

ACHIEVE AUSTRALIA RESIDENTIAL CENTRE	24347
ADJOURNMENT	24391
ADMINISTRATION OF THE GOVERNMENT OF THE STATE	24329
ADOPTION LEGISLATION AMENDMENT (OVERSEAS ADOPTION) BILL 2013.....	24369
ARNCLIFFE PEDESTRIAN SAFETY	24346
BUDGET ESTIMATES AND RELATED PAPERS	24364
BUSHFIRE ANIMAL EVACUATION	24344
BUSHFIRE DISASTER WELFARE ASSISTANCE	24348
BUSHFIRE HAZARD REDUCTION	24345
BUSHFIRE ROAD CLOSURES	24341
BUSINESS OF THE HOUSE	24327, 24329, 24329, 24386
CARERS WEEK	24326
CATERPILLAR CONTROL	24344
CHILD PROTECTION LEGISLATION AMENDMENT (OFFENDERS REGISTRATION AND PROHIBITION ORDERS) BILL 2013.....	24375
COUNCILLOR ANDREW ISTEPHAN.....	24339
CRIMES (SENTENCING PROCEDURE) AMENDMENT (STANDARD NON-PAROLE PERIODS) BILL 2013.....	24386
DRINK-DRIVING PREVENTION	24340
DROUGHT ASSISTANCE.....	24394
EGYPTIAN-AUSTRALIAN COMMUNITY EVENT.....	24327
ELECTRONIC TOLLING	24342
ENGLISH AS A SECOND LANGUAGE SUPPORT	24343, 24350
EPPING TO THORNLEIGH THIRD TRACK PROJECT	24350
FERAL PIG CULLS	24350
GENERAL PURPOSE STANDING COMMITTEE NO. 2	24355
LEGISLATION REVIEW COMMITTEE.....	24328
LITTLE WINGS CHARITY ORGANISATION	24391
NATIONAL PARKS AND WILDLIFE SERVICE FIREFIGHTING REMUNERATION.....	24350
NATIONAL WEEK OF DEAF PEOPLE	24326
OUTLAW MOTORCYCLE GANGS.....	24341
PAKISTAN AUSTRALIA BUSINESS COUNCIL	24327
PEOPLE WITH DISABILITY IN CARE	24347
PETITIONS	24329
PROTECTION OF THE ENVIRONMENT OPERATIONS ACT: DISALLOWANCE OF PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT (SCHEDULED ACTIVITIES) REGULATION 2013	24329, 24369
PUBLIC TRANSPORT SECURITY	24343
QUESTIONS WITHOUT NOTICE.....	24339
ROAD TRANSPORT SAFETY.....	24344
SAME-SEX MARRIAGE.....	24395
SOUTHERN REGION DISABILITY SERVICES	24348
STANDING COMMITTEE ON SOCIAL ISSUES.....	24350
STATE BUSHFIRES	24339, 24393
STRATA SCHEMES MANAGEMENT AMENDMENT (CHILD WINDOW SAFETY DEVICES) BILL 2013	24354
SYDNEY WATER WASTEWATER TREATMENT PLANTS	24392
TRAIN TIMETABLES	24341
V8 SUPERCARS CONTRACT	24349
WESTERN SYDNEY DISABILITY SERVICES	24342
WORK HEALTH AND SAFETY AMENDMENT BILL 2013.....	24364

LEGISLATIVE COUNCIL

Tuesday 22 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.

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

CARERS WEEK

Motion by the Hon. HELEN WESTWOOD agreed to:

That this House:

- (a) notes that National Carers Week will take place from Sunday 13 to Saturday 19 October 2013;
- (b) notes that Carers Week is an opportunity to:
 - (i) recognise the amazing contribution that carers make to our community;
 - (ii) encourage all Australians to become more aware of carers and how to better recognise and celebrate Australia's carers; and
- (c) notes that as part of Carers Week 2013 "Take a break" events are being held in the community to help to increase the awareness of unpaid family and friend carers, and provide an opportunity for participants to show their recognition and support;
- (d) recognises and congratulates carers in New South Wales on the significant contribution they make to supporting people to live at home and participate in the community; and
- (e) congratulates Carers NSW, the peak organisation for carers in New South Wales, on the role it has played in this year's Carers Week and throughout the year.

NATIONAL WEEK OF DEAF PEOPLE

Motion by the Hon. HELEN WESTWOOD agreed to:

- (1) That this House notes that:
 - (a) the National Week of Deaf People is held from 19 to 25 October 2013;
 - (b) the National Week of Deaf People provides an opportunity for the deaf to celebrate their community, language, culture and history, and recognise the achievements and skills of people from the deaf community;
 - (c) the theme of the 2013 National Week of Deaf People is "Equality for Deaf People";
 - (d) during the National Week of Deaf People a number of community events are being held including:
 - (i) the international Deaf Festival on Saturday 19 October 2013 at Palm Grove, Darling Harbour;
 - (ii) National Week of Deaf People at the Parliament of New South Wales will be held on 21 October 2013 when deaf students from a number of New South Wales schools will visit and tour Parliament House; and
 - (e) approximately 10 per cent of the New South Wales population, more than 660,000 people, live with complete or partial hearing loss, many of whom rely on Australian Sign Language or Auslan to communicate, and they are often amongst the State's most vulnerable workers and job seekers.
- (2) That this House calls on all members of Parliament to use the National Week of Deaf People as an opportunity to promote a wider understanding of the uniqueness of the deaf community and their need to receive "signed" information to ensure their full inclusion in society.

PAKISTAN AUSTRALIA BUSINESS COUNCIL

Motion by the Hon. SHAOQUETT MOSELMANE agreed to:

- (1) That this House notes that:
 - (a) the Pakistan Australia Business Council [PABC] Incorporated hosted a community dinner for His Excellency Peter Heyward, High Commissioner of Australia to Pakistan;
 - (b) present at this event were the Consul General of Pakistan, Mr Abdul Aziz Uqaili, as well as Consul Mr Shifaat Ahmad Kaleem and Counsellor Welfare Pakistan Consulate General Sydney, Sardar Balakh Sher Khosa;
 - (c) also present were Mr Ed Husic, MP; the Hon. Amanda Fazio, MLC; the Hon. Shaoquett Moselmane, MLC; Mr Grame Barty, General Manager of Austrade; and a number of distinguished community representatives including Mr Iftikhar Rana, President, and Mr Kashif Amjad, Vice President of Pakistan Australia Business Council; Dr Shahbaz Chaundhary of Pakistan Australia Council; Mr Shahid Iqbal, President of the Pakistan Australia Association; Dr Sayeed A. Khan, President of Australia Pakistan Medical Association; as well as media representatives including Mr Asif Muhammad from Pak-Link; Mr Javed Chaudry, Editor-in-Chief of AWAZ news Sydney Australia; and Mr Zafar Hussain Shah of Sada-E-Watan;
 - (d) the Hon. Shaoquett Moselmane, MLC, as Chair of the Multicultural Media Awards re-presented Mr Zafar Hussain Shah with the MMA Hall of Fame award for his two decades of dedicated media coverage of community affairs; and
 - (e) also celebrated was the signing ceremony held on 28 September 2013 between Pakistan Australia Business Council and Pakistan Australia Business Forum executing a memorandum of understanding giving greater focus to Pakistan–Australian Trade relations.
- (2) That this House notes the good work undertaken by the Pakistan Australia Business Council and the Pakistan Australia Business Forum, and congratulates them on the important trade promotions they undertake between the two countries.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business items Nos 1552 and 1553 outside the Order of Precedence objected to as being taken as formal business.

EGYPTIAN-AUSTRALIAN COMMUNITY EVENT

Motion by the Hon. DAVID CLARKE agreed to:

- (1) That this House notes that:
 - (a) on 26 September 2013 Muslim and Christian members of the Egyptian-Australian community hosted a function at Canterbury that was chaired by Dr Medhat Guirgis, Senior Consultant Orthopaedic Surgeon and General Secretary of the NSW Advisory Board of the Coptic Orthodox Church, under the theme "Because of our love of Egypt" to:
 - (i) promote interfaith harmony between members of the Egyptian-Australian community during these difficult times in Egypt and call for peace in that country;
 - (ii) welcome to Australia prominent Egyptian citizen: His Honour Justice Amir Ramzy, Court of Appeal, Cairo; Dr Ihab Ramzy, Professor of Criminal Law, Banha University, Egypt; and Mrs Fatima Naoot, prominent Egyptian poet and journalist; and
 - (b) those who attended as guests included:
 - (i) Reverend the Hon. Fred Nile, MLC, Assistant-President of the Legislative Council;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iii) Mr Laurie Ferguson, MP, Federal member for Werriwa;
 - (iv) Mr Craig Kelly, MP, Federal member for Hughes; and
 - (v) Mr Safwat El Banna, prominent member of the Muslim Egyptian Australian Community.
- (2) That this House:
 - (a) welcomes His Honour Justice Amir Ramzy, Dr Ihab Ramzy and Mrs Fatima Naoot on the occasion of their visit to Australia; and
 - (b) commends the organisers of the event for their promotion of interfaith harmony.

LEGISLATION REVIEW COMMITTEE**Report**

The Hon. Dr Peter Phelps tabled a report entitled, "Legislation Review Digest No. 46/55", dated 22 October 2013.

The Hon. Dr PETER PHELPS [2.36 p.m.]: I move:

That the report be printed.

Mr DAVID SHOEBRIDGE [2.36 p.m.]: Before the motion to print the report is agreed to, it is appropriate that the House be made aware that it is an ongoing matter of concern that a member of the Legislation Review Committee, Ms Tania Mihailuk, cannot attend approximately 65 per cent of the committee meetings because of her child care obligations.

The Hon. Dr Peter Phelps: Point of order: The motion relates to the printing of this paper. The member is straying into areas that are not relevant to the motion before us.

Mr DAVID SHOEBRIDGE: To the point of order: The resolution to print the report means that the details of the report, which include the contribution or otherwise of the member, will be open to public scrutiny. Therefore, it is entirely appropriate that the House and the public are informed that through no fault of her own the member is unable to contribute to the deliberations of the committee.

The Hon. Amanda Fazio: To the point of order: I believe it is appropriate for members to be fully informed before deciding whether to vote to allow a report to be printed. What seems to me to be the deliberate actions of a committee in scheduling meeting times to prohibit one member from attending due to her child care obligation is an important issue.

The PRESIDENT: Order! The member well knows that she is now straying into the substance of the debate and that she is not speaking to the point of order. There is nothing in the standing orders that prevents this motion from being debated. However, it is clearly a procedural motion. Therefore it would be more appropriate for the comments to be made on, for example, the take-note motion. The member may conclude his remarks if he wishes. Clearly this is a very limited motion and therefore relevance will be an issue if he strays too much further.

Mr DAVID SHOEBRIDGE: I understand and respect your ruling, Mr President. I do not wish to labour the point but it is a repeated matter of contention in the committee that a majority of members have asked for the committee to meet at 1.30 p.m. because one member cannot attend at 8.30 a.m. The pattern has now been—

The Hon. Catherine Cusack: Point of order: As I understand it, the procedural motion before the House is whether the report should be printed or not printed. In his remarks Mr David Shoebridge needs to state a case for or against printing the report.

The PRESIDENT: Arguably he is doing that, so I will not cut him off. He has made the point at least once and he would not want a ruling that he is being tedious and repetitious.

The Hon. Duncan Gay: Are you opposed to printing the report?

Mr DAVID SHOEBRIDGE: I support the motion to print it, but in supporting that motion I ask members of the House to reflect upon what is going on in that committee, make their own inquiries, and see for themselves whether they are satisfied with what is occurring.

Question—That the report be printed—put and resolved in the affirmative.

Motion agreed to.

Report printed.

ADMINISTRATION OF THE GOVERNMENT OF THE STATE

The PRESIDENT: I report the receipt of the following message from the Honourable Justice Margaret Beazley, AO, Administrator of the State of New South Wales:

M Beazley
ADMINISTRATOR

Office of the Governor
Sydney 2000

The Honourable Margaret Beazley, AO, Administrator 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, and as a result of the Lieutenant-Governor being absent from the State of New South Wales, she has assumed the administration of the Government of the State.

Tuesday 22 October 2013

PETITIONS**Forced Adoption Practices**

Petition stating that New South Wales, Commonwealth and other Australian governments have delivered apologies or have announced their intention to deliver an apology for forced adoption practices, and calling on the Government to establish an annual Day of Recognition of Forced Adoption Practices, a public memorial and a public awareness campaign to recognise forced adoption practices, received from the **Hon. Jan Barham**.

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**.

Marriage

Petition stating that marriage is a 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**.

BUSINESS OF THE HOUSE**Notices of Motions**

[During the giving of notices of motions]

CHAIR: Order! I call the Hon. Lynda Voltz to order for the first time.

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Notice of Motion No. 1 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 1 and 2 postponed on motion by the Hon. Duncan Gay and set down as an order of the day for a later hour.

**PROTECTION OF THE ENVIRONMENT OPERATIONS ACT: DISALLOWANCE OF
PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT (SCHEDULED
ACTIVITIES) REGULATION 2013**

The PRESIDENT: Pursuant to standing orders the question is: That Business of the House Notice of Motion No. 1 proceed as Business of the House.

Question resolved in the affirmative.**Motion by Dr John Kay agreed to:**

That the matter proceed forthwith.

Dr JOHN KAYE [3.05 p.m.]: I move:

That, under section 41 of the Interpretation Act 1987, this House disallows item [3] of schedule 1 and item [3] of schedule 2 to the Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013, published on the NSW Legislation website on 28 June 2013.

Effectively, this motion stops the O'Farrell Government imposing administrative licence fees on New South Wales wind farms. This motion will stop the O'Farrell Government creating yet another disincentive to develop an industry that not only will generate thousands of jobs but also will slash the State's greenhouse gas emissions, bring tens of billions of dollars of investment to this State and position New South Wales as a global leader in clean energy. The regulation this motion seeks to partially disallow does two things: creates licensing fees for coal seam gas exploration, assessment and production activities and for electricity generation activities by wind turbines. Symbolically, the O'Farrell Government lumps together wind turbine generation and coal seam gas exploration into the one amendment seeking—

The Hon. Dr Peter Phelps: Coal seam is much better.

The Hon. Duncan Gay: No, wind turbines are much worse.

Dr JOHN KAYE: I acknowledge the interjection and its enthusiastic reception from Government members. It is important that the people of New South Wales understand that this regulation comes from a profound absence of science and hostility to clean energy solutions and jobs in New South Wales. If New South Wales jobs are to have a secure future, there must be renewable energy. Item [3] of schedule 2 to the regulation gives the game away. It states clearly that administrative licence fees on wind farms will be up to \$16,950 a year—that is, 150 penalty units at \$113 a penalty unit. That totals an almost \$17,000 year impost on a wind farm over four gigawatt hours per year. Then it goes on to say there are no load-based fees, stating:

There are no assessable pollutants and therefore no load-based fee in relation to this activity.

The O'Farrell Government states very clearly that, in fact, there are no assessable pollutants but, nonetheless, "we will impose an administrative fee on wind farms."

The Hon. Rick Colless: What about visual pollutants?

Dr JOHN KAYE: The Hon. Rick Colless, the Deputy Government Whip, says, "What about visual pollution?" Interestingly, his interjection shows that he does not know a lot about environmental regulation in New South Wales. If he did, he would know that this regulation to the Protection of the Environment Operations Act contains no mention of visual pollution. If he is worried about visual pollution, perhaps he should personally do something about it. Even though there is no assessable pollutant, the regulation imposes an administrative fee to collect data on the absence of an assessable pollutant. To be kind to the O'Farrell Government, presumably it is talking about noise.

Reverend the Hon. Fred Nile: Noise pollution.

Dr JOHN KAYE: I note the Reverend the Hon. Fred Nile's interjection. Let me talk about noise pollution. The question that should be asked is: Do wind farms have a health or environmental impact from noise pollution? Every year for the past decade the National Health and Medical Research Council has issued a statement that there is no noise-related health impact from wind farms.

The Hon. Charlie Lynn: Rubbish.

Dr JOHN KAYE: I do not know whether the Hon. Charlie Lynn is saying that the National Health and Medical Research Council is talking rubbish—

The Hon. Charlie Lynn: I am talking about the people who have to put up with it.

Dr JOHN KAYE: That is interesting.

The Hon. Charlie Lynn: They think it is rubbish.

Dr JOHN KAYE: Every recent survey has shown that people who live close to wind farms have a higher rate of acceptance of wind farms than those who live further away.

The Hon. Charlie Lynn: That is absolute rubbish.

Dr JOHN KAYE: The issue is, where is this concern coming from? Every year for the past decade the National Health and Medical Research Council has issued a statement that there is no health impact from wind farms.

Reverend the Hon. Fred Nile: There are surveys showing there is an impact.

Dr JOHN KAYE: I note the interesting interjection by the Reverend the Hon. Fred Nile. Surveys show that people think there are health impacts. There is a huge difference between people thinking—

Reverend the Hon. Fred Nile: No, the surveys show that there are health impacts.

Dr JOHN KAYE: There is no way a survey can show a health impact; that is absurd. It is symptomatic of the nonsensical non-science that has infected the debate around wind farms, not the least of which is the utter rubbish put forward by the Waubra Foundation. The National Health and Medical Research Council, in response to the nonsense coming from the Waubra Foundation—and probably members of this Chamber—has commissioned a detailed review of the known science on health impacts. The review should be available later this year or early next year. It begs the question: Given that the National Health and Medical Research Council has repeatedly said there are no health impacts and is conducting a more detailed study that is not yet finished, why is the O'Farrell Government seeking to impose licence fees presumptively to regulate noise associated with wind farms?

The O'Farrell Government, for cheap political reasons, has swallowed the poison distributed by shonks such as the Waubra Foundation. Without any scientific evidence or reference to the sensible, peer-reviewed science that has said time and again there is no health impact, the shonks stir up discontent and fear in communities where wind farms are located. By stirring up discontent and fear, they create a self-fulfilling prophecy. People do suffer from headaches, but their headaches are from the stress created by the Waubra Foundation and the anticipation of health impacts that do not exist. I know there are members in this Chamber who Google "health impacts and wind farms" and read statements such as, "My chickens laid eggs without yolks because of a wind farm".

The Hon. Dr Peter Phelps: Shame.

Dr JOHN KAYE: This stuff is nonsense.

The Hon. Dr Peter Phelps: Why do you hate chickens?

Dr JOHN KAYE: Members should go to the website of Professor Simon Chapman, the Professor of Health at the University of Sydney.

The Hon. Dr Peter Phelps: Free the chickens.

Dr JOHN KAYE: The Hon. Dr Peter Phelps will get his chance to contribute to the debate. I hope he does because I am looking forward to more of his comments about flat earth science being put on the record. I urge all members to go to Simon Chapman's website to read about the utterly absurd 116 supposed health impacts. The document, "Draft NSW Planning Guidelines—Wind Farms" appears to be the source of our trouble. The document was published in December 2011 as a draft for public consultation. We are rapidly heading towards the end of October 2013, yet we have not yet seen the final version.

In those draft guidelines the noise impact standard for wind farms was set at five decibels lower than in any other jurisdiction in Australia, in Europe or in the United States of America. Five decibels does not sound like a lot but, at the risk of taxing the brain of the Hon. Dr Peter Phelps beyond its elastic limit, decibels are a

logarithmic scale and five decibels means effectively one-third of the noise power. Therefore, the noise power to be allowed in New South Wales is one-third less than in any other jurisdiction in Australia, in Europe or in the United States of America. Large areas of New South Wales will effectively be sterilised if the wind planning guidelines go ahead, with no perceptible gain in noise amenity for residents anywhere in the State.

The Greens support appropriate levels of noise protection for homes, schools and workplaces. For years I, Dr Mehreen Faruqi and other members of The Greens have argued about the noise associated with motorways. Many studies have shown a proven impact on the health of individuals from noise associated with motorways, and I would like to see more regulation in this area. However, that is not the way of the O'Farrell Government; it is coming after wind farms. The guidelines impose a restriction on noise levels that is almost impossible to achieve and has no additional benefit for local residents. The level of 35 decibels is measured outside a house. Inside a house, the level would be less than the noise heard in one's bedroom from a refrigerator located outside. It is an absurdly low level of noise. The level is less than the standard noise that is acceptable in libraries around Australia.

This issue is important because to create a barrier to wind farms creates a barrier to the renewable energy industry in the future. According to the Clean Energy Council, the wind farm industry in New South Wales has just shy of \$12 billion worth of investment. What other industry in Australia that offers to invest \$12 billion in the State, create almost 4,000 jobs, reduce the State's greenhouse gas emissions by 17 million tonnes and slash a total of 28 per cent from the electricity greenhouse emissions would be confronted with the same level of hostility from government? When the aluminium smelter in Kurri Kurri was at risk, the political process went into meltdown over 500 jobs. Yet not a tear has been shed for the 4,000 jobs that are being put at risk by a government signalling to the wind industry, through this regulation and in other ways, its deep hostility towards it. New South Wales currently has 11 per cent of Australia's wind turbines; we should have 30 per cent. We are underperforming, even by Australia's pathetic standards.

The imposition of these fees—albeit relatively small fees—sends a message that the O'Farrell Government is only open for business to its mates. As to this industry, which generates wealth and creates jobs, the O'Farrell Government is using noise regulation as a weapon to create uncertainty and to make projects less bankable or to stifle them. Investors are afraid that if they build wind farms they will be harassed out of business by the O'Farrell Government whose leader, when he was elected to power, said he hoped there would never be another wind farm in New South Wales. He hopes there will not be 4,000 jobs or 2.7 million households in New South Wales powered by wind farms. He hopes that New South Wales will not have the capacity to export renewable energy credits to other States. He hopes that we will not create the basis for an export industry that could see New South Wales become a global leader or an industry that will address chronic unemployment in places such as Wollongong where almost 50 per cent of young people do not have a job. I know that Deputy-President The Hon. Paul Green is personally concerned and understands what I am saying.

At best, the part of this regulation relating to wind farms is inept. At worst, it is an attempt to signal to the wind energy industry that New South Wales will harass wind farms and drive them out of the State. It is sending a message to bankers that there should be no wind farms. The Government is falling over backwards to encourage the coal seam gas industry. I have no doubt that the Hon. Jeremy Buckingham will have something to say on that. The Government is hell-bent on destroying an industry that can work with communities, create jobs and solve our greenhouse gas crisis. It can contribute to reducing greenhouse gas emissions and to taking the pressure off the global system. At the very least, this regulation should stay off the books until the wind farm planning guidelines have been either approved or abandoned and the National Health and Medical Research Council has published its final report. To do otherwise is to fly in the face of good policy, destroy jobs and disregard very important science. [*Time expired.*]

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [3.21 p.m.]: On behalf of the Government I oppose the motion, which is the disallowance of item [3] of schedule 1 and item [3] of schedule 2 to the Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013. To address community concerns regarding wind farm operations, this Government made a decision to require large-scale wind farms to be regulated by the Environment Protection Authority [EPA]. Following a productive consultation process, legislative amendments were made that require large-scale wind farms to hold an environment protection licence under the Protection of the Environment Operations Act 1997.

The amendments commenced on 28 June 2013. The motion proposes to remove the requirement for wind farms to hold an environment protection licence and make local councils the regulatory authority. This has

the potential to reintroduce uncertainty for wind farm operators and inconsistency in regulatory oversight. I understand that the intention of this motion is in fact to remove licence administration fees for large-scale wind farms rather than to remove wind farms from the licensing schedule. I do not support the removal of wind farms from the licensing schedule or from the Environment Protection Authority's regulatory oversight. Further, I do not support the removal of licence administrative fees for large-scale wind farms for three main reasons. First, the fees are fair and reasonable. They are not a barrier to wind farm investment in New South Wales. Secondly, the benefits of centralised regulation by the Environment Protection Authority through a credible and consistent licensing framework far outweigh the small costs of annual licence fees. Thirdly, removing fees for large-scale wind farms would be a major departure from the Environment Protection Authority's licensing approach.

It would be inequitable for other industries and activities that require an environment protection licence and would set a precedent for the removal or reduction of fees for those other industries or activities. I will briefly explain the purpose of the annual licence administrative fees. All activities that are listed under schedule 1 of the Protection of the Environment Operations Act 1997 are known as "scheduled activities" and require an environment protection licence from the Environment Protection Authority in order to operate. Through licensing, the Environment Protection Authority regulates a broad range of activities with potential environmental impacts, from marinas to coal-fired power stations. Licence administrative fees vary depending on the nature, size and capacity of the activity being undertaken. These fees reflect the partial cost of the resources required for the Environment Protection Authority to regulate each activity.

Large-scale wind farms are typically those that are approved as significant development by the Department of Planning and Infrastructure or by a Planning Assessment Commission [PAC]. These are not small investments. The Environment Protection Authority undertook economic modelling in order to set appropriate licence administrative fees for large-scale wind farms. Four licence fee tiers have been established based on the generating capacity of the wind farm, ranging from approximately \$1,700 to \$17,000 per annum. By comparison, coal- and gas-fired electricity generators can pay as much as \$47,000 per annum.

The Environment Protection Authority estimates that 90 per cent of large-scale wind farms, including those currently under assessment, will fall into the lowest-fee tiers and only pay between \$1,700 and \$7,500 per annum. This quantum of fees is not a barrier to wind farm investment in New South Wales. In setting these fees, the Environment Protection Authority aimed to reflect the degree of regulatory effort required relative to other licensed electricity generators, including gas- and coal-fired power stations. In setting the fees, the Environment Protection Authority was also careful to minimise any possible market distortions between electricity generators, promoting competitive neutrality to the greatest extent possible.

The benefits of centralised regulation of large-scale wind farms by the Environment Protection Authority, through a credible and consistent licensing framework, far outweigh the small costs of annual licence fees. Licence administrative fees are a fundamental component of the State's environment protection licensing framework. Removing fees for large-scale wind farms would be a major departure from the Environment Protection Authority's licensing approach, as mentioned earlier. The Government does not support the removal of the environment protection licence administrative fees for large-scale wind farms in New South Wales. If the Environment Protection Authority is to be seen as a fair and credible regulator, large-scale wind farm businesses should not be given special treatment by removing their requirement to pay these licence administrative fees. The prescribed licence administrative fees are low and equitable and based on sound economic modelling. As I indicated earlier, these fees do not represent a barrier to wind farm investment in New South Wales. Therefore, the Government opposes the motion.

The Hon. JEREMY BUCKINGHAM [3.26 p.m.]: On behalf of the Greens, I speak strongly in support of my colleague Dr John Kaye's disallowance motion on this entirely unfair and unreasonable regulation. I refer to the Minister's contribution. There is no doubt that this Government has an anti-science, anti-renewable energy agenda. We only have to listen in this place to the Hon. Rick Colless and the Hon. Dr Peter Phelps who ad nauseam berate climate scientists and others with concerns about the impact of global warming and those who believe that there is a jobs-rich future in renewable energy in this State.

The Hon. Dr Peter Phelps: Ha!

The Hon. JEREMY BUCKINGHAM: I note the scoff of the Hon. Peter Phelps. In the central west energy precinct of New South Wales, an area rich in the potential for jobs generated by wind energy, billions of dollars of wind projects are in limbo because the Government is stalling on its wind farm planning guidelines. It does so not only on ideological basis but also, I believe, because it cannot see beyond fossil fuels. It has been

captured by the old, redundant and dangerous thinking of the fossil fuel lobby, which has successfully conned it into believing that the only future for our economy is to perpetuate that industry and roll it out across our farmlands.

The Government believes that renewable energy is not viable—which is patently untrue. As Dr Kaye so eloquently said, this regulation does create a massive disincentive for anyone to become involved in the clean energy industry. It is utter rubbish for the Minister to say that it is promoting competitive neutrality. It creates a disincentive for the renewable energy sector, especially when one considers that so many of the fossil fuel industry costs are externalised—they are externalised into the lungs of our children, into the atmosphere, waterways, damaged soil and beyond.

Dr John Kaye: And into our climate.

The Hon. JEREMY BUCKINGHAM: Of course, into our climate. Those key costs are subsidised by the environment and the people. Before I came to this place I routinely went to a little place in the Central West called Neville. I am sure many have been to that beautiful little hamlet south of Blayney. Adjacent to Neville is a wind farm—one of the first wind farms built in New South Wales—and not far down the road is another wind turbine at Hampton. The people living near that wind farm are not sick and they are not moving away. In fact, they think it is a fantastic development, which is creating local employment and sustaining the economy of that region.

Overwhelmingly, the people of the Central West want the Flyers Creek project approved. The Central NSW Renewable Energy Cooperative want the development approved; they want to partner with this group to promote renewable energy. Surprisingly, as Dr John Kaye said, the people furthest from these developments are the ones complaining. The people with turbines on their properties see them as a massive revenue boon to support their agricultural enterprises and local economy.

The Hon. Rick Colless: Like coal seam gas.

The Hon. JEREMY BUCKINGHAM: The member says "like coal seam gas" but let us take a look at the regulation and what we are talking about here. Dr John Kaye correctly asked: "What is the pollution we are talking about here?" We are talking about noise pollution. With renewable energy and wind energy we do not have any of the following pollutants: benzene, benzopyrenes, fine particulates, hydrogen sulphide, nitrous oxides, nitrogen oxides, sulfur oxides or volatile organic compounds [VOCs]. You do not want benzene in your water or in your lungs. It is appropriate that it be regulated and we move away from industries that put these particulates and poisons into our food supply and water supply.

We can apply a test for the intergenerational effects of this industry. At the end of the day, if you dismantle a wind farm—that is, if wind farms were truly affecting people's health; I do not accept that they are—you are left with nothing. You would never even know that a wind farm had been there. If you take away the base pad and remove the access road then the environment will be restored to what it was. It is the complete opposite with coal seam gas—namely, you cannot undo the environmental changes made by those industries. In coal seam gas extraction you drill down, smash the geology and pollute the groundwater. You leave boreholes that will link groundwater with polluted coal seams and chemical-laden water for eternity—geological transformations that will be there across eons. Wind farms are clean and green, and that is the key difference.

The National Health and Medical Research Council has continually said there is no pollution from wind farm. No-one is getting sick from these industries. A sick campaign is being run by the fossil fuel industry, backed by the Murdoch press, to see off an industry that would create numerous jobs in the regions. Solar farm developments in Moree have been attacked in the media, as have wind farms in the Central West. We are talking about billion-dollar developments waiting to be rolled out in some of the most socio-economically depressed areas in the State, including the Northern Tablelands and the Southern Tablelands. Even the Hon. Scot MacDonald acknowledges privately that the residents of the Northern Tablelands love these developments.

The Hon. Dr Peter Phelps: Privately?

The Hon. JEREMY BUCKINGHAM: Privately. They want the jobs. They recognise that maintenance and capital expenditure can bring benefits. The residents of Tenterfield and the surrounding areas are all for them and as they roll out the locals will welcome them with open arms. This regulation does nothing

to facilitate wind farms; it is about creating a disincentive. It is about the victory of redundant ideologies over embracing science, technology, innovation and humane ingenuity to develop an industry that will sustain us into the future. It complements agriculture rather than to displace it.

This regulation is not fair or reasonable. Those opposite say that there is no special treatment for the coal industry but I do not accept that. There certainly is "special" treatment for the wind energy sector in this State. If there was not, then we would not have these wind planning guidelines that have been ferreted away for years while the energy industry looks to other jurisdictions that do not have this illogical and ideological approach to what is really common sense. This industry could deliver energy to sustain this State for hundreds of years to come.

Mr SCOT MacDONALD [3.35 p.m.]: I disagree with the disallowance motion.

The Hon. Walt Secord: That is not what you say privately.

Mr SCOT MacDONALD: I will come to that—I have been outed.

The Hon. Luke Foley: I demand full disclosure of private discussions between the country Liberals and the country Greens.

