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# LEGISLATIVE COUNCIL

Tuesday 17 June 2014

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

**The President** read the Prayers.

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

## ASSENT TO BILLS

Assent to the following bills was reported:

Community Services (Complaints, Reviews and Monitoring) Amendment Bill 2014  
Ombudsman Amendment (Aboriginal Programs) Bill 2014  
Teaching Service Amendment (Transfers) Bill 2014  
Crimes Amendment (Strangulation) Bill 2014  
Home Building Amendment Bill 2014  
Racing Administration Amendment (Sports Betting National Operational Model) Bill 2014

## INSPECTOR OF THE POLICE INTEGRITY COMMISSION

### Reports

**The President** tabled, pursuant to the Police Integrity Commission Act 1996, the following reports of the Inspector of the Police Integrity Commission:

- (1) "Parliamentary Joint Committee Reference pursuant to section 89 (2) Police Integrity Commission Act 1996: Richard Torbay and David Cushway", dated May 2014, received out of session and authorised to be made public on 5 June 2014.
- (2) "Complaints by NSW Crime Commission arising from the conduct by the Police Integrity Commission in Operation Winjana", dated May 2014, received out of session and authorised to be made public on 5 June 2014.
- (3) "Report of Inspector's investigation of allegations made by the NSW Crime Commission to the Commissioner of NSW Police of misconduct on the part of a Senior Officer of the Police Integrity Commission", dated May 2014, received out of session and authorised to be made public on 5 June 2014.

**Ordered to be printed on motion by the Hon. Duncan Gay.**

## INDEPENDENT COMMISSION AGAINST CORRUPTION

### Reports

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

- (1) "Investigation into the conduct of the Hon. Edward Obeid, MLC, and others concerning Circular Quay retail lease policy", dated June 2014, received out of session and authorised to be made public on 5 June 2014.
- (2) "Investigations into the conduct of the Hon. Edward Obeid, MLC, and others in relation to influencing the granting of water licences and the engagement of Direct Health Solutions Pty Ltd", dated June 2014, received out of session and authorised to be made public on 5 June 2014.

**Ordered to be printed on motion by the Hon. Duncan Gay.**

## SENATE VACANCY

**The PRESIDENT:** As members would recall, in October 2013 a message was reported from the Governor transmitting a despatch received from the President of the Senate notifying that a vacancy had

happened in the representation of the State of New South Wales in the Senate through the resignation of the Hon. Bob Carr. The despatch from the President of the Senate noted that, "The resignation was expressed as applying in respect of the Senator's current term which concludes on 30 June 2014 and also to the new term to which he was elected at the recent half-Senate election, commencing on 1 July 2014."

The Clerk of the Parliaments and the Clerk of the Legislative Assembly, on behalf of myself and the Speaker, sought legal advice from the Crown Solicitor as to whether there was any impediment to the Parliament of New South Wales filling not only the existing casual vacancy in the Senate but also the vacancy for the six-year term starting on 1 July 2014 at the one joint sitting, or whether the two vacancies should be dealt with separately. That advice from the Crown Solicitor was tabled in the House on 12 November 2013 and indicated that the two vacancies needed to be dealt with separately.

On 13 November 2013 a joint sitting of the Legislative Council and the Legislative Assembly chose Ms Deborah O'Neill to fill the place in the Senate of the Commonwealth of Australia rendered vacant by the resignation of Senator the Hon. Bob Carr, but only in respect of the vacancy for the period until 30 June 2014. On 5 June 2014 the Clerk of the Parliaments and the Clerk of the Legislative Assembly, on behalf of myself and the Speaker, sought further legal advice from the Crown Solicitor in respect of options for filling of the vacancy in the representation of the State in the Senate for the term that commences on 1 July 2014. I now table the further advice of the Crown Solicitor, dated 12 June 2014, together with the relevant instructions from the Clerks.

#### **Documents tabled.**

### **MINISTRY**

#### **Senior Ministers**

**The Hon. DUNCAN GAY:** I announce that on 30 May 2014 the following Ministers were designated as Senior Ministers:

The Hon. Gladys Berejiklian, MP  
The Hon. Adrian Piccoli, MP  
The Hon. Jillian Gell Skinner, MP  
The Hon. Gabrielle Cecelia Upton, MP  
The Hon. Andrew James Constance, MP  
The Hon. Prudence Jane Goward, MP  
The Hon. Bradley Ronald Hazzard, MP  
The Hon. Anthony John Roberts, MP

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

### **BUSINESS OF THE HOUSE**

#### **Formal Business Notices of Motions**

**Private Members' Business item No. 1872 outside the Order of Precedence objected to as being taken as formal business.**

### **REVEREND PAUL WOOSUNG CHUNG**

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

- (1) That this House notes that:
  - (a) the recent passing of Reverend Paul Woosung Chung and his tireless work over the last 35 years, impacting the lives of thousands of Korean migrants in Australia;
  - (b) Reverend Chung established the Sydney Full Gospel Church, which now has 2,000 congregants and its own church building in Greenacre; and
  - (c) during his 35 years of service, Reverend Chung established 26 churches worldwide, helping people in Australia, New Zealand, China and North Korea.
- (2) That this House acknowledges the outstanding work of Reverend Chung to the community over the last 35 years and conveys its sincere condolences to his family on their loss.

## SEA OF HANDS EXHIBITION FOR NATIONAL RECONCILIATION WEEK

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

- (1) That this House notes that:
  - (a) Her Excellency the Governor of New South Wales, Professor Marie Bashir, AC, CVO, and the Mayor of Randwick, His Worship Scott Nash, together with students of Soldiers' Settlement Public School recently marked the beginning of National Reconciliation Week by launching the Sea of Hands exhibition at Bare Island, La Perouse; and
  - (b) the launch of the Sea of Hands exhibition included the planting of 12,000 hands in the colours of the Aboriginal and Torres Strait Islander flags symbolising the community's support for reconciliation, rights and respect for Indigenous Australians.
- (2) That this House congratulates and commends Her Excellency the Governor of New South Wales, Professor Marie Bashir, AC, CVO, the Mayor of Randwick, His Worship Scott Nash, Randwick City Council and students from the Soldiers' Settlement Public School for their efforts in supporting reconciliation, rights and respect for Indigenous Australians.

## SYDNEY CHILDREN'S HOSPITAL GOLD TELETHON

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

- (1) That this House notes that:
  - (a) the good work of the staff and volunteers at the Sydney Children's Hospital Randwick;
  - (b) the hospital treats over 78,000 young boys and girls each year;
  - (c) much of the good work of the hospital relies on community support;
  - (d) the hospital's biggest annual fundraiser is the Gold Telethon which this year aims to raise \$4.5 million; and
  - (e) the funds raised in the Gold Telethon go towards buying crucial life-saving medical equipment and funding research and training.
- (2) That this House congratulates and commends the many volunteers and staff at the Sydney Children's Hospital in Randwick for their continued dedication towards helping the thousands of children treated by the hospital.

## TABLED PAPERS NOT ORDERED TO BE PRINTED

**The Hon. Matthew Mason-Cox** tabled, pursuant to Standing Order 59, a list of all papers tabled in the previous month and not ordered to be printed.

## LEGISLATION REVIEW COMMITTEE

### Report

**The Hon. Dr Peter Phelps** tabled the report entitled "Legislation Review Digest No. 57/55", dated 17 June 2014.

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

## AUDITOR-GENERAL'S REPORT

**The Clerk** announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a performance audit report of the Auditor-General entitled "Use of Purchasing Cards and Electronic Payment Methods: NSW Treasury", dated June 2014, received out of session and authorised to be printed on 5 June 2014.

## PRIVILEGES COMMITTEE

### Report: Recommendations of the ICAC Regarding Aspects of the Code of Conduct for Members, the Interest Disclosure Regime and a Parliamentary Investigator

**The Clerk** announced the receipt, pursuant to standing orders, of report No. 70 of the Privileges Committee entitled "Recommendations of the ICAC regarding aspects of the Code of Conduct for Members, the Interest Disclosure Regime and a Parliamentary Investigator", dated June 2014, together with submissions and correspondence, received out of session and authorised to be printed on 12 June 2014.

**The Hon. TREVOR KHAN** [2.40 p.m.]: I move:

That the House take note of the report.

This inquiry was referred to the Privileges Committee by the House to investigate three recommendations made by the Independent Commission Against Corruption in its report entitled "Reducing the Opportunities and Incentives for Corruption in the State's Management of Coal Resources". The three recommendations related to, first, the Code of Conduct for Members and dealing comprehensively with improper influence by members; secondly, the interest disclosure regime and moving to disclosure by members of the interests of their spouses, partners and dependent children; and, finally, the adoption of a parliamentary investigator position as a mechanism for investigating potential misconduct by members. These three matters arose out of the Independent Commission Against Corruption's investigation reports on Operation Jasper, entitled "Investigation into the Conduct of Ian Macdonald, Edward Obeid Senior, Moses Obeid and Others", and Operation Acacia, entitled "Investigation into the Conduct of Ian Macdonald, John Maitland and Others".

The committee has examined the three recommendations closely. They are matters that have all been considered previously by the committee. However, in the light of investigations by the Independent Commission Against Corruption, which prompted the Independent Commission Against Corruption's reports referred to above, the committee feels that it is now high time that all three matters were fully and comprehensively addressed. In summary, the committee recommends, first, the adoption of a new clause in the Code of Conduct for Members dealing comprehensively with improper influence by members; secondly, amendment of the interest disclosure regime to require disclosure by members of the interests of their spouses, partners and dependent children, together with a range of other measures designed to increase the timeliness and accessibility of interest returns by members; and, finally, the adoption of a Commissioner for Standards in New South Wales based on the model adopted in the United Kingdom Parliament.

