR] including a response to the PAC recommendations has been submitted and is publicly available on the Department's website.

It is anticipated that the department's assessment report will be made publicly available in the near future.

DOG CONTROL

On 29 August 2013 the Hon. Sophie Cotsis asked the Minister for Police and Emergency Services a question without notice regarding dog control. The Minister for Police and Emergency Services provided the following response:

I refer the honourable member to the Government Response to the Companion Animals Taskforce, which was released on 21 August 2013.

BUSHFIRE RISK MANAGEMENT

On 29 August 2013 the Hon. Robert Borsak asked the Minister for Police and Emergency Services a question without notice regarding bushfire risk management. The Minister for Police and Emergency Services provided the following response:

The NSW Rural Fire Service [NSW RFS] has advised me that the study referred to by the member did not claim "houses up to one kilometre away from large forest areas are at risk from wildfire". Rather, the key finding of the research identified that fuel management of forested areas that extend up to one kilometre from houses had a greater influence on the level of bushfire impact than fuel management within 100 metres or 200 metres. This was primarily due to the amount of energy and embers produced by a bush fire.

The research highlights the importance of managing fuel loads through prescribed burning for sufficient distances surrounding interface areas to significantly reduce embers and take the energy out of a large fire. In some cases, the implementation of prescribed burning activities for a depth of 100 metres to 200 metres will not be adequate. It is also important to note that this research investigated Victorian tall forested landscapes with extremely high fuel loads, which would be a worst case example within Australia.

New South Wales has a comprehensive risk planning system implemented through bush fire risk management plans. Risk management zones in New South Wales do not have a specified size, but are determined by a range of factors on a case-by-case basis.

The NSW RFS is reviewing its zoning strategies based on this and other recent research which identifies the importance of appropriate setbacks and fuel treatments on the bushland urban interface.

CENTRAL COAST WATER CORPORATION

On 29 August 2013 the Hon. Walt Secord asked the Minister for Police and Emergency Services, representing the Premier and the Minister for the Central Coast, a question without notice regarding the Central Coast Water Corporation. The Minister for the Central Coast provided the following response:

This question should be directed to the Minister for Primary Industries.

WILDERNESS AND HERITAGE AREAS ACCOMMODATION

On 29 August 2013 the Hon. Robert Brown asked the Minister for Roads and Ports, representing the Minister for the Environment, a question without notice regarding wilderness and heritage areas accommodation. The Minister for the Environment provided the following response:

Yes. I am advised as follows.

I understand the development in Tasmania does not actually involve a new building, but rather, the restoration of the former 1940s art deco hydroelectric pump house on Lake St Clair in Tasmania's World Heritage area.

Adaptive re-use is a practice that New South Wales has already embraced in our national parks system. The North Head Quarantine Station in Sydney Harbour National Park is a partnership with the private sector to provide visitor accommodation, interpretive tours, a restaurant and other visitor facilities. The quarantine station has national heritage listing and the project has delivered significant investment in restoration of the site's cultural values.

More recently, the National Parks and Wildlife Service has also worked with the private sector to restore the historic lighthouse keeper buildings at Ben Boyd National Park on the far South Coast. These are now available for accommodation bookings as part of the overnight Light to Light Walk.

There are hundreds of leases for tourist or visitor facilities, such as unique accommodation or outstanding cafes and restaurants, throughout New South Wales national parks.

DOMESTIC VIOLENCE LIAISON OFFICERS

On 29 August 2013 the Hon. Helen Westwood asked the Minister for Police and Emergency Services a question without notice regarding domestic violence liaison officers. The Minister for Police and Emergency Services provided the following response:

The NSW Police Force has advised me that as at 27 September 2013 there were two domestic violence liaison officer [DVLO] positions vacant across the State. These vacancies are being addressed through recruitment and other action.

SUGARLOAF STATE CONSERVATION AREA MINE SUBSIDENCE

On 29 August 2013 Dr Mehreen Faruqi asked the Minister for Roads and Ports, representing the Minister for the Environment, a question without notice regarding the Sugarloaf State Conservation Area mine subsidence. The Minister for the Environment provided the following response:

Management of the Government's response to the subsidence event is the responsibility of the Minister for Planning and Infrastructure.

HOUSING FOR THE DISABLED AND ELDERLY

On 29 August 2013 Mr David Shoebridge asked the Minister for Roads and Ports, representing the Minister for Ageing, and Minister for Disability Services, a question without notice regarding housing for the disabled and elderly. The Minister for Ageing, and Minister for Disability Services, provided the following response:

The Department of Family and Community Services has been consulted by the Department of Planning and Infrastructure on the proposals in the white paper and has provided comment on the needs of older people and people with disability.

GOSFORD TAFE CAMPUS ASSETS

On 29 August 2013 the Hon. Greg Donnelly asked the Minister for Police and Emergency Services, representing the Minister for Education, a question without notice regarding Gosford TAFE campus assets. The Minister for Education provided the following response:

In 2011, TAFE NSW Hunter Institute purchased a computer numerically controlled [CNC] milling machine.

The CNC machine was initially installed at Gosford campus in April 2012. However, in order to address identified training needs at Newcastle campus the institute's faculty management team decided to relocate the machine to Newcastle campus in August 2013.

The CNC milling machine was required for the delivery of higher level qualifications including Certificate I—CNC programming offered at the institute's Centre of Excellence in Engineering at Newcastle Campus. Whilst the Certificate III Engineering—Mechanical is still delivered at Gosford campus, the CNC milling machine is not essential for the delivery of the Certificate III trade qualifications.

DEATH OF MARK FOWLER

On 29 August 2013 the Hon. Lynda Voltz asked the Minister for Police and Emergency Services a question without notice regarding the death of Mark Fowler. The Minister for Police and Emergency Services provided the following response:

The NSW Police Force has advised me that a brief of evidence regarding the death of Mr Mark Fowler at a combat sports event in 2011 has been provided to the Coroner and an inquest has been listed for hearing at the Coroner's Court on 7 November 2013.

Questions without notice concluded.**ADMINISTRATION OF THE GOVERNMENT OF THE STATE**

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

T Bathurst
LIEUTENANT-GOVERNOR

Office of the Governor
Sydney 2000

The Honourable Thomas Frederick Bathurst, Lieutenant-Governor of the State of New South Wales, has the honour to inform the Legislative Council that, consequent on the Governor of New South Wales, Professor Marie Bashir, having assumed the administration of the Government of the Commonwealth, he has assumed the administration of the Government of the State.

Tuesday, 15 October 2013

OMBUDSMAN**Report**

The Hon. David Clarke tabled, pursuant to the Law Enforcement (Powers and Responsibilities) Act 2002, a report of the Ombudsman entitled, "Report under Section 242 (3C) of the Law Enforcement (Powers and Responsibilities) Act 2002—Criminal Organisations Search Warrants—for the period ending 7 August 2013", dated September 2013.

Ordered to be printed on motion by the Hon. David Clarke.

Pursuant to sessional orders debate on committee reports proceeded with.

STANDING COMMITTEE ON SOCIAL ISSUES**Report: Same-sex Marriage Law in New South Wales**

Debate resumed from 17 September 2013.

The Hon. HELEN WESTWOOD [5.08 p.m.]: I speak on the report of the Social Issues Committee following its inquiry into same-sex marriage law in New South Wales. I begin by acknowledging my colleagues and thanking them for their participation in and contribution to the inquiry, both through their input to the hearings of the committee and their reading of a large cross-section of the substantial submissions made to the committee. I acknowledge the Hon. Niall Blair, who did an outstanding job in chairing this inquiry which covered a controversial area of social policy and law—for some—in this State and country. I also acknowledge and thank my colleagues the Hon. Catherine Cusack, the Hon. Greg Donnelly, the Hon. Jan Barham and the Hon. Natasha Maclaren-Jones for their contributions.

I particularly thank the committee secretariat, that carries out the greatest load of the work of committees in preparing for the inquiry, setting up hearings, purveying and summarising the submissions for the committee to consider and then preparing the report: Mr Stewart Smith, Ms Miriam Cullen and Ms Christine Nguyen. We should never forget the Hansard staff, who do an outstanding job of recording the hearings and preparing the transcripts of evidence.

Other members of the committee have adequately covered some of the technical aspects of this report. I will focus on the terms of reference of the committee: legal issues surrounding the passing of marriage law at a State level; the response of other jurisdictions both in Australia and overseas to demands for marriage equality; to look at alternative models of legislation including civil unions; and changes in social attitudes, if any, to marriage. The committee found there is no doubt that attitudes to marriage have changed in the community—not for all; I think a minority in our community have a very traditional view of marriage. However a majority in the community have changed their attitudes to marriage and that was certainly evident in the submissions to the committee and in the public hearings.

Chapter four of the report outlines changes in social attitudes to marriage and has a section titled "Love". I think this will be the only report, or one of the very few reports, of any parliamentary inquiry that has such a title to a section. Love is most fitting because there is no doubt from the evidence the committee received that that is what marriage is about for many in the community. The committee did not receive any evidence that suggested that love was not at the heart of marriage. The committee heard evidence that marriage is about love, the desire of people to commit to each other for life and to express it publicly, and to have legal recognition of their love. I acknowledge that as I am the only member of this inquiry who is in a same-sex relationship I found some aspects of the evidence a little challenging. Indeed, I found some offensive; there is no doubt about that. I think that some people who submit to our hearings and inquiries are insensitive to the fact that there are people from all walks of life who are in same-sex relationships and who have value and are human beings of equal worth.

It is true to say that in the evidence the committee received from groups opposed to marriage equality and same-sex marriage and those who were supportive of it there was not a great level of support for civil unions as an alternative to marriage. I do not think that anyone disagreed with the committee's comment about the evidence it received and I do not think that a civil union is something that the Parliament should be considering as there does not seem to be an appetite for that in New South Wales. In relation to the response of

other jurisdictions, both in Australia and overseas, to demands for marriage equality, the evidence we received was varied. I do not think any other jurisdiction had exactly the same circumstances as those in New South Wales. They did not have a federal law that mirrors the Commonwealth of Australia Marriage Act. It was really difficult for this committee to point to any model of legislation in other jurisdictions that would serve New South Wales well.