Mr SCOT MacDONALD: The member opposite will have to make a Standing Order 52 request. The Minister's arguments are compelling. Large-scale wind farm developments are required to have a licence and pay fees, so this will apply to only a small part of this market. Most wind farms are smaller, moderate developments and will have fees appropriate to their size. This reflects the amount of resources that go into the regulation of this industry. It is a difficult industry, which requires a lot of consultation and work. The Environment Protection Authority [EPA] is an appropriate body to do that. On the raw facts of this disallowance motion—namely, whether or not the level of fees is appropriate—there is no argument. Each speaker has spoken about the pros and cons of wind farms and I am happy to put my feelings on the record.

The Hon. Jeremy Buckingham commented that I am happy to see wind farm developments on the Northern Tablelands. For instance, the community, by and large, is pretty happy with the development going on in Walcha. I do not subscribe to the argument that these developments cause health issues. Everything I have read says that there is no science to back it up, so I will stick to the science. If members do the reading on it they will see it is pretty compelling. My concerns about the wind industry go more to the economics. The wind industry does cause grid instability. It costs about five times more than current power generation.

[Interruption]

The grid instability is quite a problem. As a rule when the winds are generating the power is not needed because you have base load power pumping. So you are getting the generation of power into a market when it is not needed. That drives—

Dr John Kaye: That is a different issue to wind instability.

Mr SCOT MacDONALD: I listened to the Dr John Kaye without interruption so I would appreciate it if he could do the same. When the wind is blowing it generates power into the market during the day when it is not needed—because the base load power is pumping—and that drives the wholesale price down. It interrupts the market and causes grid instability and disruption to investment. I am supportive of the wind industry to a point. I think a level of 5 per cent, 10 per cent or 15 per cent or whatever it is going to be up to our 2020 market—

The Hon. Jeremy Buckingham: It drives prices down!

Mr SCOT MacDONALD: That is exactly right. It does drive prices down but at the wrong time. The problem that we have—the two previous speakers from The Greens alluded to this—is that it creates extra jobs. What industry would celebrate the creation of extra jobs that will flow on to extra costs? We currently have a very efficient market that was developed 50 or 60 years ago. We have power generation sites situated on top of coal mines and the labour required for that means we have energy efficiency. That cannot be said for the wind industry. If they trumpet thousands of jobs—or even tens of thousands as I think I have heard Dr Kaye say when he gets excited—that labour cost will flow on to the electricity market. At the moment in Europe electricity prices are around five times higher. In Germany hundreds of thousands of people are being disconnected because they cannot afford their electricity.

I say to members opposite who are keen about the wind industry that it has its place but it also has unforeseen consequences and third party impacts. In the main, wind power drives up electricity prices so some of the arguments made by members opposite are flawed. They say that it will create thousands of jobs, but that will make the cost of electricity less sustainable for mums and dads and businesses. Dr Kaye can stand up and trumpet the extra thousands of jobs but he should also acknowledge that the cost will flow on to the market. I reject the disallowance motion.

The Hon. LUKE FOLEY (Leader of the Opposition) [3.40 p.m.]: The Labor Opposition will support the motion moved by Dr John Kaye. The motion seeks to disallow wind farm licence fees that are contained in the Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013. For well over a year Dr Kaye, many others and I have been calling on the Government to finalise and announce its final planning guidelines for wind farms. In December 2011 the Government released its draft planning guidelines for wind farms, which Minister for Planning and Infrastructure Brad Hazzard described at the time as "the strictest guidelines that exist in Australia".

I remember that announcement well. It was made in the week leading up to Christmas 2011. At the time the draft stated, "It is intended that the wind farm guidelines could be in place by the middle of 2012." We are now in the final weeks of the parliamentary year for 2013—coming up to a full two years after those draft planning guidelines were laid on the table, so to speak, by the Minister—and we are still waiting for the final planning regime for the State's wind industry. The wind industry, private sector businesses that operate in it and the communities that are affected by its operations, are experiencing a great deal of uncertainty. It is unacceptable that the guidelines have remained in draft form for 22 months. At the time the draft guidelines were released the Government proposed that they would be finalised by around the middle of last year; yet the Minister has provided no adequate explanation as to why the guidelines have remained in draft form for such a long time.

New South Wales has a 20 per cent renewable energy target by 2020. I point out to Government members that that is a bipartisan target to which the O'Farrell Government claims it remains committed. Wind is the cheapest form of large-scale renewable energy to help meet the goal of providing 20 per cent renewable energy by 2020. The Australian Energy Market Operator has reported that investment interest is focused on supplying renewable energy such as wind during periods of peak demand on the hottest and the coldest days of the year. It is often claimed by opponents that renewable forms of energy do not help deliver base load power. I think the technology is dealing with that concern.

I also point out that, whatever view one takes of so-called base load, wind energy can make a substantial and important contribution to managing peak demand and meeting our energy needs on the hottest and the coldest days. The wind industry in New South Wales has the potential to generate perhaps 3,000 megawatts of energy to help with our energy needs. In Labor's view, the draft guidelines that I referred to were designed to destroy the expansion of the wind industry in this State. I refer to a statement by the Premier in a radio interview early in the life of his Government. On 16 August 2011, when referring to applications for wind farms, he said:

As I'm told, no new applications are being lodged, we haven't approved any new applications, and if I had my way we wouldn't.

Those were the words of the Premier in 2011. There is a relentless hostility to wind energy despite the fact that wind can make a substantial contribution to meeting the energy needs of this State. The Australian Energy Market Commission final report entitled, "Possible Future Retail Electricity Price Movement: 1 July 2011 to 30 June 2014", provides at page 48:

According to the Australian Energy Market Commission (AEMC), new wind energy projects in Victoria facilitated by the renewable energy target will actually deliver lower wholesale electricity price increases than what will be seen in NSW.

I will refer to the submission made on the draft planning guidelines for wind farms by a company called Epuron, which is available on the Department of Planning website. Epuron has gained planning approval for the largest number of wind turbines in New South Wales and is the State's most active wind farm developer, so its submission on appropriate regulation of the wind industry should be treated seriously. It makes the point that prohibitive fees act as a barrier to investment by the wind industry in this State.

Earlier in this debate a member of the Government claimed that the wind industry requires subsidies. That is not true. The wind industry is seeking a removal of prohibitive barriers that artificially restrict the ability of the wind industry to participate in the energy market. In its submission Epuron is not seeking subsidies; it is

seeking the removal of prohibitive artificial barriers that were put in place by government to chronically handicap the industry. At page 7 the Epuron submission refers to the wind industry fees in New South Wales and states:

More importantly, the fees introduce a significant burden to development of the wind energy industry in NSW, where the planning fee can be more than 20 times the highest planning fee applicable in other jurisdictions.

I emphasise that the fees are 20 times the highest planning fee applicable in other jurisdictions. Today Dr John Kaye is seeking to address that very real barrier to the industry, the prohibitive fees, in the only way possible—by this House disallowing a section of the regulation made by the Government. If the House carries Dr Kaye's motion, it will address in only a very minor way the very prohibitive fees, but disallowance of the regulation is the only avenue open to us for redress. It will not affect the overwhelmingly large and prohibitive fees that exist throughout the system; it will disallow that section of the regulation concerning licence fees. The wind industry has a very significant role to play in meeting the State's bipartisan 20 per cent renewable energy target by 2020. Prohibitive fees act as a very real deterrent to the wind industry's investment in this State. For the reasons I have stated, the Labor Opposition will support the motion moved by Dr John Kaye that will at least, if carried, remove the licence fees that have been put in place by this Government.

Dr MEHREEN FARUQI [3.50 p.m.]: I support the motion moved by Dr John Kaye for disallowance of the regulation. The Greens are seeking to disallow sections of the Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013, which appeared in the *Government Gazette* on Friday 5 July. Dr Kaye's motion specifically seeks to remove the provisions in the regulation that define wind generation as a scheduled activity under the Protection of the Environment Operations Act 1997 and impose licence fees on such activities. Removing those provisions will reduce the barriers to investment in this clean and green source of energy, which is desperately required to move New South Wales into the twenty-first century and a sustainable future. A couple of weeks ago I was lucky enough to visit a wind farm in Gunning near Goulburn with more than a hundred other members of the community.

The Hon. Duncan Gay: You are lucky you do not live there.

Dr MEHREEN FARUQI: I have been to Goulburn many times. I love Goulburn.

The Hon. Duncan Gay: Gee whiz. There are no wind farms in Goulburn.

Dr MEHREEN FARUQI: There are 31 wind farms and those 31 wind farms supply clean and green energy to Goulburn.

The Hon. Duncan Gay: They are all at Crookwell and Gunning.

Dr MEHREEN FARUQI: I know that beauty lies in the eye of the beholder; those 31 wind farms were beautiful to me. They were a sight to behold. There was no air pollution, water pollution or noise pollution.

Reverend the Hon. Fred Nile: What about visual pollution?

Dr MEHREEN FARUQI: They were beautiful. I said that earlier. I met the two landowners on whose farm the wind turbines are located. They survive and live very happily in harmony there. It is not just the wind farm that is operational but also their sheep property is operational as well—exactly as it was before the wind farm. People and wind farms can survive and thrive together.

The Hon. Duncan Gay: Did you talk to their neighbours?

Dr MEHREEN FARUQI: All the visitors were amazed that there was no noise at all. Of course there are issues and people have spoken about the infrasound noise. In 2012 a Senate report was released which found no link between the health effects and noise from wind farms. The committee concluded that while it was possible that the human body may detect infrasound in several ways, there was no evidence at all to suggest that inaudible infrasound, either from wind farms or from other sources, created health problems. It is really important that we remove those particular provisions in the regulation because we want to move from fossil fuels to renewable energy. We will not be able to do that if we make it difficult for investment in wind energy. My colleague, the Hon. Jeremy Buckingham, already has made a good case against coal seam gas and using that as an interim fossil fuel.

The Hon. Rick Colless: Incoherent ravings.

Dr MEHREEN FARUQI: I thank the Hon. Rick Colless for his comment, which is not appreciated. Other members who participated in this debate have made really good points. In conclusion, I state that we can have lights on, we can create thousands of jobs, and we can also reduce greenhouse gas emissions. We also can protect our environment, our communities and move into a future economy that will be sustainable and provide jobs for our future generations as well. For those reasons, we must disallow this regulation.

The Hon. Dr PETER PHELPS [3.54 p.m.]: The question we must ask ourselves today is: Do we license activities that are dangerous or polluting? The answer is: Yes, we do. We license shooters because of the potential danger shooting might present; we license drivers because of the potential danger driving might have; we license waste disposal companies; and we license a whole range of activities that could be described as dangerous or polluting. But The Greens and apparently others on the Left of politics do not care about that when it comes to wind turbines. No, they are happy for the bashing behemoths that blight our landscape, these white whackers of wedge-tailed eagles, to get away scot-free. They do not need licensing.

I do not know what this fuss is about. So what if wind farms kill eagles? It is not as though we do not kill beautiful endangered animals all the time. It is true that wedge-tailed eagles are a protected species and are iconic symbols of Australia, but who really minds using taxpayer dollars to kill a few icons? I guess it is the hypocrisy that galls. Section 98 of the New South Wales National Parks and Wildlife Act states that harming a wedge-tailed eagle, which is Australia's largest bird of prey with a wingspan of up to two and a half metres, is illegal and can result in fines of up to \$11,000 or six months imprisonment. We prosecute hunters when they mistakenly shoot the wrong type of duck and we go after oil companies when birds drown in their oily facilities but that is okay because everyone hates oil companies. Perhaps the guardians of the environment can be forgiven for never fining or prosecuting a wind energy company that kills eagles and we taxpayers can be forgiven for subsidising those turbines to the tune of millions of dollars every year.

According to an estimate published in the United States *Wildlife Society Bulletin* in March, each year almost 600,000 birds are killed by wind farms in America, including more than 80,000 raptors such as hawks, falcons and eagles. Even more bats die as their lungs are inverted by the negative pressures generated by the blades that are spinning at 170 miles an hour. But hey, they are American critters: Maybe they are flying on the wrong side of the road or something. Maybe that sort of thing would not happen in Australia. Of course it does. What is the usual response from the wind industry lobbyists and their apologists in this place? It is, "We don't kill as many birds or bats as cars do." How proud they must be of their achievement—they do not kill as many birds and bats as cars do. A paper published in the United States *Journal of Raptor Research* by fish and wildlife researchers really hit a nerve when it reported that wind energy facilities in the United States have killed at least 67 golden and bald eagles in the past five years. Because companies report eagle deaths voluntarily the scientists said their figure is greatly underestimated. Even worse, the study did not include the large wind farm at Altamont Pass in California that alone kills more than 60 eagles a year.

In addition, the recently approved construction of the United States largest wind farm in Wyoming would kill approximately 50 eagles each year just by itself. Brian Millsap, who is the national raptor coordinator for the United States Fish and Wildlife Service and who is one of the authors of the study states, "It is not an isolated event that is restricted to one place ... it is pretty widespread." I understand that in this House there are fans of alternative energy. They refer to it as "alternative energy" because if it were real energy it would just be energy. Alternative energy is the energy you have when you want to have an alternative to real energy. Those who support alternative energy fail to discuss the impact of wind farms on habitat loss and habitat fragmentation as well as the large area of roads serving the wind farms. The physical footprint of human systems is one of the fundamental measures of environmental harm. We use it to assess the impact of roads, pipelines, airports and shopping centres. While they focus on the low carbon dioxide footprint of wind energy, we need to appreciate its enormous physical footprint.

A typical footprint assigned to a one megawatt wind turbine is about a quarter of an acre. However, this does not include the five to 10 turbine diameters of spacing required between wind turbines. This extra area is often cited as being useable for farming, but with respect to aerial ecosystems inhabited by birds this area is not merely unusable; it is deadly. About 100 square kilometres of land covered by wind turbines is necessary to produce one billion kilowatt hours per year, but the affected area for birds is over 700 square kilometres. In contrast, it takes only about five square kilometres of land for gas-fired power plants and less than two square kilometres for a nuclear plant to produce the same amount of power, but we do not hear The Greens talking about nuclear energy as an option. These figures include the land required for mining and

drilling. It is not a trivial difference. The large physical footprint represents probably the weakest point of wind energy. Every energy source has a drawback, but one merely has to look at Bungendore's wind turbines to see this.

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

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

QUESTIONS WITHOUT NOTICE

COUNCILLOR ANDREW ISTEPHAN

The Hon. LUKE FOLEY: My question is directed to the Minister for Ageing and Minister for Disability Services. As Minister for Ageing, has the Minister received representations that Hurstville Liberal councillor and dentist Andrew Istephan should be expelled from the Liberal Party following his conviction on five counts of assault occasioning actual bodily harm after he undertook major dental work on elderly nursing home patients without their consent? Will the Minister seek the expulsion of Mr Istephan from the Liberal Party?

The Hon. Dr Peter Phelps: Point of order: The question does not relate to the member's ministerial responsibilities; it relates to Liberal Party activities. Therefore, it should be ruled out of order.

The Hon. LUKE FOLEY: To the point of order: The question relates to the Minister's responsibilities as Minister for Ageing and the activities of a dentist concerning an elderly person. Therefore, it does relate to the Minister's responsibilities directly as Minister for Ageing.

The Hon. Duncan Gay: To the point of order: The last part of the question was entirely about removing this person from membership of the Liberal Party, which has nothing to do with this Minister's portfolio responsibility.

The PRESIDENT: Order! The Leader of the Opposition has been kind enough to present me with a copy of the question. This matter is clearly covered by the rulings of previous Presidents. I refer, in particular, to the ruling of President Burgmann in November 2000, which stated:

Questions relating to the affairs of a Minister's department or office are in order; however, references in a question to the affairs of a political party are not in order.

The question is out of order.

STATE BUSHFIRES

The Hon. NIALL BLAIR: My question is directed to the Minister for Police and Emergency Services. Will the Minister update the House on the latest with regard to the bushfires in New South Wales?

The Hon. MICHAEL GALLACHER: As at lunchtime today, 62 bushfires and grassfires were burning across the State, 14 of those uncontained. We are now very familiar with the State Mine fire at Lithgow, the Mount York-Mount Victoria fire, the Linksvue Road fire at Springwood and the Hall Road fire at Wollondilly amongst the fires currently burning. A total of 120,000 hectares of land has been burnt, with a total perimeter of the 62 current fires of 1,595 kilometres of active fire front. The bad news is that, prior to entering the Chamber for question time today, I was advised by the Commissioner of the New South Wales Rural Fire Service, Mr Shane Fitzsimmons, that the Bureau of Meteorology has advised the State Emergency Management Committee that conditions are deteriorating for tomorrow.

Temperatures will increase. It is understood that humidity will drop to around 10 per cent, with dry north-westerly winds and gusts up to about 100 kilometres an hour tomorrow. There will be extreme fire danger for the city and metropolitan area, the Blue Mountains, Central Coast and the Hunter, and I understand also the Wingecarribee, but I will get a further briefing on Wingecarribee conditions later in the day. The other alarming or concerning aspect is that on Thursday the wind will change to south-westerly; however equally low humidity and very strong winds will change the direction of the fires currently burning following the north-westerlies expected tomorrow.

Eighty-nine aircraft have been deployed and the air crane is on standby at Bankstown airport. Fire crews continue to work to bring the fires under control and monitor those that have already been suppressed. Currently more than 1,300 firefighters are in the field. I understand just short of 688—but it could well grow tomorrow—interstate firefighters have come from around the nation. Victoria has put 370 personnel into New South Wales. South Australia will lend a hand to our firefighters and communities—220 personnel have arrived or will arrive during the afternoon. As at 19 October 208 homes have been destroyed and 122 have been damaged. The Commissioner of the New South Wales Rural Fire Service has declared a total fire ban for tomorrow until further notice for the Greater Sydney region, the Greater Hunter, Illawarra-Shoalhaven and the Central Ranges.

I refer to school closures. It is important that people are aware that the Commissioner of the NSW Rural Fire Service, in accordance with the State Emergency Rescue Management Act, is directing the Department of Education and Communities, the Catholic Education Commission, the Association of Independent Schools and private operators to close school facilities within their responsibility on Wednesday 23 October 2013. The direction to close schools applies to all facilities located within the Blue Mountains local government area and the following schools: Bargo Public School, Comleroy Road Public School, Grose View Public School, East Kurrajong Public School, Yanderra Public School, Buxton Public School, Hill Top Public School, Kurrajong North Public School and Wilton Public School. The direction expires at midnight on 23 October 2013.

This extraordinary step is being taken in the interest of the safety of children. I make the point, however, that it is not a day off for kids. Tomorrow is not a day where mum and dad can let the kids out into the community. We are asking parents, or those who are guardians of children, to keep those children under their care and direction tomorrow because the situation is so fluid, for want of a better term, that things can change. Over the last few days we have seen how incredibly quickly things can change. It is extremely important that the Blue Mountains community, in particular, does absolutely everything it can to look after the wellbeing of the children in that area as they will not be attending school tomorrow. A lot of contingency is being put in place to protect children who have the challenge of completing their higher school certificates at this time. I conclude by saying, I think on behalf of the entire community, how grateful we are for the firefighters. In particular, I mention the Rural Fire Service firefighters who are in the community defending their friends' homes and their community's homes, having lost their own homes. It is very sad, but we are truly blessed to have them.

DRINK-DRIVING PREVENTION

The Hon. ADAM SEARLE: My question without notice is directed to the Minister for Roads and Ports. On 29 August the Minister told *Seven News* that he was expecting to receive a report into the New South Wales Labor Opposition's proposal to introduce mandatory alcohol ignition interlocks for repeat drink-driving offenders and that he "expects that report to be favourable". Has the Minister received this report? If so, what action has he taken to bring forward this important road safety reform?

The Hon. DUNCAN GAY: I thank the member for his question. Unfortunately, it contains a major error of fact. He described this as the Labor Party's submission into alcohol interlocks. It may come as a shock to the member, but the NRMA, the Centre for Road Safety and the Government, amongst others, have been working on this issue for some time.

The Hon. Dr Peter Phelps: Claiming credit for others' work.

The Hon. DUNCAN GAY: He may wish to play politics and claim this, but with a good Government and road safety in safe hands, things will happen.

The Hon. Sophie Cotsis: Is this a funny joke?

The Hon. DUNCAN GAY: It is not a funny joke. Things are a lot better now than they were during your time. It was absolute chaos in your time.

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

The Hon. DUNCAN GAY: Things are happening now. I am pleased to say that that particular piece has been approved by Cabinet. An announcement will be made very soon.

TRAIN TIMETABLES

Dr MEHREEN FARUQI: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Transport. I have been contacted by many commuters concerned about the lack of available printed train timetables. Given the importance of printed timetables for people with limited access to the internet, what budget was allocated to ensure sufficient copies were available?

The Hon. DUNCAN GAY: I thank the member for her important question, for which I do not have an answer. However, I will contact my colleague the Minister for Transport, who I know will have an answer and, certainly, I am sure, plenty of copies to accommodate people.

BUSHFIRE ROAD CLOSURES

The Hon. GREG PEARCE: My question is addressed to the Minister for Roads and Ports. Will the Minister update the House on road closures as a result of the bushfires?

The Hon. DUNCAN GAY: Since last Thursday these bushfires, fanned by unforgiving winds and bad weather, have caused widespread damage and destroyed hundreds of homes. From the Central Coast to the Blue Mountains and down to Balmoral the fires have caused widespread road closures. The Traffic Management Centre [TMC] is working with all relevant agencies—including the NSW Rural Fire Service, NSW Fire and Rescue, and the NSW Police Force—to respond to the changing bushfire situation and implement required road closures. The Traffic Management Centre has staff at operational posts in the field and on 24-hour standby to respond and disseminate information quickly and accurately to the public. The latest road closures as advised by the Traffic Management Centre at 3.30 p.m. today are Bells Line of Road, from the Great Western Highway at Lithgow through to the township of Bilpin, and the full length of the Darling causeway from Mount Victoria through to Bell.

The Great Western Highway remains open across the Blue Mountains. However, all motorists, particularly heavy vehicle motorists, are advised to avoid travel in fire-affected areas. In addition, the Blue Mountains rail line is not running between Bathurst, Lithgow and Mount Victoria. A replacement bus service is in operation. Since late last week Picton Road, south of Sydney, has been closed for long and short periods between the Hume Motorway and the M1, which is the Princes Motorway—Mount Ousley Road. Currently Picton Road is open. The Traffic Management Centre operates 24 hours a day, seven days a week, 365 days a year, but for this crisis it has put on extra staff.

The Traffic Management Centre has extra staff also assisting with road closures and openings, and at Rural Fire Service headquarters to facilitate the smooth and effective dissemination of information. The Traffic Management Centre will continue to raise awareness of road closures through live radio interviews, regular media alerts, messages on variable message signs, up-to-the-minute information published on the Live Traffic NSW website and social media feeds. Many members have seen the Traffic Management Centre in operation, but those who have not certainly would find it an important place to visit—perhaps not during this busy time. All government transport nodes are in the one room: road, rail, buses and ferries, as well as police and the Rural Fire Service. It is a key place from which to coordinate the city and State. Seeing those operators working, as I have several times in recent weeks, puts one in awe of their knowledge and do-it attitude; they make proper decisions quickly and authoritatively to keep roads moving, particularly as they did during last Thursday night's trials.

OUTLAW MOTORCYCLE GANGS

The Hon. PAUL GREEN: My question without notice is directed to the Minister for Police and Emergency Services, representing the Premier. Given the recent tough changes to Queensland's bikie laws, what bilateral cooperative steps is the Premier taking with Queensland to ensure New South Wales does not inherit further bikie-related crime from Queensland?

The Hon. MICHAEL GALLACHER: We can be very proud of the work the NSW Police Force has done, most certainly in utilising not only its resources but also those of organisations such as the Crime Commission and Fair Trading, through a broader whole-of-government approach. Police now have the opportunity to work alongside Fair Trading personnel targeting businesses that outlaw motorcycle gangs use as a facade—a front—for their criminal activity. Police now use their extraordinary widespread powers as well as the capable Fair Trading personnel ably led, of course, by Minister Anthony Roberts. New South Wales

recognises the many ways one can skin the cat, so to speak, in dealing with outlaw gangs. The first thing we must continue to realise is that these guys are not some Ned Kelly-type character born out of the *Easy Rider* type of movie.

The Hon. Mick Veitch: That's Charlie.

The Hon. MICHAEL GALLACHER: That is the domain of the Hon. Charlie Lynn and all those wonderful people in organisations such as the Grey Nomads and, indeed, the motorcycle group known as the Blue Liners, which does outstanding work. We have focused on those who use the criminal network of the outlaw motorcycle gang to facilitate the transfer or movement of their criminal activities around New South Wales and this country. It is fair to say that other States are now seeing firsthand the vulnerability that is experienced when dealing with outlaw motorcycle gangs. New South Wales is now in a far better place in respect of our cooperation with a Federal Government, which recognises there needs to be greater cooperation between the administrations of the States of our country and that it cannot go it alone.

For a long time, in many instances, New South Wales has been going it alone. We have led a concerted effort, using our coercive powers of the NSW Crime Commission, but also focusing as much as possible on going after the assets to break up the criminal enterprise. The NSW Police Force, led by Andrew Scipione, has invested hundreds of police officer hours to address this problem. That is backed by a Government that is prepared to sit down with police and work out what legislative changes need to be made. Honourable members can be assured that there is cooperation between the Minister for Police in Queensland—who, I am proud to say, is an ex-cop—New South Wales and our Victorian counterparts.

It is important that we encourage the sharing of information and intelligence between the agencies so that we work cooperatively to ensure that there are no safe havens for criminal organisations such as bikies. There should not be any suggestion for one moment that administrations are taking their eye off the ball. We continue to work together. There will be times, I suspect, where some administrations decide to try something different. They will do something in the same way that New South Wales has dealt with consorting laws. This Government has led the way in this State, targeting criminal enterprises that use the tattoo industry as a facade. [*Time expired.*]

ELECTRONIC TOLLING

The Hon. HELEN WESTWOOD: My question without notice is directed to the Minister for Roads and Ports. Given that Sydney drivers are paying out thousands of dollars a week in matching charges on their e-tags, will the Minister inform the House exactly how this additional revenue is being spent?

The Hon. DUNCAN GAY: I challenge the premise of the honourable member's question. I will certainly seek a response and give her a detailed answer.

WESTERN SYDNEY DISABILITY SERVICES

The Hon. CHARLIE LYNN: Mr President—

The Hon. Mick Veitch: How is the motorbike going? Don't go to Queensland.

The Hon. CHARLIE LYNN: I will just go to the border to keep an eye on things. My question is directed to the Minister for Ageing, and Minister for Disability Services. Will the Minister outline what the New South Wales Government is doing for people with a disability in the Western Sydney area?

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

The Hon. JOHN AJAKA: The New South Wales Government is committed to supporting the people of Western Sydney. Ageing, Disability, and Home Care staff are working hard to implement the reforms of Stronger Together 2, which will deliver significant investment to address the needs of people with disability, their families and carers with a focus on person-centred supports in the community and individualised funding, which will complement the roll-out of the National Disability Insurance Scheme. During the 2012-13 financial year in excess of \$2.5 million was provided for respite in the Western Sydney district; \$13.5 million was funded for Community Living, which includes the Supported Living Fund, group home accommodation and independent living support; and approximately \$3.5 million was funded for Learning and Life Skills Development—Community Participation, Life Choices and Post School Options.

Strengthening supports for children and families is an initiative of Stronger Together 2. Children with disability who are aged zero to eight years and their families will receive tailored specialist supports in mainstream environments, which are delivered in a holistic and integrated way to promote growth, development and participation in everyday life. In Western Sydney, as part of strengthening supports for children and families, 53 places were allocated for skill development, 71 for therapy and 27 for autism. In addition, 104 places were allocated under the early childhood inclusion project, which will promote and support inclusion of children with disability in mainstream settings.

On 5 September 2013 I had the pleasure of visiting the Western Sydney district and meeting with Ageing, Disability, and Home Care staff. I was impressed by the commitment and genuine care of staff in supporting people with disability, including the recreation team. The recreation team provides services for more than 300 people with disability who live with their families in the Western Sydney, Nepean, Blue Mountains and northern Sydney districts. The team supports people with disability to have access to existing programs within the community. This work is vital in achieving meaningful inclusion in line with the objectives of Stronger Together 2.

I am pleased to advise that on 27 August 2013 the behaviour intervention team, based in the Western Sydney district, held its fourteenth behaviour symposium in Rosehill, Western Sydney. The symposium—"Dual Diagnosis: Untangling the knots and working together for better personal outcomes"—was attended by more than 170 people, including people with disability, their families, carers, Ageing, Disability, and Home Care staff and community service providers. This symposium highlighted a dedication to sharing best practice and the collaborative, person-centred work occurring in Western Sydney.

Furthermore, there are three building inclusive community projects underway in Western Sydney. The projects are located in Auburn, Merrylands and Mount Druitt. The building inclusive community projects represent a strategy in which Ageing, Disability, and Home Care staff, who work collaboratively with community members and community organisations, build capacity and social capital to increase participation and inclusion of people with disability. In Mount Druitt there are examples of a whole-of-government approach to the engagement and support of people with disability.

The Department of Family and Community Services, the NSW Police Force, the Department of Education and Communities, Blacktown City Council, local residents and community organisations work together under the banner of Community 2770. This board supports three working groups in Mount Druitt to implement local initiatives and solutions for community inclusion, crime prevention and mental health. Recent activities of this group have included participating at the Mount Druitt Festival through showcasing Arcade Circus, which is an all abilities circus, developing community artwork at the Kites for Kids school holiday event, and promoting the positive qualities of Mount Druitt.

ENGLISH AS A SECOND LANGUAGE SUPPORT

Dr JOHN KAYE: My question without notice is directed to the Minister for Ageing, representing the Minister for Education. Does the Minister possess data or studies that compare the difference in progress through the three English as a second language learner phases between students who have received dedicated English as a second language support to those who have not? If so, will the Minister inform the House of the difference in progress and release the relevant data or studies? If not, will the Minister ask the department's statisticians to undertake a comparative study?

The Hon. JOHN AJAKA: I thank the honourable member for his detailed question. I undertake to refer it to the Minister and seek a response for him.

PUBLIC TRANSPORT SECURITY

The Hon. PENNY SHARPE: My question without notice is directed to the Minister for Police and Emergency Services. Has the Minister received advice from the NSW Police Force that in order to improve security on the rail network there needs to be dedicated resources in addition to the Police Transport Command?

The Hon. MICHAEL GALLACHER: I will take that question on notice and seek some advice. I am not sure exactly what the member means by her question because the public transport system is addressed not only by members of the Police Transport Command but also by the entire NSW Police Force. Even the highway patrol is required to perform policing roles from time to time if such a direction is given. I will take advice on the question the honourable member has asked.

ROAD TRANSPORT SAFETY

The Hon. MELINDA PAVEY: My question is directed to the Minister for Police and Emergency Services. What are New South Wales police doing about unsecured loads, given a recent police media release about a truck with a load of unsecured bricks that was intercepted by police? How common is this problem?

The Hon. MICHAEL GALLACHER: I thank the honourable member for her timely and interesting question. It is indeed correct that recently police detected a truck with a load of unsecured bricks. I understand that the tip truck was spotted on the M5 at Milperra carrying a load of bricks and building materials. There were a number of bricks protruding from the edge of the truck. They were clearly at risk of falling, as officers were able to easily dislodge them. The consequences could have been tragic if they had fallen, particularly on the M5 where traffic travels at high speeds. Imagine travelling at 200 kilometres an hour into a brick wall. That is what it would be like if a large load fell from a vehicle travelling at 100 kilometres an hour and was hit by another vehicle travelling in the opposite direction at 100 kilometres an hour.

The police have also provided a couple of other recent examples. In one case, long planks of wood that a driver had placed inside a car were protruding through the roof. Hazmat officers had to attend another case to deal with leaking resin, fuel and chemicals after police found some unsecured barrels rolling around on the back of a ute. In light of these recent incidents, police are paying extra attention to unsecured loads at the moment. So far this year, more than 1,200 infringements have been issued for load restraint breaches. Driving a vehicle with an unsecured load can incur a \$500 fine and three demerit points. Driving without a clear view of the road can incur a \$304 fine and three demerit points. Driving with an overhanging load can land you a \$400 fine and three demerit points.