In the future the Privileges Committee will review the issues of secondary employment of members, disclosure of commercial interests held by adult children of members, and members' disclosure of holdings in any trust, company or fund in which they, their spouses, partners or any adult or dependent children have an interest.

**Debate adjourned on motion by the Hon. Trevor Khan and set down as an order of the day for a later hour.**

## **SOUTH EAST LIGHT RAIL**

### **Production of Documents: Return to Order**

**The Clerk** tabled, pursuant to resolution of 8 May 2014, documents relating to the CBD and South East Light Rail Project, received on 5 June 2014 from the Acting Secretary of the Department of Premier and Cabinet, together with an indexed list of the documents.

### **Production of Documents: Claim of Privilege**

**The Clerk** tabled a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

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

### **Government Response to Report**

**The Clerk** announced the receipt, pursuant to standing orders, of the Government's response to report No. 50 of the Standing Committee on Law and Justice entitled "Racial Vilification Law in NSW", tabled on 3 December 2013, received out of session and authorised to be printed on 3 June 2014.

## **STANDING COMMITTEE ON SOCIAL ISSUES**

### **Government Response to Report**

**The Clerk** announced the receipt, pursuant to standing orders, of the Government's response to report No. 48 of the Standing Committee on Social Issues entitled "Strategies to Reduce Alcohol Abuse among Young People in New South Wales", tabled on 13 December 2013.

**Ordered to be printed on motion by the Hon. Duncan Gay.**

**BUSINESS OF THE HOUSE****Routine of Business**

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

**The PRESIDENT:** Order! Mr Jeremy Buckingham will recommence his notice of motion as the term "back of the beer coaster" renders it out of order.

**BUSINESS OF THE HOUSE****Postponement of Business**

**Government Business Orders of the Day Nos 1 to 14 postponed on motion by the Hon. Duncan Gay and set down as orders of the day for a later hour.**

**SELECT COMMITTEE ON HOME SCHOOLING****Membership**

**The PRESIDENT:** I inform the House that the Clerk has received the following nominations for membership of the Select Committee on Home Schooling:

Government members:	Mr Clarke Ms Cusack Mr Khan
Opposition members:	Mr Searle Ms Westwood

**BUDGET ESTIMATES AND RELATED PAPERS****Financial Year 2014-15**

**The Hon. Duncan Gay** tabled the following papers:

- (1) Budget Paper No. 1—Budget Speech 2014-2015
- (2) Budget Paper No. 2—Budget Statement 2014-2015
- (3) Budget Paper No. 3—Budget Estimates 2014-2015
- (4) Budget Paper No. 4—Infrastructure Statement 2014-2015
- (5) NSW 2021: 2014-2015 Performance Report
- (6) Budget Overview 2014-2015
- (7) Regional Overview 2014-2015
- (8) Western Sydney Overview 2014-2015

**Ordered to be printed on motion by the Hon. Duncan Gay.**

**BUDGET ESTIMATES AND RELATED PAPERS****Financial Year 2014-15**

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [3.02 p.m.], by leave: I move:

That the House take note of the budget estimates and related papers for the financial year 2014-15.

I seek leave to incorporate the Treasurer's speech in *Hansard*.

**Leave granted.**

I can declare today to the people of this great State: New South Wales is back in the game.

Our budget is powerfully positioned. Net debt is down, expenses are under control, the triple-A credit rating is maintained.

New South Wales today is:

- growing at three times the rate of Queensland and Victoria
- housing approvals are at the highest levels in over a decade
- we have strong jobs growth with around 114,000 created since 2011
- we have an infrastructure build exceeding \$61 billion
- our economy is strong in response to the Government's agenda.

In three years of hard work, the New South Wales Government has done the repair job on the foundation of our economy, the New South Wales budget.

When we came to office New South Wales lagged on all economic fronts. We were lagging on jobs growth, productivity, housing approvals and business confidence.

We were facing years of deficits and high net debt courtesy of the legacy left by those opposite.

We took on the challenge of repairing the budget and rebuilding New South Wales.

We took on the challenge of reining in spending and putting policies to work such as the Jobs Action Plan and the Building the State housing strategy to grow the economy, and restore New South Wales to Number 1.

In three short years we have seen New South Wales rise again to become the powerhouse of the nation.

Every dollar spent by this government is spent with purpose and respect for the hard working men and women of our great state, who steadfastly contribute to our social and economic strength.

Regardless of where you live in New South Wales, nothing galls people more than wasteful spending by government and a reluctance to invest in the things that matter most to people and their community. It is why we have, and why we will continue, to live within our means.

Necessary budget repair means our fiscal position is better placed to fulfil the state's potential. Coupled with our commitment to the infrastructure that will rebuild

New South Wales, we will strengthen our resolve to enshrine fiscal responsibility as part of every action we take.

Maintaining the triple-A credit rating is a choice, but it is a choice to which we are 100 per cent committed.

We now enter the new financial year with a confidence and the capacity to invest where we need to, to unleash the opportunities for improved productivity and economic growth.

We are now in control of the budget. It's no longer in control of us.

This is a strong, sound and responsible budget. It is a budget designed to ultimately bring out the best in people and support individual opportunity.

It's a clear demonstration of the importance of maintaining expense control. Whilst I remain Treasurer there will be no back sliding on expenditure control that this government enshrined in the Fiscal Responsibility Act 2012.

The challenge of the next decade is how the State budget can be harnessed to rebuild and advance New South Wales. To invest for its people, its businesses and its communities.

Our vision is threefold:

- to unleash our global city's economic and social prosperity by delivering world class transport and motor networks. One hundred years ago our transport system was the envy of the world—today the community sees that it is failing them
- in country New South Wales we must unlock our freight pinch points and build new roads, dams and water pipelines so our farmers can respond to one of the greatest challenges of the 21st century—food security. Getting our produce and minerals to our ports with ease and at low cost so we can capitalise on our proximity to Asian markets and customers
- finally and most importantly, we want to give every member of our community, whether they live in the regions or in the suburbs, the opportunity in life to reach their full potential.

We are a government that builds. We're not building for election purposes, we're building for our future—for our children's future.



Each year a Sydney commuter, who goes to and from home, is subject to an extra 185 hours of travel time per year due to congestion. Stranded on a train platform, or sandwiched on a bus, sitting in a car on the M4, M5, M1, or on roads like Victoria, Parramatta, The Spit or the Princes Highway.

An extra 185 hours equates to losing a full week, every year stuck in traffic. Every year, it's costing the people of New South Wales \$5 billion.

We could, as Labor did, put up the "no vacancy" sign, declare it all too hard, and not build for our future. Alternatively, we can take action to deliver generations of benefits.

The money to rebuild New South Wales must come from somewhere. Our best option is to recycle capital from our existing infrastructure. It doesn't place a debt burden on our children, or a tax burden on enterprise.

This enables the Government to build more productive assets for the people of New South Wales.

Any capital investment made by this government will adhere to the Fiscal Responsibility Act. All actions of this Government through our budget must enhance and protect our triple-A credit rating.

It is what we have been doing in recent years, and what we will continue to do.

Three years ago we were told we faced a budget deficit of \$2.4 billion in 2014-15.

The Liberals and Nationals chose to act, and close this unacceptable deficit. At each and every step we took to repair the budget, we were opposed by New South Wales Labor.

I can report today that the budget surplus for 2013-14 stands at almost \$1 billion, with a deficit of \$283 million forecast in 2014-15.

For these two years a \$3.6 billion combined deficit was expected. We now have a combined surplus of around \$705 million. Across the forward estimates a further \$4.5 billion in surpluses is projected.

Most of this change in fortune comes from the improving New South Wales economy. Government policies to grow the State are beginning to bear fruit.

This outcome exceeds forecasts and is testament to the responsible fiscal management of the government. Had it not been for re-profiling of Commonwealth funding for the Pacific Highway, the budget would be in surplus in 2014-15.

On a like for like basis, with the accounting rules which applied during the Labor years, the 2013-14 and 2014-15 results would have been \$2.5 billion and \$1.2 billion surpluses respectively.

Over the forward estimates, and again applying a like for like basis, the surpluses would stand at a collective \$8 billion. This clearly shows the incredible turnaround since we came to office.

Labor's ill-discipline allowed expenditure growth to outpace revenue growth, contributing enormously to their bad budget outcomes.

By ensuring expenditure growth does not exceed long-term revenue growth, we have imposed proper budget discipline. The results of this are evident.

The legacy of Labor's ill-discipline was a net debt expected to exceed \$20 billion this year. It now stands at \$8.6 billion.

We've more than halved net debt, giving us enormous capacity to invest in productive infrastructure.

This year alone we are investing \$15 billion across metropolitan and regional New South Wales, but doing so in a responsible way. We are investing in capital commensurate with our fiscal position.

Last month the Liberal Nationals Government finalised the Newcastle Port transaction. It's a textbook study in managing our assets. Grossing \$1.75 billion, the transaction proceeds exceeded expectations.

But this is not about money. It was a vision to rejuvenate our second largest city, by reinvesting hundreds of millions of dollars.

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### **Infrastructure**

We are not here to claim that we have accomplished all that we have set out to do. We are just getting started.

Over the coming four years \$61.5 billion will be spent on productive infrastructure projects. These will modernise, de-congest and renovate the state. This year we are delivering:

- \$863 million for the North West Rail Link
- \$103 million for South West Rail Link
- \$265 million for the CBD South East Light Rail
- \$398 million for the 33 kilometre WestConnex motorway.

And in the years ahead:

- \$400 million for the NorthConnex project—a long needed road to take trucks off suburban streets
- \$3.9 billion for water and waste water projects to service urban development across Sydney, the Illawarra and Blue Mountains.