In relation to any legal issue surrounding the passing of marriage laws at a State level, it is important to state that most of the submissions and evidence received by the committee related to the original draft bill, which was titled a bill for marriage equality. That bill had some problems, as was pointed out to the committee in the hearings and by way of submission by lawyers with a range of specialities. One of the difficulties in reading this report and the submissions and evidence that the committee received is that much of it refers to the original bill. People should take that into consideration when reading the report. The draft bill has been substantially amended to reflect the issues that were raised around constitutionality by various legal experts from whom the committee received submissions and heard evidence, and members need to take that into account.

The committee's finding clearly states that the State does have the power to enact a law but it will not be one for marriage equality. We will be creating a new category of legal relationship, that is, a same-sex marriage, which will not be marriage equality. Marriage equality for same-sex couples, transgender people and intersex people will only be achieved through a Commonwealth law. The gay, lesbian, bisexual, transgender and intersex community needs to be aware of that. If the draft bill is eventually debated and is passed by this Parliament it will be a law for same-sex marriage, not for marriage equality. In conclusion, I commend the report and thank all those involved in its preparation.

Dr John Kaye: Now for something completely different.

The Hon. MARIE FICARRA (Parliamentary Secretary) [5.18 p.m.]: That was great foresight on the part of Dr John Kaye. I speak on this most important social issue of same-sex marriage in New South Wales. I acknowledge the respectful contributions of the members of the Standing Committee on Social Issues chaired by the Hon. Niall Blair and the sincere manner in which participating members approached this controversial and at times divisive but important social issue. The mere fact that the committee was charged with examining the issue created a situation where all members of this House and I suspect the other place received thousands of electronic, written and verbal contributions at both polar ends of the matter. It is clear that this fundamental societal game changer will continue to be a polarising issue for some time yet. A similar debate on the matter was had in 2012 based on a private member's motion by the then Hon. Cate Faehrmann.

Sadly, the member never got the chance to conclude the debate. However, the diversity of opinions on the issue was expressed in lengthy debate and this has reflected the pattern of public discourse in our nation's parliaments over recent times. Accusations of intolerance or even, sadly, ridicule for the firm Christian family-based beliefs of middle Australia do not help the cause of proponents of same-sex marriage. Such reaction displays the same intolerance and lack of understanding of centuries of firmly held societal beliefs that proponents of same-sex marriage accuse others of displaying when they do not support their cause. Nevertheless, the issue is one where if the law were to change, I believe it would fundamentally change the face of Australian society. Such an issue should be not just a conscience vote but a referendum so that all citizens have the opportunity to tell us what they want for the future.

The issue for State parliaments has always come down to the question: Do we have the power to legislate and would this stand up to scrutiny in the High Court if challenged? The committee found the following: That New South Wales has the constitutional power to legislate on the subject of marriage; but should New South Wales choose to exercise this power and enact a law for same-sex marriage, the validity of that law could be subject to challenge in the High Court of Australia. If such a challenge occurred it is uncertain what the outcome of the case would be. In fact, the Federal Attorney-General, the Hon. George Brandis, has already declared that there will be a challenge in the High Court to the Australian Capital Territory Acts so we will be left in no doubt about that in the near future. Thus same-sex marriage rights for all Australians would be best achieved under Commonwealth legislation. Importantly, the chair of the committee, the Hon. Niall Blair, stated:

The committee could not say, if we chose to do that, whether the law would be valid, because that law may be subject to challenge in the High Court.

We should remember that the referral from the Premier to the committee in the first place was not to determine whether this Parliament should legislate for same-sex marriage in New South Wales but, rather, whether it was possible and what would happen. Patrick Parkinson, Professor of Law at the University of Sydney, made a pivotal contribution to the discussion in his submission. He said:

As we know, the Marriage Act 1961 was established to create a unitary set of rules for marriage across all jurisdictions within Australia. I decided to go back to look at the second reading speech made by Attorney-General Mr Ruddock in 2004. The position was made clear in that speech when he said, "Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life." Later, he went on to say:

"It is time that those words form the formal definition of marriage in the Marriage Act."

This bill will achieve that result.

Including this definition will remove any lingering concerns people may have that the legal definition of marriage may become eroded by time. The Hon. Dr Peter Phelps in his contribution to this report noted the reference to the future erosion in the definition of marriage as noted by the Federal Attorney-General at the time who stated:

The amendments to the Marriage Act contained in this bill will make it absolutely clear that Australia will not recognise same sex marriages entered into under the laws of another country, whatever country that may be.

Attorney-General Ruddock concluded:

It will provide certainty to all Australians about the meaning of marriage into the future.

Professor Parkinson in his submission to the inquiry also stated:

It is probably not possible, for constitutional reasons, to confer upon same sex couples the status of marriage in NSW. This is because there is already a federal law that was intended to create a comprehensive, national uniform law of marriage with which a state-based law would be inconsistent.

Any such law concerning same sex marriage would create a hybrid status, being a kind of 'marriage' with its own unique set of rules for limited purposes under the law of NSW, and a de facto relationship in federal law and in the law of other states and territories. Under some circumstances it may be neither a marriage nor a de facto relationship in federal law. Such a law would create a status that is different from marriage, rather than allowing a different kind of couple the right to marry.

There is a risk that in enacting a "same sex marriage" law in NSW, people may have expectations that cannot possibly be met. Furthermore, the public will be beset with misunderstandings in an area where there is already confusion enough as a result of the current muddled state of the law on relationships in Australia.

It should also be noted that Professor George Williams, a constitutional law expert from the University of New South Wales, put the position quite clearly when he stated that it really should be left to the Federal Government to make changes to the Marriage Act if same-sex marriage is to be legislated for. Much is made about the 15 to 17 overseas jurisdictions that have legislated for same-sex marriage compared to the more than 180 nations that have not. My point is that Australia and Australians will be the masters of their social destiny.

We are a fair and tolerant society that understands the diversity within our communities including physical and sexual attraction. However, to argue on that basis that we should change the fundamental premise of marriage from that of a long-recognised legal and religious acknowledgement of a union between a man and a woman is flawed logic. Tolerance does not mean we are obliged to render legal status. To achieve this, proponents of same-sex marriage will want a referendum and they should have a referendum to allow all Australians of voting age to decide democratically, as is their right on such an important social issue.

Dr JOHN KAYE [5.27 p.m.]: I speak briefly on the report entitled "Same-sex marriage law in New South Wales" of the Standing Committee on Social Issues. I congratulate the standing committee on its highly lucid report into this rather complex area. The question put to the Standing Committee on Social Issues was: could the New South Wales Parliament legislate for marriage equality, that is, remove the ban on people of the same sex marrying? Could that occur at a State level? The answer to that question contained effectively in chapter 6 is an unequivocal yes, the Parliament of New South Wales can legislate, based on a variety of legal opinions given to the committee—

Reverend the Hon. Fred Nile: It can be challenged in the High Court.

Dr JOHN KAYE: —and 1,257 submissions, some of which were ideologically opposed to marriage equality, some of which were ideologically supportive of—

The Hon. Niall Blair: There were more than 7,000.

Dr JOHN KAYE: More than 7,000 submissions? There are 1,257 in the appendix. Nevertheless, some were ideologically opposed, some were ideologically supportive and some were straight legal opinion. Certainly the committee heard evidence of legal opinion that the Parliament could legislate but, as Reverend the Hon. Fred Nile interjected earlier quite correctly, it could be challenged in the High Court. The legal question comes down to how the High Court would interpret its obligations under section 109 of the Australian Constitution that provides that where State and Commonwealth laws conflict the Commonwealth law will prevail.

The question the High Court would have to determine is whether a State-based law facilitating the marriage of two people of the same gender would conflict with the Federal law. That is a question that can be resolved by the High Court. As the committee said, only the High Court can do so and it can confirm the law only after legislation has been passed by the Parliament. If we use the argument that it would be unconstitutional to pass laws which created marriage equality in New South Wales then we would never really know the truth of the matter. The truth of the matter can only be found by passing such laws and I have no doubt there would then be a legal challenge. The constitutional question of inconsistency, as the committee identifies, is complex.

Reverend the Hon. Fred Nile: That is only one issue.

Dr JOHN KAYE: I encourage Reverend the Hon. Fred Nile to engage in this debate. In fact, I do not think that I need to encourage the Reverend the Hon. Fred Nile to engage in this debate. He will engage in this debate and I look forward to his contribution, as I always do. On this matter I find myself, as with a number of others, in substantial disagreement with him, but I respect his right to an opinion and respect his views even if I think he is deeply wrong about these matters. I will now express my view on this matter. I congratulate the committee members and those who supported the committee on producing a fine report. I note there are a couple of dissenting reports from the Hon. Greg Donnelly and the Hon. Natasha Maclaren-Jones.

The report removes the speed hump or barrier of constitutionality with respect to legislating to create marriage equality. It comes down to the final question of whether we ought to or not. That becomes a question of how one interprets the issue of equality before the law. The committee makes a valid observation that the Commonwealth Sex Discrimination Act 1984 has a specific exemption against discrimination on the basis of sexual orientation for anything done in accordance with the Commonwealth Marriage Act 1961. In the committee's view, and my view as well, that exemption effectively acknowledges the current operation of the Marriage Act 1961 is discriminatory.

The overwhelming majority of people in New South Wales, if asked, would agree that the Marriage Act 1961 is discriminatory and that discrimination should be corrected. It is my own very strong personal opinion that it is discriminatory. I have many friends who are in same-sex relationships and many friends who are gay, lesbian or bisexual and who do not want to marry, for understandable reasons. But all of them feel deeply discriminated against because there is an institution of the State that is closed off to them. The Hon. Dr Peter Phelps—another man with whom I generally find myself in substantial disagreement—and I are in agreement on this matter. As long as marriage is an institution of the State it should not be discriminatory. If there is a desire for marriage to remain discriminatory then perhaps it should no longer be an institution of the State.

The Hon. Dr Peter Phelps: Hear, hear!

Dr JOHN KAYE: I acknowledge the interjection by the Hon. Dr Peter Phelps. This Parliament in its wisdom created equality in same-sex partner registers. I voted for the legislation. As an instrument of the State it was inappropriate, as both Houses agreed in the last Parliament, to shut off the right to register a relationship because the two people in that relationship were of the same gender. I believe we should extend that right to marriage or this Parliament should take another look at how to legislate for marriage or whether it should legislate for marriage. I do not believe that any instrument of the State should discriminate. I do not believe that any instrument funded by the State should discriminate and I extend that to non-government schools. As long as funds come from the State they should be non-discriminatory and as long as actions are taken under State law those actions should be non-discriminatory.