Section 145 of the Road Transport Act 2013 also provides for situations in which death, injury or property damage occurs when a vehicle or trailer is being driven while loaded unsafely. The maximum penalty for this offence is 52 penalty units or \$5,500, or imprisonment for 12 months—or both—in the case of an individual. The fine is doubled for a corporation. For the purpose of this offence, a motor vehicle or trailer is loaded unsafely if the load makes the motor vehicle or trailer unstable or unsafe, if it is likely to fall or be dislodged, or if an appropriate method is not used to secure it. What is appropriate and secure will of course depend on the circumstances. Police will assess each situation on a case-by-case basis, with consideration given to factors such as the size and nature of the load, whether it is covered or uncovered, and if or how it is tied or fastened et cetera. Put simply, if a load could fall or slide around a vehicle during normal driving then it is not properly secured.

Over recent years tragic accidents have resulted from improperly secured loads: Heavy objects falling from trucks have landed on or crushed nearby vehicles and trucks have toppled over as they have rounded a corner due to destabilisation caused by the sideways slippage of their loads. A few years ago a driver was tragically killed when a large block that fell off a passing ute smashed through his windscreen. He died from head and chest injuries. If you are a professional driver, check out the *Load Restraint Guide* published by the National Transport Commission. If you are a driver of a regular car, do not let your home renovation purchases poke out through the sunroof. Do not tie your new mattress to the roof. For the cost of a small delivery fee you can save yourself a \$400 fine. More importantly, you will not have to live with the consequences of someone's death or injury.

CATERPILLAR CONTROL

The Hon. MICK VEITCH: My question is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. What is the Government doing to advise farmers on the control of caterpillars eating oilseed and pulse crops in southern New South Wales? Has the Government's decision to cut 66 Department of Primary Industries [DPI] extension officers around New South Wales affected the availability of expert on-the-ground advice for farmers at this critical stage in the crop cycle?

The Hon. DUNCAN GAY: I thank the honourable member for his question. It is certainly a very important issue at this time of year. I do not accept the rhetoric about the cuts, but I accept that there is a genuine question. He is asking how the information is going out. I will check with my colleague the Minister for Primary Industries and come back to him.

BUSHFIRE ANIMAL EVACUATION

The Hon. MATTHEW MASON-COX: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Will the Minister update the House on what the Department of Primary Industries and Livestock Health and Pest authorities are doing to help out during the bushfires?

The Hon. DUNCAN GAY: I thank the honourable member for this important question. First, I acknowledge and thank all the men and women who are working tirelessly to combat the many fires that are currently ravaging our State. The devastating loss of property as a result of these fires has also extended into the agricultural sector. Agricultural damage and stock loss from these fires are still being assessed. At present, mostly hobby-style and peri-urban blocks appear to have been affected. There has been significant loss of wildlife, which will be assessed during coming days and weeks. Staff from the Department of Primary Industries [DPI] have moved more than 100 horses to evacuation centres to date and have made warning phone calls to livestock owners along the Bells Line of Road. Staff have also assisted landholders to move stock in the Upper Hunter region. Unfortunately, due to expected worsening weather conditions, we are anticipating further stock losses and damage to agriculture during the coming week.

The Department of Primary Industries and Livestock Health and Pest authorities [LHPAs] were deployed to the fire zones last week and remain on hand to assist with the relocation of horses and companion animals. Staff are assisting in a number of emergency operation centres [EOCs] and evacuation centres, and are continuing field assessments for emergency support in fire-affected areas. Evacuation centres are already accommodating a vast range of pets and animals. Animal evacuation centres are currently operational at Hawkesbury Showground and Lithgow Workmen's Club, with several other centres on standby across the State. I am told that the Lithgow evacuation centre at the workmen's club has so far welcomed turtles, birds, dogs, cats, rabbits and chickens.

The Department of Primary Industries is arranging emergency supplies—mostly fodder and transport—for areas requiring assistance. The department is working alongside a range of agencies to care for animals affected by these fires. I make specific mention of the Wildlife Information Rescue and Education Service [WIRES], the Native Animal Trust Fund, the Animal Welfare League, the RSPCA and specialist equine group Heavy Horse Heaven. There are many other groups and volunteers who are helping in this situation. I am sure members of the House would like to join me in thanking all of them for their efforts. The Department of Primary Industries, and Livestock Health and Pest authorities will continue to support Rural Fire Service operations in the Sydney, Blue Mountains, Hunter Valley, Central Coast, Illawarra and Southern Highlands areas for as long as necessary.

BUSHFIRE HAZARD REDUCTION

Reverend the Hon. FRED NILE: My question is directed to the Minister for Police and Emergency Services. Has any comparison been made between the hazard reduction programs conducted during the 16-year period of the former Labor Government and the period of the current Coalition Government? What effect, if any, has The Greens campaign against hazard reduction had on our national parks?

The Hon. MICHAEL GALLACHER: We are all very big on hazard reduction on this side of the House.

The PRESIDENT: Order! Members will come to order. The Minister has the call.

The Hon. MICHAEL GALLACHER: When we were in Opposition we made our position on hazard reduction very clear. One of the key targets in our 2021 plan, and Reverend the Hon. Fred Nile would recall this, is to increase by 20,000 annually the number of properties protected by hazard reduction in New South Wales by 2016. Another key target is to increase by 45 per cent the annual average area treated by hazard reduction activities by 2016. In 2012-13 hazard reduction was conducted on 281,492 hectares across the State. A lot has been said about hazard reduction over the last couple of days and particularly during the last week. It is a shame that the people who are commenting quite often do not really know what is going on.

One of the distinguishing features of hazard reduction—the Hon. Steve Whan was previously a Minister for Emergency Services so he would know this—is that local NSW Rural Fire Service [RFS] personnel are part of the hazard reduction teams that decide the approach that will be taken in local government areas around the State. Public landholders, private landholders and the Rural Fire Service form part of that team. More importantly, local councils are also at the table. I recognise that some councillors around the State have been saying things that are contradictory to what their council representatives are doing on these hazard-reduction teams.

The Hon. Duncan Gay: They are probably wrong.

The Hon. MICHAEL GALLACHER: They are wrong. The reality is that at a time when the community is scared and when they want answers, it would be far better if people who have no knowledge of what is happening in hazard reduction keep their mouths shut. Their ignorant comments are striking further fear into the hearts of people who have lost their homes and their livelihoods, and who live in fear of the onset of fire around them. The people on the ground, particularly the Rural Fire Service personnel, are the ones who work out with bushfire management teams what must be done and how the situation should be addressed. They are most certainly making those calls.

To suggest that somebody sitting at a desk in Sydney is making the decisions is wrong. As the Hon. Steve Whan would know, these local bushfire management committees are the local decision-making team assessing the risk. This morning when I was with the Commissioner of the NSW Rural Fire Service he told me that he has had an opportunity to look at the fire history across the fireground in the Blue Mountains. People are working around the clock to get that information and to ensure that the information is available to the public. If people look at the amount of hazard reduction that has taken place in that community over 10 years, it really makes a mockery of any opposition— *[Time expired]*

Reverend the Hon. FRED NILE: I ask a supplementary question. Will the Minister further elucidate his answer?

The Hon. MICHAEL GALLACHER: I thank the honourable member for the opportunity to say a few more words. Hazard reduction will no doubt be subject to, and quite rightly so, a degree of public debate once these fires currently affecting many communities are extinguished and as we prepare for further fires. There will be an opportunity to look at maps of hazard-reduction activities. They will be on the internet. Shane Fitzsimmons, the Commissioner of the NSW Rural Fire Service does not pull any punches when it comes to being prepared to have a debate about these issues. The work that he has done speaks for itself. As I have said previously, I am not a scientist; I have never professed to be a scientist. I hear people saying that we should be burning off these areas every year—we should have hazard-reduction burns every year. I have heard these comments anecdotally from the community.

Shane Fitzsimmons is as great an environmentalist as anyone in this place or indeed any other place. He truly believes in the Australian bush and its precious nature. He makes a very conscious decision to ensure that his prime objective is to protect life and property, but he does that mindful of his responsibilities to the environment. If you talk to him about this, he will say, "You know, if we had hazard reduction every year, as some people are calling for, we would have an environment that would have no Australian fauna and flora because it would be decimated. Our native animals would no longer be able to live there. Pests and rodents would move in. Weeds and bracken fern would move in, because many native plants take so many years to regenerate." I thank the honourable member for his question. I wish that people would keep their ignorant comments to themselves rather than talk to the media at a time when the community needs comfort.

ARNCLIFFE PEDESTRIAN SAFETY

The Hon. SHAOQUETT MOSELMANE: My question without notice is directed to the Minister for Roads and Ports. Why are local residents and the parents of students attending Al Zahra College and Al Zahra mosque at Arncliffe still waiting for work to start on a pedestrian safety underpass for Wollongong Road, despite the member for Rockdale announcing more than a year ago that he had "delivered on the funding"?

The Hon. DUNCAN GAY: The local community has waited for more than 16 years for this development, and it is now about to happen. It is about to happen thanks to the efforts of that great new member for Rockdale. He is not pretty, but he is pretty effective. He camped on a seat outside my office for months to make sure he got the money for this underpass. When you get the money you have to do the planning and then you have to build it, which we will. That is something that never happened during the period of the former Labor Government. The best thing the local Rockdale community did was to get rid of the local Labor member. That was the only way they were going to get this underpass. It will happen, and it will be because of the efforts of that great member for Rockdale.

The Hon. Steve Whan: What's his name?

The Hon. DUNCAN GAY: John Flowers.

The Hon. SHAOQUETT MOSELMANE: Will the Minister elucidate his answer and provide the House with an estimated commencement and completion date for the Wollongong Road pedestrian tunnel?

The Hon. DUNCAN GAY: It interesting to hear from someone who professes to be the alternate member for Rockdale. I have never seen a piece of correspondence from the member opposite. If he looks at the budget papers he will see the commitment and he will realise that it is about to happen.

ACHIEVE AUSTRALIA RESIDENTIAL CENTRE

The Hon. SARAH MITCHELL: My question is directed to the Minister for Ageing, and Minister for Disability Services. Will the Minister update the House on how Achieve Australia is progressing with the redevelopment of its large residential centre?

The Hon. JOHN AJAKA: I thank the honourable member for her question. Achieve Australia is one of 14 non-government organisations that is being funded under Stronger Together 2 for the redevelopment of its large residential centres. The accommodation provided by large residential centres no longer meets modern expectations for supporting people with disabilities. The Government is committed to the redevelopment of all large residential centres by 2018, which will vastly improve the lifestyles of the residents by offering contemporary, domestic-scale housing located in the community.

The large residential centre operated by Achieve Australia is known as Crowle House and is located at Ryde. Crowle House once housed almost 100 people with disabilities in dormitory-style rooms. In 2012, when this project began, 33 people were still living in Crowle House. Over time, Achieve Australia has reduced this number by gradually moving residents to other more appropriate community-based housing. Achieve Australia is an outstanding example of the non-government sector leveraging redundant or under-utilised assets to expand and improve its services for people with disabilities.

Last year, Achieve Australia successfully negotiated the sale of the extensive Crowle site for redevelopment for multistorey medium-density residential housing. Achieve Australia's concept plan was approved by the Department of Planning and the Planning Assessment Commission. The sale of the Crowle site generated around \$30 million. Achieve Australia will use these funds to not only provide better housing for the former and current residents of Crowle but also make a significant capital investment in providing affordable community-based housing to many other people with disabilities. At least 15 of the new home units to be constructed on the old Crowle site at Ryde will be reserved to provide housing for people with disabilities. Achieve Australia will also build at least two new group homes at Eastwood and West Ryde.

After the Crowle site is redeveloped every resident will be moved into domestic-scale accommodation within the Ryde local community. Some have already done so. For example, last July three people who had been living at Crowle House for around 40 years moved into their own home located in a nearby suburb. They have been good friends for many years and they wanted to move out and live together. Initially, some of their family members were anxious about their relatives moving away from Crowle House and they resisted it strongly. However, now that these people have experienced the benefits of moving into the community both the families and the residents are delighted with the result.

At Crowle House they had lived in separate male- and female-designated buildings. Meals were taken in a large dining room that had been designated as such, and food was prepared for them in a centralised industrial kitchen. Their washing was done for them in a large communal laundry. With support from staff, they now cook their meals using food they have chosen themselves. They also participate in house cleaning and they do their own washing. They go out together or relax at home with friends and family. The transition to their new life has been smooth and all three people have settled naturally into a sense of home and community. They take great pride in keeping their home in a beautiful condition and are pleased to show visitors their new house.

On 27 September 2013 I had the pleasure of attending a ceremony for the turning of the sod at the site of the new group home at Eastwood. I attended with the Chief Executive Officer of Achieve Australia, Ms Anne Bryce, and my ministerial colleague the Hon. Victor Dominello, Minister for Citizenship and Communities, and member for Ryde. I look forward to watching this project develop and reporting back to the House about how the redevelopment of large residential centres is transforming the lives of people with disabilities.

PEOPLE WITH DISABILITY IN CARE

The Hon. JAN BARHAM: My question without notice is directed to the Minister for Police and Emergency Services, representing the Minister for Health. The Ombudsman's report of deaths in disability care for the period 2010-11 recommended that the Department of Health report to the Ombudsman on its progress in

implementing action under the National Disability Strategy NSW Implementation Plan. Has the Department of Health reported to the Ombudsman? If the answer is yes, what proposals has the Department of Health made to improve services to people with disabilities attending, being admitted to or leaving hospital?

The Hon. MICHAEL GALLACHER: I thank the member for her important question. As requested, I will seek a response from the Minister for Health.

SOUTHERN REGION DISABILITY SERVICES

The Hon. STEVE WHAN: My question is directed to the Minister for Ageing, and Minister for Disability Services. On 21 August I asked the Minister a question about the Government's failure to replace disability support coordinators in Queanbeyan, Goulburn, Yass, Shoalhaven, and Batemans Bay. Will the Minister now tell families in those regions when those positions, which used to provide direct, person-centred assistance to people with disabilities, will be finally replaced by the promised Ability Links program?

The Hon. JOHN AJAKA: It is disappointing that the Hon. Steve Whan keeps scaremongering about disability services. The member is well aware that we have signed the National Disability Insurance Scheme heads of agreement and will transition into the scheme by 2018. The member also is well aware that we have launched the National Disability Insurance Scheme transition into Newcastle and the Hunter region, and that the Ability Links program has commenced in the Hunter region and will commence in other regions throughout New South Wales when required in accordance with the launch. As I have said on previous occasions, Ability Links is the Government's approach to local area coordination. It is a key foundation of the Government's plan to reshape and improve the way that people with disabilities, their families and carers are supported by placing them at the centre of decision-making. Ability Links will ensure that people with disabilities can access their local communities outside of the traditional disability service system.

The Government has committed \$28.7 million in 2013-14 to establish a total of 248 Ability Links coordinator positions across the State, including 27 Aboriginal identified positions. These positions are known as "linkers". Following a tender in 2012 that did not identify suitable auspices to operate Ability Links, a ministerial task force provided advice and recommendations on viable structures and governance arrangements for the delivery of Ability Links. The report from the task force was released in December 2012. It recommended that the best supports for people with disabilities would come from organisations not principally involved in disability services, or through consortia or syndicate arrangements. It also set time frames for establishing Ability Links in the Hunter region by 1 July 2013—as we did—and the rest of New South Wales by 1 July 2014. I will repeat that: The time frames set were for the Hunter region by 1 July 2013 and the rest of New South Wales for 1 July 2014, as the member opposite knows.

The community is aware of this, but the Hon. Steve Whan wants to scaremonger and somehow suggest that this was never the original plan. The initial milestones have been met. In April this year it was announced that the St Vincent de Paul Society had been appointed to operate Ability Links in the Hunter region. As of 30 September 2013 the St Vincent de Paul Society has provided support to more than 235 people with disabilities and their families, including information and referral, and facilitated support to link in with their community. Additionally, since the July launch in the Hunter, "linkers" have made more than 10,000 community contacts through meetings and information sessions with interagency groups, service providers, community groups, schools, businesses, expos and community events.

The Hon. STEVE WHAN: I ask a supplementary question. Will the Minister elucidate his answer and inform the House why he believes it is appropriate that the people who held the 30 or so existing positions in regional New South Wales were made redundant before the new scheme was in operation?

The PRESIDENT: Order! That is a new question and it is out of order.

BUSHFIRE DISASTER WELFARE ASSISTANCE

The Hon. RICK COLLESS: My question is addressed to the Minister for Police and Emergency Services. Will the Minister further update the House on support and advice for communities affected by the bushfires?

The Hon. MICHAEL GALLACHER: Members are aware, but it is important to reiterate, that three evacuations centres are open: one at Lithgow, one at North Richmond and one at Springwood. Yesterday I took the opportunity to visit the North Richmond and Springwood centres. The evacuation centres are staffed by disaster welfare personnel, community partners Adventist Development and Relief Agency [ADRA], the Red Cross, Anglicare, the Salvation Army, disaster recovery chaplains and other agencies. As at today more than 2,109 people have registered at the evacuation centres and a major outreach strategy is underway to identify, make contact with and assess those persons whose houses have been destroyed or rendered uninhabitable. Outreach will initially target affected regions in Springwood and the fire-affected communities in the Hunter and Central Coast regions. Welfare services are anticipating inquiries about financial help through the Natural Disaster Assistance Grants Scheme.

A range of assistance is available to those impacted by the bushfires, including one-off payments of \$1,000 per eligible adult and \$400 per eligible child, disaster relief grants for content and structural repairs, assistance for primary producers, small businesses, local councils, sporting clubs, churches, voluntary non-profit organisations and more. Disaster welfare staff also are present at the recovery centre that opened today at the Springwood Presbyterian Church Hall at 160 Macquarie Road, Springwood. Yesterday when I walked into the Springwood and North Richmond facilities it struck me that people who have been impacted should not feel isolated, despite not being in their homes and communities, because of the wonderful volunteers—particularly non-government agency volunteers—who greet displaced people as they enter the facility and who quickly triage them through to various support agencies.

Earlier there was discussion about transportation for horses. Yesterday afternoon I had the pleasure of meeting two representatives of the heavy horse transport association in North Richmond. The Leader of the Opposition and I both arrived at the centre at the same time and took the opportunity to speak to people there. While we strongly focused on looking after the wellbeing of adults and children at the centre, it was important to note that representatives of animal welfare and the heavy horse league put the minds of people at rest over their concerns for their animals. Particularly in the Hawkesbury community, where many horse lovers reside and whose horses are incredibly important to them, many people will be reluctant to leave their properties if they have to leave their horse behind. The association has the ability to transport large numbers of horses from the escarpment and the upper reaches of the Hawkesbury River to a place of respite and safety for those animals, thereby providing the owners of the animals with security and comfort. That is extremely important.

When I went to Swansea I saw the RSPCA with all the dog, cat and rabbit cages imaginable. I walked into the Swansea RSL Club and it was like walking into the Crufts dog show. Dogs were everywhere throughout the RSL club; it was fantastic. We have spoken about resilience and how important clubs are to our community, and we only have to go to areas such as Springwood and Swansea to see how much clubs are the very heart and soul of our communities. On behalf of every member of this House, I thank them for the wonderful work they are doing. [*Time expired.*]

The time for questions has expired. Members who wish to ask further questions should place them on notice.

V8 SUPERCARS CONTRACT

The Hon. MICHAEL GALLACHER: On 17 September Dr John Kaye asked me a question relating to the V8 supercars contract. I know that he is a revhead from way back and a great supporter of V8 supercars.

The Hon. Mick Veitch: You are quick off the mark.

The Hon. MICHAEL GALLACHER: He loves his motor vehicles and loves the V8s. I am pleased to provide him with the following answer:

Discussions between Destination NSW and the new management of V8 Supercars Australia Pty Ltd commenced in 2013 and resulted in a new contract being finalised in September 2013.

I have been advised that regular briefings with the Sydney Olympic Park Business Association, stakeholders and other groups as well as Working Group meetings involving representatives of Auburn council have been held over the last number of years by representatives of Destination NSW to provide continual updates about the annual event.

The event has strong community acceptance and I am unaware of any objections to the event being raised by the adjoining local councils.

FERAL PIG CULLS

The Hon. DUNCAN GAY: On 17 September 2013 the Hon. Robert Brown asked me a question relating to pig culling. I provide the following response:

The control of feral pigs is a priority for the New South Wales Government because of the various biosecurity issues associated with the pest. Feral pigs prey on livestock, destroy crops and infrastructure and can harbour diseases that have the potential to affect livestock, native animals and humans. Native ecosystems are also damaged through the action of feral pigs rooting up soil and vegetation and fouling water sources. For these reasons feral pigs are a declared pest animal under the Rural Lands Protection (Feral Pigs) Pest Control Order. The pest control order requires all land managers to eradicate feral pigs by any lawful method.

The methods used by public and private land managers to control feral pigs include: poison baiting, trapping, aerial shooting and ground shooting. Aerial shooting is often used as an efficient method of feral pig control in difficult-to-access areas such as the Macquarie Marshes.

I am informed that an aerial shooting program conducted by the Central West Livestock Health and Pest Authority [LHPA] in the Macquarie Marshes area and during May 2013 accounted for the culling of 1,887 feral pigs over a 20-hour period. Similarly, I understand that the Central West Livestock Health and Pest Authority conducted an aerial shooting program during February 2013 in the areas of Trangie and Warren which accounted for the culling of 943 pigs over a 17.6-hour period.

EPHING TO THORNLEIGH THIRD TRACK PROJECT

The Hon. DUNCAN GAY: On 17 September 2013 Dr Mehreen Faruqi asked me a question relating to the Epping to Thornleigh third rail track. I provide the following response:

I am advised:

Biodiversity mapping was undertaken as part of the Epping to Thornleigh Third Track Project's environmental impact statement, which is available on the project website at www.transport.nsw.gov.au/projects.

The biodiversity offset strategy is currently being prepared and will be available on the project website once finalised.

ENGLISH AS A SECOND LANGUAGE SUPPORT

The Hon. JOHN AJAKA: Earlier today, in my capacity as representing the Minister for Education, I was asked a question on English as a second language [ESL] support. I am informed that the department has not conducted specific research in the area requested. At this stage only a preliminary feasibility assessment has been conducted. Preliminary advice from the Department of Education's Centre for Education Statistics and Evaluation is that the sample of students who do not receive support may be too small to conduct such an analysis. I understand the Minister has asked the department to investigate this issue further and provide further advice.

NATIONAL PARKS AND WILDLIFE SERVICE FIREFIGHTING REMUNERATION

The Hon. JOHN AJAKA: On 17 September 2013, in my capacity as representing the Minister for the Environment, I was asked a question by the Hon. Robert Borsak. I provide the following response:

I am advised as follows:

- (1) Yes, as required under the relevant industrial awards.
- (2) Yes, as required under the relevant industrial awards.

Questions without notice concluded.

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 15 October 2013.

The Hon. DAVID CLARKE (Parliamentary Secretary) [5.05 p.m.]: The report of the Standing Committee on Social Issues relating to same-sex marriage law in New South Wales is not about whether same-sex marriage should be legalised into existence in this State by this Parliament. It is about whether this

Parliament has the legal power to legislate into existence such a law and, if such a law was passed, whether it would be constitutionally valid in view of existing Commonwealth law which bans same-sex marriage. At the outset I again place on the record that I am opposed to the legalisation of same-sex marriage whether it is legislated into existence by the Commonwealth Parliament or by this Parliament, even if it had the power to do so, which it does not because of its conflict with Federal law.

Advocates of same-sex marriage frame the issue as one of marriage equality, but that is misleading because it falsely defines what the issue is about. Inherent in the use of the term "marriage equality" is the assumption that, as the law presently stands, some Australians have access to marriage or special rights to marriage that are not available to other Australians. But that is not the current position at all. The truth is that marriage equality exists already. Every Australian has exactly the same right as every other Australian to marry, provided their marriage is to a person of the opposite sex. The law does not allow any person to marry a person of the same sex and that is a law that applies equally to all Australians. If the issue were put to a referendum and the question was framed accurately and truthfully, it would be about legalising same-sex marriage and not about legalising marriage equality.

To define the issue as one of marriage equality rather than same-sex marriage is misleading because it obfuscates what the issue is really about. For this reason I believe that the fourth finding of the committee, "equal marriage rights for all Australians may best be achieved under Commonwealth legislation", would be more accurate and free of spin and public relations hype if it deleted the words "equal marriage rights for all Australians" and read "the right to same-sex marriage for Australians may best be achieved under Commonwealth legislation". To do that would more accurately reflect the fact that the issue is about same-sex marriage and not the nebulous and still undefined term "marriage equality". All that the fourth finding in this report amounts to is a sentence built around a public relations slogan, "marriage equality", which has no applicable meaning at law.

I note that the committee came to the view that New South Wales has the constitutional power to legislate in relation to marriage and, by extension, same-sex marriage but if it did exercise that power it could be subject to challenge in the High Court and the outcome would be uncertain. However, the overwhelming weight of serious legal opinion is that if New South Wales did legislate for same-sex marriage it would be invalid on the basis that it conflicts with existing Commonwealth legislation. Clearly, the Federal Attorney-General, George Brandis, believes that the Australian Capital Territory same-sex legislation is invalid. That is why the Federal Government is challenging that legislation in the High Court.

To the overwhelming majority of legal and constitutional experts in this country, the position in law is crystal clear. Federal law covers the field in regard to the issue of marriage. It also specifically covers the issue of same-sex marriage, namely, that it is not allowed under the law of our nation. Federal law overrides State law where there is a conflict. It could not be clearer. We have the Commonwealth Marriage Act 1961 and the Commonwealth Marriage Amendment Act 2004, which specifically defines marriage as "the union of a man and a woman to the exclusion of all others". The meaning could not be made more certain. There is no wriggle room even for the most outlandish of legal adventurers to undo the clear meaning of those words. There is no wriggle room to suggest that State legislation defining marriage in completely opposite terms to the union of a man and a woman to the exclusion of all others would in any circumstances be upheld as valid without the Commonwealth legislation itself being amended.

Not only is the definition of marriage contained in the Commonwealth law where it is clear and precise; the second reading speech of former Attorney-General Philip Ruddock confirmed that the meaning that the legislation conveyed was the meaning the Federal Government intended it to convey. In other words, there is no room for same-sex marriage advocates to wedge a different interpretation between the words of the Act and the former Attorney-General's own words. In the words of the then Attorney-General, marriage according to the law in Australia is the union of a man and a woman to the exclusion of all others voluntarily entered into for life. He further said:

The amendment to the Marriage Act contained in the 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 might be.

The effect is that there could be no conceivable chance of a successful legal challenge to the Commonwealth Marriage Act on the ground of it not correctly reflecting the intention of the Government that introduced it or the Parliament that passed it. In his contribution to this debate, the Hon. Niall Blair said:

The committee's fourth finding does not seek to tell members what to do about marriage equality but the report clearly suggests that amending the Commonwealth Marriage Act 1961 would be the easiest way to achieve that.

My response is that amending the Commonwealth Marriage Act is not just the easiest way to achieve same-sex marriage; it is in fact the only way to achieve it. It is my hope and expectation that same-sex marriage will never become the law of this State nor the law of Australia.

The Hon. GREG DONNELLY [5.12 p.m.]: Members would be aware that in recent times there has been and continues to be a community-wide debate in Australia and elsewhere about the institution of marriage and its meaning. Broadly speaking, there are those in the community who believe the hitherto traditional definition of "marriage", namely, a union of a man and a woman to the exclusion of all others voluntarily entered into for life, should be preserved and perpetuated. They believe that marriage has an innate and universal nature that is intrinsically linked to the complementary reality of manhood and womanhood and any children that may be born from such a union. The creation and maintenance of a permanent relationship for the begetting, nurturing and raising of children is central to this traditional concept of marriage. This is the view of marriage that I share.

An alternate view of marriage that is gaining some currency in our community is fundamentally different from the one described above. It removes the requirement for couples to be of the opposite sex and, I would argue, elevates personal fulfilment and emotional attachment derived by the parties as the fundamental elements of the relationship. Indeed, marriage becomes fundamentally an adult-centric relationship. Many of those advocating this new perspective of marriage in the context of same-sex relationships argue that the issues at stake are ending discrimination and marriage inequality. I appreciate that when this House, as is expected, debates a bill that seeks to create a law to permit same-sex couples to marry in this State these important conceptual issues about what marriage is and what as a community we want marriage to be will be examined thoroughly. The examination of these competing perspectives about marriage deserves careful and considered deliberation by lawmakers.

The community-wide debate about marriage and its meaning was the backdrop for the Premier to refer to the Legislative Council Standing Committee on Social Issues terms of reference to examine various matters associated with proposed State-based marriage laws being created for same-sex couples. Particular attention was to be given to identifying and examining the legal and constitutional issues that would arise if such a legislative initiative was pursued. Chapters 6 and 7 of the report deal explicitly with the legal and constitutional issues. As I outlined in my dissenting statement, I believe, with due respect to the deliberations of the committee, greater examination and discussion of six key expert submissions and supplementary submissions should have taken place. They were submission No. 102, supplementary submission No.102a, submission No. 622, submission No. 623, supplementary submission No. 623a and submission No. 1240. All are available on the inquiry's web page.

It is my view that if the expert evidence contained within these submissions and supplementary submissions had been taken into account more thoroughly, the committee's finding—particularly paragraphs 2, 3 and 4—would have had a different emphasis. Having said that, I appreciate that the majority of the committee did not share my view about the emphasis I wished to give to the submissions and supplementary submissions listed above. I note that the Hon. Natasha Maclaren-Jones in her dissenting statement also highlighted what I believe are key points made by some of the legal experts about the implications of pursuing State-based marriage legislation for same-sex couples. I concur with those observations. Time does not permit a thorough examination of the range of issues covered by the report. No doubt they will be examined in more detail when a specific bill is introduced into the House for debate. I would like to touch on a few matters that I believe deserve specific comment. Some people have expressed surprise at paragraph 1 of the report's finding, namely:

The State of New South Wales has the constitutional power to legislate on the subject of marriage.

I note that some commentators have incorrectly substituted in this paragraph the phrase "same-sex marriage" for the word "marriage". To be clear, that position does not reflect the committee's finding. Paragraph 1 of the finding should not come as a revelation or surprise. Section 51 (xxi) of the Australian Constitution provides the Commonwealth with the power to make laws with respect to marriage. It is a legislative power shared with the States, that is, a concurrent power. If, however, there is any inconsistency between Commonwealth and State laws, the Commonwealth law will prevail and the State law will be rendered inoperative to the extent of any inconsistency. As one of the legal experts observed:

As a practical matter, however, a State's power to legislate is practically circumscribed during a time when there is Commonwealth legislation on the subject matter.

There can be no question that the founding fathers of the Commonwealth believed that marriage should be governed by national law. In particular, the debate at the Constitutional Convention in Sydney in 1897 settled the matter. The drawing together of disparate State-based marriage legislation took some years but was finally achieved. The serious discussion between the Commonwealth and the States took place in the 1950s culminating in the enactment of the Marriage Act 1961. The second reading speech of the then Commonwealth Attorney-General, Sir Garfield Barwick, regarding the proposed national marriage legislation is very insightful.

In it he outlines that as Australians became more mobile and started to move both temporarily and permanently between States and Territories, the issues and difficulties dealing with up to nine separate legislative arrangements with respect to both marriage and divorce were becoming very burdensome. The issues that were starting to be generated were multiplying and becoming more and more complex. The logic of moving toward a single national framework had become both obvious and compelling. With royal assent given to the bill in May 1961, Australia finally achieved a comprehensive and unitary legislative framework for marriage.

Without going into detail, it is also worth mentioning that the enactment of the Family Law Act in 1975 by the Commonwealth Parliament further codified and consolidated the national legal framework that had been established for marriage, divorce and related matters. At least one of the legal experts who provided evidence to the inquiry warned of possible unintended consequences arising from the State-initiated marriage laws conflicting with entitlement provisions contained in the Family Law Act 1975. One of the interesting arguments presented to the committee during the inquiry was that somehow the Commonwealth Parliament in enacting the Marriage Amendment Act 2004 inadvertently opened the door for the States to pass laws that would permit same-sex couples to marry.