They're all projects that will get people moving. They'll accelerate New South Wales.

Today I can announce that we are funding feasibility studies for a Northern Beaches motorway tunnel, an extension of the F6 and route corridor for the M9—North, South and West.

I am also proud to announce a range of funding reservations from the New South Wales Government's Restart NSW Fund, including \$400 million for stage 1 of Parramatta Light Rail. This would bring our second largest CBD into line with Sydney and Newcastle when it comes to light rail transformation.

Projects that are funded from Restart NSW benefit from the proceeds of the recent Port transactions and windfall tax gains.

In Parramatta, our decision to relocate close to 1000 public servants, with more to come, will transform Western Sydney.

I am also pleased to announce additional amounts will be reserved in Restart New South Wales for the people of the Hunter, including \$100 million for the Hunter Infrastructure Fund.

Restart funds are also being reserved for:

- \$83 million for a South Western Sydney Housing Acceleration Fund
- \$177 Million for a second Clarence river crossing at Grafton
- \$325 million for Water Security for the Regions
- \$110 million for Regional Tourism Infrastructure
- \$200 million for a Regional Freight Pinch Point and Safety Program, which will target the Bells Line of Road, Golden Highway, Kings Highway and GoCup road.

This has all been made possible by the hard and tireless work of Premier Baird when he was Treasurer.

Premier Baird also protected windfall tax revenues from being squandered, by locking them into Restart.

### **People: Our Motivation**

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This is not just about numbers, it is about people. It is about the quality of life and aspirations of our citizens. It is about who we are.

If you manage your budget, you can build and run services that help everyone with their day to day lives.

### **For First Home Buyers**

It goes without saying the Aussie aspiration of owning a home can be a nightmare.

The property ladder is often out of reach.

But today I can confirm we're attempting to provide a leg up.

From July 1, first homebuyers will be eligible for the First Home Owners Grant on new homes worth up to \$750,000. It's a \$100,000 increase to the threshold.

But that's not our only strategy to make owning a home easier.

In this budget, we're providing more than \$60 million to local government to deliver essential infrastructure to support new housing development.

It means more available land. It means more affordable housing. It means accelerating the New South Wales housing sector.

New South Wales is doing everything possible to give confidence to foreign investment in our State. However, it is not appropriate that New South Wales taxpayers continue to subsidise foreign investors. For this reason, from July 1, the New Home Owners Grant will only benefit Australian citizens and permanent residents.

### **Business**

The Government will continue to extend its support to small business through red tape reduction and payroll tax relief under the Jobs Action Plan.

I am pleased to also confirm today a WorkCover premium reduction of 5 per cent. That is on top of the 12.5 per cent premium reduction to business in last year's cycle. These reductions enable business to invest back into safer work places, and at the same time generate employment.

This is a government that has generated around 114,000 jobs since coming to office. We are also pleased to announce further incentives for business to grow by removing three business taxes from 1 July 2016. The taxes to be abolished include stamp duty on business mortgages, unlisted marketable securities and transfer duty on non-real business transfers.

### **Budget Details**

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In this year's budget we are funding the largest rail and road projects in the nation's history and the most ambitious hospital rebuilding program ever seen. By moving more resources to our front line, while getting efficiencies from our back office and not further burdening taxpayers, we have delivered some of the best services in the world. In fact, in the past three years our reforms have delivered 8,000 new frontline staff. That is more nurses, doctors, teachers and police in all communities across New South Wales.

There are 755 new teachers who have helped make our schools the envy of all the states. Today I can also announce that in this year's budget 309 new police officers will contribute to a total of 16,665 police officers across the State by August 2015.

### **Health**

One of the greatest achievements of this Government has been to change the culture in our health system, devolve decision making to district board level and invest in hospital services at record levels.

This year's budget will fund 1.29 million acute inpatient treatments and 2.77 million emergency department attendances.

Since coming to office we have employed 4,100 nurses.

Today, I can announce that 115 new clinical nurse educators and midwife educators and specialists will be funded.

I can also confirm \$1.3 billion in capital works for Health.

A centrepiece of this budget is the rebuilding of Westmead Hospital, one of the biggest hospitals in the Southern Hemisphere. We are also announcing redevelopments of St George, Sutherland, Gosford and a new hospital on a greenfield site—Byron Central Hospital.

Continuing hospital construction works at Blacktown, Campbelltown, Hornsby, St George emergency department, Sutherland Hospital, Wagga Wagga, Dubbo, Tamworth, Bega, Parkes, Forbes, Port Macquarie, Lismore and Kempsey will also be funded. Further money is being invested to plan future capital works in other hospitals, including Wyong.

We are also investing in a public private partnership at the recently announced Northern Beaches Hospital.

We are also investing in our future health workforce, and I am pleased to confirm a \$9 million grant to start construction of the new Campbelltown Hospital Clinical school in partnership with the University of Western Sydney.

We are allocating \$9.3 million to commence redevelopments of John Hunter Children's Hospital paediatric and neonatal intensive care units.

We are building new ambulance stations: at Penrith, Liverpool, Bankstown, Blacktown and Kogarah and work will also continue at Bega, Kempsey and Albury.

Other additional expenditure in the 2014-15 budget includes:

- \$300 million to meet increased demand for hospital and emergency department services
- \$220 million to retain patient services previously funded by the Commonwealth under National Partnership Agreements
- \$92 million for medical research
- \$70 million for patient centred initiatives
- \$29 million for new mental health initiatives.

### **Transport**

The commuters of New South Wales will have noticed a difference already in the performance of the State's rail network. They know that the magnitude of the task at hand cannot happen overnight. In three short years the transport Minister has started to clear the infrastructure backlog we inherited.

And there's no better way to show that, than with a simple little card we call the Opal.

There have now been well over 2 million trips taken using the tap on, tap off smart card. 250 thousand people now have them—and that will grow rapidly, as more bus routes receive the technology in coming months. Light Rail will follow next year. Funding of \$157 million has been set aside in this budget to make it all happen.

This year we have also invested:

- \$265 million to commence construction of the high capacity CBD South East Light Rail network
- \$103 million to finalise construction of the South West Rail Link
- \$66 million for the upgrade of Wynyard Station.

**Roads**

Sydney is choked with congestion and we are tackling the problem.

Highlights in this year's budget include:

- \$398 million to WestConnex
- \$208.5 million for Western Sydney Roads.

This year in partnership with the Commonwealth we are investing \$1.2 billion into the Pacific Highway, including \$220 million to start construction between Woolgoolga and Ballina, \$155 million to start construction of dual carriageways between Warrell Creek and Nambucca Heads, \$135 million to start construction of the dual carriageway upgrade from the Oxley Highway to Kundabung and \$69.5 million to start work on the dual carriageway upgrade between Kundabung and Kempsey.

We are committing \$1.1 billion over 10 years to the Princes Highway. In this year's budget, there is \$185 million in state funding to the Princes Highway including \$80 million to start building the Foxground and Berry bypass, \$5 million to start building the realignment at Termeil Creek and \$2 million to continue the planning of Dignam's Creek realignment.

**Education**

Local Schools, Local Decisions and the Smart and Skilled reforms are among the proudest reforms of this Government. This year's education budget is boosted by \$612 million.

Budget highlights include:

- \$230 million for National Education Reform
- \$119 million for Early Childhood
- \$95 million towards Smart and Skilled.

We are also focused on apprentices. The Premier recently announced that in delivering our infrastructure program, we will ensure the creation of at least 1,000 new apprenticeships. Bidders for government infrastructure projects will need to meet minimum requirements for apprenticeship creation.

**Environment**

This is a government that isn't interested in politics when it comes to delivering for our environment. We get on with the job.

This year we are committing:

- \$142 million to operate a modern and independent Environment Protection Authority
- \$103 million for the Environment Trust
- \$38.2 million for the Western Sydney Parklands Trust
- \$102 million for public parklands and gardens throughout the state
- \$39 million to reduce fire risk in National Parks
- \$38 million to manage pest animals and weeds in National Parks
- \$26 million to help local councils to implement coastal and floodplain management plans.

We are also delivering an increase of \$78 million over four years for the Rural Fire Service to increase overall capacity and preparedness, for whatever mother nature throws at us.

**Vulnerable People**

You test the heart of a government when it comes to the treatment of the most vulnerable and those in need of support.

This budget is not just about cement, not just about steel and timber—it's about our obligation to defend those in need.

Every child is entitled to a safe home, and it pains me that right now, we have too many children at risk of harm.

Today the New South Wales Government is announcing half a billion dollars in new money to protect those children from abuse. Nothing sickens me more than those who abuse a child. Unfortunately we still see horrendous situations where an innocent child suffers.

This \$500 million investment over four years will enable caseworkers to spend more time helping vulnerable children, by freeing them from piles of paperwork. By giving them mobile technology, caseworkers no longer need to spend hours in the office.

Instead, caseworkers can actually do their job protecting children.

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**National Disability Insurance Scheme**

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When I was Minister for Disability Services, I met the families that politicians traditionally call vulnerable.

But they aren't—they are some of the strongest, most inspiring and brilliant people.

And that is why we are progressing with the rollout of the National Disability Insurance Scheme. Whilst implementation is challenging we must never lose sight of the end game—to empower people with disability to have choice and control of their lives.

Today we are investing \$587 million to deliver Ready Together, to assist people move to the NDIS and \$30 million towards new accommodation for people with disability in the Hunter Residential Centres.

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**Pensioner and Seniors Concessions**

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As we've discussed in weeks past, the Federal Budget ripped out more than \$450 million over four years to assist the State give discounts for pensioners and seniors.