The time has passed where it is acceptable for a modern State like New South Wales to discriminate because of sexual orientation or the gender of the person someone chooses to love. I understand that there is a minority in the community that oppose that view and have strong opinions in opposition to same-sex marriage. To them I say, do not do it. Stay away from it. If you do not like it do not do it. But, it is inappropriate for

people to prohibit and stop other people accessing an instrument of the State because of the gender of the person that they love and they wish to have a recognised relationship with, whether that relationship is recognised through a register or marriage. I commend the committee for its work on this issue. It is an issue I do not believe will go away until it is resolved in some form in favour of those who believe in equality before the law. I believe that the report from the Standing Committee on Social Issues before the Parliament today is an important step towards achieving that outcome.

The Hon. PAUL GREEN [5.36 p.m.]: I speak to report No. 47 of the Standing Committee on Social Issues entitled, "Same-sex marriage law in New South Wales", dated July 2013. I will largely speak in reflection of Reverend the Hon. Fred Nile's committee reply. This inquiry's main consideration was to seek clarification as to whether New South Wales can legislate on the topic of same-sex marriage and whether that legislation would withstand a High Court challenge. First and foremost, I would like to mirror the remarks of Professor Patrick Parkinson, Professor of Law at the University of Sydney, and state that there is already a Federal law intended to create a comprehensive national and uniform law of marriage with which a state-based law would be inconsistent and not allowed. In its submission to the inquiry the Ambrose Centre for Religious Liberty stated:

... A law allowing same-sex marriage would create a special category called "same-sex marriage" it would not be marriage per se as is commonly understood or as the Marriage Act defines marriage. Parties entering such a legal union could not claim to be married but in a legal union known as "same-sex marriage". To state otherwise would invite derision as to the legal status of such a union. Only the Commonwealth through the Marriage Act can legally create a marriage union which, by law, is a union of one man and one woman to the exclusion of all others for life.

I do note that the New South Wales Parliament in this House is constantly working to harmonise and assimilate State laws into Federal laws, and here we are moving in the opposite direction. The Ambrose Centre for Religious Liberty goes on to say:

Should the State law on same-sex marriage survive a High Court challenge, its immediate effects would be profound and possibly cause anxiety and confusion in some quarters of the community.

Of particular note, Reverend the Hon. Fred Nile explained that legislating for same-sex marriage in New South Wales, regardless of exempting clauses, would pose a grave threat to the human right of religious freedom. Faith communities could eventually be compelled to recognise same-sex marriage in their schools, charitable institutions, aged care and adoption services, or suffer the consequences of social or legal exclusion. The Ambrose Centre for Religious Liberty further states:

... State discrimination laws would immediately require revision and amending. What would be the impact on freedom of speech? What would churches be allowed to preach? What could individuals, including ministers of religion, be permitted to say about legal unions of same-sex?

It goes on further:

... would religious based schools be entitled to teach marriage between a man and a woman is the union best able to found and nurture a family?

... would religiously minded individuals be compelled by law, in the delivery of goods and services, to ignore their obligation in the observance of doctrine and comply with the law?

These are important legal ramifications that demand serious consideration before we adopt legal marriage unions for same-sex couples. What would we achieve by doing so? The Ambrose Centre explains:

Marriage has a specific understanding and embodies certain characteristics that are non-transferrable.

At present non-marriage relationships have the same legal, social, civil and welfare benefits as do all married couples. No additional benefits could or would flow to same-sex couples in a relationship if marriage was available to them.

There is no discrimination in play. All couples have the same rights at law and welfare.

The centre further states:

The State, therefore, would not be rectifying an injustice by legislating same-sex marriage. However, was it to do so it would only change the meaning of marriage to its detriment. It would change the identity of marriage from one based on gender to one where genders become meaningless.

The centre continues:

... legislating on same-sex marriage makes no sense and serves no useful purpose. It does not rectify any injustice, corrects no discrimination nor conforms to any human right. It merely adds confusion, uncertainty and coercively attempts to make normal a relationship which by any definition does not accord with biological or anatomical construction.

All this aside, I return to the main focus of the inquiry: Can the New South Wales Parliament pass legislation dealing with same-sex marriage and can it withstand a High Court of Australia challenge? The committee found that the New South Wales Parliament has the power to legislate with regard to marriage, including same-sex marriage. However, if it chooses to exercise that power it could be subject to a High Court challenge, the outcome of which is uncertain, and equal marriage rights for all Australians may therefore be achieved under Commonwealth legislation. I thank the committee for producing this report. However, I still question the validity of such legal unions in New South Wales without Commonwealth legislation and without serious consideration of the issues that many people have raised. I note Dr John Kaye's comment. To date this debate has been conducted with great respect, and I maintain my right to vote according to my values and conscience.

The Hon. JAN BARHAM [5.42 p.m.]: This was the first inquiry in which I have participated as a member of this place. I am pleased to be a member of the Standing Committee on Social Issues; it is a great honour. I acknowledge the Christian Democratic Party and the Shooters and Fishers Party for supporting my membership. I hope they find that I serve the House and the people of New South Wales well.

The Hon. Marie Ficarra: Hear, hear!

The Hon. JAN BARHAM: I thank the Hon. Marie Ficarra for that interjection. The Standing Committee on Social Issues is an important committee because it conducts inquiries into significant and sometimes contentious and contemporary issues. I also acknowledge the professionalism of the secretariat. The staff had a difficult task given the large number of submissions received. As always, the Hansard staff played an important role and had a taxing time keeping up with some of the debate. I particularly thank the chair of the committee, the Hon. Niall Blair, who shows great respect for other members and who ably leads the process to achieve positive outcomes.

The inquiry broke a New South Wales parliamentary record by receiving 7,586 submissions, which demonstrates the importance of this issue. The secretariat undertook the vital and difficult task of determining which submissions should be published, and the committee finally authorised the publication of 1,257. I again acknowledge the work undertaken by the secretariat. It was not easy to determine which submissions would properly represent the degree of interest expressed in this issue not only in New South Wales but also throughout Australia. The terms of reference might have confused some people who are interested in same-sex marriage and marriage equality; it appeared that some did not realise that the committee was charged only with inquiring into the legal issues surrounding passage of State legislation dealing with marriage.

As other members have said, we must remember the emotive nature of this issue and that it is an important social topic. Many people made representations about their personal situation and conveyed their attitudes to marriage equality. I was impressed by the level of interest in and concern about this controversial and contemporary issue. Other jurisdictions have commented on the value of the report and for that reason I acknowledge and pay tribute to the Premier, who initiated the reference for this inquiry. He understood that, despite the moral and social issues, we needed to address whether States could enact legislation dealing with same-sex marriage. We heard a wide range of views, and everybody has a right to express their views about social, moral and religious issues. However, the committee was charged with inquiring only into the legal issues. I thank everyone who made a submission, and particularly those who offered their professional knowledge.

People from all sides of the debate made submissions about the constitutional issues and provided legal interpretations. It was very important to me that some of the submissions dealing with the constitutional issues made suggestions about how any legislation introduced might avoid some of the pitfalls and problems that could arise in a High Court challenge. It is important to note that the committee was inquiring into not only whether legislation could be enacted but also whether any problems with the legislation could be addressed. I tried unsuccessfully to have those suggestions included in the report. They are important because they provide some direction. Page 156 of the report refers to the minutes of the meeting at which I proposed that a new paragraph be inserted in chapter 6 stating that if the Parliament were to proceed with same-sex marriage legislation it could consider the inclusion of a savings provision stipulating that the legal status of a de facto relationship and the eligibility to register such a relationship would be preserved.

Witnesses also highlighted the problems that might arise from the implementation of legislation and it was suggested that it could disadvantage some people. Problems were also raised with regard to a challenge to any such legislation. To address that I suggested that the report recommend that the New South Wales Parliament pass a bill providing for same-sex marriage, after which a declaration of validity could be sought

from the High Court of Australia. The State Attorney General could seek the cooperation of the Federal Attorney General in obtaining that declaration. If there is any further doubt about the ability to challenge a State law then these are the ways to ensure that there is greater security to achieving the outcome.

That is what came through in the report when all the submissions were received. This was about people wanting an outcome. As the Hon. Helen Westwood said, it is amazing that we have a parliamentary report that has a section on love. Love is the key issue in this report. It came through over and over again that this was about the love people felt for another human being. As someone who has chosen not to marry, what came through this report to me was that I had a choice and others did not. That seemed the relevant factor when we heard about the social issues and how people are treated. I was particularly grateful to my colleagues on the committee that I could insert a quote that really moved me. The quote is from Malcolm MacPherson, who raised the point that no-one else raised or put so succinctly. He referred to having been married for 27 years and he stated:

We have a marriage under the Marriage Act. ... My ex-wife was able to remarry and marry the man she loves. I do not have the freedom to do the same. Essentially I am a second-class citizen and my children do not deserve to have a father who is a second-class citizen.

This quote touched me. I am glad it is in the report, because it speaks to the issue of fairness and equity for all people to have a right to have their relationship not only legalised but also recognised by the rest of the State.

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

BUSINESS OF THE HOUSE

Postponement of Business

Committee Reports Order of the Day No. 2 postponed on motion by the Hon. Marie Ficarra and set down as an order of the day for a future day.

Budget Estimates 2013-14 Order of the Day postponed on motion by the Hon. Michael Gallacher and set down as an order of the day for a later hour.

Government Business Orders of the Day Nos 2, 3 and 4 postponed on motion by the Hon. Michael Gallacher and set down as an order of the day for a later hour.

FIREARMS AND CRIMINAL GROUPS LEGISLATION AMENDMENT BILL 2013

In Committee

Consideration resumed from an earlier hour.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.55 p.m.]: The Greens proposed amendments 1, 2 and 3 would allow a person who has been subject of a search by police, as provided for by proposed section 74A—particularly in relation to amendments 1 and 3—to apply to the Local Court to have the search declared unlawful on the basis that it was unreasonable, unjust, oppressive or otherwise an abuse of power. Should such a declaration be made, any evidence obtained as a result of the search would be rendered inadmissible by the declaration. It is further proposed that on an application for such a declaration, the court can declare that a further search cannot be conducted under proposed section 74A in relation to the person for a period of up to three months. These amendments, if passed, would substantially weaken the effectiveness of the search powers provided for by the bill. They would allow a court to restrain police from using their search powers for a period of up to three months. Quite clearly, the Government does not support this.