The argument advanced is, in summary, that the 2004 legislation that amended the Marriage Act 1961 to specifically define marriage enables the States to re-enter the field of marriage and create marriage laws for same-sex couples. Like most of the legal experts who provided both written and oral evidence to the inquiry, I do not find the argument persuasive. In my view, it is fundamentally flawed. It seems to me it clearly contradicts the 2004 amending bill, the explanatory memorandum issued with the bill and the specific content of the Attorney-General's second reading speech. It is important to reiterate that the Marriage Act 1961 did not and does not purport to deal with various types or styles of marriage. It was enacted by the Commonwealth Parliament to provide a comprehensive and unitary legal framework for marriage that would serve the whole country. No evidence whatsoever emerged that it was intended to be some partial or qualified codification of Australian law relating to marriage.

A further issue was highlighted in a number of the submissions that I have cited. A big challenge, perhaps the biggest challenge, for those wishing to create a law that would enable same-sex couples to marry under State legislation is to construct a position that avoids the inconsistency issues with the Marriage Act 1961. To alter the rhetoric, as some are doing now, and claim that the issue no longer is about marriage equality but about creating a new type of legal relationship that is called "same-sex marriage" does not seem to resolve the key issue. As observed by a number of the legal experts who made submissions and provided oral evidence, the closer a State bill comes to treating same-sex couples as married, the closer it comes to creating inconsistency with the Marriage Act 1961. The fundamental problem is that a State-initiated marriage law for same-sex couples attempts to create a new class of marriage that is contrary to the Marriage Act 1961.

A range of other important legal and constitutional matters are canvassed in the report, but time does not permit their examination. In not raising them, I do not wish to discount their importance in any way; debate and discussion on them will have to wait for another day. In conclusion, I express my thanks to all the secretariat staff, led by Stewart Smith, who did an enormous amount of work associated with this inquiry. At all times they were diligent, cooperative and thoroughly professional. I thank also all my fellow committee members who participated in this inquiry. While various issues attracted differences of opinion, as one would expect, committee members made a conscious effort to be respectful towards each other and the views being expressed. I thank my fellow committee members for that courtesy. I specifically acknowledge and thank the chair of this inquiry, the Hon. Niall Blair. This was a challenging inquiry in the number of issues and concepts examined and discussed. The chair was consultative, patient, even-handed, respectful and thorough. In short, Niall, job well done. I commend the report to the House.

The Hon. NIALL BLAIR [5.22 p.m.], in reply: I thank all members who contributed to this debate. When I moved the take-note debate on this report I said that we tried to provide a balanced document to the Parliament so that all members could be informed for the debate on the bill. This report may clear up some issues about whether this Parliament has legal standing to pass such a law. The report also airs different sides of

the debate to ensure members are informed when they respond to the bill. After reading the *Hansard* and all the contributions of members on both sides of the argument, I believe we achieved that. Members quoted the sections of the committee's report they believe best suit their argument on this issue.

As I said, our job was not to work out whether we should pass such a bill in New South Wales; it was to determine the legal issues and whether we can pass such a bill. That could have been achieved only by the contribution of some of the academics who gave their submissions and evidence to the inquiry. On behalf of the committee, I thank them for their advice. Again, those areas attracted some differences of opinion and their guidance allowed us to make the finding that this State could pass such a bill. What happens from there? In time that million-dollar question will be answered potentially only by the High Court. We are aware of events today in the Australian Capital Territory passing a bill for same-sex marriage. The Federal Government has said it will seek clarification from the High Court on the constitutional standing of such a bill. I would like to think that the New South Wales Standing Committee on Social Issues report may have contributed to the actions in the Australian Capital Territory.

Tasmania also has referred to this report and reference was made to it in the *Huffington Post* in the United States of America. I do not know of too many New South Wales Legislative Council reports quoted in United States of America media. I am proud of the committee's work. As the Hon. Greg Donnelly mentioned, this inquiry was an interesting challenge for the secretariat, who sought extra information technology support to manage and process the largest number of submissions made to a New South Wales parliamentary inquiry, all the while dealing with the sensitivity of the subject. I commend Stewart Smith, Miriam Cullen and all the staff who worked on this report for their diligence and respect to the challenges faced in such an emotive issue from different community areas.

I thank all who made the effort and took the time to provide a submission and also those who gave oral evidence at the inquiry hearings. Earlier I said that this issue creates emotion on both sides of the argument throughout our community. Regardless of which side of the debate one sits, throughout this inquiry respect was given to the opinions of everyone who came before the committee. During deliberations committee members had to face the dilemma of differing views, but we produced the end report because of the respect shown for others, which shone through from all witnesses who came before the committee. I also thank my fellow committee members who looked at this issue with the sensitivity it deserved. The Hon. Helen Westwood mentioned that not too many parliamentary reports would have a chapter containing the word "love" as a subject heading—an interesting concept to consider. Our job was merely to express the views presented to us by those who made submissions to the inquiry.

We were the conduit to take differing community opinions and collate them, answer a couple of legal questions and then place that document on the table. We can tell every member of this House that we have done a lot of the work for them in collating the differing views on same-sex marriage in New South Wales to refer to when they debate the bill. The fact that members have quoted the report for both sides of the argument means that we have done our job. As chair of the Standing Committee on Social Issues, I am very proud that we achieved that result. I look forward to the next part of the journey on this issue. I believe that will happen in the coming weeks when the Parliament debates the bill. We have contributed to that debate by addressing a number of issues while reflecting the views of New South Wales constituents, undertaking research and making comparisons with other jurisdictions. On behalf of the Standing Committee on Social Issues I thank everyone who was involved in the inquiry on their hard work. I commend the report to the House.

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

Motion agreed to.

STRATA SCHEMES MANAGEMENT AMENDMENT (CHILD WINDOW SAFETY DEVICES) BILL 2013

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Marie Ficarra, on behalf of the Hon. John Ajaka.

Motion by the Hon. Marie Ficarra, on behalf of the Hon. John Ajaka, 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.

GENERAL PURPOSE STANDING COMMITTEE NO. 2**Report: Drug and Alcohol Treatment**

Debate resumed from 20 August 2013.

The Hon. MARIE FICARRA (Parliamentary Secretary) [5.31 p.m.]: It was a pleasure to chair the General Purpose Standing Committee No. 2 inquiry into drug and alcohol treatment as a result of the non-partisan goodwill of my fellow participants: Deputy Chair Reverend the Hon. Fred Nile, the Hon. David Clarke, the Hon. Jenny Gardiner, the Hon. Jan Barham, the Hon. Helen Westwood and the Hon. Shaoquett Moselmane. Collectively, we acknowledged the challenge before us—namely, the huge societal problem associated with the abuse of alcohol and use of illicit drugs and the devastating effects they have on individuals and families. All Australians are adversely affected by these issues. With that in mind, we tried to develop recommendations for the Minister for Health, and Minister for Medical Research; the Minister for Mental Health, Healthy Lifestyles, and Minister for Western New South Wales; and Minister for Education that will produce good outcomes.

I thank the secretariat: Alexander Stedman, Madeleine Foley and Angeline Chung for their ongoing professionalism, patience and brilliant wordsmithing. I thank Reverend the Hon. Fred Nile because this inquiry was established to examine his private members' bill: Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Dependence) Bill 2012, which was introduced on 25 October 2012. In his second reading speech, Reverend the Hon. Fred Nile indicated his support for his proposed bill to be considered by General Purpose Standing Committee No. 2. We examined matters associated with drug and alcohol treatment services; the delivery, effectiveness, cost and adequacy of funding; the effectiveness of strategies of other jurisdictions and models of care; involuntary treatment and prevention; educational programs; and services to treat people with comorbid conditions.

The committee received 55 submissions from a range of informed and professional stakeholders. In April and May four public hearings were held at Parliament. The site visits throughout the State were most enlightening for committee members. We thank everyone associated with each of those processes as they have helped us to formulate our thoughts. I am disappointed that not all the recommendations were unanimous, but it was not unexpected and is not a critical issue. With overwhelming negative social and economic outcomes, the abuse of alcohol presents the greatest challenge to public health. The committee noted the recent report by the Auditor General entitled "Cost of Alcohol Abuse to the New South Wales Government". Given that the national status of the problem requires involvement from all three levels of government, the committee recommended that the Commonwealth Government be requested to organise a national summit on alcohol abuse to be convened in 2014-15.

The inquiry's most prominent theme was the use of naltrexone implants to treat opioid dependence. The committee heard diverging views regarding its efficacy, but addiction experts acknowledged the need to expand the available options to treat opioid dependence and to more effectively use current treatments. Naltrexone is a pharmacotherapy that can be surgically implanted to provide a slow release of the opioid antagonist over a period of three to six months. Compared to oral and intramuscular injectable naltrexone, the implants improve patient compliance more effectively. However, the implants are not currently registered for licensed use by the Therapeutic Goods Association in this country because sufficient high-level evidence has not been provided to demonstrate their safety and efficacy. Nevertheless, naltrexone implants have been widely used throughout Australia under the Therapeutic Goods Association's Special Access Scheme, which allows for its unapproved use by individuals who could die as a result of their drug use.

Under this scheme, Dr George O'Neil, Medical Director of the Perth-based Fresh Start Recovery Program, has been the most prominent clinician to administer naltrexone implants. His healthcare company, Go Medical Industries Pty Ltd, has developed a naltrexone implant. As soon as pharmacokinetic data has been completed, and manufacturing standards at his new plant have been achieved, he is hoping to register the product with the Therapeutic Goods Association. His previous plant was destroyed by fire and this has delayed the collection of necessary pharmacological data. Importantly, a literature review by the National Health and Medical Research Council, Australia's peak body supporting health and medical research, supported the need for further research. The committee was aware that funding of clinical research is primarily a Commonwealth responsibility.

I worked in the pharmaceutical industry for many years. Private pharmaceutical companies have no great commercial interest in funding naltrexone research because there is little profit to be made from an old

drug and little incentive for money to be poured into clinical trials. Naltrexone is approved by the Food and Drug Administration for drug and alcohol dependence and has been available in an oral format for more than 30 years. Pending the approval by the Therapeutic Goods Association of naltrexone implants, based on good manufacturing practice certification, the committee has recommended that if the National Health and Medical Research Council funding is not forthcoming for appropriate level one randomised controlled clinical trials, then the New South Wales Government should provide funding.

Experts from the fields of addiction medicine and public health should be involved via a clinical trial notification listing by the Therapeutic Goods Association. Participation in such a trial by other Australian States and international health jurisdictions is encouraged. The evidence that was received by the committee indicated that it is difficult to assess the adequacy of funding for drug and alcohol services. Overlaps and gaps exist between the State, Commonwealth and private sector services. We were pleased to note that the NSW Ministry of Health is leading the development of a drug and alcohol clinical care and prevention planning model, which will address funding adequacy. Using 100,000 people, the model will show the likely number of people with substance addictions and then demonstrate the level of services required to effectively meet that demand.

Drug and alcohol education is about prevention rather than treatment. It aims to reduce the prevalence of drug and alcohol use and, in doing so, prevent substance abuse issues from developing. The committee commended the work of government-based agencies that are responsible for delivering such education, along with other not-for-profit providers such as Life Education New South Wales, which uses evidence-based approaches to develop its initiatives. A payment mix of State Government funding, direct payments by parents and fundraising by Life Education New South Wales for the delivery of much-valued drug and alcohol education of children and young people throughout New South Wales schools has meant that some students are still missing out because some parents are unable to afford the \$10 fee that is required.

The committee strongly supported all students receiving access to these prevention programs. Accordingly, the committee has requested the Government provide additional funding to Life Education New South Wales to enable full student participation in the future. The New South Wales Involuntary Drug and Alcohol Treatment Program for people at high risk of serious harm—that is, with severe substance dependence—was eight years in development and has been fully operational only since September 2012. The committee determined that it was too early to recommend any changes to the program since it has not been running long enough for a detailed analysis to be undertaken.

It was pleasing that the Minister for Mental Health, Minister for Healthy Lifestyles, and Minister for Western New South Wales, the Hon. Kevin Humphries, announced recently that the non-government sector will partner with communities across New South Wales to reduce the local impact of drug and alcohol abuse. The Australian Drug Foundation was awarded the tender to run the Community Engagement and Action Program, supporting more than 80 Community Drug Action Teams [CDATs] across the State. As highlighted by Minister Humphries, the best chance of changing a culture is when it is driven by those it affects. That is why the Government is committed to empowering parents and communities across the State to promote the benefits of a healthy lifestyle and highlight the risks associated with binge drinking.

Key partners in this endeavour are the State's community drug action teams. These groups, comprising community members, volunteers, local businesses, welfare organisations, government and non-government agencies, are set up to raise awareness and tackle drug and alcohol related issues. Government action and services alone cannot meet the challenges posed by alcohol abuse, which is why groups like the Community Drug Action Teams are so important. They are formed by local communities. They consist of members who understand how their local communities work and how change can occur at a local level. These groups lead change at a grassroots level by undertaking a range of projects in response to alcohol abuse, including poster campaigns, information days, youth forums, music festivals and mentoring programs. Minister Kevin Humphries said:

We want to empower our communities to lead this change, and that's why transferring the Community Engagement and Action Program from the Ministry of Health to the NGO sector is so important. By partnering in this way to support CDATs, we believe that we can better help these local groups work across their own communities, increase community participation and build their capacity to bring about real change.

On behalf of the committee, I acknowledge the time and considerable effort that the inquiry participants invested in this process through their submissions, hearing appearances, professional feedback at site visits and additional information provided. I also thank the drug and alcohol treatment providers that kindly hosted the visits by the committee. I thank my parliamentary colleagues for their engaged and thoughtful

contributions to this inquiry. I again thank the ever professional parliamentary secretariat for its dedication to not only this committee but all committees of this Parliament. Our work has benefitted greatly from both our individual perspectives and our cooperative approach.

I know that dissenting reports were submitted as part of this inquiry. That is healthy too. The Minister for Health, the Minister for Healthy Lifestyles and Minister for Mental Health, and the Minister for Education will be looking at the recommendations that we put to them. I particularly want to commend Dr George O'Neil. In the face of a lot of criticism, he has forged ahead and collected as much evidence as he can. A lot of those who attend his program in Perth cannot afford the treatment cost. In fact, when committee members were at his clinic, we watched some of the treatments. Madam Deputy-President Barham, I know you observed one. We were separated into groups so that we would not be so intimidating to patients.

The Hon. Trevor Khan: You're not intimidating!

The Hon. MARIE FICARRA: I was not intimidating; some of us could have been. The Hon. David Clarke turned pale at one stage while watching a naltrexone implant being subcutaneously inserted. But he was very good and stuck with it. It was interesting to talk to some of the unfortunate patients with drug, alcohol and gambling addictions. There is evidence to suggest that naltrexone is very useful in other addictions—not so much in oral form or in intramuscular injections but in implants.

I commend the efforts of Dr George O'Neil. His team of healthcare workers often volunteer with no payment whatsoever. It is incredible to talk to these people and see their commitment, dedication and passion in gathering as much evidence as they can to expand the armoury of pharmacological solutions and assistance. It is a holistic program of psychological and social help. It is not all pharmacological help; it is a package—all the addiction experts who came before the committee stressed that. They all stressed that we consider methadone and buprenorphine to be the gold standard because we have nothing else. We have had a reliance on methadone for over 30 years. We spoke to addicts who had been unable to get off it for up to 30 years. Surely in this day and age we can do better. The majority report of the committee supports any evidence-based approach that can help those patients. We need to get that evidence.

Reverend the Hon. FRED NILE [5.46 p.m.]: I am pleased to speak to the report of the General Purpose Standing Committee No. 2 entitled, "Drug and Alcohol Treatment". The report has made determinations principally on the bringing of naltrexone implants to Sydney but also on other issues pertaining to my Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2012. As members know, that bill was based on a successful Swedish program. Compare that with our failure here in Australia. I wish to thank the chair of the committee, the Hon. Marie Ficarra, for her excellent leadership in a very complicated inquiry. She led the committee with her usual skill.

I am encouraged that my parliamentary colleagues have supported the strong conclusion of a wide variety of addiction specialists and others that it is appropriate to explore funding sources for a comparative clinical trial between naltrexone implants, buprenorphine and methadone. However, given the well-known and widely publicised biases of the Sydney professional elites in this field, special caution will need to be exercised in the oversight of any Sydney-based undertaking. For that purpose, I propose that eminent expert oversight of any such trial be mandated by figures from this country and overseas with a track record in implant naltrexone research.

It seems more than a little paradoxical to me and to many that, while the greatest concentration of opiate dependent or heroin addicted persons is in Sydney, the world's largest naltrexone implant clinic operates in Perth—a whole continent away. As stated in the committee's report, Dr O'Neil has been treating people with naltrexone implants since 2000, reaching a total of 2,211 patients. American academics have stated that if their nation had had a similar opportunity, naltrexone implants would have been brought to market years ago. The overarching questions about Australia's management of the naltrexone implant, and our treatment of the global pioneer who has developed one of the longest-acting implants available internationally, must necessarily be: Why has it taken us so long? What has been the hold-up? More to the point, we could ask: What or who has been our problem?

One of the most frequently cited witnesses to give evidence to the committee was Dr Alex Wodak, President of the Australian Drug Law Reform Foundation [ADRLF], which, paradoxically, unashamedly aims to decriminalise and legalise drugs in Australia. He is one of the most ardent voices in many discussions of drug policy, especially here in Sydney, and is invariably an ardent advocate for loosening societal constraints on drug

use. Note for example the dramatic contradiction between Dr Wodak's quoted comments in the report and the comments of the Cochrane review authors in 2012. Notwithstanding that, Dr Wodak is a highly influential person within the addiction medicine establishment. The report quotes Professors Nick Lintzeris, Alison Ritter and John Saunders. They are also prominent figures within the Australian addiction medical establishment and similarly are on record as being either in favour of some form of decriminalisation or in tacit agreement with the dominant dogma of their establishment.

It is frightening for the Australian people to reflect that when the Therapeutic Goods Administration [TGA] sits to determine the registration of naltrexone implants some of those individuals, whose bias is widely broadcast and well-known amongst insiders or their intellectual kindred, are likely to be on the consultative panel. I would therefore urge in the strongest terms that the committee and the Government write to the Therapeutic Goods Administration strongly advocating that the proposed consultative panel be made up of leading figures with a well-established track record of using and evaluating implant naltrexone both within Australia and internationally, in preference to the usual pro-drug elite here in Sydney. It is hardly surprising that there is a subtle spin placed on much of the evidence given to the committee.

For example, the National Health and Medical Research Council only reviewed evidence prior to 2010—before most of the published trials in this area—yet it is not only repeatedly quoted, including by Dr Wodak, but also mentioned in the terms of reference. Since it obviously predated the publication of the seven trials of naltrexone implants, it is all but irrelevant. Moreover, serious ethical questions relating to the report, which is obviously foundational to the present inquiry, have been raised. It is understood to have been condemned as incorrect, unbalanced and distorted by leading experts in the field in Russia, England, Norway, the United States of America and Australia—in other words, in every nation with significant experience and published expertise. Yet here in Sydney it seems to form the intellectual basis of the present committee inquiry and report.

The report correctly notes that Kunoe and colleagues, the authors of the 2008 Cochrane review which has been quoted by many of the experts, substantially revised their position in their 2012 paper, and are presently engaged in further revising the Cochrane review itself. None of this would be necessary if the conclusions of the 2008 paper—or, for that matter, the National Health and Medical Research Council review—still pertained. Moreover, the Perth implant has been subject to at least two clinical trials: one in Perth and one in Norway. Both had sufficient patient numbers to comment usefully on safety and efficacy data, and find highly statistically significant improvements attributable to the use of the implants.

In other words, a comparative therapeutic trial is not required for implant registration—sufficient data for that would already appear to exist—but would contribute to assessment of its relative place in treatment; assessment of the short term only toxicological profile associated with each pharmacotherapeutic modality; and, of course, its local introduction into the Sydney treatment world. In any event it is of paramount importance that supervisory oversight for any such clinical trial be provided by leading figures with a well-established track record using and evaluating implant naltrexone either from within Australia or internationally, or else the well-known bias of the Sydney addiction establishment is likely to effectively understate the value of implant naltrexone—as we saw so dramatically in Adelaide in 2002 when there were tests done with the oral formulation of this drug.

Moreover, as correctly noted in the committee report, it is not necessary to have a fully registered implant before a clinical trial can be undertaken. A trial can be undertaken, contrary to claims made in some of the submissions, once the Good Manufacturing Certificate [GMP] has been issued—which is expected in mid-2014—using Therapeutic Goods Administration registration of a clinical trial and a Clinical Trial Notification [CTN] number. It is of the greatest importance that we understand when the report refers to Therapeutic Goods Administration registration as a prerequisite to the clinical trial, it is referring to Therapeutic Goods Administration registration only sufficient to conduct a clinical trial—not full registration for marketing, as this would provide the drug legalisers an opportunity to interfere with the conduct of a trial by commandeering the Therapeutic Goods Administration consultative review process.

As Dr O'Neil is understood to have already filed extensive material with the Therapeutic Goods Administration in relation to the safety and efficacy of his implants, the Australian National Council on Drugs [ANCD] comments are not to be taken seriously. In either event, it is not true to say that no such data exists. As intimated above, a wealth of such data already exists—all of which is very notable for its extraordinary uniform and positive findings. Similarly, the Australian Drug Law Reform Foundation assertion that the special access criteria relating to elevated risk of death does not apply to heroin addicts is false. Their basal mortality rate has

been estimated at about 18-fold higher. The rate of death in detoxing patients, or patients detoxing from methadone, is known to be elevated up to 100-fold. Moreover, these same academic voices were amongst the expert panel decrying the three deaths in the Sydney naltrexone clinic.

A study by the National Drug and Alcohol Research Centre [NDARC] found that for some forms of death the mortality rate was 64 times that of their nationally age-matched cohort. Strong similarities between the Special Access Scheme criteria and those for mandatory treatment were also noted. I urge the Parliament and the Government to take up the recommendation of the committee that there be a naltrexone implant trial, in cooperation with Dr O'Neil and his clinic in Perth.

The Hon. SHAOQUETT MOSELMANE [5.56 p.m.]: I speak on the General Purpose Standing Committee report No. 40 on the inquiry into the effectiveness of current alcohol and drug treatment and services with respect to deterrence, treatment and rehabilitation. As a community we must leave no stone unturned in our quest to rid our society of the scourge of drug and alcohol abuse, which has ruined lives across our State. The committee has made seven recommendations, all aimed at improving the lives of those with substance abuse issues. They relate to the development of a national approach to alcohol, expanding the treatment options available to treat opioid dependence and increasing the evidence base with regard to the use of naltrexone implants—while using education, the justice system and treatment to tackle this pressing social problem.

Naltrexone implants are yet another approach to help us tackle the impact of substance abuse on individuals, their families and the wider community. Naltrexone implants have not been approved for use in Australia. The committee was interested in seeing the evidence on the continued development of naltrexone implants—and a randomised control trial comparing naltrexone implants with other licensed treatments used to treat opioid dependence undertaken in the future. At the outset, I thank every one of the individual organisations that enlightened the committee with their well-argued views. I hope we have done them justice by capturing their views and articulating them well in this report.

The inquiry received evidence from a wide range of experts in the field of addiction medicine: clinicians, researchers, police, government and non-government drug and alcohol services, and a host of others. They were concerned about, amongst other things: the future treatment of drug victims; the future funding of services; and the use of the education and justice systems to tackle drug and alcohol abuse and to find further treatments. Our objective was to inquire into and report on drug and alcohol treatment, the delivery and effectiveness of existing treatments, and drug and alcohol services with a specific focus on using naltrexone implants for treatment. For me this was a really engaging inquiry. For instance, it was the first time I had stood in the middle of a hospital surgery and watched a surgeon with his scalpel cut through a spot-anesthetised patient while casually chatting away.

It goes without saying that the evidence received by the inquiry highlighted the many and widespread negative effects of drug and alcohol abuse, which we see and hear about on a daily basis. Substance abuse is a pressing social issue, the resolution of which is terribly difficult. Just as pressing are the costs to the community, families, relationships, individual health and, of course, public disorder. Throughout this inquiry we received significant written and oral evidence and visited hospitals, injecting rooms and facilities in Orange and Western Australia in pursuit of evidence. The evidence we received pointed to a continued and terrible growth in drug and alcohol abuse. However, on the positive side we saw the depth of interest of all those involved in this matter, including people working in the criminal justice system, community networks, medical institutions, and community and key organisations. They have come together as one and are trying their best within their limited means to help battle the terrible nationwide problem of drug and alcohol abuse.

The community and practitioners agree that the wider the list of possible treatment and service options available, the greater the opportunity for our medical system to tackle this scourge on our society. Critical to the success of any initiative, however, is the need for funding and for funding levels to grow or at least keep pace with increasing demand for the variety of drug and alcohol treatment services that are currently approved, proven to work and available. The use of naltrexone implants to treat opioid dependence was key to the inquiry. Some argued for their inclusion in treatment programs even though there is no hard evidence to support the claim that naltrexone implants are the solution to drug addiction.

In fact, naltrexone implants have not been approved for use anywhere in Australia and they are not approved anywhere else in the world except for Russia and the United States, which I may have heard the Assistant-President mention. The committee is hopeful that testing will be undertaken and substantive evidence developed on the success of naltrexone implants. It is also hopeful that it will be practicable to conduct a

randomised control trial comparing naltrexone implants with other licensed treatments for opioid dependence and expand the treatment options available. The committee agreed on almost all of the recommendations in the report. I will not go through all seven recommendations because the chair covered them well in her contribution. As I said, the committee acted with a high level of consensus; however, it had a key disagreement on recommendation 4 to which I will refer. Recommendation 4 states:

That if naltrexone implants are approved for use by the Therapeutic Goods Administration, that the NSW Government fund a randomised control trial comparing naltrexone implants with other licensed treatments used to treat opioid dependence, if such a trial is not successful in securing funding from the National Health and Medical Research Council.

The Hon. Helen Westwood and I did not believe that the evidence before the inquiry supported a recommendation that the Government fund the necessary trials. As stated in our dissenting report, we agreed with the expert clinicians and researchers who gave evidence that Government funds are best directed towards funding the proven treatment options currently available at a level that meets the need in the community. Further, the inquiry received evidence that the current level of funding is inadequate to meet existing demands and, accordingly, the committee recommended that the Government ensure funding levels keep pace with increasing demand as per recommendation 6.

Specifically, we agreed with the expert witnesses who gave evidence that naltrexone implants are experimental products that are proposed as a possible intervention for the treatment of opioid dependence; existing treatments such as methadone and buprenorphine are effective; the treatment gap in New South Wales between available interventions and those who need them is enormous; and a significant number of people requiring treatment are not able to access proven cost-effective treatments. The expert witness also made a number of other points that I will not go through in view of the time. The Hon. Helen Westwood and I did not agree that research as proposed in recommendation 4 was the best use of Government funding for drug and alcohol treatment.

In conclusion, we were of the strong view that the development, testing and approval of new drugs is not a Government responsibility; expense of such a trial would inevitably divert NSW Health funds away from front-line services; and only those who have no conflict of interest should be involved in the delivery of such a trial. Further, we were of the view that concerns about the safety of these implants would make ethics approval and informed patient consent for such a trial problematic, most likely impossible, and involuntary treatment with a drug, which would need a court order, would most likely present a risk to patient safety and would make the Government liable for any adverse events. We noted that the insurance company NSW Treasury Managed Fund would most likely recommend against such a trial.

I thank all participants, who invested their time and effort into this inquiry by making submissions, giving evidence and attending public hearings. I also thank those who hosted site visits, including the Lyndon Community and the Involuntary Drug and Alcohol Treatment Centre in Orange, the Fresh Start Recovery Programme and the Drug and Alcohol Office in Western Australia, the Sydney Medically Supervised Injecting Centre, and the St Vincent's Hospital Emergency Department and Alcohol and Drug Service at Darlinghurst. Finally, I acknowledge the work of the Hon Marie Ficarra as chair and all committee members for a professional inquiry. I express my thanks to the secretariat staff for their professionalism in putting the arrangements in place and ensuring a fault-free inquiry. I also thank them for a well-written report, which, along with the dissenting report, I recommend to all.

The Hon. JENNIFER GARDINER [6.05 p.m.]: The General Purpose Standing Committee No. 2 inquiry into drug and alcohol treatment was a self-referred inquiry that was established about a year ago to look into the effectiveness of current alcohol and drug policies with respect to deterrents, treatment and rehabilitation. The terms of reference outlined a number of detailed matters for examination by the committee. I join with my colleagues to thank the secretariat for the excellent support they provided to committee members. I also thank the committee members for their work during this inquiry. It is fair to say that the inquiry represented the most extensive review of drug and alcohol services in New South Wales since the alcohol and drug summits that were conducted in this Parliament, so it was a useful project. I particularly thank the witnesses who came before the inquiry to inform committee members about the tragic impact that drug and alcohol has had on their families. Those witnesses were brave to tell their stories at public hearings; their evidence was extremely moving.

As has been mentioned, the committee made a number of recommendations. The committee took into account the Auditor-General's Report to Parliament entitled, "Cost of Alcohol Abuse to the NSW Government", which was presented to the Parliament as the inquiry was wrapping up. Accordingly, the committee recommended that the Auditor General's report and the evidence submitted to the General Purpose Standing

Committee No. 2 inquiry into drug and alcohol treatment be forwarded to the Commonwealth Government to highlight the need for a national response to the problem of alcohol abuse and to request that a national summit on alcohol abuse be convened in the next year or so. That is an important recommendation to go to the new Federal Government.

It is true that the committee received evidence from numerous participants and witnesses who said that alcohol presents the greatest challenge to public health and that the negative social and economic effects of alcohol abuse are more significant than those caused by other substances. That was an important context for all of the committee's deliberations, which was highlighted by our visit to, for example, the emergency department of St Vincent's Hospital, which is a very impressive part of the operations of that very impressive hospital. The committee believed that alcohol presents a unique challenge for policymakers because as we all know, unlike other substances, it can be used safely but it also can be used recklessly. In addition to the committee's perspective of the main issues, the committee recommended that the Government review the recommendations of the 2003 Drug Summit and have a fresh look at the stage reached by the recommendations of that summit during implementation of the 10-year review. Perhaps there could be some further recommendations for policy arising out of that review.

The committee recommended that the State Government consider expanding the availability of naloxone and providing training to relevant health care professionals to prevent opioid overdose fatalities. That very practical recommendation, which may lead to expanding the base of expertise available among health care professionals who can administer naloxone with a view to preventing opioid overdose fatalities, was widely supported by witnesses. Naltrexone implants were the trigger for the inquiry. As we all know, Reverend the Hon. Fred Nile has presented his Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill 2012 that was aimed at reforming the Drug and Alcohol Treatment Act 2007. There was also a lot of discussion around the topic of naltrexone implants, but most of the evidence before the committee highlighted alcohol abuse as the greatest problem facing New South Wales when it comes to drug and alcohol problems.

The committee recommended that if naltrexone implants were approved for use by the Therapeutic Goods Administration, the Government should fund a randomised control trial comparing naltrexone implants with other licensed treatments used to treat opioid dependence. If such a trial is not successful in obtaining funding from the National Health and Medical Research Council, which is generally the source of funding for such trials, the trial must be conducted to the highest standards and be developed in consultation with experts from the fields of addiction and public health medicine, and participation in such a trial by other Australian States and international jurisdictions should be encouraged. The committee noted that in the last couple of budgets of the Ministry of Health, it had not allocated any funds for clinical trials of drugs. It will be very interesting indeed to see the Government's response to that recommendation. The committee examined the work of the Drug Court.