I confirm the New South Wales Government will fill the gap left to us by Canberra in 2014-15.

In the coming year, no senior or pensioner already struggling with the cost-of-living will face an increase in ticket prices or bills because of a funding cut by Canberra.

We will continue to demand that Canberra reinstate its contribution to assistance for the State's pensioners and seniors.

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**The Commonwealth Budget**

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There is no point pretending that the broken agreements of the Federal Budget won't hurt the people of New South Wales. However, the prudent decisions this Government has taken over three years means we are able to cushion the blow of these cuts.

The Commonwealth should suspend its cuts until a review of the federation can be completed.

In the next four years alone, \$2.0 billion will be wiped off our books with National Partnerships and agreements in health, education and pensioner and senior concessions cut off by Canberra.

Beyond the forward estimates the problem grows—leaving the States \$80 billion worse off.

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**Electricity Distribution Network**

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In the years ahead people will look back on this budget as the one that started the process of rebuilding and transforming New South Wales.

We now seek to implement the policy position of Bob Carr, Michael Egan, Morris Iemma and Michael Costa to release the value in the electricity distribution network.

This will clear Labor's infrastructure backlog and accelerate projects that will get the state moving.

We know what is coming, because we have seen it before.

The unions and their parliamentary representatives will claim disasters of biblical proportions. But let us speak honestly. The facts don't support their case.

New South Wales Labor has failed to explain how the lease of electricity network businesses would lead to increased prices. In fact, whilst network costs reduced in real terms in Victoria by 18 per cent, over the same period network costs rose 122 per cent in New South Wales, driving household bills through the roof. New South Wales Labor burdened electricity consumers with a 60 per cent price hike when they were last in office.

Network costs are regulated by the Australian Energy Regulator, a Commonwealth body. The discipline of private sector investment, be it through the nation's superannuation funds or a publicly listed company will help drive out union featherbedding. It will clean up inefficiencies in management and maintenance and prevent Labor governments from using the networks as a cash cow. This will deliver enormous benefits to consumers.

Labor wanted to conduct this very transaction, but was tied down by union influence.

So this is the clear choice.

It's a choice between a government that wants to unlock the investment potential in this state and create individual opportunity, as opposed to those who want to stand still.

It's a choice between a government that wants to build, as opposed to those who want to destroy.

It's a choice between accelerating New South Wales or putting us in reverse.

**Conclusion**

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Three years into the privilege of governing, we have a lot of which to be proud. It's been a journey where we've grown the economy, created jobs, boosted housing supply and started to transform our roads and railways.

It's a point in time that marks the change from repair—to the rise of New South Wales.

It also bears the fruits of the hard yards we've done to control our expenses.

We've got our house in order and this budget will reinforce that ongoing commitment.

When we came to government, New South Wales was last in almost every economic indicator. We were dragging ... burdened ... idle.

If we had not taken the urgent action that we did three years ago, the people of New South Wales would today be hearing about a \$4 billion deficit.

Labor were slowly boiling the finances of New South Wales—and we had nothing to show for it.

Today I can confidently declare: we are now in control of the budget, the budget is not in control of us.

We are rebuilding New South Wales.

**Debate adjourned on motion by the Hon. Duncan Gay and set down as an order of the day for a later hour.**

**BUSINESS OF THE HOUSE****Suspension of Standing and Sessional Orders: Conduct of Business****Motion by the Hon. Duncan Gay agreed to:**

That standing and sessional orders be suspended to allow the moving of a motion forthwith relating to the conduct of business of the House this day.

**Conduct of Business****Motion by the Hon. Duncan Gay agreed to:**

That Government business take precedence of debate on committee reports this day.

**ELECTION FUNDING, EXPENDITURE AND DISCLOSURES CONSEQUENTIAL AMENDMENT  
BILL 2014****Second Reading**

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [3.04 p.m.]: I move:

That this bill be now read a second time.

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

**Leave granted.**

The Election Funding, Expenditure and Disclosures Consequential Amendment Bill 2014 addresses a gap in election funding regulation that has arisen as a result of a recent decision of the High Court of Australia.

In that decision, the High Court struck down amendments made to the Election Funding, Expenditure and Disclosures Act 1981 in 2012, which banned corporate donations and aggregated the campaign expenditure limits of parties and their affiliates.

While the High Court's decision invalidated sections 96D and 95G (6) of the Election Funding, Expenditure and Disclosure Act, it did not affect various consequential amendments made at the time of the introduction of these two provisions, which therefore remain in force.

The general effect of this is that the Act allows for donations from individuals and corporations, but the supporting provisions of the Act only contemplate donations made by individuals. This means that the disclosure requirements applying to donations made by individuals do not apply in their entirety to corporate donations.

This bill will resolve this issue.

I am not going to repeat all that was said about the bill in the other House by the Premier. However, I will briefly address an amendment made to the bill in the other place.

The amendments contained in this bill will be taken to have commenced on 18 December 2013, being the date of the High Court's decision in *Unions NSW and Ors v State of New South Wales*. This is the date on which people became aware that the ban on corporate donations did not apply, and so it is sensible that the associated consequential amendments are reversed as of this date.

However, I note that the Government accepted an Opposition amendment that would also require the disclosure of any political donation made by a corporation after the commencement of the 2012 amendments that was not already disclosed in a declaration lodged with the Election Funding Authority before 18 December 2013.

We supported this amendment because we are committed to the task of cleaning up political donations in New South Wales. We are genuine in our desire to increase political transparency and accountability in this State. I commend the bill to the House.

**The Hon. LUKE FOLEY** (Leader of the Opposition) [3.05 p.m.]: On behalf of the Leader of the Opposition, the Hon. John Robertson, I speak in debate on the Election Funding, Expenditure and Disclosures Consequential Amendment Bill 2014, as the principal Act that is being amended by this bill is administered by the Premier. I indicate at the outset that Labor will not oppose this bill. However, I raise some concerns that perhaps the Minister will address in his reply. On 29 May I received correspondence from Kirk McKenzie who for many years has represented the New South Wales branch of the Australian Labor Party at the Election Funding Authority. Today I ran into Ted Pickering who represented the New South Wales division of the Liberal Party at the Election Funding Authority in the same capacity as Mr McKenzie. Mr McKenzie raised concerns with me relating to the terms of proposed section 96D in item [9], schedule 1 to the bill.

In recent days all members would have received correspondence from the NSW Society of Labor Lawyers which has taken up the concerns that were first raised with me by Mr McKenzie. The Opposition is fully supportive of any effort to amend electoral funding legislation to prevent corruption. However, concerns have been raised by all members about the drafting of proposed section 96D and whether the terms of that proposed section are consistent with the recent High Court decision. If not, it raises the prospect that the section, once passed, could be challenged and found invalid. If that is the case the very thing we are seeking to do by way of this bill—to amend the principal Act in light of the recent High Court decision in *Unions NSW and Ors v State of New South Wales*—could result in us making the same mistake that was made by this Parliament two years ago.

The Premier has said that the bill was designed to correct provisions in the principal Act that the High Court ruled invalid in December last year. Indeed, the bill attempts to correct the legislation through a number of amendments, including the reintroduction of section 96D in the form it was in prior to the enactment of the Election Funding, Expenditure and Disclosures Amendment Act 2012. In recent days concern has been raised that proposed section 96D (1) (a) appears to be inconsistent with the High Court's decision in *Unions NSW & Ors v State of New South Wales*. That case considered how the implied freedom of political communication found in the Australian Constitution bears on electoral funding laws. The High Court concluded that freedom of political communication means that political donations cannot be restricted to individuals on the electoral roll. Indeed, proposed section 96D (1) (a) purports to do exactly what the High Court said should not be done.

I question whether the limitations that section 96 (1) (b) places on who can make political donations would also find some difficulty if they were to be examined by the High Court. Under proposed section 96 (1) (b) the only non-electoral donations that can be received are those from entities with an Australian business number [ABN] or another business number recognised by the Australian Securities and Investments Commission [ASIC]. This specific issue was not considered by the High Court in *Unions NSW & Ors v State of New South Wales* last year. However, the court's general reasoning in that case could easily be applied to proposed section 96 (1) (b). Namely, proposed section 96D (1) (b) is selective in its prohibition and the basis for the selection is not identified and not apparent. No obvious anticorruption purpose is served by proposed section 96 (1) (b). It is not clear what proposed section 96 (1) (b) seeks to achieve by preventing entities without an ABN or ASIC recognised number from making political donations. It might be assumed that some of the affected entities have a legitimate interest in political matters similar to many individuals who are not on the electoral roll.

A complete prohibition on political donations might be understood to further the anticorruption purposes of the legislation, if such a measure could be justified as a proportionate response to identified corruption. I note that the Premier has said he is supportive of such a debate occurring. However, the concern

raised with me is whether the current incomplete prohibition in proposed section 96D is explicable and whether it amounts to an unjustifiable burden on freedom of political communication. Beyond those comments, I would refer members to the speech of the member for Blacktown in the other place where he further outlined the view of the Labor Opposition with respect to this legislation.

**Dr JOHN KAYE** [3.14 p.m.]: On behalf of The Greens I speak in debate on the Election Funding, Expenditure and Disclosures Consequential Amendment Bill 2014 and state at the outset that The Greens support the bill. The bill formally restores the Election Funding, Expenditure and Disclosures Act to its pre-March 2012 state and undoes a number of consequential matters by ensuring that donations made by entities other than individuals on the electoral roll since December 2013 are captured by the capping and reporting requirements of the Act as it existed before December 2013.