The purpose of the Government's reform is to ensure that police have the appropriate search and entry powers to determine whether a person who is subject to a firearm prohibition order has committed an offence in contravention of that order. If police are restrained from exercising the proposed search powers, this could potentially mean that breaches of the requirements of the order go undetected. It must be remembered that a person will only be the subject of a firearm prohibition order if police have determined that the person is not fit in the public interest to have possession of a firearm. The proposed search powers will only apply to this limited

category of people. Further, the search powers provided by the bill can only be exercised to determine whether certain serious firearm offences have been committed, in particular offences relating to the possession or use of firearms, firearm parts or ammunition.

The Government's bill places restrictions on the use of the powers by stipulating they may only be exercised as reasonably required for the purposes of determining whether or not one of the nominated offences has been committed. The proposed amendments would also provide an avenue to challenge evidence obtained as a result of the search, which is separate to the usual criminal trial process. The Government does not consider it appropriate or necessary to establish an alternative avenue for challenging evidence which is detached from the existing processes.

If an accused person is charged with an offence as a result of a search conducted under the new search powers and they consider that the evidence was obtained improperly, they will be able to challenge the admissibility of the evidence in the course of their trial as they ordinarily would. This is the appropriate way for the admissibility of evidence to be determined by a court. It is also important for members to realise that if people have concerns about police action being unreasonable, unjust, oppressive or otherwise an abuse of power, they will still be able to complain to the New South Wales Ombudsman or, if the allegations are far more serious in relation to the conduct of police, they can make complaints to the Police Integrity Commission.

Amendment 2 would result in the automatic repeal of the search powers in proposed section 74A five years after the commencement. The Government considers it is premature to require the automatic repeal of the powers in the absence of any evidence as to their impact or operation. The bill requires that the exercise of the powers be monitored by the Ombudsman for two years after their commencement. Further, the bill requires that the Ombudsman report back to the Attorney General and the Commissioner of Police on that monitoring. The Government will consider the Ombudsman's report and any reforms it recommends when it is received. The future operation of the new powers should be considered at that time.

Mr DAVID SHOEBRIDGE [5.59 p.m.]: I appreciate the Government's detailed response to the amendments. I will make a few observations. First, there is only a very limited ability in any party to challenge evidence when it comes before a court in a trial. There would be a far more limited capacity to challenge evidence under one of the discretionary provisions in the Evidence Act once the matter came before the court for trial and it would put in place substantial uncertainty about the prosecution's case until such time as those matters are determined at trial, potentially after spending tens or hundreds of thousands of dollars of public money in pulling together a prosecution brief, commencing legal proceedings and getting them before the District Court or the Supreme Court.

It would be far better to make those determinations earlier through this prompt procedure that The Greens are proposing in relation to challenging the lawfulness or otherwise of these powers. Far from the Government's concerns that this regime would cause difficulties in prosecutions, this regime would likely have a substantial benefit in that those kinds of decisions would be made well in advance of a trial and before countless thousands of dollars of public money is spent on pulling together a brief that ultimately may have a fundamental flaw in that the evidence obtained falls foul of the very kinds of considerations that The Greens say should be looked at in this early and summary fashion in the Local Court.

Secondly, absent this kind of express statutory power to review, the real concern is that instead of going through this summary and effective process, cashed-up members of drug cartels and cashed-up members of bikie gangs will embark on expensive Supreme Court proceedings to challenge the question of whether the search has been reasonable, as set out in proposed section 74A, which states that the powers of a police officer can only be exercised as reasonably required. Any well-informed, cashed-up criminal who is concerned about the exercise of those search powers would, absent The Greens arrangement—a summary, effective, quick, focused review in the Local Court—take these matters for a declaration in the Supreme Court, which will be vastly more expensive and vastly more uncertain under the Supreme Court's general declaratory powers. I believe that is a much more troublesome approach for the prompt review of these kinds of administrative powers.

I genuinely do not think the Government has seriously thought through how this will work in practice. The Greens have and we have considered the most effective way of having these issues determined in a manner over which the Parliament has some control, and that is that the Parliament puts in place the criteria, puts in place the time frames and puts in place a quick, summary process to have those issues determined. The Greens have done that in our amendment by proposing that these powers be reviewed by the Local Court. The

Government thinks that by not supporting the amendment that somehow it will avoid legal scrutiny. Far from it: The Government will find that lengthy and expensive declaratory proceedings will be brought in the Supreme Court about whether or not the exercise of the powers by the police under section 74A are reasonable.

The very arguments that we say should be determined quickly and cheaply in the Local Court within three months of the powers being exercised instead will be tied up for months or years—going to the Supreme Court, an appeal to the Court of Appeal and questions being tested by special leave in the High Court. That is not a sensible approach. The Parliament is far better off putting in place some well thought out checks and balances, some clear statutory powers and a clear regime to oversight these powers where it can structure the terms in which the oversight is carried out. The Greens have put forward this model because we think it greatly improves the Government's bill and it supports civil liberties. But absent this we will have cashed-up drug criminals taking the matter up in a much more unfocused set of challenges in the Supreme Court. That is not in anyone's interest.

Further, people who may not be cashed up, people who do not have large amounts of money, the kind of ordinary people who may be caught up in this regime who want to challenge the exercise of the police powers, will not have available to them a quick, effective, summary process in the Local Court. Someone who thinks they have been unfairly dealt with because their mental illness is under control and they should not be the subject of a prohibited weapons order and they should not be the subject of these searches should have access to a quick, effective, summary procedure in the Local Court and should not be forced to take expensive proceedings in the Supreme Court.

This amendment is not intended to defeat the purpose of the legislation; it is intended to put in place some sensible checks and balances that protect civil liberties in a way that will allow these issues to be resolved quickly, effectively and fairly. For that reason we did not support these review powers being exercised by the Administrative Decisions Tribunal—not because we do not believe the members of that tribunal are good; there are some excellent members of that tribunal—but the rules and procedure in the Administrative Decisions Tribunal mean that cases get bogged down for months and months, if not years, in the tribunal and take forever to get an initial ruling.

It can then take months and months or years to get an appeal review in the Administrative Decisions Tribunal. That is why The Greens support a new administrative regime with the NSW Civil and Administrative Tribunal, hopefully starting early next year. But until we see the way it operates we do not support having these kinds of reviews carried out in the Administrative Decisions Tribunal. We do not think that would be effective, fair or timely. We urge members to consider these amendments seriously. We urge the Government to rethink its position, which I think has come more from a knee-jerk response from the Ministry than a fair and objective review of The Greens amendments.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [6.07 p.m.]: A reasonableness test is applied in relation to policing. The matters that Mr David Shoebridge has raised are subject to ongoing, daily scrutiny of police actions. Whether it be organised crime figures, cashed-up drug cartels or the most basic of crimes that police investigate, in the daily operation of their responsibilities the question of whether their actions or conduct were reasonable is always subject to scrutiny. I listened intently to Mr David Shoebridge. I think he has good intentions but I have concerns in relation to The Greens proposed section 74B, which refers to conduct that is unjust, oppressive or otherwise an abuse of power.

At this point, based on the advice I have been given in discussions with police as well as with others within Government, I believe that the application of these amendments would apply another level of bureaucracy or red tape to the approach that police could take; it would make it a more difficult process for them. I have listened intently to Mr David Shoebridge's contribution and to his sensible words. I will not say anything further about that because I do not want to embarrass him. I thank him for his intentions, but based on the advice that I have been given, as well as on the other matters I have raised, the Government will not support these amendments.

Reverend the Hon. FRED NILE [6.09 p.m.]: During my contribution to the second reading debate, on behalf of the Christian Democratic Party I gave our reasons for not supporting these amendments. Mr David Shoebridge verbalised me in his comments. In my remarks I said that his amendment No. 3 meant that evidence obtained from the search the subject of the declaration was inadmissible as evidence in any legal proceedings. That is all I stated; I repeated his amendment that anything the police find would be inadmissible as evidence in any legal proceedings.

Mr David Shoebridge: You said they would have to give back the guns.

Reverend the Hon. FRED NILE: No. The whole point is that the police may find a gun that had been used in a shooting or other criminal activity. I believe the wording of the amendment, if carried, would prevent police using the legislation. I believe Mr David Shoebridge made the point that the criminals would get lawyers and take advantage of the current legislation. They would love his amendments, because they would give them all the opportunity they wanted to make this legislation unworkable. At the moment, bikie gangs are employing highly ranked lawyers and are winning court cases all round Australia, right up to the High Court. I believe we should not give them any further loopholes that they could use to make this legislation unworkable.

Question—That The Greens amendments Nos 1 to 3 [C2013-136] be agreed to—put.

The Committee divided.

Ayes, 5

Ms Barham
Dr Kaye
Mr Shoebridge

Tellers,
Mr Buckingham
Dr Faruqi

Noes, 27

Mr Blair
Mr Clarke
Ms Cotsis
Ms Cusack
Mr Donnelly
Ms Fazio
Ms Ficarra
Mr Gallacher
Mr Green
Mr Khan

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

Ms Sharpe
Ms Voltz
Ms Westwood
Mr Whan
Mr Wong

Tellers,
Mr Colless
Dr Phelps

Question resolved in the negative.

The Greens amendments Nos 1 to 3 [C2013-136] negatived.

Schedule 1 agreed to.

Schedules 2 to 4 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Michael Gallacher agreed to:

That the report be adopted.

Report adopted.

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.

GAME AND FERAL ANIMAL CONTROL AMENDMENT BILL 2013

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

Motion by the Hon. Michael Gallacher agreed to:

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

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

BUDGET ESTIMATES AND RELATED PAPERS**Financial Year 2013-14**

Debate resumed from 10 September 2013.