It was agreed that the Government ought to consider further expansion of the Drug Court to regional centres outside Sydney and the Hunter. That recommendation has been well received. The funding of drug and alcohol treatment services was an important consideration examined by the committee. There was quite a deal of evidence that there is an increasing load on the health system because of drug and alcohol issues in the community, and that some of those are increasing. There was reference to a lot of work that is being done to produce a model that would be an objective nationwide model to indicate to governments of all political persuasions an objective way of measuring the financial resources that should be allocated to drug and alcohol clinical care across the nation. The preparation of the model is being co-funded by the State Ministry of Health and the Federal ministry as well. The committee also recommended more education for students about the safe use of drugs and alcohol. I join with my committee colleagues in saying how important and beneficial the inquiry was in getting a handle on drug and alcohol treatment services across New South Wales.

The Hon. LYNDIA VOLTZ [6.15 p.m.]: I am not a member of the committee, but I take this opportunity to make a few observations, particularly in regard to a case I read about recently in the *Newcastle Herald*. According to the report, Deborah Wolfgram was a talented artist and a beautiful happy soul. Yet her family believed she was an undiagnosed schizophrenic who suffered from dissociative identity disorder. She was found dead in her flat in Cooks Hill—she had been murdered. Her family believe that had she been given the help she so desperately needed, she would be alive today. During her final stay in hospital battling alcoholism and anorexia she weighed just 32 kilograms, but her family said there were underlying issues that made her hear voices in her head and take on the personality of others. Her family attempted to get intervention but Deborah knew how to manipulate staff into believing she was not ill. Her sister Cathy Wolfgram said they tried to get Deborah assistance to protect her, but no-one would help.

As is well known, the use of alcohol and street drugs is more common among individuals with serious psychiatric disorders. A study by Dr Barbara Dickey published in the *American Journal of Public Health* showed that very high levels of comorbid substance abuse occur among those with schizophrenia and bipolar disorders—47 per cent and 56 per cent respectively. The study also showed that substance abuse is associated with an unwillingness to seek psychiatric treatment. Indeed in the submission to the committee by the Ministry of Health comorbid conditions were noted. According to Health, a high prevalence of those presenting with substance abuse problems deals with more than one disorder and responsibility—their treatment lies with both specialist drug and alcohol services, and other medical psychosocial interventions.

Herein lies the problem with this committee's report. The committee has acknowledged that the scope of the inquiry was too narrow and based on unproven science with little efficacy. The reality is that those with substance abuse more likely than not have complex health issues, for which naltrexone is at best only a short-term bandaid for individuals who suffer from more significant problems. As the Australian Therapeutic Communities Association noted, the complexity of responses to substance abuse reflects the complex nature of the problem. Drug and or alcohol users are not a homogenous cohort. As a case in point I will outline the case of Anthony, who hears voices often telling him that he is at some imminent risk and who also has alcohol and cannabis dependency.

Anthony is partially deaf and unable to hear what is said so picks up on aggressive responses he perceives from those confronted with a strapping six-foot bloke clearly in psychosis. This usually results in Anthony being on the receiving end of some violence. Having spent most of his childhood in hospitals as doctors subjected him to painful operations year after year to replace busted ear drums, none of which were successful, he is naturally loath to receive any medical attention. However, at the request of a magistrate and after a long history of attending the courts on trespassing charges he has been prescribed naltrexone. It made little difference to his behaviour. Would a naltrexone implant save his life? No; nor did naltrexone have any impact on his behaviour, although it is clear that coercion is an effective tool in getting him to a doctor.

Some years ago Anthony decided he could dive off a cliff into a shallow river in Victoria. He was lucky not to have killed himself—he shattered his leg. He was airlifted to a hospital in Melbourne where he underwent surgery and had pins inserted. As soon as he could find some crutches, he discharged himself from hospital and boarded a train to Sydney. Despite the pins needing to be removed from his leg, he refuses to seek medical attention. He now has one leg shorter than the other and, despite not being 50, often walks with a shuffle. This incident, the many scars and kidney failure attest to Anthony's ability to find some way to cause serious harm with or without alcohol. His underlying mental health issues, which have existed since he was a teenager, have never been treated. Like Deborah, he is well versed in telling police and medical officers only what they want to hear and stands testament to the complexity of treatment.

The very narrow use of involuntary treatment, as people such as Professor Dunlop have acknowledged in the report, would not save the Deborahs and Anthonys of the world. The committee has acknowledged the high cost of involuntary treatment, yet the cost of treating those with comorbidity is 60 per cent higher than treating those presenting with a mental illness alone. It is no surprise, as governments restrict expenditure, that these complex issues get little airing; they have certainly received little in this committee report. However, those who came before the committee raised funding for programs in relation to drugs and alcohol, and mental health was as areas of great concern. Non-government organisations have noted that, in the last couple of years, security of funding, which was normally in cycles of three or four years, has been extended by six to twelve months, making it impossible to retain trained staff. This, in particular, is an area where the O'Farrell Government could and should take immediate action. Although the committee noted this in its report, I am surprised it is not one of the recommendations.

I am surprised that some issues that did get much of an airing during the committee's inquiry. Given the links to comorbidity, it does not appear that section 14 of the Mental Health Act has been addressed. This Chamber has previously passed a motion requesting that the Government hold a public inquiry into this complex section of the Mental Health Act, particularly with regard to best interest capacity-based decision-making, yet the Government has failed to do so. Until that happens, families such as the Waterlows and the Wolfgrams will continue to wonder if there was a better way to save their families from harm. Involuntary treatment through a naltrexone implant program, as the case of Anthony should indicate, is not the solution.

Such a program also raises significant human rights issues about where the line is drawn. Does the ex-furniture removalist with fused discs from heavy manual labouring, no longer eligible for any operation to provide relief and addicted to analgesics, comply? The case study of the heroin user included in the report is

evidence that those who wish to use naltrexone will use it. The science on naltrexone implants is weak. I refer in particular to a study entitled, "Maternally Administered Sustained-Release Naltrexone in Rats Affects Offspring Neurochemistry and Behaviour in Adulthood", which notes:

Naltrexone is a non-selective opioid receptor antagonist, used clinically for persons wanting to abstain from opiates and/or alcohol. However, naltrexone is not recommended during pregnancy. Unfortunately, some pregnant opioid-dependent women have received oral naltrexone. Moreover, with the advent of sustained-release naltrexone preparations and their emerging clinical use, inadvertent foetal naltrexone exposure, particularly around conception, is a genuine possibility. To date, 52 women have become pregnant while being treated with an Australian naltrexone implant.

... Our findings suggest that developmental opioid receptor antagonism may cause pathophysiological changes that contribute to compulsive drug-seeking behaviour.

... The present data, therefore, suggest that developmental opioid receptor antagonism may impact upon the pathways implicated in habit-forming.

... The current study demonstrates that chronic, low-dose maternal naltrexone delivered via a sustained-release implant impacts both behaviour and neurochemistry in adult offspring, but without obvious morphological effects. Our data are consistent with perturbations that are reported to result from naltrexone exposure during development with significant implications for alterations in morphine-induced neuroplasticity, and increased risk of opioid-abuse later in life.

It would appear that some in the community perceive naltrexone implants as the magic bullet for drug and alcohol addiction, but their outcome and efficacy are weak and there appears to be little favour for them around the world as indicated by the low manufacturing rates. Certainly involuntary treatment leaves open serious questions, particularly regarding its use on pregnant women. I am particularly concerned that it is currently being used in this way. As the Government did not undertake a public review of section 14 of the Mental Health Act as part of its review, perhaps this committee of the Legislative Council will turn its attention to that section of the Act to deal with the comorbidity questions that still remain unanswered.

The Hon. PAUL GREEN [6.24 p.m.]: I have heard some of the contributions, which are very honourable. I dealt with people with all sorts of addictions in my nursing career and I know that people respond differently to different treatments. This is not a one-size-fits-all situation. Each patient is an individual and will respond to treatment accordingly. This type of treatment gives patients an opportunity for a second, third or fourth shot at life. Many of them try to beat their habits, but are sadly defeated again and again. There is no magic bullet for addiction. It is often not a question of how long you have been free of your addiction but how long until the next temptation for addiction or how long before you fail. Many people beat addiction one day at a time, dealing with every temptation that comes to them. The naltrexone trial should be undertaken, if for no other reason than that some individuals will respond to this type of treatment and be set free to gain the life that many of us enjoy. I commend the report to the House. I am grateful for the opportunity to contribute to the debate.

The Hon. JAN BARHAM [6.26 p.m.]: I speak to the report of General Purpose Standing Committee No. 2 regarding drug and alcohol treatment. I note that I was The Greens representative on this inquiry. The impetus for this inquiry was the introduction by Reverend the Hon. Fred Nile of the Drug and Alcohol Treatment Amendment (Rehabilitation of Persons with Severe Substance Dependence) Bill on 25 October 2012. The bill seeks to amend the Drug and Alcohol Treatment Act 2007 to further provide for the involuntary rehabilitative care of persons with severe substance dependence. At the conclusion of his second reading speech, Reverend the Hon. Fred Nile advised that he would support the bill being considered by General Purpose Standing Committee No. 2. On 21 November 2012 that committee self-referred an inquiry into the effectiveness of current alcohol and drug policies with respect to deterrence, treatment and rehabilitation.

In 1999 the Labor Government initiated the Drug Summit, which was a groundbreaking process of establishing community conversation on drugs in society. It is probably fair to say that the current inquiry was the first major review since that time of where society, research and the medical fraternity were at on this issue. It is important to note also that in 2003 the Government established the Alcohol Summit. It is unfortunate that there was little progress on the many important recommendations from that inquiry, but that issue was also considered in the context of the current inquiry, which provided the opportunity for review. The inquiry focused a lot of attention on the basis of the bill, which was the involuntary treatment of substance dependent persons.

This included a site visit to the Fresh Start Centre in Perth, Western Australia, which provides voluntary naltrexone treatment to dependents. It was a very interesting experience because we were able to be present in a room while treatment was undertaken and naltrexone was administered to patients. We saw the daily operation of the facility. For those of us who spend some time in hospitals or medical facilities, the sense

of chaos and confusion in treating people was interesting and unique. The inquiry also looked more broadly at available treatments. We visited the medically supervised injecting centre at Kings Cross and other facilities at Dubbo. In the limited time remaining I shall focus on some key findings and recommendations flowing from this inquiry that address major issues.

Pursuant to sessional orders business interrupted and set down as an order of the day for a future day.

WORK HEALTH AND SAFETY AMENDMENT BILL 2013

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

Motion by the Hon. Marie Ficarra, on behalf of the Hon. Duncan Gay, agreed to:

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

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

Pursuant to sessional orders debate on budget estimates proceeded with.

BUDGET ESTIMATES AND RELATED PAPERS

Financial Year 2013-14

Debate resumed from 15 October 2013.

The Hon. PENNY SHARPE [6.32 p.m.]: I make a brief contribution to the debate on this year's budget, particularly about public transport. In the lead-up to the budget, the transport Minister, Gladys Berejiklian, told the media that in respect of the budget she was "a very happy transport Minister." She would want to be a happy transport Minister, given that she is happy to employ her mates and happy to preside over significant job cuts, especially in rail security, and over huge cuts to maintenance and operations across the New South Wales rail network. The budget papers show that RailCorp's capital expenditure last year was underspent by \$872 million—more than one-third—and will be cut by an extra \$111 million this financial year; the rail operations budget has been cut by \$176 million this year; the train operations services capital budget was cut by 40 per cent, or \$38 million; and asset maintenance spending was underspent by 29 per cent last year and will be cut a further 22.7 per cent this year.

The asset maintenance teams look after RailCorp's physical assets to address defects and deterioration. Its job is to maintain the current fleet and rail infrastructure, including overhead wiring, and to replace out-of-date infrastructure. It beggars belief that the Government is underspending and cutting critical maintenance funding while overhead wiring issues keep crippling the rail network. Already this year the network has experienced 15 major delays that literally shut down our rail system for hours on end and left commuters stranded—delays caused by lack of maintenance. The transport Minister's decision to leave gaping holes in the maintenance and capital expenditure required for the entire rail network means that, unfortunately, commuters will experience more delays just trying to get to work or home on time.

The budget revealed also that the Government has cut funding for bus services, including cutting funding for bus contracts by \$5 million. In 2012-13, private and outer metro bus contracts were allocated \$521 million, with \$337 million allocated to the State Transit Authority. In 2013-14 the combined total is only \$853 million—that represents a \$5 million cut. As the budget does not provide a breakdown, we simply do not know what is being cut between private services and the State Transit Authority. Of course, not only has the probity of some bus contracts raised concerns but, most importantly, the people in Western Sydney, particularly around Liverpool, Holroyd and Cabramatta, last week learned that the change of contracts led to bus drivers not knowing their route, insufficient staff, and students arriving late for Higher School Certificate exams and also being left stranded on the side of the road trying to get home.

It is important also to note that funding for replacement buses has been cut. Over the last years of the previous Labor Government significant investment was put on growth in replacement buses on the transport network. This budget allocation has been cut by 30 per cent over the term of the O'Farrell Government. In

2012-13 the Government spent \$127 million on 279 buses, but in 2013-14 the Government allocates only \$92 million. Funding cuts to replace buses means that commuters will continue travelling on older buses with ineffective and inefficient engines, no air conditioning, and inaccessibility for those with disabilities or mothers with prams.

Capital expenditure for the State Transit Authority also has been cut by 50 per cent from last year, down to \$5.4 million in 2013-14, and the new bus depots allocation was underspent. As with our rail network, bit by bit these cuts are damaging bus services. On-time bus services are deteriorating, even as the Government admits to relaxing the on-time running measurement. The last financial year estimate shows things are getting worse. The budget also does not include funding for rural and regional bus contracts that provide additional services or any clarity about a funding allocation for seatbelts on school buses, for which communities have called and have yet to receive any information.

Members would be aware that the Transport Access Program is an amalgamation of a number of programs that are supposed to address the need to make public transport available and accessible through station upgrades, lifts for all people in New South Wales, including those with disabilities and/or mobility issues, the elderly and those with prams. An accessible public transport system means that everyone can use it. However, the problem is that the Government loves the Transport Access Program because it uses it to make many announcements, but absolutely no clarity or transparency exists about what is being funded and how. The Minister is playing politics with this program. At best, the rollout of these projects is unclear; at worst, it is deliberately opaque.

For example, announcements show no difference between commuters getting full station access with lifts that meet disability standards or a new line being painted on the stairs to make traversing the station easier for those with visual impairment. We welcome any upgrade, but there is a big difference between actually meeting disability standards and a simple paint job. The Minister is hiding information. I have asked numerous questions on notice about the Government's announcements under this program and have not been able to elicit any details about costs or commencement or completion dates for projects. Instead, the Minister replies with pro forma repeated answers that do not address any of the questions asked.

The budget documents provide no information about how the program is allocated over the forward estimates or, more importantly, any clear information on how the Government plans to meet the accessibility requirements of the disability Act. The Government cuts maintenance, capital expenditure and the number of staff responsible for security on our rail network; at the same time graffiti, vandalism, fare evasion, cleanliness complaints, overcrowding and an ongoing deterioration of on-time running on our rail network continue to increase. Vandalism and graffiti incidents jumped by 10 per cent from 2010-11 to 2011-12. Since then, graffiti incidents have risen 13.6 per cent since Labor was in office. There were 6,016 reports of vandalism in the last six months of last year alone, passenger complaints increased by 10 per cent last year, and complaints about dirty trains and stations increased by a whopping 26 per cent. The figures for 2012-13 show no improvement. Commuters are still making 30 official complaints every week about the cleanliness or lack thereof of our trains and stations. In the past year complaints about Town Hall station have doubled.

A 53 per cent jump in complaints by those who travel on the Central Coast and Newcastle line has been recorded and there has been no improvement on the Western line. For people who live in the Blue Mountains, the situation has become significantly worse. In 2011-12, 96 complaints were lodged about the Blue Mountains line and it was determined to be the sixth dirtiest line on the network. Complaints in 2012-13 represent a jump by 25 per cent. The Blue Mountains line is the third most complained about line on the rail network. Further, passengers are travelling on increasingly overcrowded services. In the morning, peak train services on the Illawarra line are already at 130 per cent capacity by the time they reach Hurstville; trains on the East Hills line are at 129 per cent capacity by the time they reach Green Square or Sydenham; and trains on the Bankstown line are up to 144 per cent capacity by the time they reach Campsie.

It is important to note that trains are arriving later. The Minister has made much about fixing the trains, yet the Government's on-time running figures for June show that six out of the 16 lines did not meet the on-time running benchmark throughout the past financial year. The figures from the past financial year reveal that 11 out of the 16 train lines have worse on-time running performances than in many previous years. In response, the Government recently decided to change how on-time running is calculated by introducing a new measure of punctuality and made many promises about the new timetable. We will wait and see how that pans out. The real judges will be the commuters.

The Minister for Transport and I can agree on many issues. Most importantly, we want more, not less, public transport in New South Wales. I am greatly frustrated by the fact that the Minister has allowed \$2 billion of Federal funding allocated for public transport in Western Sydney to slip through her fingers. With one stroke of a pen, the incoming Abbott Government has abandoned any idea that the Federal Government should fund urban rail infrastructure projects, which means that the \$2 billion that had been allocated for the Parramatta to Epping rail line has been reallocated elsewhere. The Minister for Transport, Gladys Berejiklian, in one of the most incredible lines of spin I have heard from any transport Minister, said that she welcomed the certainty of no Federal funding for any public transport in Sydney. It is an extraordinary statement that the people of Western Sydney will not easily forget.

I cannot go on without talking about the most short-sighted decision the O'Farrell Government has made in relation to transport: the decision to build tunnels for the North West Rail Link too narrow for double-deck trains. The Government promised that the North West Rail Link would futureproof Sydney's rail network. Yet the decision to bore tunnels that are too narrow for double-deck trains means that the North West Rail Link will never be able to be integrated into the rest of the Sydney rail network. The 15 kilometres of tunnel will be 40 centimetres too small to run double-deck trains. This incredibly short-sighted decision will limit the development of the train network not just in north-west Sydney but across all of Sydney. The Minister will not answer any questions as to whether the tunnels could have been bored to the standard size at the same cost.

As a result of this decision, the Richmond line will never be able to be joined up to the North West Rail Link and the Parramatta to Epping rail link will not be able to be built. It also means that two-thirds of commuters in north-west Sydney will stand up for an hour and change trains up to three times to get to the central business district. These decisions cannot be reversed in the way that the Government is rolling out the contracts. It will cut off future options for the further development of the Sydney rail network. Future residents of Sydney and transport planners will lambaste this decision, which is akin to building the Sydney Harbour Bridge with only two lanes. Again, I join with many members of the community to ask the Government to rethink this very short-sighted decision.

As a result of the cuts and the Minister's willingness to waive funding for public transport, money is being directed to one project at the expense of many projects. For example, in Blacktown, the O'Farrell Government has moved away from plans to deliver disability access lifts to Doonside and Rooty Hill stations and the free shuttle service has been cut, meaning that parents of small children and pensioners have lost a service that connects them with important community hubs. In Marrickville, Petersham station is missing out on a much-needed easy access upgrade. This busy station with very steep steps has been in need of this upgrade for a long time. It has now gone to the back of the queue.

The Government has cut the GreenWay along the Inner West light rail. This project, which was planned to be integrated with the light rail, would have had immeasurable environmental health and social benefits for residents across Sydney's inner west. In Shellharbour, the Government has allocated just \$1 million for planning towards the Albion Park Rail bypass, a project that will cost up to \$40 million. We will be waiting for that for a long time. In Keira, there is no funding for the establishment of a metro bus network in the Illawarra to reduce heavy congestion around the University of Wollongong. In Granville, the much-needed rail overpass or underpass for the Carlingford line across Parramatta Road continues to be unfunded.

It is important to note that it is 12 months since the grand promises were made about the 20-year Transport Master Plan. Ten regional transport plans that were promised are yet to be delivered; not one community has been consulted. Somewhere buried deep within the Department of Transport, bureaucrats are writing plans that will be foisted on communities. Hopefully we will be able to view them at some stage. The Government shows a complete lack of accountability to regional communities in New South Wales. My final contribution to this debate is to raise my concerns about the way in which the Minister and her office have dealt with transport contracts. Evidence is emerging every day about the Minister's approach to probity and transparency or lack thereof concerning contracts for which she is responsible.

The Opposition can reveal that the Minister for Transport has allocated hundreds of thousands of jobs to her mates, without tender. Jack Simos, who worked some years ago with Minister Berejiklian in the office of Peter Collins, and his mate Richard McKinnon have charged the Government \$500,000 in the past 18 months for consulting on the Government's shake-up of RailCorp. Mr Simos and Mr McKinnon landed this lucrative contract after initially being engaged for a contract under \$30,000. They were able to find a loophole that enabled them to be engaged without going to tender. The documents from the Minister's office released pursuant

to Standing Order 52 give details about the awarding of this contract, which has gone on to net these individuals a lot of money, so far half a million dollars. It is strange that Mr McKinnon has been billing the Government while running for office in Santa Monica and is a planning adviser there.

It has recently been revealed that Mr Simos and Mr McKinnon are in receipt of another contract worth \$150,000 from the Minister's department. That was awarded through selective tender and, ironically, they were able to use the experience they gained through the first dodgy tender to prove their worth. Nice work if you can get it. Clearly, the Minister is not concerned about that. Let us not forget that the Minister's own Chief of Staff runs a heritage trains tour business which advertises tours with the same rail heritage expert the Government supported to travel to Australia to head up a New South Wales review into rail heritage. For many, the Transport budget is a bitter disappointment. Whilst the Minister may be very happy, commuters and communities across Sydney remain enraged by the lack of transparency and the Minister's failure to deliver on commitments.

The Hon. JENNIFER GARDINER [6.47 p.m.]: The New South Wales 2013-14 budget reflects the ongoing commitment of the Liberal-Nationals Government to promote fiscal responsibility, economic growth and prosperity across the State, to provide high-quality front-line services to communities, and to continue to lead New South Wales to becoming number one in the country on a range of benchmarks, not least of which is a strong economy. I am proud to note that in this budget regional communities feature prominently, which reflects the commitment of the Liberal-Nationals Government to regional New South Wales. The State budget is great news across major portfolios, including more funding for health infrastructure development and upgrades in regional communities. In this budget, \$400 million has been allocated to hospital upgrades. It is clear that the O'Farrell-Stoner Government prioritises hospitals and health services, further addressing the hospital capital works backlog that was left by former Labor governments.

Some of the projects that have been funded in this budget are the commencement of construction for the South East Regional Hospital at Bega, which received \$32.8 million and the commencement of the stage two redevelopment of Tamworth Base Hospital, which received \$77.5 million. The much-needed continued expansion of Port Macquarie Base Hospital was allocated nearly \$60 million. The continued redevelopment of the Wagga Wagga Base Hospital received more than \$42 million in this budget. The continued construction project for the redeveloped Dubbo Base Hospital, with a special focus on acute services, was allocated nearly \$36 million. The start of the redevelopment of the Kempsey District Hospital, with \$9 million from the State Government, is very welcome news indeed for that mid North Coast community.

All the projects I have mentioned are important but none more so than at Kempsey. I take this opportunity to pay tribute to the former Mayor of Kempsey, John Howell, who, with community members like Councillor Betty Green, has long campaigned for this particular project. There were fears at one stage that Kempsey District Hospital would never be redeveloped. Some years back, the community feared that the hospital would be closed down. It is fantastic that with the combination of Federal funding and the State Government's allocation in this budget Kempsey will get the new hospital that it deserves.

The redevelopment of stage two of Lismore Base Hospital is in a similar situation. Tribute should be paid to the member for Lismore, the Hon. Thomas George, and the member for Ballina, the Hon. Donald Page, for their hard work, along with others in the community, in advocating for the completion of the redevelopment of Lismore Base Hospital within a reasonably quick time frame. The commencement of planning, development and land purchase for the new hospital at Maitland has been funded in this budget. There is also funding for more work at the Parkes and Forbes hospitals, which amounts to \$13 million.

Health infrastructure funding allocations within this budget deliver on the Government's goal to provide world-class clinical services with timely access and effective infrastructure. Progress is well underway. In line with this, last year the Government developed a four-year \$4.7 billion health infrastructure plan and a 10-year total asset management plan. This budget continues to work in that context. Access to quality health services is an absolute imperative for rural and regional communities. The Liberal-Nationals Government is enhancing the capacity of the rural health sector. New hospitals provide a much more attractive environment in which to work, let alone to receive health care. New environments enhance the likelihood of attracting more health professionals to work in hospitals outside the capital city.

Work is underway on the State Health Plan and rural health framework. There is an allocation of \$2.4 million in this budget to fund an additional 15 positions for doctors in the Rural Generalist Training Program. The program offers a supported pathway to a career as general practitioner, providing primary care in a rural community and advancing procedural services at rural hospitals. That helps to close a gap in the

procedural services on offer across non-metropolitan New South Wales and is very welcome indeed. In this budget, \$1.7 million was allocated to fund 16 medical training places in rural settings. All of those projects start to fill the longstanding gap in the provision of services and capital works in the health sector.

The 2013-14 budget also highlights the provision of front-line services, with the continued rollout of Service NSW in various parts of regional New South Wales. New South Wales is the first State to sign up to the fully funded National Disability Insurance Scheme, which will drastically brighten the future of some of our most vulnerable citizens. As recently as today, the Minister for Ageing and Minister for Disability Services, the Hon. John Ajaka, talked about the very positive response to the launch of the trial project in the Hunter Valley. Under the trial, people with a disability are receiving services in the local government areas of Newcastle, Lake Macquarie and Maitland. This plays into the New South Wales Government's commitment to goal No. 14 of the 2021 State plan, which is to "increase opportunities for people with a disability by providing supports that meet their individual needs and realise their potential".

The Government's budget also continues to allocate funding for the rollout of Stronger Together 2, to deliver 47,200 new places to build long-term pathways throughout the community services program and deliver a people-centred approach to individualised funding. In working towards building safer communities in regional New South Wales, the O'Farrell-Stoner Government has allocated funding to various agencies. In the police portfolio, this includes the provision of 624 new probationary constables and police officers. It includes capital works such as new police stations, with \$22 million being allocated to commence and continue construction of new police stations at Parkes, Moree, Walgett, Coffs Harbour and the Tweed-Byron local area commands.

There is also an allocation of \$12.5 million to construct, renovate or complete work on fire stations at a number of centres, including New Lambton, Merriwa, Rutherford, Barraba, Cardiff and Salamander Bay—which is a very important project in light of the Port Stephens fires this week. Work is being undertaken, too, at Wallerawang, near Lithgow, which has also been in the line of fire. Additionally, work is being done at Albion Park—where most of the Nationals Legislative Council team had a meeting last Sunday—Ballina and Port Macquarie.

In the Education portfolio, the 2013-14 budget delivers more capital works. There is an overall allocation of \$66 million for schools in regional New South Wales. That includes the allocation of funds for new facilities at Collarenebri Central School, Ulladulla High School and Bathurst High, as well as upgrades to TAFE facilities at Albury, Orange, Tamworth and Kingscliff. These are all designed to secure better educational outcomes for people living across regional New South Wales. The O'Farrell-Stoner Government has also entered into the National Education Reform Agreement with the Federal Government, which will contribute to an ambitious education agenda. That is reflected in the \$14 billion spending budgeted for this financial year, which is an increase of half a billion dollars from 2012-13.

The Nationals Minister for Education, the Hon. Adrian Piccoli, is dedicated to closing the gap in educational outcomes that exists in this State between country students and those in metropolitan areas. Today, the Hon. Adrian Piccoli announced details of the first tranche of funding flowing from the agreement between New South Wales and the Federal Government—once known as the Gonski agreement. He is to be commended for the successful pursuit of that agreement, particularly because of its emphasis on achieving his objective to close the gap in educational attainment that exists between country students and their city cousins.

Attention is also being given to the need to build infrastructure in addition to the other aspects I have mentioned. In part, that flows from the Resources for Regions policy of the Liberal and Nationals Government and from the allocation to regional and remote areas of 30 per cent of the budget of Restart NSW. Some of the features of that policy, as implemented in this budget, are the allocation of \$160 million over two phases dedicated to providing economic and social infrastructure projects to support mining-affected communities. Funding of \$40 million has been allocated for infrastructure projects to secure water supplies and droughtproof regional communities, which is very cogent given the unfolding drought in New South Wales. This aligns with goal 21 of the NSW 2021 plan to secure potable water supplies across the State.

Last year the Liberal and Nationals Government allocated \$64 million to assist 790 country towns, and \$17 million was directed to Aboriginal communities to upgrade water supply and sewerage services. Those projects were very much needed. Another \$15 million was allocated for the coastal infrastructure program to fund infrastructure maintenance at regional harbours that cater for commercial fishing, tourism and recreational boating. The extraordinary work of the Minister for Roads and Ports, the Hon. Duncan Gay, is a highlight of this year's budget. The Pacific Highway upgrade is proceeding, with many projects almost completed and others going out to tender and being planned.

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

The House continued to sit.

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

ADOPTION LEGISLATION AMENDMENT (OVERSEAS ADOPTION) BILL 2013

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

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

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

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

[Deputy-President (The Hon. Helen Westwood) left the chair at 7.02 p.m. The House resumed at 8.00 p.m.]

**PROTECTION OF THE ENVIRONMENT OPERATIONS ACT: DISALLOWANCE OF
PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT (SCHEDULED
ACTIVITIES) REGULATION 2013**

Debate resumed from an earlier hour.

The Hon. Dr PETER PHELPS [8.00 p.m.]: As I was saying earlier, one only need look at the wind farms around the eastern edge of Lake George to realise what a devastating effect these can have on avian life. Maybe a few fines and prosecutions would spur the wind industry on to take this issue more seriously and to address its Achilles heel. Wind farms really should not get a free pass just because they make a contribution to reducing Australia's already minuscule carbon dioxide emissions, particularly considering that hydro and nuclear make an infinitely greater contribution around the world to reducing carbon dioxide emissions and they do not get a free pass from The Greens for anything.

The Greens and the Labor Party are happy to give wind farm operators permission to kill eagles and other endangered birds for the next 30 years at the urging of wind industry lobbyists. We extend millions in tax breaks and subsidies to the wind industry. We create a monopolistic product through the Mandatory Renewable Energy Target [MRET] procedure. Now they want us to use the coercive power of the State to give an advantage to this industry over its competitors. If you are going to remove the licence fees for wind generators then why not also remove them for coal seam gas operations? Granting an exception for one industry substantially weakens the Government's ability to enforce the law in a consistent manner. The wind industry pretty much got everything it wanted under Labor governments, including the right to pollute, annoy and kill birdlife. It is just like "big oil"; I guess "big wind" has finally arrived. This is not about the money—these fines are a pittance—it is the idea from the Left that they can compromise one set of environmental principles for another.

Widespread implementation of wind farms is relatively new and research and evaluation is only just beginning. Members opposite have talked about the precautionary principle in relation to coal seam gas. Why not apply the precautionary principle here too? Frantically taking advantage of wind production construction tax credits before they disappear is not a good reason to harm an ecosystem. The Green Left is only concerned about applying the rules to things that they dislike. Their pet projects get away with polluting and killing wildlife scot-free. What are we going to do with these whirling dervishes of death? What are we going to do with these rotating rapturists of raptors? They need to be licensed; and thus the disallowance motion before us today should be defeated.

The Hon. PAUL GREEN [8.04 p.m.]: I note the arguments from Dr Kaye about this motion. His colleague the Hon. Jeremy Buckingham said that the Government is going down the route of licensing and charging the Environment Protection Authority [EPA] because of its ideological basis and that it could not see beyond this. We all have ideological bases. I remember not so long ago in this Chamber that Dr Kaye expressed his ideological bases about monopolies in ethanol production. He clearly had strong views about that. One thing

that he and I share is a concern about jobs and the opportunity for job creation. Ethanol production in the Shoalhaven supported about 300 jobs. As was mentioned back then, there were thousands of jobs linked to this renewable source of energy: ethanol.

I fail to see how Dr Kaye is being consistent on these matters. I would have thought that ethanol presents just as good an opportunity to be part of the solution for the future, including meeting the 20 per cent mandatory renewable energy target by 2020, as that presented by wind farms. I was having a discussion over dinner about the wind turbines at Bungendore and how I went down there and met with the proponents. They gave me a tour and a very thorough presentation. If anybody wants to visit there then I would encourage them to contact the relevant bodies because it really is worthwhile. One of the members said that wind turbines make no noise because there is no wind. When you stand under the wind turbines you can hear a whooshing noise—those 30-metre blades do make a whooshing noise.