In March 2012 the Parliament passed the Election Funding, Expenditure and Disclosures Amendment Act 2012 which inserted sections 95G (6) and (7) and had the effect of aggregating the electoral communications expenditure of affiliated organisations into the spending of the party for the purposes of the cap; it replaced section 96D with a provision that banned donations from those other than individuals on the electoral roll; it made a number of consequential amendments to reflect the changes I have outlined to the provisions relating to major political donations, donation reporting requirements and applicable donations caps; and it inserted section 87 (4), which made clear that electoral expenditure and electoral communications expenditure of third parties do not include issues-based spending—that is, spending that is not for the dominant purpose of promoting or opposing a party, a candidate or a group of candidates. In December 2013 the High Court struck out sections 95G (6) and (7) as well as section 96D. At that point they became inoperative, although they remained in the Act. On the *legislation.nsw.gov.au* website I note that the following editorial note was inserted:

This section was declared invalid on 18.12.2013 by *Unions NSW v New South Wales* [2013] HCA 58. The text of this section as it was before its substitution by the *Election Funding, Expenditure and Disclosures Amendment Act 2012 No. 1* read as follows:

An excerpt of the text is then included. The High Court did not make any ruling against the consequential amendments. Therefore it was possible from the time of the High Court's decision in 2013 that donations from corporations and unions were not capped and there were no reporting requirements. This bill seeks to fill that void by deleting inoperative sections 95G (6) and (7); replacing inoperative 96D with its pre-March 2012 version; restoring the previous definitions and other provisions that were affected by the consequential amendments in the 2012 amending Act to be as they were before the 2012 amending Act; and inserting a provision to ensure that donations made from the time of the High Court decision—that is, December 2013—by donors who were other than individuals on the electoral roll are captured by the caps and reporting provisions of that Act before it was amended, and donors are given a 28-day period of grace. Also the Opposition amendment in the lower House, which was accepted by the Government, extended the coverage of the corporate donations to the time of the passage of the 2012 amending Act. I note that the 2012 insertion of section 87 (4) was unaffected by the High Court and is not proposed for change or deletion in this bill. To that extent The Greens support the legislation.

The NSW Society of Labor Lawyers has raised concerns that proposed section 96D (1) would be open to constitutional challenge and that "members of Parliament might be found to have failed to consider and have acted contrary to the High Court's decision." I note that proposed section 96D is precisely the version that was in force from 1 January 2011 until the 2012 amending Act; and the provisions in that form were not subject to a High Court challenge—to my knowledge they were never subject to any criticism.

I also note that defining an individual as someone "enrolled on the roll of the electors for State elections, the roll of electors for federal elections, or the roll of electors for a local government election" was intended as an anticorruption measure. It is not perfect; in fact, it is deeply imperfect. But, rather than having an unknown person from an unknown place—potentially with a made up name—making a donation, at least donations could be traced back to the electoral roll. So the intent behind proposed section 96D (1) (a) was to ensure that there was some chance of tracing that individual. Of course, as an anticorruption measure it is only as good as the electoral roll, which is not perfect, as we know. But it does give us, to at least some degree, an anticorruption measure. To that extent, I think it would be likely to survive a High Court challenge.

The NSW Society of Labor Lawyers goes on to criticise proposed section 96D (1) (b), which requires that donations be made only by an entity that has a relevant Australian business number. Again, the requirement to have a relevant ABN was inserted into the Act in 2010 by the previous Labor Government with the support of all members of this House. I did not hear any members of the House speak against it at that stage. It was an



anticorruption measure. Prior to 2010, section 96D referred only to donations being made by an individual or by an entity that has an ABN, and that went back for some time. So I do not think one can accept the argument made by the NSW Society of Labor Lawyers. It was interesting that it made that argument.

The Greens will propose an amendment during the Committee stage to increase the category of individuals who can make donations beyond those who are on the electoral roll to include citizens and permanent residents who are over the age of 15 years. There are a number of reasons for doing this. First, there are younger individuals who wish to make donations. Secondly, the citizenship requirement seems to be too strong. A number of people who live in New South Wales are permanent residents. They are affected by the laws of New South Wales and they have valid political opinions. They should potentially be allowed to vote—they should be allowed to have a say.

**The Hon. Dr Peter Phelps:** That snuck out, didn't it, John?

**Dr JOHN KAYE:** I acknowledge the interjection of the Hon. Dr Peter Phelps. It is the policy of our party that the voting age should be lowered. I strongly support that policy.

**The Hon. Dr Peter Phelps:** And should it be opened to permanent residents?

**Dr JOHN KAYE:** It should not be lowered to the age of 15 and I do not believe it is the policy of our party to open it up to permanent residents. But if we want to have that debate we certainly can. Arguments can be made by members on both sides of the Chamber. Leaving that aside, the second issue is that the membership of many political parties is open to people below the age of 18—that is, below the age at which they can be on the electoral roll. Under the provisions which were inserted in November 2010 and which came into force on 1 January 2011, such people could not be financial members of a political party. They could not pay the membership fee because membership fees are donations. So it would be illegal for them to pay membership fees. That seems unfair to us. A number of young people have joined The Greens. I am sure there might have been, historically, a young person who joined The Nationals—although they would have rapidly grown old.

**The Hon. Luke Foley:** I saw an email with a breakdown of your members by age.

**Dr JOHN KAYE:** I am sure that the member did.

**The Hon. Rick Colless:** You do not have any young members in the Parliament; we do.

**Dr JOHN KAYE:** I refute that interjection—it is misleading the House. The Greens have me and they have Jamie Parker.

**The Hon. Rick Colless:** You are not young, and he is not young.

**Dr JOHN KAYE:** I am young at heart. I will return to the matter at hand. I look forward to the debate on this issue. There are valid reasons for broadening the category of individuals—not necessarily the reasons put forward by the NSW Society of Labor Lawyers but other reasons whereby it would be more just to allow such people to donate. The Greens will not oppose the legislation. We commend the legislation to the House.

**The Hon. PAUL GREEN [3.24 p.m.]:** I make a brief contribution to debate on the Election Funding, Expenditure and Disclosures Consequential Amendment Bill 2014. The intention of this bill is to make consequential amendments to the Election Funding, Expenditure and Disclosures Act 1981 following the High Court's decision in *Unions NSW and Ors v State of New South Wales*. The Christian Democratic Party [CDP] understands that the High Court struck down a number of laws relating to election funding. The peak union body argued that the 2012 provisions, which banned corporate donations and aggregated the campaign expenditure limits of parties and their affiliates, infringed an implied constitutional freedom of political communication. We also understand that this bill has a certain degree of urgency attached to it in that it is important that the amendments are in force before the end of the annual disclosure period for political donations and electoral expenditure, which concludes on 30 June.

I further understand that the Premier has been closely consulting with the Electoral Commissioner and other representatives from the NSW Electoral Commission in preparing this bill and that the Electoral Commission supports it. I note that in the other place Premier Baird said the Government was disappointed with the decision of the High Court. He said:

... the High Court has now spoken on this matter and our further attempts to address the risks associated with political donations will take that decision into account.

The first step we need to take is to ensure that, following the High Court's decision, corporate donations are regulated in the same way as all other political donations.

Furthermore, the CDP notes that, as Premier Baird said:

The purpose of the Election Funding, Expenditure and Disclosures Consequential Amendment Bill 2014 is to address a gap in election funding regulation that has arisen as a result of the High Court striking down these reforms. While the High Court's decision invalidated sections 96D and 95G (6) of the Election Funding, Expenditure and Disclosures Act, it did not affect various consequential amendments made at the time of the introduction of these two provisions, which therefore remain in force. The general effect of this is that the Act allows for donations from individuals and corporations, but the supporting provisions of the Act only contemplate donations made by individuals. This means that the disclosure requirements applying to donations made by individuals do not apply in their entirety to corporate donations. The bill will resolve this issue.

The bill will formally remove the provisions invalidated by the High Court and restore the 2010 provisions that were replaced by the two invalid provisions. Most importantly, the bill will also reverse the associated consequential amendments. In particular, this will mean that, should the bill be passed, corporate donations made between the date of the High Court's decision and the passing of the bill should be caught by the same disclosure requirements as apply to all other political donations. Donations made by a corporation will also be required to be aggregated during a particular financial year, or where they are made to elected members, groups or candidates of the same party as occurs at present in respect of donations made by individuals. The amendments made by the bill will be taken to have commenced on 18 December 2013, being the date of the High Court's Unions NSW decision. The key impact of treating the amendments contained in the bill as having commenced on this date is that corporate donations will be regulated in exactly the same way as all other donations from that same date.

The Christian Democratic Party concurs with the words of Premier Baird. He also said:

In the past two months this State has been confronted by the real challenge of ensuring that political donations do not buy influence and are not perceived to do so. It has been a problem in this State for a long time. It is a complex issue that has long been grappled with in New South Wales.

This bill is a step towards improving transparency and the CDP commends it, particularly given what we have seen recently in the public sphere. It is pretty sad that when politicians get caught out doing the wrong thing it casts a shadow over the integrity of all politicians, which is not how it should be. I commend the bill to the House.

**The Hon. ERNEST WONG** [3.29 p.m.]: I join my colleagues in discussing the Election Funding, Expenditure and Disclosures Consequential Amendment Bill 2014. Through the amendments in this bill the Government is seeking to resolve the issue by applying a bandaid over an existing bandaid—it is applying a plaster onto an existing plaster. The Government created this mess in 2012 when the former Premier put forward a solution to electoral funding reform that was not a solution. It was not a solution because it was dishonest about its aims. It claimed to be about cleaning up electoral funding and stamping out corruption, but it did not do such thing. It merely tilted the electoral funding playing field towards the Coalition. As for stamping out electoral corruption, I think we should all await the decision of the Independent Commission Against Corruption in that regard. I am sure members opposite are waiting eagerly.