The Hon. Dr PETER PHELPS [6.24 p.m.]: Today I have hope in my heart—hope for the future of Australia and hope for genuine federalism. Saturday 7 September 2013 presented us with a glorious opportunity. They say that if you change the government you change the nation. As Liberals we have the opportunity to change it for the better. The most fundamental change required in this nation is that of the relationship of the States; between the Federal Government and between each State. Historically the Liberal Party has been the party of federalism. Labor is the party of centralism. The two greatest things the new Abbott Government can do are fix the vertical fiscal imbalance and abandon horizontal fiscal equalisation. Both of those are disastrous for New South Wales and for its budgetary processes.

But first, I will give some brief history. The Constitution, as we all know, allows both the State and Federal governments revenue powers. But over many years, constitutional interpretation and political developments have limited State taxation powers and led to a vertical fiscal imbalance. An unfortunate historical tendency in Australia's High Court, from the Engineer's Case onwards, to promote the interests and powers of the Federal Government over the States has dovetailed with the natural desire of people—specifically Federal parliamentarians and their bureaucrats—to not give up power once it has been obtained. Vertical fiscal imbalance means that there is a shortfall in what the States may raise by revenue and what they have to raise for the spending responsibilities.

The Founding Fathers of the Australian Constitution envisaged that the State would be the primary service providers and the Federal Government would only look after matters of a strictly national character—and they wrote sections 51 and 52 of the Constitution accordingly. For example, in 1901 everyone expected that the sole funder of government schools and hospitals would be the Australian States. But the result of the limitations on State taxation power is that the Commonwealth now collects the money through taxes and distributes that money to the States. The power to distribute funds to States, on conditions, is contained in section 96 of the Australian Constitution. As a result, the sphere of Commonwealth power has expanded because it has been able to dictate policy through conditional grants. This limits the autonomy and power of the States in controlling their own policies. So how did the States come to be in this invidious position?

Prior to 1942, consistent with the concurrent power in section 51 (ii) of the Australian Constitution, the States collected income tax. I repeat, prior to 1942 the States collected their own income tax. They had their own stream of income tax. The Commonwealth also levied tax. However, in 1942 the Commonwealth attempted to gain a monopoly on income taxes to fund the war effort by passing the Income Tax Act 1942 and the States Grants (Income Tax Reimbursement) Act 1942. The first Act purported to impose Commonwealth income tax. The latter Act said Commonwealth funding would be provided to the States only if they imposed no income tax. This latter Act was premised on section 96 of the Australian Constitution, the conditional grants power.

The States Grants (Income Tax Reimbursement) Act therefore placed the term and condition on the States that they did not tax at all as a pre-requisite to funding. The Income Tax Act 1942, by setting high tax rates—in other words, rates that would reflect the combined current Commonwealth and State taxes combined—made imposing current tax rates by State governments unattractive or, in many cases, impossible for State governments. Moreover, the Income Tax Assessment Act 1942 said that individuals had to pay Commonwealth tax prior to paying any State taxes. In effect, the scheme meant either the States had to accept grants and stop taxing, or decline grants and try to collect tax at rates that were quite simply unsustainable.

Thus, since 1942 no State has imposed income taxes; the States have instead relied largely on section 96 grants. I seek leave to have incorporated in *Hansard* an historical analysis of the proportion of revenue collected under Commonwealth and State legislation.

Leave granted.

Proportion of revenue collected under Commonwealth and State legislation

	Proportion Collected under Commonwealth legislation	Proportion collected under State legislation	Proportion of all State revenue from Commonwealth transfers
	%	%	%
1901-02	41.0	59.0	36.7
1938-39	46.6	53.4	13.9
1946-47	84.9	15.1	46.1
1980-81	78.3	21.7	62.0
2000-01	77.8	22.2	49.3
2011-12	74.3	25.7	46.0

Source: 1901-02, 1938-39 and 1946-47 from Mathews and Jay, Federal Finance, Thomas Nelson Ltd, 1972; 1980-81, 2000-01 and 2011-12 from ABS Government Finance Statistics and 2012-13 Australian Government Budget—Budget Paper No. 1.

The Hon. Dr PETER PHELPS: Just on that point, if members look at the numbers they will see that in 1901 the proportion of all State revenue from Commonwealth transfers amounted to 36.7 per cent, not an unrealistic figure considering that the States had just formed a Federation. However, by 1938-39 only 13.9 per cent of all State revenue came from Commonwealth transfers; in other words, the States were, to a large extent, self-funding entities. Yet by 1946 that proportion had risen to 46 per cent and by 1980 it was 62 per cent. Even today, on the latest figures we have, 46 per cent of all State revenue comes from Commonwealth transfers.

This situation, of course, was exacerbated by the loss of State volumetric taxes. When the States lost their income-taxing powers, they turned to other modes of taxation such as sales tax. As excise taxes are an exclusive Commonwealth power in section 90 of the Australian Constitution, this interpretation of what is an excise became a critical issue. In *Ha v New South Wales*, a 1997 case, State excise and franchise tax regimes were struck down as an excise when the High Court interpreted excise to mean any tax imposed up to and including the point of sale. The result of this interpretation is to prevent State sales taxes or other volumetric taxes.

This loss was partially offset by the introduction of the goods and services tax where the Commonwealth agreed to distribute GST revenues to the States according to a formula. But the fundamental problem remains that the States are substantially dependent on the charity of the Federal Government. The Federal Government raises money and then via a section 96 gift gives it away. As I noted in my inaugural speech, vertical fiscal imbalance leaves the States as piteous mendicants. As Liberals, we must be prepared to accept the responsibilities of State taxation and expenditure. More importantly, Federal Liberals must be prepared to give us our head when we ask for State taxation and State expenditure rights. It has now been 70 years since we temporarily transferred the income tax powers to the Federal Government as an emergency wartime measure.

We have no sustainable direct taxation and no sustainable indirect taxation to pay our bills, nor does any State or Territory government. We are beggars. At the current time, Commonwealth grants represent 42 per cent of all New South Wales revenue, while our own State taxation regime provides only 37 per cent of State Government revenue—42 per cent comes from the Commonwealth, 37 per cent comes off our own bat. Nationally, the vertical fiscal imbalance gap amounts to some \$76 billion. I certainly hope that the new Federal Government will live up to our party's creed of genuine competitive federalism and will release the power to raise our own revenue so as to pay our own bills and to once and for all end the problem of vertical fiscal imbalance.

Compounding this problem is the quaintly anachronistic and faintly socialist notion of horizontal fiscal equalisation. Budget Paper No. 2 refers to the disadvantages of current horizontal fiscal equalisation, which is

just a polite way of saying that New South Wales does not get back what it puts in. Money raised by the Federal Government through Federal taxes from New South Wales goes to support other States, in particular, South Australia and Tasmania. It takes from the productive and gives to the unproductive. Horizontal fiscal equalisation may well have had some sort of siren-like charm back in the days of a closed economy, big government, big unions and big business, but it has no place in a modern society or a modern economy.

The horizontal equalisation gap is most clearly demonstrated on page 7-5 of Budget Paper No. 2. New South Wales, by way of government share payments, gets net negative \$144 per person. Victoria's net negative is \$232 and Western Australia's is a whopping net negative of \$848 per person. So where does that money go? It goes to the rust-belt mendicants in South Australia, who get a net positive of \$381 per person; to the ironic socialist hipster bureaucrats of the Australian Capital Territory, who get \$443 per person; and to the Green-voting, sandal-wearing, tofu-chomping, crystal-healing, tree-hugging hippies of Tasmania, who score a massive \$1,309 per person, thanks to the other States. In other words, currently nine New South Wales families are funding each Tasmanian family—talk about overseas aid!

In 2013-14 New South Wales will receive \$1.1 billion less in total Australian Government payments than if payments were based on population shares. I hear members ask: Why is this bad? The answers are manifold. Firstly, it places too much emphasis on socialist notions of equality between the States without regard to the impact on the flow of labour and other resources to uses that maximise Australia's welfare. Secondly, it reduces incentives for States to undertake economic reform and improvements in revenue-raising capacity or service delivery because such changes reduce the disabilities that gain States a higher share of Federal revenue. Thirdly, it reduces the incentives for States to promote private enterprise and business activity through the use of their natural resources and positively encourages the de-industrialisation of States.

Fourthly, it is complex, heavily dependent on subjective assessment and lacking the transparency necessary to ensure outcomes are consistently accepted by States. Notwithstanding the 2010 simplification process, the capacities of States to raise revenue are assessed in seven categories with 13 sub-categories while States' needs for spending are assessed in 12 expense categories and two capital categories with 43 components and 93 so-called disabilities. Fifthly, it produces unacceptably large year-to-year variations, often related to data revisions, in a key revenue source for States. If we are to remain in a genuine Federal relationship in Australia there can be no rationale for maintaining the farce of horizontal fiscal equalisation.

What purpose do the States serve? A thrifty, industrious, productive, inventive, lively, pro-capitalist State that is roaring along suddenly finds itself cut off at the knees when a substantial portion of its wealth is stolen from it to give to the lazy, the indolent and the stupid—the people who are not prepared to take advantage of their natural and human resources and turn them into productive output. I do not care how people in other States want to live their lives. If they want to be a bunch of hippie socialists, then good luck to them. But do not do it on my coin. Do not extract money from me and from all people in this State to subsidise their lifestyle choices.

That is the reason the Abbott Government must move on horizontal fiscal equalisation, and move urgently. It is archaic, it is stupid, it is unhelpful, it is economically illiterate in the modern age and if it is going to occur we might as well abolish the States altogether. There is no point in working hard when the hard work of New South Wales is simply going to be taken and given to other States that are not prepared to work as hard. This is my hope: that our Premier and Treasurer—and all Liberal State Premiers and Treasurers—will use this historic opportunity to work with the new Federal Government, and that the new Federal Government once and for all will correct the problems of vertical fiscal imbalance through necessary reforms to the revenue and grant side of the relationship with the States and, more importantly, will remove the anachronism of horizontal fiscal equalisation. I commend this budget.

The Hon. SOPHIE COTSIS [6.38 p.m.]: I am profoundly disappointed by the direction that the O'Farrell Government has taken with the State budget for this financial year, particularly in the critical area of housing. The housing budget is close to \$1 billion but in this budget the Government has cut funding for the building of new social housing stock by \$22 million. In 2012-13 the Government allocated \$141 million but in 2013-14 that budget has been reduced to \$119 million. It also has cut \$37 million from this year's maintenance budget. In 2012-13 it was \$195 million. In 2013-14 it has been cut to \$158 million. These cuts are appalling, particularly when a recent report of the Auditor-General found that there are more than 120,000 people waiting for social housing in New South Wales.