Dr John Kaye: I think at Bungendore they have 50-metre blades.

The Hon. PAUL GREEN: I thought they were 30-metre blades, but I will stand corrected. I think the turbines were atop a 100-metre tower and had 30-metre blades. There is no doubt that noise is generated. I have been looking at the impacts of coal seam gas and have read about the health and mental health impacts of wind farms. I do not doubt that for a lot of the renewable energies we are pursuing—whether it be geothermal, wave action or whatever it is—we are only just beginning to develop these technologies.

I see there is a Mexican wave developing on the Government benches. I acknowledge the sign language coming from the Hon. Dr Peter Phelps. We are all looking for energy solutions, particularly renewable energy solutions. I think as we progress down the path of developing these further there will be scientific reports that go both ways—we will probably find it the same with wind turbines as with coal seam gas. There will be critics who say that wind turbines do have health effects, and there will be differing scientific views about turbines not having any health effects. I went out and spoke to residents; they all have views. In fact, I would listen to the people who live near these developments before taking as gospel truth some of the scientific findings. The people who live near these developments have close experience of them. They are able to identify those experiences based on when those structures were put in place.

I think it is good that we are looking towards renewable energy. The Christian Democratic Party is totally behind this. We believe that it is good for New South Wales but we need to be mindful about putting in place exemptions for one particular sector and not others. We want a fair approach and we need to continue to critique the outcomes of these renewable energies along the way. Once again, I put on record that I am confused by Dr Kaye's argument because the same level of jobs that he says will be created by the wind industry already exist in the ethanol renewable energy industry.

Reverend the Hon. FRED NILE [8.09 p.m.]: The motion by Dr John Kaye seeks to disallow the Protection of the Environment Operations Amendment (Scheduled Activities) Regulation 2013, which provides for licensing fees in relation to coal seam gas exploration and activities and electricity generation activities by means of wind turbines on wind farms. The Christian Democratic Party supports the regulation and opposes the disallowance motion. It is interesting that the regulation takes the new approach of redefining controversial matters. On page 4 the regulation provides that where one sees the term "coal seam gas" one should use the definition "natural gas". I also note that the section dealing with wind farms includes the new description "electricity works". Dr Kaye will have to watch out for the term "electricity works" because it means a wind farm.

Dr John Kaye: No, that is not correct.

Reverend the Hon. FRED NILE: That is in the regulation. I thought a wind farm was far more than electricity works. I will now take up the point emphasised by Dr John Kaye that there is no research indicating that wind farms cause health problems.

Dr John Kaye: Unless you eat one.

Reverend the Hon. FRED NILE: I asked the library to print out the research that indicates it does have health impacts.

Dr John Kaye: You had better send it to the National Health and Medical Research Council now because they say there isn't any.

Reverend the Hon. FRED NILE: You cannot deny it if there is research. I have been supplied with some research papers that have been published in reputable journals. The abstract of an article published in the September to October 2012 edition of *Noise and Health* states:

Industrial wind turbines (IWTs) are a new source of noise in previously quiet rural environments. Environmental noise is a public health concern, of which sleep disruption is a major factor.

It goes on to state:

Participants living within 1.4 km of an IWT had worse sleep, were sleepier during the day and had worse SF36 Mental Component Scores compared to those living more than 1.4 km away.

Further, it states:

The adverse event reports of sleep disturbance and ill health by those living close to IWTs are supported.

The abstract of an article in the September to October 2011 edition of *Noise and Health* states:

Statistically significant differences were noted in some HRQOL domain scores, with residents living within 2 km of a turbine installation reporting lower overall quality of life, physical quality of life and environmental quality of life.

That should concern The Greens. The abstract goes on to state:

Those exposed to turbine noise also reported significantly lower sleep quality, and rated their environment as less restful. Our data suggest that wind farm noise can negatively impact facets of HRQOL.

The acronym HRQOL stands for health-related quality of life. A report in *Science of the Total Environment*, dated 15 May 2012, stated as part of its major conclusions:

People living in the vicinity of wind turbines are at risk of being annoyed by the noise, an adverse effect in itself. Noise annoyance in turn could lead to sleep disturbance and psychological distress.

The abstract of an article entitled, "Perception and annoyance due to wind turbine noise—a dose-response relationship", in the *Journal of the Acoustical Society of America*, which deals with the effect of sound, states:

A statistically significant dose-response relationship was found, showing higher proportion of people reporting perception and annoyance than expected from the present dose-response relationship from transportation noise.

That means the noise from trucks and so on. It goes on to provide:

The unexpected high proportion of annoyance could be due to visual interference, influencing noise annoyance, as well as the presence of intrusive sound characteristics. The respondents' attitude to the visual impact of wind turbines on the landscape scenery was found to influence noise annoyance.

A report in the magazine *Hearing Research*, dated 1 September 2010, states in summary:

There are, however, abnormal states in which the ear becomes hypersensitive to infrasound. In most cases, the inner ear's responses to infrasound can be considered normal, but they could be associated with unfamiliar sensations or subtle changes in physiology. This raises the possibility that exposure to the infrasound component of wind turbine noise could influence the physiology of the ear.

The studies I am referring to have looked at the impact of wind turbines on different aspects of a person's health. A report published in the Danish journal *Occupational and Environmental Medicine*, dated July 2007, provides in summary:

Annoyance was associated with both objective and subjective factors of wind turbine visibility, and was further associated with lowered sleep quality and negative emotions ... There is a need to take the unique environment into account when planning a new wind farm so that adverse health effects are avoided. The influence of area-related factors should also be considered in future community noise research.

The extract of an article published in the *Journal of Laryngology and Otology*, dated 21 January 2013, states:

There is some evidence of symptoms in patients exposed to wind turbine noise.

Another article addressed photosensitive epilepsy, which I had not seen before. The article published in *Epilepsia*, dated June 2008, states:

Since risk does not diminish with viewing distance, flash frequency is therefore the critical factor and should be kept to a maximum three per second, i.e., sixty revolutions per minute for a three-bladed turbine. On wind farms the shadows cast by one turbine on another should not be viewable by the public if the cumulative flash rate exceeds three per second. Turbine blades should not be reflective.

That article says that the flashing of turbine blades can cause reactions in people who have photosensitive epilepsy. There should be more studies on the impact of wind farms. The research papers to which I have referred demonstrate that there are harmful or negative aspects associated with wind farming. For those reasons, the regulation should remain in place and should not be disallowed.

The Hon. RICK COLLESS [8.19 p.m.]: I will not take up too much of the time of the House in contributing to debate on the motion other than to say that in 2009 there was an inquiry into wind farm technology in New South Wales. The proponents of this motion suggest that there is no concern about wind farms in regional areas.

Dr John Kaye: I did not say that.

The Hon. RICK COLLESS: Your colleague did.

Dr John Kaye: You are verballing me again.

The Hon. RICK COLLESS: I did not say it was Dr John Kaye—I referred to the proponents of this motion. The colleagues of Dr John Kaye certainly did say that the people in regional areas love wind farms. The proponents who support this motion should read some of the evidence given during the 2009 inquiry, particularly the evidence given by Mr Humphrey Price-Jones and Mr Colin Dooley, who have properties in the Crookwell area and who were absolutely scathing of the whole concept of wind farm development. I invite the proponents of this motion to read their evidence.

Dr John Kaye: I have read it.

The Hon. RICK COLLESS: The Dr John Kaye says that he has read it, but obviously he did not pay any attention to the concerns expressed by them in relation to many different aspects. The proponents of this motion also say there are no health impacts caused by wind farms. Reverend the Hon. Fred Nile raised the issue of infrasound, which is low frequency sound that the human ear cannot hear. The same low frequency sound will send a dog scurrying under a bed when a thunderstorm is some kilometres away and emits low frequency sound. It is that infrasound that impacts upon people. The other issue raised in the inquiry was shadow flickering, which is caused by the sun shining through the spinning blades. Constant flickering of light on people impacts adversely on their health and wellbeing. In the context of discussion about the safety of local wildlife, I point out that the tip of a 60-metre blade spinning at 20 revolutions a minute travels at 450 kilometres an hour.

Dr John Kaye: Don't touch them.

The Hon. RICK COLLESS: Dr John Kaye says, "Don't touch them." I am sure there have been plenty of raptors and bats in the world that regretted having flown through blades rotating at 450 kilometres an hour. The scary aspect of this technology is that a United Kingdom company, Blade Dynamics, has developed blades with a length of 100 metres atop a tower that is 170 metres high, which means that the tip of the blade at the top of its revolution is 270 metres above the ground. If we work out the maths, the tips of those blades are travelling at 750 kilometres an hour at 20 revolutions a minute. It is beyond my comprehension how anyone could suggest there would be no noise from a piece of steel passing through air at 750 kilometres an hour or even 450 kilometres an hour. That is absolute nonsense. Of course there is an impact and wildlife is impacted adversely. It is appalling that the proponents of wind farms have moved the motion. I am absolutely opposed to it.

Mr DAVID SHOEBRIDGE [8.24 p.m.]: Madam Deputy-President—

The Hon. Amanda Fazio: Oh no. We will vote against it if you keep speaking.

Mr DAVID SHOEBRIDGE: If that is how you work out your votes, then more strength to you.

The Hon. Amanda Fazio: Don't you talk to me like that.

Mr DAVID SHOEBRIDGE: Sweet little thing. On behalf of The Greens, I express my support for the motion moved by my colleague Dr John Kaye for disallowance of the regulation. I note the hypocrisy of the Hon. Rick Colless saying that he is concerned about raptors and bats when he would have to be one of the least environmentally concerned members in the Chamber—rather, the least environmentally concerned member in the Chamber.

The Hon. Rick Colless: Point of order: The member obviously is misleading the House. He has no idea of my credentials in the conservation movement. I suggest they are a lot more fundamental and have better foundation than any conservation credentials he has.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! The Hon. Rick Colless will resume his seat. Mr David Shoebridge will confine his remarks to the leave of the motion before the House.

Mr DAVID SHOEBRIDGE: I find the contribution to this debate made by the Hon. Rick Colless utterly uncharacteristic—that is the most polite description I could give to it. Even in the regulations it is made very clear that the load-based fee is an arbitrary figure that has been selected for wind farms because, in the wording of the regulations, there are no assessable pollutants and therefore no load-based fee in relation to the activity of wind farms. The regulations make it clear that there are no assessable pollutants from wind farms, yet this Government wants to impose a completely arbitrary fee that is approximately \$16,950 for the larger wind turbines in New South Wales. To discourage energy generation by wind, which in the wording of the regulations has no assessable pollutants, is such a backward step when we know that the alternative to generating power by wind is likely to be gas or coal-fired power that produces benzene, fine particulates, hydrogen sulfide, nitrogen oxides and sulfur oxides that are known to pollute and damage local communities.

The fee is part of the Government's war on wind based on ideology because the Government has had the fossil fuel industry in its ear attacking the wind power generation industry. What is the most ready and viable alternative to fossil fuel at the moment? It is wind power. It has reached the point at which it is economically viable. In many cases, wind power generation is more viable than new fossil fuel-powered energy generation, yet what is this Government's response? Because this Government is driven by its friends in the fossil fuel industry it is putting utterly arbitrary, unfair and unreasonable impositions on the wind industry. I strongly support the motion moved by my colleague Dr John Kaye.

Dr JOHN KAYE [8.27 p.m.], in reply: I thank members who participated in this debate from a variety of perspectives. I will briefly address some of the points that have been raised. Firstly, I particularly thank my colleagues: Mr David Shoebridge, the Hon. Jeremy Buckingham and Dr Mehreen Faruqi for the salient points they made in this debate. The Hon. Jeremy Buckingham picked up on the issue of the intergenerational test, which is a great test to apply to any technology. What will happen in 10 years' time with a coal seam gas well or a coalmine and the irreversible damage they have done? If it turns out that there is as-yet-undetected health damage associated with wind turbines and they are dismembered and pulled apart, nothing will be left behind and there will be no long-term damage caused. The Hon. Jeremy Buckingham made a very important point.

The Hon. Dr Peter Phelps: They shouldn't be built.

Dr JOHN KAYE: What was that, Peter?

The Hon. Dr Peter Phelps: I said that under your precautionary principle, they should not be built in the first place.

Dr JOHN KAYE: Thank you. Mr David Shoebridge made an extremely important point with respect to cost effectiveness of wind energy. I think he was referring to a 2013 Bloomberg study showing that the cheapest lifetime cost and next increment to build in Australia, leaving aside all of the renewable energy targets and carbon prices and concentrating on the straight financial costs, would not be coal or gas but would indeed be wind. That leads me to the contribution made by Mr Scot MacDonald. I appreciate his candour in addressing the motion but he made a couple of fundamental errors in economics. He said that, with all the jobs, surely it will cost more. I note his presence in the Chamber and I will point out a simple fact to him.

If we build a wind turbine in Australia, about 80 per cent of the capital value of that wind turbine can be manufactured here in Australia—Australian jobs, Australian manufacturers and Australian installers. If we build a coal-fired power station, a maximum of 20 per cent of the capital value of that coal-fired power station can be built in Australia, so fewer than 20 per cent of the total jobs are in Australia. In fact, coal is more expensive, but it exports jobs. Wind turbines require more labour, but that labour is in jobs here in Australia.

I thank the Hon. Luke Foley for his contribution. He points to the Australian Energy Market Operator [AEMO] study, which dismembers a lot of the arguments of the other side. It says that we could run a viable national grid—the east coast and the south of Australia, excluding Western Australia and the Northern Territory—purely with 100 per cent renewable energy, a lot of which would end up being wind energy. Mr Scot

MacDonald says there is an issue with grid stability. He did not mean grid stability—that is a technical term that refers to undamped oscillations in power flows. What he meant was market stability. I am sure he did not mean grid stability because he would know full well that studies of the grid show that you can have high penetrations of wind turbines and maintain a perfectly stable grid in the active and reactive power voltage angle sense, power flow sense; you can maintain dynamic stability of the grid. He was saying that when the wind blows, the price goes down—and isn't that shocking!

The major problem with wind turbines is that when the wind blows the price of electricity goes down. We cannot have that because that would mean lower wholesale electricity prices. There might be people who could take advantage of that, who could do something with low-carbon, low-cost electricity. We do not want that; we want to stick with high-cost, high-carbon electricity. That is a whole lot better because it provides stable prices. Of course, Mr Scot MacDonald has never heard of a futures contract or an options contract. The electricity industry in Australia, the national grid, has a very well-developed market to deal specifically with price fluctuations, which is called futures contracts and options contracts. In fact, almost all electricity sold on the grid goes through a contract, which specifically allocates the risk and to cope with periods of high price and low price. It kills the stock market, but very little electricity in New South Wales or Australia is traded on the stock market.

The Hon. Trevor Khan: Point of order: I am concerned that Dr John Kaye is attempting to deliver his speech and Mr Shoebridge is constantly interrupting. Shame on him! He should be thrown out immediately.

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): Order! I remind all members that interjections are disorderly at all times.

Dr JOHN KAYE: That brings me back to bird kill and noise. Nowhere in the *Hansard* did I talk about bird kill. All technologies have an impact. If we could find a zero impact, zero cost technology I would probably retire because we would have solved almost every problem known to humanity. The reality is that there are no zero cost, zero impact technologies. There will always be environmental impacts. Most of the bird kills quoted by Dr Phelps are associated with one wind farm—in fact, the first major wind farm installed in California at Tehachapi Pass. It was a silly wind farm put in the wrong location: It was in the flight path of raptors. Dr Phelps's figures show that 80,000 raptors are killed each year, 60,000 at Altamont Pass—I had the wrong project—which leaves 20,000 killed elsewhere. Funnily enough, he had another 50,000 from another project, so his arithmetic is not great.

The siting of wind farms to make sure that noise does not impact on local houses and that they have minimal or no impact on the flight paths of birds is a form of analysis that we have become very good at. The Epuron development in Silver Springs is well away from the flight paths of birds. A few birds may be killed, but think about the number of birds that are killed in Sydney by high-rise buildings. Nobody is talking about licensing those under the Protection of the Environment Operations Act. I have left the best until last because that is my nature, so I will leave the Hon. Dr Peter Phelps and the Hon. Rick Colless to the very end.

I should talk about Reverend the Hon. Fred Nile—not quite the best. Reverend the Hon. Fred Nile has adduced some very interesting evidence. He said that wind farms are noisy and, if you are too close to them, the noise might disturb your sleep. He is not going to get a Nobel Prize for that one, is he? That is a known fact. In fact the 1.4 kilometre threshold that he uses is pretty close to The Greens policy, which is eight times the wind turbine diameter as a setback. That is probably what the science is currently telling us about acceptable levels of noise. The difference is that that would produce noise that is consistent with global—European and United States—levels of noise tolerance. The O'Farrell Government wants to drop that down to 35 dBA, or decibels audible, which is somewhere around one-third and one-hundredth of the noise power limits in the rest of the world. It is an unacceptable level.

I will finish by referring to the Hon. Dr Peter Phelps. We heard a lot of talk about ideology in this debate. Sometimes ideology and science collide and when that occurs people say things that future generations will look back on and say, "Goodness gracious, did they really say that?" If I live long enough, I look forward to people reading *Hansard* in 20 years time and commenting on how comprehensively deluded so many members of The Nationals and the right wing of the Liberal Party really are and how they allowed ideology to stand in the way of the one technology that can give birth to a new Australian industry, the one technology that can slash power bills, the one technology that can slash our greenhouse gas emissions and the one technology that can position us for a powerful export industry. I commend the disallowance motion to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 17

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

Noes, 20

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

Pairs

Ms Cotsis	Ms Ficarra
Ms Sharpe	Mr Gallacher

Question resolved in the negative.

Motion negatived.

Pursuant to sessional orders government business proceeded with.

CHILD PROTECTION LEGISLATION AMENDMENT (OFFENDERS REGISTRATION AND PROHIBITION ORDERS) BILL 2013

Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [8.45 p.m.], on behalf of the Hon. Michael Gallacher: I move:

That this bill be now read a second time.

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

Leave granted.

The Child Protection Legislation (Offenders Registration and Prohibition Orders) Amendment Bill 2013:

- implements the findings of the statutory review of the Child Protection (Offenders Prohibition Orders) Act, 2004; and
- introduces additional measures to the *Child Protection (Offenders Registration) Act 2000*. These were considered within the context of the statutory review.

The legislative amendments contained in this bill will improve the operation of both Acts, and will strengthen the framework for monitoring and managing child sex offenders and certain other individuals who are living in the community.

The *Child Protection (Offenders Prohibition Orders) Act 2004*—or CPPO Act as it is more commonly known—enables prohibition orders to be made against offenders who have committed sexual or other serious offences against children such as child murder, sexual intercourse with a child, acts of indecency against a child and possession of child abuse material.

These individuals are known under the *Child Protection (Offenders Registration) Act 2000* as "registrable persons".

The Child Protection (Offenders Prohibition Orders) Act recognises that certain registrable persons can still pose a risk to children even after they have completed their sentence and despite being subject to the registration and reporting requirements of the *Child Protection (Offenders Registration) Act 2000*.

Under the Child Protection (Offenders Prohibition Orders) Act two types of prohibition orders may be made: Child Protection Prohibition Orders and Contact Prohibition Orders.

Child Protection Prohibition Orders are intended as a means of managing registrable persons of the highest risk to children.

A Child Protection Prohibition Order works to prevent high-risk offenders from engaging in certain kinds of conduct that may be a precursor to their offending.

While the kind of contact that may be prohibited is not limited, examples of specific conduct that may be prohibited under a Child Protection Prohibition Order include:

- being in specified locations or kinds of locations;
- engaging in specified behaviour;
- being in specified employment or employment of a specified kind.

In determining whether to apply for a Child Protection Prohibition Order, police conduct a risk assessment of the registrable person to establish whether his or her current conduct, in conjunction with their previous convictions, is likely to pose a risk to children.

This puts the person's behaviour into a relevant context.

A Local Court may grant a Child Protection Prohibition Order if it is satisfied on the balance of probabilities that there is a reasonable cause to believe having regard to the nature and pattern of conduct of the person that the person poses a risk to the lives or sexual safety of one or more children or to children generally and the making of the order will reduce that risk.

The Local Court will make this determination after considering a list of criteria outlined in section 5 (3) of the Child Protection (Offenders Prohibition Orders) Act.

Contact Prohibition Orders work to prevent a registrable person from contacting co-offenders or victims.

Police can apply to a Local Court for a Contact Prohibition Order if they have reasonable grounds to suspect that conduct may occur, that other orders, for example, Extended Supervision Orders would not prevent that contact, and that there are sufficient grounds to justify making the application.

The Local Court may grant a Contact Prohibition Order if it is satisfied that there are sufficient grounds to do so.

Child Protection Prohibition Orders can be made for a period of up to five years for an adult and two years for a young registrable person (a person who is under the age of 18 years).

A Contact Prohibition Order lasts for up to 12 months.

Section 24 of the Child Protection (Offenders Prohibition Orders) Act requires the Minister for Police and Emergency Services and the Attorney General to review the Act to determine whether its policy objectives remain valid, and whether its terms remain valid for securing those objectives.

To assist with the review, a discussion paper was circulated to stakeholders, who were invited to make submissions or comments that could assist with the statutory review of the Child Protection (Offenders Prohibition Orders) Act.

Submissions were received from across government as well as non-government agencies such as the Law Society of NSW, Legal Aid NSW, and the New South Wales Bar Association.

I thank them all for their contribution.

The review found that the policy objectives of the Child Protection (Offenders Prohibition Orders) Act remained valid, and that the terms of the Child Protection (Offenders Prohibition Orders) Act remained appropriate for securing those objectives.

However, a number of legislative recommendations were made to improve the operation of the Child Protection (Offenders Prohibition Orders) Act and these are contained in the bill which is before you today.

The object of the Child Protection Legislation (Offenders Registration and Prohibition Orders) Amendment Bill 2013 as they relate to the Child Protection (Offenders Prohibition Orders) Act are to:

- Expand the conduct that can be the subject of a child protection prohibition order to include: amongst other things, being a contractor, volunteer, trainee or religious leader.
- Increase the maximum penalty for the offence of failing to comply with a child protection prohibition order and to provide for such an offence to be dealt with on indictment if the prosecutor so elects.

- Permit a contact prohibition order being made if the Commissioner of Police and the registrable person who is to be subject to the order both consent to the making of the order.
- Limit the persons to whom the Commissioner of Police can delegate his functions of applying for certain orders against registrable persons under 18 years of age pursuant to the Child Protection (Offenders Prohibition Orders) Act.

Schedule 1 [1] to the bill amends section 8 (1) (d) of the Child Protection (Offenders Prohibition Orders) Act to expand the kinds of conduct that may be subject to a child protection prohibition order.

The amendment provides that a child protection prohibition order made under the Child Protection (Offenders Prohibition Orders) Act may prohibit a person being a worker of a specified kind.

The amendment aligns the term "worker" with the meaning provided under the *Child Protection (Working with Children) Act 2012*. The term is also provided in the *Child Protection (Offenders Registration) Act 2000*.

Under the *Child Protection (Working with Children) Act 2012* a "worker" means any person who is engaged in work in any of the following capacities: as an employee a self-employed person or as a contractor or subcontractor a volunteer person undertaking practical training as part of a vocational or educational course (other than a school student undertaking work experience) and a person acting in a role of a religious leader.

Schedule 1 [2] increases the penalty for the offence of contravening a child protection prohibition order under section 13 of the Child Protection (Offenders Prohibition Orders) Act.

Previously, the penalty for breaching such an order was set at a maximum of 100 penalty units or two years' imprisonment, or both.

Given that the Child Protection (Offenders Prohibition Orders) Act deals with high-risk registrable persons, it is proposed to amend section 13 of the Act to increase the penalty for subsequent breaches of a prohibition order to 500 penalty units or imprisonment for five years, or both.

This makes it consistent with offences provided at sections 17 and 18 of the *Child Protection (Offenders Registration) Act 2000* and will act as a deterrent to high-risk registrable persons from committing multiple breaches of their child protection prohibition orders.

In amending section 13, schedule 1 [3] makes it a defence to the offence of contravening a child protection prohibition order if it is established by or on behalf of the registrable person that at the time the offence is alleged to have occurred the person had not received a copy of the child protection prohibition order, or was otherwise unaware of his or her obligations under that order.

This offence may be dealt with summarily unless a prosecutor elects to have the offence dealt with on indictment schedule 1 [6] and [7].

This will be achieved via an amendment to Table 2 of schedule 1 to the *Criminal Procedure Act 1986* schedule 3 to the bill. ,

Schedule 1 [4] to the bill amends section 16C of the Child Protection (Offenders Prohibition Orders) Act to allow contact prohibition orders to be granted by consent.

Section 16C of the Child Protection (Offenders Prohibition Orders) Act presently enables a Local Court to make a contact prohibition order if it is satisfied that there are sufficient grounds for making the order.

Amending section 16C makes the provision consistent with section 10 of the Child Protection (Offenders Prohibition Orders) Act which allows for the expeditious disposition of applications for child protection prohibition orders where respondents have consented to the order being sought.

The amended section 16C(1) will now enable the Local Court to make a contact prohibition order if it is satisfied that there are sufficient grounds for making the order, or if the Commissioner of Police and the registrable person consent to the making of the order.

Schedule 1 [5] to the bill prevents the Commissioner of Police from delegating the ability to:

- make applications for a child protection prohibition order, or a contact prohibition order;
- or to vary or revoke either of those orders which may be made against a young registrable person, unless the delegation is made to a police officer, or to police officers of a class prescribed by the regulations.

This will ensure that there continues to be appropriate supervision and monitoring of any applications relating to high-risk juvenile offenders.

Under the *Child Protection (Offenders Registration) Act 2000*, which I will refer to as the Act, a registrable person must report personal information to police for set periods of time while they are living in the community.

The relevant personal information that must be reported is prescribed under section 9 of the Act.

The types of personal information that may be reported to police includes information such as their name and date of birth, address where they work, what car they drive, and details of their computer usage (including details such as their Internet access, internet service provider, email addresses and chat room and instant messaging user names).

On conviction this information must be provided to police within seven days of the date of sentence (or release from custody if the sentence was one of imprisonment).

Ongoing obligations include reporting annually to police and reporting any changes (such as a change of address) to police in the interim.

Police currently rely on intelligence reports and the criminal behaviour of a registrable person to assess if any risks are posed in relation to reoffending.

However, police are at present unable to confirm whether a registrable person has complied with their reporting requirements under the Act, in terms of the veracity of the information provided. This is particularly the case for computer usage and online communications.

The amendments at schedule 2 seek to address this.

Schedule 2 [1] to the bill proposes to introduce a new division 7A. into the Act to allow one or more police officers to without prior notice enter and inspect any residential premises of a registrable person for the purposes of verifying any relevant personal information required to be reported by the registrable person under section 9 of the Act.

The power of entry and inspection under division 7A may be exercised in respect of any particular residential premises of a registrable person:

- Once in the 28-day period following the making of an initial report by the registrable person under division 2 of part 3 of the Child Protection (Offenders Registration) Act.
- The power may also be exercised once again in the first year following the making of the initial report and then once each year after that until the relevant reporting period of the registrable person expires.

The power can only be exercised while the registrable person's reporting period remains active.

Division 7A (4) also provides that a registrable person must allow police to enter and inspect any of his or her residential premises and to cooperate with police with respect to that entry and inspection.

The term "co-operate" will include, for example, any reasonable request made by a police officer that will enable them to determine the veracity of information provided at initial registration.

This cooperation may well include providing log-in details and passwords to allow checks on computer usage.

In most cases, computer inspections will probably be conducted on the spot. However, there may be situations where they need to be removed for further examination—for example, if there appears to be highly protected or encrypted material on the computer.

These requirements will be part of the registrable persons reporting obligations.

If a registrable person refuses to cooperate with police in checking their computer or similar device, then he or she may be charged for the offence of failing to comply with reporting obligations under the Child Protection (Offenders Registration) Act.

The entry and inspection amendments will have privacy implications for registrable persons.

However, it is considered that the public interest in allowing such an increase in police powers so that they may determine the veracity of the information that a registrable person provides, as part of their reporting obligations, and thereby enhancing the safety of children outweighs these privacy issues.

The bill has, however, sought to minimise the impact that the new arrangements will have on any non-registrable individuals who may be sharing accommodation with the registrable person such as a boarding house, a home or an apartment.

Section 16C (6) of the bill provides that the power to enter and inspect is not exercisable in respect of any part of the residential premises that is occupied exclusively by a non-registrable person unless there are reasonable grounds to suspect that the part of the premises is being used by the registrable person.

For example, if during an inspection the inspecting officer notices the registrable offender's property in a room it is claimed is the exclusive possession of another resident, or such a room contains the premises' only television, then the grounds for reasonable suspicion will be enlivened.

It should be noted that privacy concerns will be mitigated to an extent by limiting the time frames in which the power may be exercised and providing that the entry and inspection can only take place during the period that the person is subject to the reporting obligations under the Child Protection (Offenders Registration) Act.

The entry and inspection power is also limited to the premises that the registrable person has nominated as the address where they generally reside under their reporting obligations. It is also only a power to inspect. However, any suspicions that arise during the inspection about the veracity of information reported by the registrable person may form the basis of an application for a search warrant for the premises under the *Law Enforcement (Powers and Responsibilities) Act 2002*.

The amendments contained in this bill enhance the existing measures that deal with registrable persons living in our community and underscore this Government's commitment to introduce mechanisms that will further safeguard children from harm.

I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.45 p.m.]: I lead for the Opposition on the Child Protection Legislation Amendment (Offenders Registration and Prohibition Orders) Bill 2013. The Opposition does not oppose the bill. The aim of the bill is:

- (a) to permit the inspection by police, without notice or a warrant, of the residential premises of persons who are registrable persons under the *Child Protection (Offenders Registration) Act 2000*,
- (b) to expand the conduct that can be the subject of a child protection prohibition order under the *Child Protection (Offenders Prohibition Orders) Act 2004* (the **Principal Act**) to include, among other things, being a contractor, subcontractor, volunteer, trainee, religious or spiritual leader or a member of a religious organisation,
- (c) to increase the maximum penalty for the offence of failing to comply with a child protection prohibition order and to provide for such an offence to be dealt with on indictment if the prosecutor so elects,
- (d) to permit a contact prohibition order under the Principal Act to be made if the Commissioner of Police and the person who is to be subject to the order both consent to it being made,
- (e) to limit the persons to whom the Commissioner of Police can delegate his or her functions of applying for certain orders under the Principal Act against persons under 18 years of age.

The Government has presented this bill as implementing the findings of the statutory review of the Child Protection (Offenders Prohibition Orders) Act and introducing additional measures to the Child Protection (Offenders Registration) Act. The bill was introduced, second read and passed through all stages in the other place without the statutory review being tabled, making a mockery of the legislative process to the extent that the Parliament is being asked to enact legislation arising from a statutory review without sighting that review. The Government has had the review findings for a long time—long enough to draft legislation without tabling it. Of course, it was tabled in the other place on 16 October when it was first read in this place. It is dated April 2013. Clearly, the Government had access to peruse it for some time.

Section 24 of the Child Protection (Offenders Prohibition Orders) Act 2004 required a review of the Act by the Minister as soon as possible after the period of five years from date of assent, which, of course, was 6 July 2004. Once it was completed, it was to be tabled in both Houses within 12 months of the five-year period. Therefore, the review should have been tabled well and truly before it was. As a matter of common sense, it ought to have been tabled before the debate. The discussion paper prepared as part of the statutory review was sent only to stakeholders, if we are to understand the Minister and Parliamentary Secretary's second reading speech, and was not released more generally. That simply added to a lack of information being publicly available in this important area, which is not to good effect.