It was evident to all on our side of the House that the real aim of the previous bill was not to clean up election donations but to favour some donors over others—namely, those with personal wealth. From the minute the bill was proposed questions were raised about its constitutional validity. Surely this represented a restriction on the free exchange of political views. After all, the position of the High Court on this issue has been clear since the Lange case in 1997. In its decision the High Court outlined a two-part test for determining whether a law is invalid because it infringes freedom of communication, and stated:

Two questions must be answered before the validity of the law can be determined. First, does the law burden freedom of communication about political matters, either in its terms, operation or effect? Second, if yes, then is the law reasonably appropriate and adapted to serve a legitimate end? If the first question is answered "yes" and the second is answered "no", the law is invalid.

These matters and the long-established law that supports them were raised by Opposition members and many legal commentators in 2012. There is no doubt that this advice would have been provided to both the Government and the former Premier. It would have been made clear to them that their blatant attempt to create a one-sided election funding model was likely to fly foul of the Constitution. Did the former Premier take heed? He did not. He ploughed ahead, claiming to be stamping out corruption in New South Wales and all but daring the High Court to intervene. His calls were answered—but not in his favour.

In 2013 the High Court found that the 2012 laws infringed the implied constitutional right to free communication on governmental and political matters. In other words, the first part of the two-part test was answered in the affirmative. But that was not what was fatal to the O'Farrell laws. If the court had found that the laws were in fact "reasonably adapted and appropriate" for the stated purpose of the bill they could still have survived. The Government submitted that the stated purpose of the bill was to stamp out the potential for corruption in electoral funding. Here the view of the High Court is indeed fatal to the bill and fatal to the credibility

of the former Premier. The High Court found that the laws impeded the ability of organisations to engage in free political communication in a way that was not appropriate or adapted to their supposed purpose of stamping out corruption. The High Court found that the burden imposed by the laws could not be justified because:

It is not possible to attribute a purpose to section 96D that is connected to, and in furtherance of, the anti-corruption purposes of the EFED Act. There is nothing in the provision to connect it to the general anti-corruption purposes of the Act.

In the circumstances that was a terrible judgement for the Government but a great judgement for the people of New South Wales. It was a great judgement for freedom of political communication but a terrible indictment on the Government that sought to blatantly attack those freedoms. In addition, it was a sad day for the former Premier, who was left standing outside the High Court muttering, "But the vibe, your Honour. It's the vibe."

Of course, the saddest thing is that the process squandered the genuine political capital that exists in New South Wales communities to introduce real reform. Our communities have made it clear that real ideas to overhaul political funding will be considered. However, in seeking to cloak favouritism for Coalition donors in the guise of real reform the Government has squandered that potential. Today it seeks to repeat the mistake. Instead of heeding the will of the community and introducing a real reform package, the Government seeks to stick a bandaid over the Act and to defer any true reform until after this Parliament has risen. It is a cynical tactic to ensure that the questions of electoral reform are not addressed in this Parliament and, therefore, that the millions of dollars in donations amassed by the Coalition are still available for the next election.

Given that the last Premier promised to clean up New South Wales and that his only legislative attempt to do so was found sadly wanting, it is not good enough for his successor to front the electorate four years later and have nothing better to report than, "Well, we're working on it." If the Premier were serious about this issue we would be discussing a very different bill today. We would be discussing how this Parliament can implement a total reform of political donations and a public funding regime. Members opposite have mouthed platitudes about these aims but have deferred the question to committees with terms of reference so vague that almost any outcome is possible, including a significant winding back of the reforms already established under the Labor Government.

Reforming political donations is a real issue for New South Wales communities. They want confidence in public decision-making to be restored in New South Wales. That is good not only for democracy but also for business and investment in this State. So far only one party has implemented any real reform on this issue in the past decade, and that is the Labor Party. Its reforms under Premiers Rees and Keneally created the tightest but fairest donation regime in the nation. It is time for members opposite to stop playing politics with this vital issue, to stop feathering their own nests at the expense of political fairness and freedom, and to start to work with Labor on the real reform that our communities are seeking. This bill is merely a stopgap measure and a cynical strategy for the 2015 election. New South Wales communities will see that clearly. Even though the Labor Party will not oppose the amendment bill, it is about time we sat down together and worked out a real reform of this Act for the benefit of New South Wales. I thank members for their attention.

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [3.36 p.m.], in reply: I thank members for their contributions to debate on the Election Funding, Expenditure and Disclosures Consequential Amendment Bill 2014. As indicated earlier, this bill will address a gap in election funding regulations that arose following a recent High Court decision. In particular, as a result of this bill all disclosure obligations that previously applied to corporate donations will be restored. I thank for their varying contributions the Hon. Luke Foley, Dr John Kaye, the Hon. Paul Green and the Hon. Ernest Wong.

**The Hon. Luke Foley:** And honest.

**The Hon. DUNCAN GAY:** How honest is he? He delivered a tirade against the bill, but let us see how he votes. If he believed the speech he delivered today there is no way in the world he could vote for the bill. Let us see whether the actions of that Labor backbencher come anywhere near his rhetoric. The bill will ensure that corporate donations made since the corporate donations ban was struck down on 18 December 2013 do not slip through a regulatory loophole. It is an essential step in the regulation of political donations in this State. I commend the bill to the House.

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

**Motion agreed to.**

**Bill read a second time.**

**In Committee****Clauses 1 and 2 agreed to.**

**Mr DAVID SHOEBRIDGE** [3.40 p.m.]: I move The Greens amendment No. 1 on sheet C2014-057:

No. 1 Page 4, schedule 1 [9], proposed section 96D (1) (a), lines 10–12. Omit all words on those lines. Insert instead:

- (a) an Australian citizen or permanent resident of Australia who is 15 years of age or older, or

This amendment deals with probably one of the core changes in this amending bill, which is the restriction on persons from whom donations can be accepted. As discussed during the second reading debate, this legislation proposes to return the law to where it was prior to the O'Farrell amendments of 2011 that sought to limit donations to individuals who are on the roll of electors. But in doing so the legislation proposes, at new section 96D:

**96D Restrictions on persons from whom donations can be accepted**

- (1) It is unlawful for a political donation to a party, elected member, group, candidate or third-party campaigner to be accepted unless the donor is:
  - (a) an individual who is enrolled on the roll of electors for State elections, on the roll of electors for federal elections, or on the roll of electors for a local government election, or
  - (b) an entity that has a relevant business number.

The Greens move this amendment to replace new section 96D (1) (a) with the following words:

- (a) an Australian citizen or permanent resident of Australia who is 15 years of age or older ...

In other words, The Greens amendment will allow for anyone who is an Australian citizen or a permanent resident of Australia and who is aged 15 years or more to donate to political parties. The Greens would also be supportive of legislation prohibiting for-profit corporations from donating, but arguably that is not within the leave of this bill.

**The Hon. Duncan Gay:** It is not the corporations but the profit you hate.

**Mr DAVID SHOEBRIDGE:** It is the for-profit corporations that I personally and my party as a collective do not believe have a right to influence our elected officials. Indeed, for-profit organisations exist only to benefit individuals and should be seen to exist only to benefit individuals. They should not be seen to exist so that they can influence our laws and our parliaments, and influence them often to the direct detriment of individuals who make up our society. But that is an argument for another day. The Greens amendment No. 1 seeks to allow individuals who are not on the electoral roll, such as young people from the ages of 15 to 18 and individuals who are long-term permanent residents, to contribute to political parties.

The Greens have moved this amendment because we believe limiting the right only to individuals who are on the roll of electors will exclude important contributions from important sections of our society. The Greens proposed amendment has strong support in last year's decision by the High Court. I cite the judgement of Justice Keane, who, when considering the complete limitation in the previous legislation that stipulated only individuals on the electoral roll can donate to political parties, stated:

There is also no evident basis, in terms of the rationale suggested by the defendant—

I pause there to note that the defendant in this case was the New South Wales Government, which was seeking to support the limitation of donations to those persons on the electoral roll—

to differentiate between individuals who are enrolled to vote and those who are not as sources of political communication. To disfavour political communication sourced in funds provided by individuals on the sole ground that they are not on the roll of electors is to fail to appreciate two matters. First, unenrolled individuals may be among the governed whose interests are affected by governmental decisions. Secondly, and more importantly, the freedom of political communication within the federation is not an adjunct of an individual's right to vote, but an assurance that the people of the Commonwealth are to be denied no information which might bear on the political choices required of them.

His Honour went on to state:

Thus, in *ACTV*,—

which is a decision of the 1980s by the High Court—

Mason CJ made the point that the electors, who must make the political choices required by the Constitution, may be assisted by the views of those within the community who are not entitled to vote:

"Freedom of communication in relation to public affairs and political discussion cannot be confined to communications between elected representatives and candidates for election on the one hand and the electorate on the other. The efficacy of representative government depends also upon free communication on such matters between all persons, groups and other bodies in the community."

Clearly there are judgement calls to be made about where, under the Lange test, it is appropriate to draw the line as to who can contribute and how much they can contribute to election campaigns. The Greens would firmly draw the line much more tightly than is proposed under this legislation in regard to the for-profit corporations. I have said before, and as The Greens have been consistently saying, we do not believe that for-profit corporations should be able to make any donations to political parties, but we should not exclude individuals who are permanent residents and who potentially are here for 10, 20 or 30 years. Many New Zealand residents live here for a large part of their lives but do not take up citizenship.

**The Hon. Dr Peter Phelps:** Or employment.

**Mr DAVID SHOEBRIDGE:** I note the interjection from the Government Whip and I find it quite offensive.

**The Hon. Dr Peter Phelps:** Have a sense of humour, David.

**Mr DAVID SHOEBRIDGE:** I do not have a sense of humour when the Government Whip makes those types of appalling observations about groups of people.