We know how important the housing sector is. We know it is critical. Housing construction and maintenance has many economic and social benefits and it relieves pressure on the private rental market. Rather

than addressing the demand for social housing the O'Farrell Government has delivered savage budget cuts. The O'Farrell Government has sought to gouge those who are living in public housing by including the Commonwealth clean energy supplement as part of their income, charging a bedroom tax, increasing rents on some tenants by as much as \$300 per week, and increasing water charges. There is a lack of response to tenants' maintenance issues. During July I spent a lot of time visiting public housing estates and I conducted a number of public housing meetings. Many of the residents are older people who have worked very hard to contribute not only to building Australia but also to helping support their families.

We all know the history of public housing; it was constructed to provide housing for low-income workers. According to the Auditor-General's report, by 2021 older people will make up 32 per cent of public housing residents; people with significant disabilities, including children, will make up 23 per cent; young people unable to live at home will make up more than 2 per cent; and other low-income households will make up 30 per cent. Older people and people with significant disabilities, including mental health issues, will need to be supported in public housing. It is a major problem. If this Government does not start looking at a coordinated housing policy many people will be left homeless over the next five to 10 years, and it will be because of the neglect by this Government.

As I travelled through Western Sydney, Bathurst and Newcastle I talked to many residents and they showed me the way they are living. Their living conditions are not those of Australia in the twenty-first century; they are living in Fourth World conditions. I am appalled that this Government is allowing older Australians to live in housing that has paint peeling from the walls, mould, blocked sewerage and ripped carpets. The condition of many of these properties is appalling. All these people want is to be listened to and to receive a response when they make a phone call to Housing NSW. There are three issues: first, the Government has cut staff in Housing NSW so response times have extended; second, the Government has cut the maintenance budget; and third, this Government does not care about the needs of public housing tenants. I will tell members why: This is the first time that a State Government does not have a dedicated Minister for housing. Housing is one of the four priority areas that a State Government has to look after. There is a big problem here.

The Auditor-General's report is important. I suggest that all members read this report. It contains interesting statistics. It is horrifying to put faces and names to the statistics and many members will be horrified to see how those people live. It will be worse in rural and regional communities where the lack of funding for construction is hurting local workers and older Australians. The baby boomers are retiring over the next 15 to 18 years and many of them are women who have been in and out of the workforce, missing out on maternity leave entitlements and long service leave, because they had to care for children or family members. Many of these older Australian women are going to be left on the scrap heap because they do not have sufficient savings to live comfortably in their retirement. Many of these older Australians, particularly women, have been injured at work and they are leaving work on a disability pension but that pension will not sustain their living in private accommodation. Many of these women are at risk of becoming homeless. There is a housing crisis in this State. Nobody from the Government, particularly the Minister responsible, Minister Goward, is doing anything.

Mr Scot MacDonald: You said we did not have a Minister.

The Hon. SOPHIE COTSIS: You do not have a dedicated Minister for housing. The Minister cannot even look after the Family and Community Services portfolio, let alone housing. On 7 October Minister Goward stated in the *Australian* —

The Hon. Matthew Mason-Cox: Point of order: The member knows that she should not cast aspersions on the character of a member in the other place.

The Hon. Lynda Voltz: To the point of order: The Parliamentary Secretary knows full well that a member quoting another member's comments is not casting aspersions. He is simply trying to stop the debate.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I do not uphold the point of order, but I remind the Hon. Sophie Cotsis to speak to the leave of the bill.

The Hon. SOPHIE COTSIS: This is a Minister in exile who acts as though she is still in opposition. The Minister stated in the *Australian* that the public housing system is "broke". She quoted statistics to show the system is broke and stated, "To be frank, the system is broke and financially unsustainable." The Minister tells us how bad it is.

Mr Scot MacDonald: You guys broke it.

The Hon. SOPHIE COTSIS: No, we did not. The New South Wales Labor Government built 6,000 new properties. The Auditor-General has stated on page 11 of his report that the O'Farrell Government is selling more properties than it is building. What is interesting is that this Minister should be out there talking about what the O'Farrell Government's plan is in relation to housing. All we are seeing is a Minister in exile who is criticising her own Government. What is her plan? What is she going to do? I have not been a Minister, but I suspect before you get to the Cabinet table you have a logical economically sustainable plan and you have talked to the stakeholders.

This Government was in opposition for 16 years and had plenty of time to talk to stakeholders. It had stakeholders knocking on its door wanting to talk about building more housing and private-public partnerships. This Government is selling housing stock 2½ years after being elected. I have been to Millers Point, Dawes Point, Ivanhoe Park and Western Sydney and I can identify 60 properties that the Government has left vacant for more than three months. What does this Government intend to do? It plans to sell those properties. Will it invest the proceeds in new public housing? No, they will go back into consolidated revenue. I am happy to organise an excursion for members opposite so that we identify the vacant properties and talk to older Australians who are living in places that even they would not allow their relatives to occupy. All they want is a little bit of care and respect.

Ministers of the Crown should convince their Cabinet colleagues of the need to invest more in public housing. The Minister's responsibility is not only to attract more funds but also to encourage her colleagues to reverse the cuts that she has allowed to be made. She should also ensure that the Government directs more funding to public housing and call on the Abbott Government to follow the Labor Government's lead by investing in public housing. She should not emulate the former State Coalition shadow Minister for Housing, who scared neighbourhoods about the construction of public housing. Members opposite must face the fact that we are experiencing a worsening public housing crisis. Homelessness has increased under this Government's administration; many more women and their children are living in cars.

The Hon. Matthew Mason-Cox: You did nothing for 16 years.

The Hon. SOPHIE COTSIS: I object to that interjection. The Labor Government cared about housing and we had a dedicated Minister who presided over the construction of 6,000 new public housing units. In contrast, this Government is selling properties and conducting a social engineering experiment that is leaving many older people and women who are victims of domestic violence out in the cold on the streets because there is no crisis accommodation. I invite members opposite to join me in talking to women on the Central Coast who are living in appalling conditions. This is an issue for everyone; it is not simply a Labor or Liberal issue.

We have a responsibility to help the older Australians and others who are homeless or who are living in terrible conditions. The Minister is abrogating that responsibility. A tough negotiator and someone who cares about older Australians and women would be advocating on behalf of the 120,000 people who are on the public housing waiting list. What a relief it would be to the private rental market if the Government were to provide more public housing. Members know how difficult it is for people to rent a one- or two-bedroom apartment within 30 kilometres of the city. It costs more than \$300 or \$400 to rent such a property and disability pension recipients, low-income earners and carers cannot afford to pay that amount for accommodation.

This is the Government's responsibility. I know that many members opposite have a good heart. They have a responsibility to call on the Treasurer to reverse these cuts and to provide more funding for public housing. Where are the proceeds of the property sales being directed? This Government raised more than \$194 million last year by selling 500 public housing properties despite the fact that thousands of people are on the waiting list. This is an appalling budget. Members opposite have a responsibility to urge the Minister—who is doing a hopeless job— *[Time expired.]*

Debated adjourned on motion by the Hon. Sophie Cotsis and set down as an order of the day for a future day.

ADJOURNMENT

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [6.53 p.m.]: I move:

That this House do now adjourn.

DIABETES TYPE 2

The Hon. SARAH MITCHELL [6.53 p.m.]: Diabetes is Australia's fastest growing chronic disease. An estimated 280 Australians develop diabetes every day. While 1.7 million Australians have diabetes, up to half of the cases of type 2 diabetes remain undiagnosed. By 2031, it is estimated that 3.3 million Australians will have type 2 diabetes. With diabetes being the sixth leading cause of death in Australia, it is critical that we take action. National Diabetes Week was observed from 14 to 20 July. That was particularly significant for me this year because I was diagnosed with gestational diabetes during the last trimester of my pregnancy.

For those who are not aware, gestational diabetes mellitus is diagnosed when higher than normal blood glucose levels appear during pregnancy. Between 3 per cent and 8 per cent of pregnant women will develop gestational diabetes during the last months of their pregnancy, with the condition often having no symptoms and being picked up only during routine testing. Pregnant women need two to three times more insulin than normal because the hormones produced by the placenta during pregnancy, which help the baby to develop, also block the action of the mother's insulin. In some women their bodies cannot cope with the extra demand for insulin production and gestational diabetes develops. If gestational diabetes is not well managed it may result in problems such as miscarriage and stillbirth. However, it can be managed through diet, exercise and monitoring blood glucose levels, although some women also need insulin injections to help manage their illness. In most cases, gestational diabetes does not continue once the baby is born. However, women who have had gestational diabetes are at an increased risk of developing type 2 diabetes later in life, as are their children.

As I said earlier, those who have gestational diabetes often have no symptoms and the condition is picked up only during routine testing. That is what happened to me. I felt incredibly well throughout the majority of my pregnancy, and in particular the second trimester. Given that, I was surprised when I was diagnosed with gestational diabetes because I was not considered to be at high risk and I had never felt better. Fortunately, I was able to manage my condition easily by eating well and exercising regularly. We now have our beautiful baby girl, Annabelle, who arrived safely and who is perfect. I am pleased to report that my gestational diabetes has disappeared since giving birth and I have been given a clean bill of health. However, I know that I have an increased risk of developing diabetes later in life, as does Annabelle.

Therefore, as a family we are now much more aware of the risk factors of diabetes and the importance of having an active and healthy lifestyle. I also feel a responsibility as a member of Parliament to do all I can to raise awareness of this issue, and I hope that other members will do likewise. I cannot let this opportunity pass without publicly thanking those who helped me manage my gestational diabetes, and, in particular, my doctor, Rob Parsons—who was wonderful throughout my pregnancy—and Deeanne Rankin, who is the diabetes educator at the Gunnedah Health Service. I met with Dee after my initial diagnosis and she helped me to understand the best way to manage the condition. We spoke regularly on the phone and I had incredible support from her throughout my pregnancy.