This bill amends two separate pieces of legislative regimes. The Child Protection (Offenders Registration) Act provides that certain offenders against children are registrable offenders where details must be maintained on a register and be updated regularly during various periods, depending on whether the offence was a class 1 or class 2 offence. The Child Protection (Offenders Prohibition Orders) Act provides that certain registrable persons may be subject to an application to the Local Court to make child protection prohibition orders and contact prohibition orders. These pieces of legislation are amended by this bill. The most significant change included in this bill is the registration legislation, which is slightly ironic as this bill grew from a review of the prohibition orders legislation, not the registration legislation.

Schedule 2 [1] to the bill introduces a new 7A into the Child Protection (Offenders Registration) Act to allow entry by police into residential premises. It allows police without notice or warrant to enter and inspect any residential premises of a registrable person for the purposes of verifying any relevant personal information that the registrable person has been obliged to report. In an attempt to circumscribe this broad power, a series of complex restrictions have been imposed. The powers are restricted to entry and inspection and do not extend to search. It will be interesting to see how that distinction is observed in practice. The power is exercised once in the 28-day period following the registrable person making his or her initial report and then once each year after that while the reporting period is active. The power is not exercisable in respect of any part of the residential premises occupied exclusively by a non-registered person unless there are reasonable grounds to suspect that the premises are used by a registrable person.

Once again, the practicable application of this may well give rise to complexity and conflict. Indeed, one wonders whether these provisions are in fact practical. New section 16C (4) provides that a registrable person must allow a police officer to enter and inspect any of his or her residential premises under the section and he or she must cooperate with any police officer with respect to that entry and inspection. In his second reading speech in the other place, the Attorney General referred to this and gave an interpretation of what

"cooperate" might mean—we apprehend it is in the Parliamentary Secretary's incorporated second reading. It might mean providing details of computer log-in details. I do not know if this is clear-cut. It will be interesting to see how this provision is implemented or works in practice. This is the Government's legislation and it will be its responsibility if this bill does no more than increase the length of the case list of the Court of Criminal Appeal.

As I said, one interesting aspect of the bill relates to the change to the persons to whom the Commissioner of Police may delegate his function of making an application for a prohibition order or application to vary or revoke any such order. On pages 29 and 30 the statutory review states that the present section provides that only a member of the NSW Police Force of the rank of inspector or above who has the responsibility for child protection matters should have the power to make such an application. The review found that there are currently no inspectors attached to the NSW Police Force child protection register. This created practical operational problems for the police, which necessitated legislative amendment. There is such a provision in this bill.

The proposal as a result of the review was that the amendment provide that the Commissioner of Police may delegate the function of making an application for a prohibition order or a child protection order against a young registrable person, or application to vary or revoke such orders to the person in charge of the NSW Police Force child protection register. The provision in the bill permits the Commissioner of Police to delegate to an officer of a class prescribed by the regulations. When the regulation is promulgated, it may well be the same as is recommended in the review. The Government's bill did not pick up the recommendation of the review and has done something quite different. I would appreciate some feedback from the honourable Parliamentary Secretary as to the thinking or the policy behind this.

It may be—and there is a clue in the review—that by and large the majority of registrable persons on the child protection register are managed by sergeants at the local area command. It may be that the intention is to prescribe sergeants or above as being the class of officers who can do this. It will be a good thing if the Government is able to disclose that information during this debate. This is a wide discretionary power. At the moment it can be exercised only by inspectors or above who have the responsibility for child protection. Through regulation, this legislative regime will give the Government a much wider power to delegate to lower levels of the force. Obviously there should be some circumscription of this power. Ideally, it should be spelled out in the legislation.

The Hon. Dr Peter Phelps: Why?

The Hon. ADAM SEARLE: Why? Presumably because the thinking behind the original legislation was to ensure that properly qualified and experienced officers of a high rank or relatively high rank would be assigned, which would then give the public confidence that the regime would not be misused. If the Government is going to change that and have persons below the rank of inspector, the thinking behind that and what other qualifications these persons ought to have should be spelt out. If it is not possible and the Government is to be given a wide legislative discretion, it would be useful if the Government was able to give some guidance during this debate as to the thinking behind that and the classes of officer to whom the power may be delegated.

The Hon. Mick Veitch: Ask it again because he might listen the second time around.

The Hon. ADAM SEARLE: I am sure the Parliamentary Secretary has given close attention to my contribution. The Opposition does not oppose the bill, but it would be interesting to learn what is behind the departure from the statutory review on this aspect of the bill.

Mr DAVID SHOEBRIDGE [8.56 p.m.]: On behalf of The Greens I speak in debate on the Child Protection Legislation Amendment (Offenders Registration and Prohibition Orders) Bill 2013. The objects of the bill are:

- (a) to permit the inspection by police, without notice or a warrant, of the residential premises of persons who are registrable persons under the *Child Protection (Offenders Registration) Act 2000*,
- (b) to expand the conduct that can be the subject of a child protection prohibition order under the *Child Protection (Offenders Prohibition Orders) Act 2004* (the **Principal Act**) to include, among other things, being a contractor, subcontractor, volunteer, trainee, religious or spiritual leader or a member of a religious organisation,
- (c) to increase the maximum penalty for the offence of failing to comply with a child protection prohibition order and to provide for such an offence to be dealt with on indictment if the prosecutor so elects,

The maximum penalty has been increased from \$11,000 or two years imprisonment or both, to \$55,000 or five years imprisonment or both. Further objects of the bill are:

- (d) to permit a contact prohibition order under the Principal Act to be made if the Commissioner of Police and the person who is to be subject to the order both consent to it being made,
- (e) to limit the persons to whom the Commissioner of Police can delegate his or her functions of applying for certain orders under the Principal Act against persons under 18 years of age.

The bill substantially implements the findings of a statutory review of the Child Protection (Offenders Prohibition Orders) Act 2004 and introduces some additional measures to the Child Protection (Offenders Registration) Act 2000 that were also considered as part of the statutory review. Registrable persons to whom this legislative regime applies is defined under the Child Protection (Offenders Registration) Act 2000 to be persons who a court has sentenced in respect of a registrable offence and those offences are serious child sex offences or serious offences of violence towards children. They are not automatic but are imposed only after the court determines to impose such matter in its discretion on application. The person who would be the subject of an order has a right to be heard in those proceedings.

A child protection prohibition order prevents registrable persons from engaging in certain kinds of conduct because there is a concern it may be a precursor to their reoffending. For example, participating in certain kinds of employment and contact prohibition orders prevent registrable persons from contacting co-offenders or victims. International offenders are also able to be registered. Under the Child Protection (Offenders Registration) Act 2000, a registrable person must report certain personal information to police for set periods of time while they are living in the community—for example, their name, date of birth, address, place of work and type of vehicle driven. They must also report details of their computer use, including their internet access, internet service provider, email addresses and chat room and instant messaging user names. Clearly, many of these disclosure requirements are in relation to the concern that child sex offenders may use these kinds of communications to groom children and reoffend.

This bill is intended by the Government to strengthen the framework for monitoring and managing individuals living in the community who have committed sexual or other serious violent offences against children. There is substantial academic support to suggest that people who have committed those offences do, on a population basis, pose an elevated risk to children even after they have completed their sentence. The Greens will always monitor the operation of schemes that appear to allow for wide discretion for the police and other authorities to conduct searches without warrants or other requirements. Nobody should be beyond the protection of the law. Nobody should be subject to the exercise of arbitrary and oppressive administrative powers by the police.

The Greens see that, importantly, under this legislation, the powers can only be exercised after an offender has, first, been found guilty of a serious offence and, secondly, has been the subject of a prohibition order in which proceedings the offender has had a right to be heard and make submissions. I also note that there are some important restraints on the exercise of the inspection power in this bill. Those restraints are important for The Greens support for this legislation. They are contained in proposed new section 16C of schedule 2, which provides guidance for police officers when entering the premises of a registrable person for the purpose of verifying any of the relevant personal information. Subsection (2) of new section 16C provides:

- (2) The power of entry and inspection under this section may be exercised in respect of any particular residential premises of a registrable person:
 - (a) twice during the first 12-month period following the making of an initial report by the registrable person under Division 2 (only one of which may be exercised after the period of 28 days following the making of that report), and
 - (b) once during each following 12-month period.

New subsection (3) states:

- (3) A power may not be exercised under this section if the relevant reporting period of the registrable person has expired.

Those restrictions will prevent police from using these powers in a manner that, either intentionally or otherwise, amounts to harassment or intimidation as opposed to genuine checking of the details provided by a registrable person. We also note that the entry power is specifically intended to allow for the verification of information provided by that registrable person, not otherwise. There are some concerns about the potential

retrospectivity of this legislation, which means that the search powers may be exercised even if a person's initial report was made before the commencement of the new powers that are the subject of this legislation. However, that aspect of the bill does not create retrospective offences.

Indeed, the search power itself cannot be exercised retrospectively. It can only be exercised prospectively and will only be used to verify the truth or otherwise of the information that the registrable person has provided. If they provided false or misleading information, they would be subject to the lesser penalties that were in place at the time of their offence. I also note the concerns of the Legislative Review Committee that the making of contact prohibition orders by consent may potentially exclude judicial review. The Greens oppose any reduction of judicial oversight, as it provides a key check and balance on what has been, not just in this bill but in a series of other bills, the ever-expanding ambit of police and Executive power. However, I do believe that the Legislation Review Committee's concerns in this regard are probably overstated.

Courts will retain the ability to review and, should they choose, seek to be satisfied that the consent orders that are put before them are proper. That inherent power is not disturbed by this legislation. Indeed, the legislation continues to provide that the making of a consent order is also discretionary in the court. It would be open to the court to inquire behind the consent of the parties to be satisfied that there is a proper basis to make the order, because it remains a discretionary power in the court under this legislation. Lastly, I note and support the concerns raised by the Hon. Adam Searle about the ability to delegate to a class of police officers the power to apply under the regulations. That has not been explained by the Government to date. It has not been explained in the second reading speech. I do not know if the Parliamentary Secretary is in a position to explain it.

The Hon. Dr Peter Phelps: Yes. The regulations will replicate the recommendations.

Mr DAVID SHOEBRIDGE: I understand that he may soon be in a position to explain it. Is the Parliamentary Secretary waiting for advice?

The Hon. David Clarke: We already know what the advice is.

Mr DAVID SHOEBRIDGE: That sounds dangerous. The concern relates to what is said in paragraph (e) of the objects of the bill, which refers to the capacity of this legislation:

- (e) to limit the persons to whom the Commissioner of Police can delegate his or her functions of applying for certain orders under the Principal Act against persons under 18 years of age.

There is a real concern about making these orders against people under 18 years of age. In the outline of provisions to the bill, in relation to item [5] of schedule 1, it states:

... prohibits the Commissioner of Police from delegating certain functions unless the delegation is made to a police officer, or to police officers of a class, prescribed by the regulations. The relevant functions are making an application for (or an application for a variation or revocation of) a prohibition order or contact prohibition order against a person who is registrable under the Child Protection (Offenders Registration) Act 2000 (a registrable person) and who is under 18 years of age.

Item [5] of schedule 1 inserts a new section 17, which states:

The Commissioner of Police may not delegate (under section 31 of the Police Act 1990) any of the following functions unless the delegation is made to a police officer, or to police officers of a class, prescribed by the regulations:

- (a) making an application for a prohibition order or contact prohibition order against a young registrable person,
- (b) making an application to vary or revoke a prohibition order or contact prohibition order against a young registrable person.

That is a concern for people under the age of 18. In looking at this legislation, a number of stakeholders have repeatedly expressed concern about what is called peer-to-peer offences. A person who is aged 17 may have a relationship with a person who is aged 15. If that became a sexual relationship it would create the offence of statutory rape. Even if it were a consensual relationship—and many people would see it as a peer-to-peer consensual relationship—it might produce circumstances where the 17-year-old, if convicted of an offence of statutory rape, could find themselves the subject of this class of prohibition order. Therefore, the legislation as it is drafted today provides an important check and balance by allowing the application to be made only by a delegated officer who has particular experience and seniority in dealing with child sex offences. Because of those concerns I believe it is appropriate that the Government provides an explanation of the class of persons proposed under this legislation.

The Hon. SHAOQUETT MOSELMANE [9.09 p.m.]: I speak on the Child Protection Legislation Amendment (Offenders Registration and Prohibition) Bill 2013. The aim of these amendments is to strengthen the child protection regime across New South Wales and to implement the findings of a statutory review of the Child Protection (Offenders Prohibition Orders) Act 2004. As such, I fully support these amendments. The explanatory note sets out five objects of the bill:

- (a) to permit the inspection by police, without notice or a warrant, of the residential premises of persons who are registrable persons under the Child Protection (Offenders Registration) Act 2000,
- (b) to expand the conduct that can be the subject of a child protection prohibition order under the Child Protection (Offenders Prohibition Orders) Act 2004 (the Principal Act) to include, among other things, being a contractor, subcontractor, volunteer, trainee, religious or spiritual leader or a member of a religious organisation,
- (c) to increase the maximum penalty for the offence of failing to comply with a child protection prohibition order and to provide for such an offence to be dealt with on indictment if the prosecutor so elects,
- (d) to permit a contact prohibition order under the Principal Act to be made if the Commissioner of Police and the person subject to the order both consent to it being made,
- (e) to limit the persons to whom the Commissioner of Police can delegate his or her functions of applying for certain orders under the principal Act against persons under 18 years of age.

The amendments in the bill recognise the vulnerability of children in society. Offenders of this nature often pose a risk to the community after their sentence is completed. As a Parliament we should give law enforcement authorities the powers they need to protect children. This bill provides amendments to two Acts, the Child Protection (Offenders Registration Act) 2000 and the Child Protection (Offenders Prohibition Orders) Act 2004. First, I will refer to the amendments to the Child Protection (Offenders Prohibition Orders) Act 2004. There are two main aspects of these amendments. Item [1] of schedule 1 will expand the scope of persons prohibited to work in certain fields if they are subject to a prohibition order. The amendment will expand the scope beyond "employees" to include those who will have contact with children beyond workplaces where they are employed. Expanding the scope is essential to ensure children are protected in a variety of settings.

Item [2] of schedule 1 increases the penalty for contravening a prohibition order. It sends a strong message that the Parliament is serious about cracking down on offenders who do not take their prohibition order seriously. Under this amendment the penalty will increase from an \$11,000 fine and/or two years' imprisonment to a fine of \$55,000 and/or five years' imprisonment. These are very serious penalties for those who breach these orders. Safeguards are in place under item [3] if the person concerned is not aware of the prohibition order or their obligations under it.

The second Act that this bill amends is the Child Protection (Offenders Registration) Act 2000. The most significant change to this Act is that it gives police officers the power to search the homes of registered offenders. Police officers will do that primarily to confirm the details of the person registered and to make sure that the information they have is correct. Police may be able to do this without a warrant. I understand that some members of the community may be uneasy with this aspect of the amendments on civil liberty grounds. To those members I say that legislation in this area is always a balancing act, and I believe these amendments get the balance right.

The rights of police officers to inspect the homes of registered sex offenders is limited to once in the first 28 days of the address being registered and thereafter once a year. Offenders are required to allow the police officers into their home, and this becomes part of their reporting obligations. Failure to do so will be an offence punishable by a \$55,000 fine and/or five years' imprisonment. The protection of children is at all times high in the minds of the community, which is due to a number of reasons. First, the Royal Commission into Institutional Responses to Child Sexual Abuse is taking place at a Federal level, with other States, including New South Wales, also holding inquiries. Those in the community following the revelations of these commissions would find them shocking. I do.

Secondly, we have seen an appalling neglect of child protection from this Government since it came to power in 2011. The record low numbers of child protection workers across New South Wales has eroded the public's confidence in the system, not to mention in the Minister charged with protecting some of the most vulnerable members of our community. As I said earlier, I support these amendments. I believe they will provide invaluable support to law enforcement officers who deal with these offenders. But more is needed. Child protection does not stop with registering and monitoring offenders. A large part of child protection deals with those in our agencies, such as Community Services, who deal with the reports of abuse in the first place. This is just as important—arguably more important—in keeping children safe.

Child protection is an important policy area for the State Government to deal with. Governments can do many things to protect children, but there are also many things that governments should not do. At the top of the list of things not to do is to cut resources and to cut the budgets that deal with children. There is always a case for more funding and more caseworkers; there is never a case for taking them away. But that is exactly what this Government and the Minister responsible have done. In addition, the Minister responsible has misled the Parliament and the people of New South Wales on the true state of affairs in child protection. To make matters worse, even after the Minister has been caught out, she still refuses to acknowledge her errors and be accountable to the Parliament. It is arrogance of the highest order, which is typical of this Government and, incidentally, caused it to lose the seat of Miranda last weekend.

Child protection workers do an amazing job in our community. The simple truth is that there are not enough of them and they are not paid enough. That needs to change as a matter of urgency. I support this bill and I expect that this Chamber will support it as well. However, the amendments do not go far enough in keeping children safe. The people of New South Wales deserve better when it comes to protecting children, whether it is dealing with child sexual abuse, physical abuse or neglect. This Government forever will be known for dropping the ball when it came to child protection. I urge the Government to change its approach, to reverse its budget cuts and to employ more child protection workers in our community. I commend the bill to the House.

Reverend the Hon. FRED NILE [9.16 p.m.]: On behalf of the Christian Democratic Party, I am pleased to support the Child Protection Legislation Amendment (Offenders Registration and Prohibition) Bill 2013. The bill implements the findings of the statutory review of the Child Protection (Offenders Prohibition Orders) Act 2004 and introduces additional measures to the Child Protection (Offenders Registration) Act 2000. It is very important for the Parliament and the Government to constantly review legislation that deals with child protection. Attacks on children are becoming more sophisticated and we must ensure that our legislation is adequate. The amendments in this bill will help in this regard and will give police the powers they need.

The bill will improve the operation of both Acts and will strengthen the framework for monitoring and managing child sex offenders and certain other individuals who are living in the community. The Child Protection (Offenders Prohibition Orders) Act 2004 enables prohibition orders to be made against offenders who have committed sexual or other serious offences against children, such as child murder, sexual intercourse with a child, acts of indecency against a child and possession of child abuse materials. These offenders are known under the Child Protection (Offenders Registration) Act 2000 as "registrable persons". We are pleased to support the bill, especially as the Federal royal commission into the sexual abuse of children has heard further startling revelations about the seriousness of this activity and its widespread nature.

Already we have seen a report concerning an organised ring of paedophiles, believed to include Anglican and Catholic clergy, who used a Sunday afternoon children's Christian program in the 1970s to sexually abuse boys at a church-run Wallsend boys' home. A Hunter woman said that these men just came, got the boys, used them and then put them back. Her husband had told the Royal Commission into Institutional Responses to Child Sexual Abuse that he was sexually assaulted by multiple offenders at the Woodlands Boys Home. Obviously the United Protestant Association was unaware of these activities and has issued an unreserved apology for what has occurred to the victims. Some of the smallest and youngest boys were targeted by the Sunday group. From what the victims told us, these men changed from week to week. This suggests an even larger organised ring. In other words, a group of men would arrive and abuse the boys; and then in another week or so another group of men would come and abuse the boys. So there was obviously a paedophile network operating around Wallsend in that Newcastle region.

In providing evidence before the royal commission witnesses said that they were aware of a group of men who came to the home in the 1970s for a number of years on Sunday afternoons—apparently to conduct a Christian program. They routinely took smaller boys downstairs into rooms in the building and abused them. Anglican priest and volunteer carer Peter Rushton, acknowledged by the church in 2010 as a sexual abuser of children, and another person—convicted child sex offender Robert Holland—are believed to have taken boys from the home and to have had links with Woodlands. I could go on with the alarming evidence given before the royal commission which just shows the necessity for this legislation. Even today there was a media report about a worker from the Young Men's Christian Association. One would assume that if they had been employed by the Young Men's Christian Association they would be trustworthy persons.

In this case, a single mother working every Saturday to support herself and her son paid this man, Jonathon Lord, \$100 to babysit her son from 9.00 a.m. until 4.00 p.m. and trusted him completely—after all, he worked for the Young Men's Christian Association. The sexual abuse started on the very first Saturday and

continued every Saturday for more than a year until October 2011. So this is a very current case. The grief-stricken mother told the Royal Commission into Institutional Responses to Child Sexual Abuse about this tragic situation of what had occurred to her child. She said that her trust in the babysitter was such that when he and his mother called around in late 2011 to tell her of sexual abuse allegations against him, and asked her to give him a character reference, she agreed. She offered to recommend him a lawyer. Later that night the mother became suspicious and started questioning her son. As she questioned him it became obvious that Jonathon Lord had been sexually abusing her son. She said, "At that time, my whole world fell apart."

Last Monday the royal commission heard from several mothers whose children were groomed and abused by Jonathon Lord. He worked at Young Men's Christian Association centres at St Patrick's Catholic Primary School at Sutherland, at Caringbah Young Men's Christian Association in Jacaranda Road, at Caringbah Public School, at Lilli Pilli Public School and at Laguna Street Public School. So this affects both religious schools and State schools. I have no mercy for people who sexually abuse children, especially when they are in a position of trust and where the mother or parents trust that person. Often parents trust religious workers or priests and allow them access to their children, not realising the grooming that goes on. These paedophiles are experts at grooming children, until eventually the children are vulnerable to their sexual abuse.

This bill recognises that certain registrable persons can still pose a risk to children even after they have completed their sentence and despite being subject to the registration and reporting requirements of the Child Protection (Offenders Registration) Act 2000. Under the Child Protection (Offenders Prohibition Orders) Act 2004 two types of prohibition orders may be made: child protection prohibition orders and contact prohibition orders. Child protection prohibition orders are intended as a means of managing registrable persons of the highest risk to children. A child protection prohibition order works to prevent high-risk offenders from engaging in certain kinds of conduct that may be a precursor to them offending. While the kind of conduct that may be prohibited is not limited, examples of specific conduct that may be prohibited under a child protection prohibition order include: being in specified locations or kinds of locations, engaging in specified behaviour or being in specified employment or employment of a specified kind.

In determining whether to apply for a child protection prohibition order, police conduct a risk assessment of the registrable person to establish whether his or her conduct in connection with his or her previous convictions is likely to pose a risk to children. This is based on the principle that often these individuals cannot stop their behaviour of abusing children. There is strong evidence that their attraction to children to sexually abuse them is incurable. That is why our society is forced to maintain this constant observation of these individuals in various ways through these orders. It sounds harsh, because we think that when people have made a mistake, been convicted, been punished and finished their penalty we can release those persons and wash our hands of them. But in this area we cannot. Those persons are most likely to offend. There is something in these individuals that means they cannot control that desire and attraction to children.

So the responsibility rests on our shoulders as legislators to ensure that children are protected. It may sound like we are invading the privacy of the individuals concerned. One aspect of the bill is that it allows police officers to enter and inspect residential premises of a registrable person without prior notice or a warrant to verify information reported by that registrable person. This may raise questions about his or her right to privacy. But I believe we have to weigh up the public interest of securing the safety of children. That must be the priority of this Parliament.

Finally, as members know, because of my concern in this area I introduced the Child Protection (Nicole's Law) Bill 2011. I am still hoping that bill may be passed eventually. It recognises the right of New South Wales families, concerned about the safety of their young children, to be made publicly aware of the presence of convicted paedophiles living within their neighbourhood. In light of the fact that these paedophiles do not change, legislators have an implicit responsibility to do all they can to ensure the safety and wellbeing of children. That is why I believe there should be stronger legislation to provide that information to parents. I called that bill "Nicole's law" because five-year old Nicole Hanns was brutally stabbed 17 times by John Lewthwaite, a paedophile, when he was on parole. I am pleased to support the bill before the House.

The Hon. DAVID CLARKE (Parliamentary Secretary) [9.28 p.m.], on behalf of the Hon. Michael Gallacher, in reply: I thank members for their contributions to the debate. In response to the question raised by Mr David Shoebridge, I am advised that the requirements provided for in new section 17 will be delegated to the manager of the NSW Police Force Child Protection Register. The Child Protection (Offender Prohibition Orders) Act 2004 and the Child Protection (Offenders Registration) Act 2000 provide for the monitoring and management of individuals who have committed sexual and other serious offences against children. By law,

these individuals are referred to as "registrable persons". The reforms before us today are the culmination of considerable consultation with relevant agencies. They are robust and work to provide a stronger, more cohesive framework to safeguard children from harm.

The amendments are borne from the statutory review of the Child Protection (Offenders Prohibition Orders) Act 2004. The entry and search powers that will be provided under the Child Protection (Offenders Registration) Act 2000 were considered within the context of this review. The entry and inspection powers will provide police with an additional mechanism to determine the veracity of information provided by a registrable person at the time of initial and annual reporting. Establishing a mechanism for random entry and inspection powers will mitigate the chances of a registrable person concealing information that may be of importance to police. The limit of a search without notice in each 12-month period following initial registration is a balanced approach designed to monitor and manage registrable persons more effectively. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

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

That this bill be now read a third time.

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

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Order of the Day No. 4 postponed on motion by the Hon. David Clarke and set down as an order of the day for a later hour.

CRIMES (SENTENCING PROCEDURE) AMENDMENT (STANDARD NON-PAROLE PERIODS) BILL 2013

Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [9.32 p.m.], on behalf of the Hon. Michael Gallacher: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Crimes (Sentencing Procedure) Amendment (Standard Non-parole Periods) Bill 2013.

The purpose of the bill is to clarify the operation of the standard non-parole period scheme, in accordance with the decision of the High Court in *Muldrock v The Queen*.

Part 4, Division 1A of the Crimes (Sentencing Procedure) Act 1999 sets out a scheme of standard non-parole periods for a number of specified, serious offences.

Standard non-parole periods provide clear guidance on the seriousness with which the Legislature views certain offences. In particular, they indicate to courts what Parliament considers should be the non-parole period for an offence which falls in the middle of the range of seriousness, for the types of offence to which they apply.

They are not the starting point for sentencing an offender, and the High Court in *Muldrock* established that it would be an error for courts to approach them in this way. However, they do establish a second guidepost for courts, in addition to the maximum sentence.

The 2004 case of *R v Way* [2004] NSWCCA 131 was the first major decision of the Court of Criminal Appeal setting out the principles and process to be applied when sentencing offenders for standard non-parole period offences.

In summary, *Way* required courts to take a two-step approach to sentencing in these matters. The first step was to consider whether the offence was in the mid-range of objective seriousness, by comparing it to an abstract mid-range offence, in order to determine whether the standard non-parole period should apply. If the standard non-parole period did apply, the court was required to then determine whether there were reasons for departing from the standard non-parole period.

However, in *Muldrock*, the High Court determined that *Way* had been wrongly decided and set out what it saw as the correct way to approach sentencing for standard non-parole period offences.

The High Court held that courts should not engage in the two-step sentencing approach mandated by *Way*. Further, the Court determined that the standard non-parole period was relevant to sentencing for these offences, whether or not they fall within the mid-range of objective seriousness.

The High Court held that the correct approach was for a court to identify all of the factors relevant to a sentence, including the two legislative guideposts provided by Parliament: the maximum sentence and the standard non-parole period. The court is to then make a judgment as to the appropriate sentence taking into account all the relevant factors of the case. The High Court held that sentencing courts should provide reasons as to why the non-parole period differs from the standard non-parole period, but that it would be an error to engage in the two-step process set out in *Way*.

While the decision in *Muldrock* clarified the role of the standard non-parole period as a guidepost in sentencing, the decision left two significant issues unsettled:

First, the extent to which the subjective factors of an offender may be taken into account in assessing the objective seriousness of a standard non-parole period offence; and second, whether a sentencing court is required or permitted to classify a standard non-parole period offence by reference to its position in a range of objective seriousness.

The NSW Law Reform Commission considered the operation of the scheme following the decision in *Muldrock* in its Interim Report on Standard Non-parole Periods. The Commission recommended that the scheme should be retained, but that legislative amendments should be made to clarify the provisions in accordance with *Muldrock*, and provide guidance on the issues that remain unsettled as a result of the decision. The commission confirmed this recommendation in the recently released Report 139: Sentencing.

This bill implements the Law Reform Commission's recommendation by clarifying a number of aspects of the scheme.

I will now outline each of the amendments in turn.

Item 2 of schedule 1 clarifies section 54A of the Crimes (Sentencing Procedure) Act, which describes what the standard non-parole period is.

The question for the court at this stage is simply "What does the standard non-parole period mean?" The court must give some meaning to the standard non-parole period in each particular case, so that it can be taken into account as a guidepost. This amendment clarifies that the standard non-parole period represents the non-parole period not for the actual offence for which the offender is to be sentenced, but for an offence of the same kind that is in the middle of the range of seriousness, taking into account only the objective factors affecting its relative seriousness.

The amendment arises from the statement of the High Court that: "meaningful content cannot be given to [the concept of an offence in the middle of the range of objective seriousness] by taking into account characteristics of the offender. The objective seriousness of an offence is to be assessed without reference to matters personal to a particular offender or class of offenders".

Since the High Court's decision, there has been uncertainty as to the extent to which the above statement limits the court's ability to consider matters personal to the offender when sentencing for a standard non-parole period offence.

The amendment clarifies that limiting consideration to the objective factors applies only when giving meaning to the hypothetical "middle of the range" offence described in section 54A. It does not prevent courts from taking into consideration all relevant factors, including those personal to the offender, when determining the appropriate sentence under section 548.

The amendments adopt the language of section 21A of the Crimes (Sentencing Procedure) Act 1999, which refers to "objective or subjective factors that affect the relative seriousness of the offence". There has been extensive consideration in the courts of whether particular factors are objective factors affecting the relative seriousness of an offence, or whether they should be seen as purely personal factors. The amendments ensure that these common law concepts apply to the consideration of objective and subjective factors in the sentencing process.

Item 3 of schedule 1 makes amendments to section 548 of the Act to clarify how courts should consider the standard non-parole period in sentencing. Significantly, at proposed subsection (2), it provides that the standard non-parole period is a matter to be taken into account when determining the appropriate sentence for an offender, as part of the ordinary sentencing process. The amendment clarifies that courts should not avoid the ordinary sentencing practice of assessing the relative seriousness of an offence so as to ensure that the sentence imposed is proportionate to the seriousness of the offence.

Proposed subsections (3), (4) and (5) essentially replicate existing provisions in section 54B which require the court to give reasons for setting a non-parole period that is longer or shorter than the standard non-parole period. Proposed subsection (6) clarifies that a court need not attempt to specify the extent to which the seriousness of the offence at hand differs from the mid-range offence described in section 54A.

Items 1 and 4 of schedule 1 make consequential amendments.

The bill aims to ensure that ordinary sentencing principles are applied when courts sentence an offender for a standard non-parole period offence, with the exception of the additional requirements set out in section 54B. Prior to the decision in *Muldrock*, a separate sentencing procedure had been developed for standard non-parole period offences, which the High Court considered was not in accordance with ordinary sentencing principles. This led to complexities in applying the scheme and left decisions open to appeal.

This bill makes it clear that, while there are additional requirements for a court sentencing an offender for a standard non-parole period offence, there is no separate sentencing procedure. Language from section 21 A has been used to avoid a new round of jurisprudence interpreting the amendments.

In applying the scheme set out in Division 1A, courts should give meaning to the concept of the standard non-parole period, and should take that into consideration as a second legislative guidepost.

In this way, the Legislature's view of the seriousness of Division 1A offences can be recognised without complex sentencing procedures.

The Law Reform Commission considered that the amendments would not dilute the intended legislative objectives of the standard non-parole period scheme. Those objectives are to promote consistency and transparency in sentencing, and to give proper regard to community expectations. It is not anticipated that the changes will result in an overall reduction in sentencing levels.

The operation of standard non-parole periods will continue to be kept under review by the New South Wales Sentencing Council. The Government will consider the advice of the Sentencing Council and if the scheme's objectives are not being met further reform will be considered.

I commend the bill to the House.