**The Hon. Dr Peter Phelps:** You could have just stopped after "sense of humour".

**Mr DAVID SHOEBRIDGE:** I do not. Often people live here for decades and they are valuable and contributing members of our community. If they should choose to donate to a political party, such as the political party of the Government Whip, the party of the Leader of the Opposition, The Greens or the Christian Democratic Party, that probably would be a positive outcome for democracy, provided they did so in a measured manner. Equally, often young people are some of the most passionate and engaged people in politics. But 15-, 16- or 17-year-olds are not entitled to be on the roll of electors.

**The Hon. Duncan Gay:** Point of order: We noticed that Mr David Shoebridge was not present for the second reading debate and to use the Committee stage as a blatant excuse to make a second reading contribution is well beyond the normal tolerance of the Legislative Council. Madam Chair, I request that you bring him back to the leave of the amendment.

**Mr DAVID SHOEBRIDGE:** To the point of order: I was speaking directly to the amendment, which is about allowing people who are 15, 16 or 17 years of age to make contributions to political parties. It is the core subject of the amendment. Perhaps the Leader of the Government did not understand that.

**The CHAIR (The Hon. Jennifer Gardiner):** Order! There is no point of order.

**Mr DAVID SHOEBRIDGE:** Fifteen-, 16- and 17-year-olds are not entitled to be on the electoral roll, but they are often passionately engaged in politics—not all of them, but some of them. If they choose to become a member of a political party, they should be able to become a full member of that party and to pay a membership fee. But if the bill is passed in its present form they will not be entitled to do so because that membership fee will be considered a donation. It will be unlawful for a political party to accept members who are 15, 16 or 17 years of age by payment of a fee.

Of course, political parties could accept them for a zero fee and no membership payment, but in large part they would be second-class members. If they choose, by working on the weekend or after school, to put a little bit of money aside because they are passionate about a political cause and want to join a political party, they should be able to do so. The Greens believe very firmly that that would improve our democracy. The more engagement we have from young people, the better our democracy will be. I commend the amendment to the Committee.

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [3.49 p.m.]: The requirement for an individual to be enrolled in order to donate has existed since 2010. Unlike the formulation in this amendment, the reliance on enrolment provides a ready list against which donors can be checked. The requirement of enrolment helps in donations being traced and monitored. It also helps to prevent individuals and other entities from avoiding the caps and other restrictions that are imposed on political donations. For this reason, the Government does not support the amendment proposed by the honourable member.

**The Hon. LUKE FOLEY** (Leader of the Opposition) [3.50 p.m.]: The Opposition will oppose this amendment. We will not be lectured to by The Greens, given that the rancid piece of legislation that was passed in this place in 2012 was courtesy of The Greens jumping into bed with the Liberal-Nationals coalition. I understand that Mr Shoebridge was not part of that and was rolled in his party room by Mr Buckingham and friends. But the horrible, grotesque deal that Mr Buckingham did with the then Premier in order to get one over his internal opponents in The Greens led to an absolute legislative dog's breakfast being passed into law. It was rightly thrown out by the High Court of Australia, and we will not entertain suggestions now from The Greens on what to do to fix the dog's breakfast that they co-authored.

**Mr DAVID SHOEBRIDGE** [3.51 p.m.]: It is not unusual that we get an unprincipled position being put by the Leader of the Opposition on these kinds of matters, and that was classic unprincipled opposition to an amendment. This amendment is designed to ensure that we have more participation in our democracy. Judging from the contribution of the Leader of the Opposition—if we can call it that—he is obviously angry, disempowered and frustrated. I understand that; it can be a long and dark existence in the left wing of the Labor Party. But this amendment is about improving the electoral laws and ensuring that young people can contribute to politics. They can contribute to politics through joining parties, paying a membership fee and making a modest contribution to those parties. Why are we excluding 15-, 16- and 17-year-olds from engagement in a political party?

The other aspect to this bill is allowing permanent residents to contribute to the political process. They may not be on the electoral roll, as the Leader of the Government says. I understand—and it is the only rationale put forward by those supporting new section 96D in its current form—that this is about a measure of fraud control and ensuring there is some list against which you can check donations. But there is always a balance in our electoral laws between allowing engagement and fraud control. A number of states in the United States have taken election fraud control to the point where they require photo identification before a person can vote. That is a modest measure of fraud control but it is deeply discriminatory because it excludes many African Americans, poorer Americans and others from making contributions.

**The Hon. Dr Peter Phelps:** Point of order: Mr David Shoebridge has now strayed very far from the substance of the amendment before us, which relates to the ability of individuals to donate funds. I ask that he be drawn back to the amendment. If he wished to make a contribution to the second reading debate he had plenty of opportunity to do so.

**The CHAIR (The Hon. Jennifer Gardiner):** Order! I remind all members to address the amendments before the Chair.

**Mr DAVID SHOEBRIDGE:** There are ways to control fraud and they need to be part of our electoral laws, but we cannot have fairness become a slave to those kinds of rules. The Greens believe this amendment essentially gets it right, and I commend it to the House.

**Question—That The Greens amendment No. 1 [C2014-057] be agreed to—put and resolved in the negative.**

**The Greens amendment No. 1 [C2014-057] negatived.**

**Schedule 1 agreed to.**

**Title agreed to.**

**Bill reported from Committee without amendment.**

#### **Adoption of Report**

**Motion by the Hon. John Ajaka, on behalf of the Hon. Duncan Gay, agreed to:**

That the report be adopted.

**Report adopted.**

### Third Reading

#### **Motion by the Hon. John Ajaka, on behalf of the Hon. Duncan Gay, agreed to:**

That this bill be now read a third time.

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

### PARLIAMENTARY ETHICS ADVISER

**DEPUTY-PRESIDENT (The Hon. Paul Green):** I report the receipt of the following message from the Legislative Assembly:

MR PRESIDENT

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

That this House directs the Speaker to join with the President to make arrangements for the appointment of Mr John Evans, PSM, as Parliamentary Ethics Adviser, on a part-time basis, on such terms and conditions as may be agreed from the period beginning 1 July 2014.

The Parliamentary Ethics Adviser shall have the following functions.

#### Advice to Members of Parliament

- (1)
  - (a) The Parliamentary Ethics Adviser is to advise any member of Parliament, when asked to do so by that member, on ethical issues concerning the exercise of his or her role as a member of Parliament (including the use of entitlements and potential conflicts of interest);
  - (b) the Parliamentary Ethics Adviser is to be guided in giving this advice by any Code of Conduct or other guidelines adopted by the House (whether pursuant to the Independent Commission Against Corruption Act or otherwise);
  - (c) the Parliamentary Ethics Adviser's role does not include the giving of legal advice.

#### Advice to Ministers on post-separation employment

- (2) The Parliamentary Ethics Adviser must on request by a Minister provide written advice to the Minister as to whether or not the Adviser is of the opinion that the Minister's:
  - (a) acceptance of an offer of post-separation employment or engagement which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office); or
  - (b) decision to proceed, after the Minister leaves office, with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relates to the Minister's portfolio responsibilities (including portfolio responsibilities held during the previous two years of ministerial office),  
would give rise to a reasonable concern that:
    - (c) the Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or
    - (d) the Minister might make improper use of confidential information to which he or she has access while in office.
- (3) The Adviser must on request by a person who has ceased to hold ministerial office within the previous 18 months ("the former Minister") provide written advice to the former Minister as to whether or not the Adviser is of the opinion that the former Minister's:
  - (a) acceptance of an offer of employment or engagement which relates to the former Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office; or
  - (b) decision to proceed with a proposal to provide services to third parties (including a proposal to establish a business to provide such services) which relate to the former Minister's former portfolio responsibilities during the last two years in which the Minister held ministerial office,  
would give rise to a reasonable concern that:
    - (c) the former Minister's conduct while in office was influenced by the prospect of the employment or engagement or the proposal to provide services; or
    - (d) the former Minister might make improper use of confidential information to which he or she had access while in office.

- (4) If the Adviser is of the opinion that accepting the proposed employment or engagement or proceeding with the proposal to provide services might give rise to such a reasonable concern, but the concern would not arise if the employment or engagement or the provision of services were subject to certain conditions, then he or she must so advise and specify the necessary conditions.
- (5) The Adviser's advice must include:
- (a) a general description of the position offered, including a description of the duties to be undertaken, or the services to be provided, based on material provided by the Minister or former Minister but excluding any information that the Minister or former Minister indicates is confidential; and
  - (b) the Adviser's opinion as to whether or not the position may be accepted, or the services may be provided, either with or without conditions.
- (6) Where the Adviser becomes aware that a Minister or former Minister has accepted a position, or has commenced to provide services, in respect of which the Adviser has provided advice, the Adviser must provide a copy of that advice to the Presiding Officer of the House to which the Minister belongs or to which the former Minister belonged.

#### Keeping of records

- (7) The Parliamentary Ethics Adviser shall be required to keep records of advice given and the factual information upon which it is based.
- (8) Subject to clause 6, the Parliamentary Ethics Adviser shall be under a duty to maintain the confidentiality of information provided to him in exercising his function and any advice given, but the Parliamentary Ethics Adviser may make advice public if the person who requested the advice gives permission for it to be made public.
- (9) This House shall only call for the production of records of the Parliamentary Ethics Adviser if the person to which the records relate has:
- (a) in the case of advice given under clause 1(a), sought to rely on the advice of the Parliamentary Ethics Adviser; or
  - (b) given permission for the records to be produced to the House.

#### Annual meeting with committees

- (10) The Parliamentary Ethics Adviser is to meet annually with the Standing Committee of each House designated for the purposes of Part 7A of the Independent Commission Against Corruption Act.