While speaking about the quality care I received in managing my gestational diabetes, it would be remiss of me not to mention the outstanding health care that I received in Gunnedah throughout my pregnancy, and especially at the Gunnedah District Hospital when Annabelle was born. By doing so I do not intend to be self-indulgent; rather, I want to highlight that we have excellent health services in New South Wales, particularly in regional areas. So often when we talk about health care in public hospitals and maternity services in this State we mention only the negative things that some women experience that make the evening news or the front page of the newspapers. I am not trying to take anything away from those who have had bad experiences because I know that they happen, but the positive stories need to be told.

While Annabelle arrived safely, there were a few complications before she was eventually delivered via emergency C-section after 18 hours of labour. There were four doctors in the operating theatre with my husband and me, along with a midwife and at least three theatre nurses. We could not have asked for a better level of care. In addition, the midwives at Gunnedah District Hospital were fantastic during the six days we stayed there following Annabelle's birth, and we will be forever thankful for their advice and support. We also appreciate all the home visits we received from midwife Marie Grant, who helped us to settle in with our baby girl and to overcome a few issues we had with feeding. Our entry into the world of parenthood was a fantastic, positive experience that resulted in our beautiful Annabelle.

I conclude by acknowledging those parents who sadly do not take their babies home. Today is International Pregnancy and Infant Loss Remembrance Day. I pay tribute to those incredible parents who must deal with losing a child, and in particular my friend Kali Boykett, who lost her beautiful baby girl Elizabeth Anne earlier this year. Rest in peace, Elizabeth.

TRIBUTE TO MICHAEL MAHER

The Hon. HELEN WESTWOOD [6.58 p.m.]: I speak in honour of the late Michael John Bernard Maher, OAM, who passed away on 29 September 2013. Mike and I shared a love of the Australian Labor Party and our local communities. We also shared an ancestry—we are both descendants of Bernard "Barnie" Strain and Bessie Agnes Macgurren from Tichborne in western New South Wales. Michael Maher was born in Haberfield in July 1936, the son of Denis "Clem" Maher and Marie O'Connor. He grew up in Five Dock. Clem and my grandfather, Claude Davis, were first cousins. Michael attended school in Ashfield and later graduated from Sydney University as a solicitor. He maintained his inner-west roots throughout his life and career.

Michael Maher joined the local branch of the ALP when he was 15 and soon became active in local politics and developed a keen interest in public life. There was a strong political background throughout the family, with Michael's second cousin Ray serving as a Labor MLA from 1953 to 1965 and a Speaker of the House. Ray's brother Ted was a Queensland State MP and then Senator from 1949 to 1965. An uncle, Roy Jackson, also served one term as the member for Drummoyne in 1953. Michael's daughter Fidelma has written:

After leaving school, Michael commenced work at the Commonwealth Public Service in the Department of Supply, and enrolled in an Arts degree at Sydney University as an evening student. Later he transferred to the Registrar General, and started a law degree, also as an evening student. While at law school, he famously ran for president of the law students association against future Federal Minister Bronwyn Bishop, who ran on a "Beauty before Bulk" ticket. Perhaps poetically, Michael won the election.

In 1971, Michael Maher married Dr Margaret Bermingham, a lecturer in biochemistry at Sydney University. They had four daughters and a son. Michael Maher was preselected by the Labor Party and elected to State Parliament in 1973. He won the seat of Drummoyne by 378 votes. Over the next three elections through his dedicated hard work he turned the seat into a safe Labor seat. Some of his proudest achievements as a local member included ensuring Rodd Island became part of the Sydney Harbour National Park and his advocacy of the New South Wales Heritage Act. He was behind a successful effort to increase ferry services on the Parramatta River. He was a popular local member and a familiar face at many local community events, a campaigner for the rights of immigrants and a strong advocate for multiculturalism.

In the book *The Worldly Art of Politics*, Ken Turner and Michael Hogan recount how Maher's dogged pursuit of issues with Ministers and bureaucrats became legendary. Wran's Minister for Transport, Peter Cox, christened Maher "the member for bus stops" because of his constant pursuit of public transport issues. In 1982, former Prime Minister Billy McMahon resigned as the Federal member for Lowe, which contained the State seat of Drummoyne. It was quite inevitable, due to his immense local popularity, that Michael Maher was asked to run for Federal Parliament. In the lead-up to the by-election it was reported in the *Sydney Morning Herald* that "Michael Maher turned the State seat of Drummoyne into a steamroller which flattened the Liberal Party so effectively that only one voter in three supported the Government", which at the time was a Liberal Government. He won that by-election with a swing of 9.4 per cent to the ALP.

During his time as the Federal member for Lowe he fought election campaigns in four consecutive years between 1981 and 1984, including the 1983 election when Bob Hawke became Prime Minister. He lost the seat of Lowe in 1987. Following politics Michael returned to law where he continued to help his local community. Milton Cockburn said of Michael Maher, "He was recognised by both sides as a gentle, decent and honest man with a real devotion to serving the people of his electorate." Former Federal Speaker Gordon Scholes has spoken of how Michael's character as a member of Parliament was recognised by many. "More than any other member who served in this Parliament I think he epitomised the local member." Scholes recalled that a Commonwealth driver in Sydney once told him that legend had it that when Michael walked down the main street of his electorate the dogs would sit up and hold out their paws to shake his hand.

In 2000 Michael Maher was further honoured and recognised for his work with the community when he received an Order of Australia medal for service to Parliament at a State and Federal level, and for service to the Maltese community of New South Wales. My condolences go out to his family: his wife of 42 years, Margaret; and he was father and father-in-law to Mary and Michael, Iona and Mark, Fidelma and Ian, Anthony and Niamh, and Brigid and Bradley and grandfather to Leo, Thomas, Ciara, Cillian, Eily and Neala. Vale Michael Maher.

COAL SEAM GAS MINING

The Hon. JEREMY BUCKINGHAM [7.03 p.m.]: The beautiful vale of Gloucester is about to be destroyed. The valley comprises a number of villages, including Stroud, Stratford and Barrington, and the town

of Gloucester itself, with a population of about 2,500. Gloucester is the gateway to the World Heritage listed Barrington Tops, and the region thrives on tourism and agriculture. Mining for coal intruded on the valley when mining began at Stratford in 1995 with a supposed boutique mine with a short lifespan, and in 2003 at Duralie. Both projects have since expanded and are now seeking yet another extension to their operations.

In 2011, in the dying days of the New South Wales Labor Government, AGL was given approval in principle for 330 coal seam gas wells. There are 110 wells in stage 1, which the Federal Government has just approved amid much controversy. The announcement was made just before the State Government promised there would be a two-kilometre exclusion zone for new coal seam gas projects from residential areas. Of course, none of this applies to Gloucester, which is being ignored by both its State member, the ever-absent George Souris, and Minister for Resources and Energy, Chris Hartcher. But the community has not given up fighting.

In early 2012, much of the Gloucester community was shocked to hear that a company called Gloucester Resources Limited had taken the first step in seeking approval to build the Rocky Hill mine just 900 metres from one residential estate, 1.9 kilometres from a second residential estate, 4.9 kilometres from the hospital and 4.7 kilometres from the high school. Stage 1 is a 2.5 million tonne per annum mine, but there are plans to extend northwards up the valley, even closer to schools, the hospital and residential areas. It was disgraced former Minister for Mineral Resources, Ian Macdonald, who signed off on the exploration licence renewal for the Rocky Hill mine in August 2009. In light of the ICAC findings of corrupt conduct, this Government should be reassessing all licences issued by this former Minister, and not allow past mistakes to punish this innocent community. In May this year, 1,300 people signed a petition calling for rejection of the Rocky Hill mine.

The petition called on the Legislative Assembly to reject Gloucester Resources Limited's application for the Rocky Hill Coal Project. It was tabled by the local member George Souris. In the Government's response to the petition Minister Chris Hartcher said that coal projects bring "economic wellbeing" to the State. Minister Hartcher obviously ignored the downward trend in coal prices, as well as the alarming health costs coal has on the community and health system. Doctors for the Environment's April 2013 report titled *How coal burns Australia: The true cost of burning coal* states, "All published studies indicate that the true cost of coal is much greater than the market price." Why then does the Minister think trashing a community for a dead-end investment in a dirty fossil fuel is a path to economic wellbeing? It would be better to take advantage of the valley's natural attributes, and harness the sun for energy and the fertile soils for food and fibre. Dianne Montague from Gloucester Residents in Partnership said, "We believe that with Gloucester being a rural residential area, a place where we have agriculture and tourism, it's ludicrous to have a mine so close."

Let me make clear what is at stake: current mining activities, both owned by Yancoal Australia; an open-cut coal mine at Stratford; an open-cut coal mine at Duralie; approved mining by AGL; an approved coal seam gas project in Gloucester Valley of 110 wells in stage 1; and in the approval process awaiting decision is the extension of the Stratford mine and an open-cut coal mine in Gloucester Valley at Rocky Hill. This application was lodged by Gloucester Resources Limited. AGL submitted plans at the beginning of October to drill, frack and flare four coal seam gas wells, some within 600 metres of residents in Forbesdale. Further, a large-lot residential area such as Forbesdale has not been protected by the Government's exclusion zones. Emissions from these four wells are estimated by AGL to be 65,000 tonnes of CO₂ equivalent per annum. That is the equivalent of 13,000 cars a year driving around. Venting and flaring will also release volatile organic compounds, which are of concern to human health.

There are also concerns about the use of chemicals in the fracking process, which AGL admits may present a risk to human health and the environment should they be released directly into the environment where exposure may occur. It is inevitable that these chemicals will be released into the drinking-water catchment of the Manning River but the Government's publication of the two-kilometre exclusion zone will not protect these residents, based on the Government's assertion of procedural fairness. I also put on the record my concern about the process and probity of the petroleum exploration licence divested by the former State Government to AGL. This licence was handed over to AJ Lucas for a few million dollars—maybe as little as \$2.5 million—in 2002. It was subsequently sold by AJ Lucas to AGL for \$370 million. Six years later that licence was worth \$370 million. That should be investigated because I believe it is a corruption scandal waiting to be uncovered.

WHALE PROTECTION

The Hon. LUKE FOLEY (Leader of the Opposition) [7.08 p.m.]: One of the joys of spring right along the New South Wales coast, from Byron Bay to Eden, is sighting humpback and southern right whales as they pass our shores, returning south to Antarctica. Our enthusiasm for these majestic monsters of the deep is hardly

surprising; they are elegant and huge, friendly and intelligent and prone to putting on a bit of a show. However, recently there have been a disturbing number of dangerous human interactions with our cetacean friends. In July at Bondi a surfer was knocked unconscious by a southern right whale when trying to get a better look at the animal. Fortunately for him his friends were nearby and ensured that he did not drown.