The Hon. STEVE WHAN [9.33 p.m.]: In the absence of the Deputy Leader of the Opposition, I lead for the Opposition on this bill. The shadow Minister in the other place gave a detailed response to the bill on behalf of the Opposition, so I will simply run through a few things. The Crimes (Sentencing Procedure) Amendment (Standard Non-parole Periods) Bill 2013 is the result of a number of issues arising from a High Court case, *Muldrock v The Queen*, 2011, which decided that there were issues with standard sentencing that needed to be resolved. The Government referred several issues to the Law Reform Commission. Since 2003 a standard minimum non-parole period scheme has been enforced in New South Wales courts. The scheme was intended to provide statutory guidance to sentencing courts when setting appropriate non-parole periods. Initially it applied to more than 20 categories of serious indictable offences. The imposition of any minimum period was not mandatory but the courts had to justify any deviation from the scheme.

In 2004 the New South Wales Court of Criminal Appeal considered how the legislation should be interpreted. This case has been taken to have decided that a two-stage process should be adopted. Step one was to determine whether an offence was in the mid-range of objective seriousness to determine whether the standard non-parole should apply. If it did apply, the court was required to decide if there were reasons to depart from the standard non-parole period. The High Court case I mentioned, *Muldrock v The Queen*, 2011, decided that the previous case was wrongly decided and that the two-step process was wrong. The standard minimum non-parole period and the maximum sentence were both legislative milestones to guide the court, which should also take into account all relevant factors before deciding upon a sentence.

This was called "instinctive synthesis". The decision in *Muldrock* left a number of issues open and has been criticised by some for lack of clarity. The Government referred the issue to the Law Reform Commission, which had already received a reference to report on sentencing generally. It provided report No. 134 titled "Sentencing: Interim report on standard minimum non-parole periods" in May 2012. Its recommendation was confirmed in the recently released report No. 137 on sentencing. The bill's key provisions are, first, a standard non-parole period is a non-parole period for an offence of the same kind as the offender is charged with that is in the middle of a range of seriousness, taking into account only the objective factors.

This excludes the characteristics of the offender, that is, the subjective factors. Secondly, the standard non-parole period for an offender is taken into account in determining the appropriate sentence for an offender, that is, it should be taken into account in the normal sentencing process; thirdly, current provisions of section 54B of the Crimes (Sentencing Procedure) Act are restated, requiring the court to give reasons for any

departure from the standard minimum non-parole period; and, fourthly, section 54B (6) means that a court does not have to indicate the specific extent to which the seriousness of the offence differs from the mid-range offence.

The bill maintains the standard minimum non-parole period scheme and takes into account the Muldrock case. The Law Reform Commission believes that it will not reduce sentencing levels. The bill will mean that the sentencing procedure for all offences will be consistent and there is no separate procedure for standard minimum non-parole period offences. In the second reading debate in the other place the shadow Minister, Mr Lynch, raised some questions with the Minister regarding what he saw as some differences from the actual wording of the Law Reform Commission's recommendations. However, I understand that the Minister in his reply resolved that issue to the satisfaction of the shadow Minister. Therefore the Opposition will not be opposing this bill.

Mr DAVID SHOEBRIDGE [9.38 p.m.]: On behalf of The Greens I speak on the Crimes (Sentencing Procedure) Amendment (Standard Non-parole Periods) Bill 2013. I note at the outset that this bill further complicates the sentencing provisions in New South Wales, although it does so in an attempt to provide clear statutory guidance to the courts. But the complications that the Hon. Steve Whan noted and the complexities in sentencing to which he referred are yet another example of why urgent overall reform of sentencing in New South Wales is necessary.

The Law Reform Commission has said repeatedly and loudly only recently that the sentencing laws in New South Wales are so complex that they are constantly leaving District Court judges in particular open to appeals on sentencing. Indeed, sentencing appeals are an unnaturally large part of the work of the New South Wales Court of Criminal Appeal because of the mind-bogglingly complex provisions that are in place. Whilst this bill properly seeks to clarify some of the uncertainties that have arisen out of a recent High Court decision, it goes down the path of putting yet more complex provisions into the sentencing Act. Nevertheless, The Greens will support it because these kinds of clarifying provisions are necessary until we get overall reform.

The bill amends section 54A of the Crimes (Sentencing Procedure) Act to clarify that the standard non-parole period for an offence is to be considered not for the actual offence for which the offender is sentenced but for the same class of offence around the middle of the range of seriousness and considering only objective factors. Section 54B is amended to clarify that when sentencing for offences contained in the table in division 1A of the Act the standard non-parole period is to be taken into account in the overall sentencing procedures and not as the first step in the process. The final sentence is to be determined based on all relevant factors, which include the standard non-parole period as determined by this amending bill, factors personal to the offender and the specific circumstances of the offence. The court is then required to record its reasons for setting a non-parole period that is shorter or longer than the standard non-parole period and identify the reasons for why it made such a determination. There is no need to identify the extent to which the seriousness of the offence for which the non-parole period is set differs from the standard.

The clarifications put forward in this legislation largely come out of recommendations contained in the Law Reform Commission interim report on standard minimum non-parole periods. These amendments are intended to clarify the law following the decision of the High Court in *Muldrock v The Queen*, which overturned the Court of Criminal Appeal precedent set in *Regina v Way*. In the Court of Criminal Appeal case it was held that a two-step process was to be applied for sentencing offenders in cases where a standard non-parole period was applicable. The first step was determining if the offence was in the mid-range of seriousness by comparison to an abstract mid-range offence to determine if a non-parole period should apply. Having done that, the court in *Regina v Way* said that the second step should be to decide whether there were reasons for departing from that standard period given the individual circumstances.

The Muldrock decision overturned that and said there was no statutory direction to put the two-step process in place. The judges in that case basically said to stick everything in a bag, shake it up, then tip it out and look at it as a one-step synthesis process. They may have said it slightly more eloquently than I have and provided some more detail. The High Court said the standard non-parole period was a valid consideration regardless of whether the offence fell within the mid-range of seriousness. A number of issues were left unresolved in the Muldrock decision. One of them was the consideration of the standard non-parole period in sentencing, which is addressed in section 54B (2) and (3). When this bill is passed, section 54B (2) will read:

The standard non-parole period for an offence is a matter to be taken into account by a court in determining the appropriate sentence for an offender, without limiting the matters that are otherwise required or permitted to be taken into account in determining the appropriate sentence for an offender.

In other words, the overall synthesis approach is being mandated by section 54B (2). New section 54B (3) provides:

The court must make a record of its reasons for setting a non-parole period that is longer or shorter than the standard non-parole period and must identify in the record of its reasons each factor that it took into account.

That is the legislative implementation of the Muldrock decision. An aspect left unresolved in the Muldrock decision was how the court works out what kind of offence is envisaged for the purposes of determining the standard non-parole period. In his second reading speech, the Attorney General noted:

The court must give some meaning to the standard non-parole period in each particular case so that it can be taken into account as a guidepost.

He then made reference to this statement by the High Court in Muldrock:

... meaningful content cannot be given to [the concept of an offence in the middle of range of objective seriousness] by taking into account characteristics of the offender. The objective seriousness of an offence is to be assessed without reference to matters personal to a particular offender or class of offenders.

That commentary from the High Court has been given statutory power in new section 54A (2), which provides:

For the purposes of sentencing an offender, the standard non-parole period represents the non-parole period for an offence in the Table to this Division that, taking into account only the objective factors affecting the relative seriousness of that offence, is in the middle of the range of seriousness.

In other words, when considering what kind of offence would provide the standard non-parole period the court can only look at the objective factors that determine the seriousness of the offence. When working out what kind of offence would attract the non-parole period, the court is not required to impute any kind of notional mid-range subjective factors into the calculation. Having worked out the standard non-parole period on that objective basis, the court must then consider the subjective matters relating to the particular offender before them and the circumstances of his or her offence. The court is then to determine the appropriate sentence in overall synthesis. That is not a simple task for a judge; it will continue to be a difficult task. Now that this bill will almost certainly become law, I urge the Attorney General to do everything in his power to speed up the review and introduce some reasonably clear and less appeal-ready sentencing provisions in New South Wales.

Reverend the Hon. FRED NILE [9.46 p.m.]: On behalf of the Christian Democratic Party I support the Crimes (Sentencing Procedure) Amendment (Standard Non-Parole Periods) Bill 2013. The bill amends the Crimes (Sentencing Procedure) Act 1999 to clarify the operation of the standard non-parole period scheme following the decision of the High Court in *Muldrock v The Queen* in 2011. The bill is intended to make the situation clear because the Muldrock decision added confusion to the issue of non-parole periods. The bill amends section 54A of the Act to clarify that a standard non-parole period represents a non-parole period not for the actual offence for which an offender is to be sentenced, but for an offence of the same kind that is in the middle of the range of seriousness while taking into account only objective factors that affect its relative seriousness.

The bill will clarify section 54B of the Act to make clear that when sentencing an offender for an offence listed in the table to division 1A of part 4 of the Act the court is to take into account the standard non-parole period for the relevant offence. In determining the appropriate sentence for an offender the court is to have regard to all relevant factors, including factors personal to the offender. The court should specify why it sets a non-parole period that is longer or shorter than the standard non-parole period. The court is not required to specify the extent to which the seriousness of the offence at hand differs from that of the notional offence to which the standard non-parole period applies.

Finally, with the exception of the matters set out in section 54B, the court is to follow ordinary sentencing procedures when sentencing for a standard non-parole period offence. The bill implements the recommendations of the New South Wales Law Reform Commission "Interim report on standard non-parole periods" of May 2012. The Christian Democratic Party is pleased to support this bill to remove confusion in sentencing procedures.

The Hon. DAVID CLARKE (Parliamentary Secretary) [9.50 p.m.], on behalf of the Hon. Michael Gallacher, in reply: I thank members for their contributions to the debate. This bill adopts the recommendations of the New South Wales Law Reform Commission and clarifies the operation of the standard non-parole period,

in accordance with the decision of the High Court in *Muldrock v The Queen*. The amendments will help to ensure a consistent approach to sentencing for standard non-parole period offences, which will reduce the likelihood of sentencing appeals based on an erroneous application of the Act. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

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

Third Reading

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

That this bill be now read a third time.

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

ADJOURNMENT

The Hon. DAVID CLARKE (Parliamentary Secretary) [9.50 p.m.]: I move:

That this House do now adjourn.

LITTLE WINGS CHARITY ORGANISATION

The Hon. SARAH MITCHELL [9.50 p.m.]: Each year in Australia approximately 570 children between the ages of one and 14 are diagnosed with cancer. Over the past five years, the Children's Hospital at Westmead has treated on average 143 newly diagnosed patients each year. Of those, approximately 39 per cent are children who live in rural and regional areas of New South Wales. Those children often require highly specialised treatment and therefore must travel several hours or even days to receive their treatment. With some treatments lasting several months and repeated numerous times over a period of years, a high emotional and physical toll is placed on not only the children but also their families.

In 2011 pilot and businessman Kevin Robinson decided to combine his love of flying and his desire to help those in regional areas by establishing the charity Little Wings. Starting as a self-funded operation, Little Wings is a not-for-profit organisation that relies primarily on business partnerships and private donations. The main goal of Little Wings is to bring children in rural and regional areas of New South Wales to the oncology unit at the Children's Hospital at Westmead. By providing this free flight for the children and their families, Kevin hopes to lessen the travel fatigue and emotional strain of a long journey by road and reduce the separation from families that children often experience.

Little Wings also provides urgent short notice transport services for family members to support a sick child and, where need be, fly specialist nurses to regional centres to help local medical services. The pilots are principally volunteers who donate their time, and even their own planes, for this fantastic community service. In 2012 the maiden flight for Little Wings saw its first passenger, 13-year-old Noah Fitler, return home to his mum and dad before undergoing three months of intense chemotherapy. This short break back in Armidale allowed Noah to spend time with his family, see his mates from school and escape from the hospital routine—even if it was just for a weekend. In December 2012 Noah was required to stay at Westmead on Christmas Day to undergo further treatment. However, a small window of opportunity opened for Noah to return home for 10 days. At short notice, Little Wings sprang into action and flew Noah back to Armidale to spend the holidays with his family in his home town. Rather than a seven-hour trip by car or bus, the private flight took only 75 minutes.

Little Wings is also working with Emily, who at six months of age was diagnosed with an extremely rare form of cancer in her jawbone, so rare in fact that it is estimated to occur in only one child in a million in children under the age of two. Whilst the Cancer Unit in Lismore provided her treatment, Emily also had to travel to Sydney every three months to see an oncologist and a dentist. In February 2012, after a brief period of remission, the cancer reappeared and Emily once again needed to travel to and from Sydney for regular

check-ups. Emily has apparently become so excited about her flights that she has dubbed Adrian Nisbet "her" pilot every time she boards the Little Wings plane. For director Kevin Robinson, receiving a thank you card from Emily with the simple words, "Thanks for looking after us and getting us to the hospital" is a sure sign that their work and dedication is appreciated by all their passengers.

My colleague in the Legislative Assembly the member for Mulgoa is a strong advocate of Little Wings and I know she has encouraged the Minister for Health to explore every available option to help this wonderful organisation. I am sure that she was equally pleased to hear that the inaugural SITA Australia Community Grants Program, which identifies grassroots organisation that make a profound difference to the community, has selected Little Wings to receive its first grant to help it on its way to achieving its goals for the years ahead. With sponsors ranging from Clubs NSW and Midea Air Conditioning to Deloitte, Little Wings is clearly an innovative charity with strong networks in both the private and public spheres.

Of course, as a charitable organisation, Little Wings still relies heavily on the generosity of members of the public and its volunteers. I look forward to working with my fellow regional colleagues to raise awareness of Little Wings and help them in any way possible in the future. As it becomes more experienced in running such a complex organisation, Little Wings is hoping to cater for more children in need and further expand its services. Little Wings will soon take delivery of a second aircraft, donated to it by a commercial pilot, which I know will be welcomed by the wider regional community. I take this opportunity to congratulate Kevin and his team on their incredible work over the past couple of years. Like Angel Flight, Care Flight and even the Royal Flying Doctor Service, the truly fantastic organisations often have the smallest of beginnings. I look forward to following the story of Little Wings closely during the years ahead.

SYDNEY WATER WASTEWATER TREATMENT PLANTS

The Hon. WALT SECORD [9.55 p.m.]: As shadow Minister for Water I will update the Parliament on the O'Farrell Government's latest attempts to block the release of information. This matter relates to privatisation plans for Sydney Water's 16 wastewater treatment plants including its Bondi, Cronulla, Malabar, North Head, Port Kembla, Shellharbour and Warriewood facilities. They are major public assets and in total handle 1.3 billion litres of wastewater a day. Members may be aware of this matter as it was canvassed in the weekend media including an article entitled, "Come clean on plans, Sydney Water told" published on 19 October in the *Sydney Morning Herald*. The media interest in this matter reflects the genuine public interest in this policy area.

New South Wales communities have a deep interest in the management of their essential public utilities and they deserve to have information on the Government's plans to dispose of those assets. But what they are getting from this Government is stonewalling and obfuscation. The explanation is simple: the O'Farrell Government has plans to lease, outsource or privatise functions of Sydney Water and it is trying to hide them. It is no wonder that it is trying to hide these plans. This is because of the Coalition's repeated and explicit statements before the March 2011 election which categorically ruled out any sale of Sydney Water or Hunter Water operations.

For example, on 7 February 2011 the *Sydney Morning Herald* reported the Liberal-Nationals Coalition statement, "against any outsourcing, leasing or privatisation of Sydney Water". And furthermore, the Coalition's then campaign spokesperson, Gladys Berejiklian, who is now a senior Minister, stated unequivocally that a Coalition Government would not sell the water utilities in Sydney or the Hunter. But like so many aspects of this Government, the pre-election promise and the post-election reality are poles apart. The O'Farrell Government has done its best to hide its plans from public scrutiny.

As members will be aware, almost a year ago I lodged a simple freedom of information request relating to the O'Farrell Government's plans to "outsource, franchise or privatise" functions of Sydney Water's wastewater treatment plants. Shortly afterwards the O'Farrell Government refused, saying it was the subject of government deliberations. Accordingly, I wrote to the Information and Privacy Commission, under the Government Information (Public Access) Act 2009, asking it to take up the matter as I believed the public interest test was ignored.

On 14 October 2013 the Information and Privacy Commission issued a finding. It advised that the O'Farrell Government must review its decision to deny the Opposition's access to the documents. The Information Commission said, "We are not satisfied that it applied the public interest test to the information

applied for." The O'Farrell Government has been given a deadline of 23 October—tomorrow—to review the matter. I eagerly await its response, but I am not optimistic knowing this Government's response to previous freedom of information requests.

Overseas experience has given rise to community concerns about the privatisation or outsourcing of water utilities and, hence, a public discussion is required before any disposal of New South Wales assets can take place. There has to be a community debate and a mandate from the community before the O'Farrell Government sells any aspects of Sydney Water. This is because it is the community that owns Sydney Water, not the O'Farrell Government. That is why I am concerned when the O'Farrell Government tries so hard to keep these documents out of the public arena. And that is why I will continue to pursue other legal avenues, if the Government blocks the release of information tomorrow, including an appeal to the Administrative Decisions Tribunal to ensure that public information about public utilities remains publicly accessible.

It is most unfortunate that the O'Farrell Government is trying to block the release of this information to the community. There is a fundamental principle here regarding the community's right to know about the Government's plans. There is also the issue of an elected government attempting to evade scrutiny and accountability. When in opposition, Barry O'Farrell promised openness and transparency. However, throughout the O'Farrell Government's 2½ years in office we have seen the opposite. We have a government that blocks information, silences its critics and refuses to answer questions from the community, even regarding that most essential public resource—water. With this sort of arrogant contempt being displayed by the O'Farrell Government, it is no wonder that the varnish is cracking on this Government. We saw evidence of that on Saturday night with Barry Collier's resounding and historic win in the Miranda by-election with a record-breaking 27 per cent swing. I thank the House for its consideration.

STATE BUSHFIRES

Dr MEHREEN FARUQI [10.00 p.m.]: Tonight I will speak on the devastating bushfires raging in the Blue Mountains and the Southern Highlands of New South Wales. Firstly, on behalf of the New South Wales Greens I express deep concern and sympathy for all the people and communities who have lost their homes and properties in the bushfires and are going through much hardship at the moment. My daughter is sitting her Higher School Certificate [HSC] examination currently so my thoughts and best wishes are with all her peers, who also have had to leave their homes at such a stressful time in their young lives. I also deeply thank and appreciate the work of emergency services personnel and our brave fireys and selfless volunteers, who have been working days and nights and who have put their lives on the line to protect our communities from the horrific effects of bushfires.

Countless residents are opening their homes to those affected by the fires. I pay tribute to them for all the work they are doing and I thank them for their generosity. There are also many animal protection and conservation groups who continue to carry out their work in these extraordinary circumstances, providing food, water and protection to native wildlife seeking shelter from the fires. Many are saying that these are the most destructive bushfires to hit New South Wales in a generation. There are very real concerns about the scale and intensity of this bushfire disaster so early in the season. Former Rural Fire Services Commissioner Phil Koperberg has previously said:

We have always had fires, but not of this nature, and not at this time of year, and not accompanied by the record-breaking heat we have had.

Earlier today, senior United Nations climate official Christiana Figueres said that footage from the fires should prompt international concern on climate and that the fires in New South Wales are "just introductions to the doom and gloom that we could be facing", if we do not take vigorous action now. Christiana Figueres is not saying, and nor am I imputing, that this fire was caused by anthropogenic climate change. However, it is absolutely true that, without strong action to reduce global greenhouse gas emissions, we will see more of these fires and they will be severe. It is our responsibility to take strong action on climate change to try our best to avoid the worst impacts of such disasters in the future.

I am also concerned that there have been accusations that The Greens and environmentalists oppose burning methods in managing bushfires. These echo similar attacks against us in the bushfire seasons of years past. These accusations are entirely false. For this reason, I feel the urgent need to raise them in this Chamber tonight and to set the record straight. The Greens believe in bushfire risk management through a coordinated approach, including—and I quote from The Greens New South Wales policy:

Strategically planned hazard reduction, including controlled burning, where and when climatic conditions allow it to be done safely and where it is consistent with maintaining the ecosystem.

We are committed to an effective and scientifically based approach to hazard reduction, which takes into account the needs of both the human and natural environments. The Greens policy is underpinned by the primacy of protection of human life, and the preservation of natural and built assets. The many scientists, farmers, and environmental engineers in The Greens, of whom I am proud to be one, have long known that hazard reduction and controlled burning techniques are not just effective but often are necessary in mitigating the effects of these truly horrendous natural disasters. Our policy is therefore an acceptance of the realities of the bushfire season and the best methods to reduce damage and harm. Finally, let us join everybody in New South Wales in hoping for generosity and strength to help families and communities recover from the fires.

DROUGHT ASSISTANCE

The Hon. STEVE WHAN [10.05 p.m.]: Under the headline, "The 'D' Word", the *Western Magazine* recently reported comments by north-western New South Wales farmers, who stated:

Crops are failing, stock are being hand-fed or put on agistment, local businesses are struggling and yet no-one will declare Bourke, Brewarrina or Walgett in drought because the State Government doesn't say that anymore.

The article cites Brewarrina landholder Col Betts, who stated:

Dry rivers, dry tanks, stock needing to be hand-fed, that to me is a drought ... We haven't had a decent rain since February 2012.

This situation is causing serious concern to landholders in north-western New South Wales. Today NSW Farmers issued a press release, which states:

Farmers ... around Bourke, Brewarrina and Walgett have been preparing and actively making decisions to mitigate drought for more than 12 months but we have now reached a critical point ... The information collated [from farmers] has revealed that almost all had de-stocked with herd levels now right down to core breeding stock.

NSW Farmers estimates that the average spend on the drought to date is approximately \$150,000 per farmer, most of which was being spent on feed and transport. What has the Government done in response to this? Yesterday the Minister for Primary Industries, Katrina Hodgkinson, announced that she will send members of the Regional Assistance Advisory Committee to the State's north-west to assess worsening dry conditions. In response to conditions that clearly constitute a drought, the Minister says she is sending the Regional Assistance Advisory Committee to gain "a better understanding of the on-ground situation". The committee will meet with farmers and community groups and other services affected by the conditions. The chairman of the Regional Assistance Advisory Committee, Mr Palmer, stated:

... [the] seasonal conditions report for September highlighted the dry and deteriorating situation in the North West – following on from the tenth-driest August on record and the eighth-warmest.

He went on to highlight the low rainfall and crop yields being affected as well as poor pasture growth and stock water supplies being very low. That says to me that the area is suffering from drought. The situation requires more than just a committee visiting the area to consider the situation. We all know that in this Government's changes to drought policy it has abolished the drought declaration. Under the previous Government the drought-affected areas would have had a monthly assessment by people who are already on the ground in the Livestock Health and Pest Authorities [LHPAs] and in the Department of Primary Industries. An objective measurement would have been taken that would have declared the area in drought, and that would have automatically triggered a range of assistance for farmers including stock and fodder transport subsidies to enable them to overcome some of that \$150,000 per farmer cost that they are saying they have already begun to meet.

It is an appalling sellout of farmers in the north-west that instead of immediately providing assistance the Minister for Primary Industries, Katrina Hodgkinson, and this Government instead are simply sending out a committee to make recommendations to the Minister about conditions in the area that may result in the implementation of some type of fodder and stock transport subsidies for some of the farmers in the region. This is not what the people of New South Wales and the farmers of New South Wales expected when they elected members of The Nationals in their area. New South Wales is the only State that has technically abolished drought declarations. Large areas of Queensland are drought-declared and the people who live there are receiving fodder and stock transport subsidies, which they deserve. During the 10-year drought in the early part of this century the Labor Government provided millions of dollars in fodder and stock transport subsidies to our farmers.

The subsidies were there when they were needed by farmers, and they are needed now, particularly in the north-west of the State. The *Western Magazine* was quite right to state that in the recent past, "... State and

Territory Governments around Australia introduced reforms to drought programs and rural assistance ... NSW took it one step further by expelling the word 'drought'." I am very critical of the New South Wales Government for its actions but I am also critical of NSW Farmers. In the NSW Farmers press release there is a plea for some assistance but once again NSW Farmers has failed to come out and fight for the farmers and to say that drought declarations and fodder and stock transport subsidies need to be reinstated. As a number of members of NSW Farmers have said to me over the past year or so, if a Labor government had done the things that this Government has done to farmers over the past two years, farmers would have been protesting out the front of government offices and in the streets. They think that this Government is far worse. This Government is very clearly letting down farmers today.

SAME-SEX MARRIAGE

Reverend the Hon. FRED NILE [10.10 p.m.]: Tonight I speak on the new Australian Capital Territory same-sex marriage laws. These laws have been declared invalid on the basis of legal advice that has been given by the Commonwealth Solicitor-General to the Tony Abbott Federal Government. Because of that the Federal Government, under Attorney-General George Brandis, is now taking action in the High Court to have the Australian Capital Territory laws declared invalid. The legal advice is that those laws are inconsistent with the Commonwealth Marriage Act. As a result, today the NSW Council of Churches has released a media release which states:

Council of Churches supports High Court challenge to ACT same sex marriage law.

Prime Minister Tony Abbott is to be commended for his Government's support of uniform national marriage laws and the decision to vigorously challenge the ACT Government's new same sex marriage laws in the High Court.

In that media release, President of the NSW Council of Churches, Reverend Dr Ross Clifford, stated:

We can't have States and Territories passing laws that deeply divide Australians and that are guaranteed to face expensive legal challenges ...

In the release, Reverend Rod Benson, NSW Council of Churches Public Affairs Director, stated:

The NSW Council of Churches believes that a change in Federal marriage law would be contrary to our Australian culture and heritage.

It is imperative that Prime Minister Tony Abbott remain firm in his support for the current definition of marriage in Federal law, and true to his Government's election mandate to defend the meaning of marriage as currently defined in Commonwealth law.

As members know, that is marriage between a male and a female. In the media release, Reverend Dr Ross Clifford concluded:

From its opening chapters, the Bible clearly upholds that marriage is intended to be a relationship between a man and a woman. Australia needs conviction politicians who are willing to take an uncompromising stand on social issues, who will uphold traditions and customs that have served society well in the past.

I totally agree with that statement. It is time for this Parliament also to stand up, to have conviction and to support traditional marriage between a male and a female. It should do so because children need their biological mum and dad; they need to know their parents, brothers, sisters, grandparents and family medical history. In Australia currently 73.6 per cent of children under 18 are being raised by intact, biological families, that is about 2.1 million families, according to the Institute of Family Studies. Children are best raised when they are born into families with a mum and a dad who have made a mutual, lifelong commitment. Only conjugal marriage provides this security for children.

The State should not be sanctioning more children being created and raised by people other than their biological mum and dad. The same-sex marriage advocates say it is a human rights issue. I say conjugal marriage between a male and a female is a human rights issue. Only conjugal marriage protects the rights of children and their true identity. It is a comprehensive union—mental, physical, emotional and sexual—of a man and a woman. It is a real biological reality, not a culturally defined convention. Conjugal marriage respects two fundamental human rights: first, the right of heterosexual couples to marry and found a family; and, second, the inalienable right of children to know and be raised by their biological mother and father, to know their brothers, sisters, grandparents, sisters and medical history.

The State has a duty to protect the right of children to know their identity by protecting marriage between one man and one woman only. Parent one and parent two on a birth certificate is no substitute for a

child's biological mum and dad. It confuses a child's identity and even robs a child of his or her identity. For those reasons I support the challenge in the High Court to the Australian Capital Territory same-sex marriage law and trust that that challenge will be successful.

AUSTRALIAN BROADCASTING COMMISSION

The Hon. DAVID CLARKE (Parliamentary Secretary) [10.15 p.m.]: There is an increasing public perception that the Australian Broadcasting Commission [ABC] is biased and heavily slanted to the Left. According to a recent Newspoll, those who believe that the ABC is even-handed politically have fallen for the fourth year in a row. Now, more than one in five believes it is biased. A Taverner poll last February found one in six Australians believes the ABC is favourable to Labor while only one in 26 believes it favours the Coalition. The editors, writers and presenters of the ABC's current affairs programs themselves willingly confirm that the public's perception of their allegiance to the Left is true.

A survey by the University of the Sunshine Coast, for example, found that ABC journalists intended to vote in the recent elections 41 per cent for The Greens, 34 per cent for Labor and only 16 per cent for the Coalition. A survey published by the *Australian Journalists Review* came to a similar conclusion yet at the same time Newspoll found that Australians intended to vote 46 per cent for the Coalition, 31 per cent for Labor and only 9 per cent for The Greens, with others at 14 per cent—a massive divergence between the Australian electorate and ABC journalists.

An analysis of the ABC's current affairs programs will confirm for even the most naive of observers that the reigning culture at the ABC is that of the hard Left. During the 2010 Federal election the Shadowlands blog monitored the ABC's websites "Unleashed" and "The Drum" and found that positive comments for Julia Gillard exceeded those for Tony Abbott by three to one. When American Leftist author Gore Vidal died the ABC gave a long laudatory review of his life, yet when conservative hero Ronald Reagan died there were no such glowing tributes. Scientists who fit in with the ABC's global warming establishment are feted and their qualifications are showcased, yet scientists who disagree with the human global warming religion of the Left have their qualifications questioned and are treated as if they are in the dock.

Many will recall the 2012 comments by the ABC's science reporter Robyn Williams, who linked scepticism of human climate change to advocacy of paedophilia. In 2012 the ABC took the lead in publicising allegations that climate scientists at the Australian National University had received numerous death threats via email. *Media Watch* and *Lateline* were just two of the ABC's outlets that ran this story as hard as they could. However, when university authorities were required to release the death-threatening emails pursuant to a freedom of information application, the Federal Privacy Commissioner found that none of the 11 emails in question contained death threats at all. The most that they contained was abuse in the form of insulting or offensive language, with only one email possibly alluding to a threat, putting the proposition at its highest.

Following this revelation the ABC did not correct its earlier false reports but instead switched from talking about death threats to talking about abusive emails. To the ABC there are facts that need hiding and false reports that need not be corrected, depending on the ideological considerations at the time. This brings me to the ABC's announcement last May that former ABC and Fairfax journalist Russell Skelton had been appointed to head a newly created fact-checking office to verify the accuracy and factual basis of public statements by public figures and organisations. One can well understand Senator Eric Abetz's comment that this move had overtones of an "Orwellian Ministry of Truth" about it.

One would have thought that in appointing a suitable person to such a position the ABC would have in mind someone above partisan political involvement and public ideological commitment. Following the appointment of Russell Skelton it was revealed that he was far from being disengaged from public ideological commitment and his long history of using Twitter was there to prove it. In May this year he approvingly re-tweeted a comment that "Abetz and Christian fundamentalists want a race war. Begins in September?" He tweeted, "Abbott's extremism on display. No statesman, no style—a shameless opportunist". He called Senator Barnaby Joyce "a dense, opportunistic carpetbagger" and Scott Morrison "the LP's one trick pony". He tweeted his dislike of News Ltd, Rupert Murdoch, Andrew Bolt and Alan Jones, and the Coalition for good measure. He ridiculed Joe Hockey. He has tweeted his ideological Left views on asylum seekers, global warming and other contentious issues.

Just as the ABC has chosen a committed soldier of the Left in Russell Skelton to run its fact-checking office, it also invariably places committed figures of the Left as producers and presenters of its current affairs

programs. Panel discussion programs like *Q & A* will feature conservatives, but normally they will be in the minority. However, when it comes to choosing the presenter of such programs it remains a longstanding monopoly of the Left. A conservative is virtually never appointed to such a position. Jon Faine is another example of this fact. Having worked for the ABC for the past 24 years he has, since 1996, hosted its morning radio program in Melbourne.

Following Kevin Rudd's 2007 election victory over John Howard he gained notoriety by suggesting that Right leaning newspapers like the *Australian* and the *Herald-Sun* should enter a cleansing process by purging themselves of conservative commentators. He even had a list of candidates, starting with Mark Steyn, Janet Albrechtsen and the late Christopher Pearson. The ABC, which so readily puts others under a searchlight, needs to more fully have the spotlight put on it. Its continuing Left bias is something that I propose to revisit in the near future.

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

Motion agreed to.

The House adjourned at 10.20 p.m. until Wednesday 23 October 2013 at 11.00 a.m.