Later in July a large group of swimmers in Manly swam with a mother and its calf, many of them taking the opportunity to touch the mother. Swimmers are not allowed to approach within 30 metres of a cetacean. In August a bushwalker reported a group of six men in a speedboat harassing a pod of dolphins near North Head. In August the *Daily Telegraph* reported that surfers had shadowed a pair of southern right whales between Bondi and Tamarama, paddling within 10 metres of them. Three days ago at Newcastle two jetskiers harassed a pod of humpback whales, including at least two calves, for half an hour. The jetskiers came to within a few metres of the whales. Speed boats and jetskis are not allowed to approach within 300 metres of whales, dolphins and porpoises.

One would not think of jumping out of a jeep on an African safari to cuddle an elephant. An African elephant can weigh seven tonnes. An adult humpback weighs 35 tonnes. They are around 15 metres long—the size of a bus—and they are wild animals. Before long someone will be seriously injured, if not killed. It is also unfair to the whales. Swimmers report that often the whales seem to want to play and to follow them. There is no doubt whales are social in ways we do not fully understand yet, but that does not change the principle of humans' responsibility to let the creatures be. The southern right whale is listed as an endangered species in New South Wales. The population of southern right whales visiting New South Wales in any one year is estimated at around 10 to 14. In its 2012 determination that the southern right whale be listed as an endangered species, the New South Wales Scientific Committee found that:

The southern right whale is particularly susceptible to vehicle collision, as the species sits low in the water, is difficult to see and spends much time in areas with high commercial and recreational marine traffic.

In 2009 a southern right whale calf was killed when it was struck by a recreational boat user in Jervis Bay. Last month in South Australia a man was convicted of moving his jetski within 300 metres of two southern right whales. He was fined \$2,000. Former environment Minister Bob Debus left this State with strong laws to protect and conserve whales, dolphins and all our marine mammals. I want this Government to educate the public about these laws and I want the law to be enforced. I believe that prosecutions are now needed to deter the public from coming dangerously close to cetaceans. When it comes to the business of protecting our whales and dolphins and protecting humans from their own folly, I have a simple message for Mr O'Farrell's Government: Stop the boats.

COONABARABRAN BUSHFIRES

The Hon. ROBERT BROWN [7.13 p.m.]: Tonight I wish to raise the issue of the Warrumbungle National Park fire on 13 January this year, just over nine months ago. The fire was devastating in its destruction but how many of us in this place have considered what impact it has had on the Coonabarabran community? I suppose one could ask if anyone really cares because it seems that in spite of all the photo opportunities and the hand-wringing of politicians at the time, the people of Coonabarabran have been largely forgotten. My colleague the Hon. Robert Borsak visited the area last month and met with the Coonabarabran Property Owners Alliance co-chairman, Stephen Lill, and other residents of the area. Their plight is serious and they rightly feel they have been forgotten, yet no-one wants to accept that the January fire was, in the residents' terms, "very avoidable". Perhaps that is why the Government will not address their issues and concerns. I understand a coroner's inquest is underway.

The Shooters and Fishers Party has asked a couple of questions about the fire in this House but I do not believe that we have been given adequate answers to date. Let me put some of the Coonabarabran Property Owners Alliance's claims to the Chamber tonight. On several occasions the alliance has written to the Premier and the local member asking that they initiate negotiations to make good on the substantial losses caused to property owners arising from what they believe was the "negligence of National Parks staff". They say that the response to their pleas has been "somewhat demeaning, as they suggest that we seek assistance from charitable organisations and wait until the Coroner's report is presented". In the meantime, these same disadvantaged people are seeing millions of dollars poured into the wasteland of a national park when National Parks is hiring staff and running concerts while the disadvantaged property owners are strung out to dry with rising bank loan bills for the replacement of homes and uninsurable infrastructure. In March, in their first letter to the Premier, they claimed:

It is an incontrovertible fact that the small fire that started in the National Park was improperly managed by the Government agencies involved during the period prior to the Black Saturday, 13 January 2013, major event. Given the knowledge that the conditions were forecast as catastrophic fire danger during the period leading up to the Sunday, and given that there were significant fire suppression resources available to the National Park Management, the fire was not extinguished by the Saturday 12th and staff went home with the fire still burning.

Under those conditions it is unbelievable. The letter continues:

It is further known that on the Sunday, a day of total fire ban, additional fires were lit in the Park by staff. With temperatures forecast to reach 46 degrees centigrade and winds of up to 100 kilometres an hour, this action beggars belief.

Last month, in another letter to the Premier, the alliance said its case was very simple and straightforward. The alliance stated:

A fire originated in the national park, it was not contained by Parks staff and came onto private property and caused us loss. This is a basic matter of public liability and we understand that the National Parks and Wildlife Services would have adequate insurance cover as we property owners are required to have to address such public liability.

The alliance is arguing that no more taxpayers money be spent on restoration of the park until fair and just compensation is paid to those who suffered material loss from the fire, and that the park not be rebuilt and opened to the public until there is responsible management and management practices in place to attend to normal fire risk mitigation and control. Furthermore, the alliance argues that the Government must set up its own committee or audit division as soon as possible to undertake an assessment of losses suffered as a result of the fire, with a view to compensating those who suffered loss.

Anyone who has been to Coonabarabran this year will have heard these same claims and allegations but it seems that while no-one is prepared to deny them no-one in Government will speak about them "until after the Coroner's report is completed". That is understandable but it does not help the people up there. I suggest that an inquiry into the matter might assist the Government with its deliberations and I foreshadow that I have already discussed this with some Government members of General Purpose Standing Committee No. 5. People in the bush already feel that city governments' decisions ignore them until it is election time, and given these claims at face value—and the television reports prove the claims—one can understand why they feel this way.

FOREIGN AID POLICY

The Hon. DAVID CLARKE (Parliamentary Secretary) [7.18 p.m.]: Recently in this House I criticised government foreign aid programs, both Australian and overseas, for their waste and ineffectiveness and for a maladministration which saw funds misappropriated into the pockets of dictators, corrupt officials and racketeers. I cited the case of Bangladesh, where 75 per cent of foreign aid is corruptly diverted from its intended source, according to a recent Bangladeshi University study. There is an alternative to this failed situation. I speak of foreign aid programs administered by faith-based organisations, particularly the Christian churches, which are proving to be an effective alternative to government aid programs. We only need to contrast the efficient use by faith-based schools of government funding allocated under Federal Labor's Building the Education Revolution program to the inefficient use of such funds by the public school sector.

The Greens' inspired secular left will, of course, never concede this fact. Anything that is faith-based is anathema to them, including faith-based aid programs. To the secular left, faith groups, particularly the Christian churches, are the enemy to be hounded from public life wherever possible. However, the achievements of Christian aid programs cannot be denied. In Papua New Guinea, for example, 46 per cent of all health services—60 per cent in rural areas—are operated by Christian churches, as are a majority of nursing schools and 100 per cent of community health worker schools. In education, 40 per cent of elementary schools are church operated, as are 53 per cent of primary schools, 30 per cent of secondary schools, 41 per cent of vocational schools and 67 per cent of teacher education institutions.

Worldwide, the Catholic Church operates 26 per cent of all healthcare facilities, 117,000 in all, making it the largest non-government provider of such services in the world. In sub-Saharan Africa, Christian churches provide 50 per cent of all health and education services. On the continent of Africa as a whole it is estimated that 30 per cent of all schools are Catholic operated and once other denominations are included the figure is far greater. The Seventh Day Adventists, with a world membership of 17 million, operate nearly 8,000 schools—a phenomenal number for a church of its size. In the slums of Nairobi more than 70 per cent of health care is provided by faith-based groups. In the United States the Catholic Church carries a disproportionately high number of poor and uninsured in its facilities. Whether it be Protestant, Catholic or Orthodox or indeed hundreds of others, the Christian humanitarian aid outreach is being conducted on a massive scale and the administration costs of those programs are far lower than those of government or most secular non-government organisations.

For example, only 7.8 per cent of the Seventh Day Adventists' aid budget is swallowed by administration. The late British political commentator Malcolm Muggeridge once observed that in India he saw

many faith-based groups alleviating poverty and suffering but never once did he see a soup kitchen run by the British Humanist Society or its ilk. Yet, whilst Mother Teresa and her Missionaries of Charity retrieved newborn babies abandoned on rubbish tips and nursed lepers, Tariq Ali, the Trotskyite agitator and Marxist theoretician, cast aspersions on her motives and attacked her at every opportunity. When Mother Teresa died she left behind over 600 health facilities in 125 countries helping everyone in need, from AIDS sufferers to orphaned children. When Tariq Ali dies his legacy will be nothing more than a bunch of scarcely read articles on the importance of Trotskyite Marxism as a panacea for poverty.

Increasingly, there is recognition of the success of faith-based programs. The World Bank has created a special office to study the reasons for the success of such programs, and so has the Dutch Government. Hillary Benn, former United Kingdom Secretary of State for International Development, has written of the extent to which he found that religious faith inspired people to help their fellow beings. He saw this as being at the core of the success of so many faith-based aid efforts. A World Bank study in 2000 concluded that religious institutions were more trusted in developing countries for their delivery of aid projects than were government or secular non-government organisations, a view confirmed by studies conducted by the University of Birmingham and Georgetown University's Berkley Centre.

This view was supported by British journalist and political commentator Mathew Parris in an article in *The Times* of 8 January 2009 headed, "As an Atheist I believe Africa Needs God." He wrote of his firsthand observation of Christian evangelism and the aid projects which it gave birth to. He pointed to its enormous contribution, in sharp distinction from the work of secular non-government organisations and government projects and international aid efforts. When Prime Minister Tony Abbott recently indicated that his reform of foreign aid would involve a redirecting of funding towards non-government organisations, he was confirming what the evidence had already clearly established. Once again he was well and truly hitting the nail squarely on the head.

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

Motion agreed to.

The House adjourned at 7.23 p.m. until Wednesday 16 October 2013 at 11.00 a.m.