#### Report to Parliament

- (11) (a) The Parliamentary Ethics Adviser shall be required to report to the Parliament annually on the number of ethical matters raised with him, the number of members who sought his advice, the amount of time spent in the course of his duties and the number of times advice was given.
- (b) The Parliamentary Ethics Adviser may report to the Parliament from time to time on any problems arising from the determinations of the Parliamentary Remuneration Tribunal that have given rise to requests for ethics advice and proposals to address these problems.
- (12) That a message be sent informing the Legislative Council of the resolution.

Legislative Assembly  
17 June 2014

SHELLEY HANCOCK  
Speaker

**Consideration of message set down as an order of the day for a future day.**

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

### **QUESTIONS WITHOUT NOTICE**

#### **ILLAWARRA INFRASTRUCTURE**

**The Hon. LUKE FOLEY:** My question is directed to the Minister for the Illawarra. I refer to the commitment made by the Government two years ago to provide \$100 million for infrastructure projects in the Illawarra following the lease of the port of Port Kembla. How much of that \$100 million has been allocated to the region? When will the Minister outline when the remainder will be released to the region to stimulate the local economy?

**The Hon. JOHN AJAKA:** I thank the Leader of the Opposition for that question. The \$100 million has been allocated in the Restart Illawarra Fund. I find it rather interesting that those opposite objected to and



opposed the Restart Illawarra Fund yet suddenly now wonder when things will occur. The process has been completed. All successful applicants have been notified. The great news is that not only is it a \$100 million restart fund; we have achieved almost dollar-for-dollar commitments from the successful applicants to contribute \$90 million in total. Total funds to be injected into the Illawarra are \$190 million in addition to the \$170 million for the Princes Highway upgrade, which is taking place. I am sure the Minister for Roads and Freight will have lots more information about that in due course.

One has only to drive down the Princes Highway to see all of the money being injected into that project. The funds are allocated. The funds are available. When the successful applicants obtain all their necessary approvals and commence construction, the funds are payable. Those opposite think it is a bit like the Rozelle Metro to nowhere. They believe we should just simply hand over the money before obtaining approvals and before construction commences. Perhaps that is how those opposite undertake business, but this Government does not.

## STATE BUDGET

**The Hon. MELINDA PAVEY:** My question is addressed to the Minister for Roads and Freight. Could the Leader update the House on today's budget announcement?

**The Hon. DUNCAN GAY:** I thank the member for that question. I was hoping it would be asked of me. No good questions on the budget have come from those opposite. They sit silent like Easter Island sentinels. They have not a word to say because they have been gobsmacked.

**The Hon. Greg Donnelly:** Point of order: The Minister is misleading the House. This is only the second question.

**The PRESIDENT:** Order! The member will resume his seat.

**The Hon. Greg Donnelly:** We have only had a chance to ask one question.

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

**The Hon. DUNCAN GAY:** One out of one wrong. I am delighted that today Premier Mike Baird and Treasurer Andrew Constance announced that this great State will return to surplus one year earlier than forecast in the half-yearly review. That is one year earlier, Walt. In 2011 we inherited a budget with unsustainable debt and an economy that had become the embarrassment of the nation. New South Wales was like a third-world country. Just three years later we have secured the budget and are at or near the top of the nation on all leading economic indicators—something those opposite dream about and, in fact, something about which they wrote but which, like everything else, was not true.

Today's budget places the Government in a perfect position to deliver Rebuilding NSW, a \$20 billion boost to infrastructure that will further turbocharge productivity and growth. The 2014-15 budget delivers also a drastic improvement in the State's net debt position. At 30 June 2014 net debt is estimated to be around \$8.6 billion or about 1.7 per cent of gross State product, which is \$7.1 billion less than originally estimated. The 2014-15 budget capitalises on the confidence that the New South Wales economy has grown by 4.7 per cent over the past year and its growth has led the nation for two consecutive quarters. The budget result delivers a forecast deficit of \$283 million for 2014-15 before an expected return to surplus of \$660 million in 2015-16. We will be back in the black in the next financial year.

The 2014-15 budget begins the heavy lifting on the biggest infrastructure projects in Australia's history: \$1.3 billion for the rebuilding and repair of our major hospitals; \$863 million for the start of major construction of the North West Rail Link; \$398 million for work on the 33 kilometre WestConnex motorway; \$265 million for the start of major construction of the central business district and South East Light Rail project; and \$103 million to finalise construction of the South West Rail Link. The Opposition is quiet. We will never forget the damage that Labor did to our State and our country nor will we stop reminding them. There was a feeling of hopelessness in the business and wider community as our economy fell further into Labor's debt and Labor's deficit with nothing to show for it. As the Treasurer said, we are now in control of the New South Wales budget; it is no longer controlling us. We are in a much better place than those on the losers lounge [*Time expired.*]

**TAFE NSW**

**The Hon. ADAM SEARLE:** My question without notice is addressed to the Minister for Ageing, representing the Minister for Education. What is the Government's response to concerns expressed by the 300 staff in TAFE who will lose their jobs as part of today's budget?

**The Hon. JOHN AJAKA:** I thank the member for his question. I will refer it to the Minister for Education to supply an answer.

**FERAL PIG CONTROL**

**The Hon. ROBERT BROWN:** My question without notice is directed to the Minister for Roads and Freight, representing the Minister for Primary Industries, and refers to the Greater Sydney Local Land Services campaign to control feral pigs in the Penrith area. Is the Minister aware of photographs that appeared on the *Sydney Morning Herald* website that appeared to show Local Land Services officers spreading oats and grain laced with 1080 poison immediately adjacent to a waterway? Did those officers breach public health or other State legislation by laying this poison within 20 metres of a waterway?

**The Hon. DUNCAN GAY:** I thank the member for his question. I am unaware of the pictures on the Fairfax website; I do not usually visit that site. I prefer to see things that are more accurate. The member has raised valid concerns. I have dealt with 1080 poison in a previous lifetime and I understand his concerns about how careful one has to be when dealing with 1080. It will carry from one animal to another and if it is devoured by a third or a fourth, it can be fatal. I have no evidence to indicate that safeguards have not been put in place. The member has raised valid concerns and I take them seriously. I will refer them to the Minister so that she can supply an answer.

**STATE BUDGET AND DISABILITY SERVICES**

**The Hon. DAVID CLARKE:** My question is directed to the Minister for Ageing, and Minister for Disability Services. Will he update the House on how the NSW budget is supporting people with disabilities?

**The Hon. JOHN AJAKA:** I thank the member for his question. The Liberal-Nationals Government is transforming disability services with record funding in this year's budget to ensure a smooth transition to the National Disability Insurance Scheme [NDIS]. This budget contains a record \$2.9 billion for disability services in the coming financial year and more than \$200 million for capital expenditure. These figures represent a 7.6 per cent growth in recurrent funding in New South Wales, which is a clear demonstration of this Government's commitment to Australia's biggest social reform—the National Disability Insurance Scheme. This funding continues to deliver Ready Together to give more people with disability greater choice and flexibility about how they live their lives. Ready Together places people with disability, providers and the disability service system across New South Wales in the best position to transition seamlessly to the National Disability Insurance Scheme.

Let us take a look at some of the funding that this Government has delivered to people with disability: \$850 million was allocated to community support for people with disability, their family and carers, to provide assistance with the activities of everyday life thereby enabling people to live in their own home and participate in community life, build skills and strengthen family and carer relationships; \$408 million was allocated to short-term interventions for people with disability, their family and carers and older people to access services and community support to maximise their independence and quality of life; \$1.631 billion was allocated to supported accommodation for people with disability who have ongoing intensive support needs, which provides accommodation opportunities for personal growth and development.

In 2014-15 Ready Together will deliver its fourth year of the five-year \$2 billion program, which is an additional \$587 million in the budget to give people with disability more choice and flexibility about how they live their lives. Through Ready Together, we will see the progressive introduction of individualised funding arrangements for people with disability, their families and carers. I am proud to be part of a Government that has produced a budget that will deliver 7.6 per cent growth in funding to support people with disability. The New South Wales Government has also committed \$30 million in the 2014-15 budget for land acquisitions associated with the redevelopment of large residential centres in the Hunter. Moving people with disability out of large residential centres and into smaller contemporary accommodation is a key priority for the New South Wales Government as it is proven to deliver better outcomes for people with disability. People have a right to live

within their communities. The Liberal-Nationals Government is getting on with the job of transforming disability services by delivering substantial growth in funding and exciting new initiatives for people with disability, their families and carers.

### **FAMILY AND COMMUNITY SERVICES**

**The Hon. PAUL GREEN:** My question is directed to the Minister for Ageing, representing the Minister for Family and Community Services. Will he guarantee there will be no net loss of any service to the homeless, youth services or women refuges in the latest awarding of tenders to replace smaller services?

**The Hon. JOHN AJAKA:** There will be no loss in funding. In fact, there is an increase in total funding for the homeless. I congratulate Minister Gabrielle Upton on her work to help the homeless to ensure that the issue does not grow. Despite speculation as a result of media reports to the contrary there will continue to be dedicated services for vulnerable women with or without children and their families. Women's refuges provide an important part of a crisis response and will continue to be part of the service system.

Importantly, the new system will still include specialist services for specific target groups such as women and children escaping domestic and family violence. The vital assistance needed by women escaping domestic and family violence will be embedded into the new services right throughout New South Wales. More than one-third of the 149 new service packages include a focus on women, including women and children escaping domestic and family violence. Some 1,500 additional families will be assisted through the reforms, the majority being primarily women and children.

The new specialist women's service in the inner city, the Inner City Homelessness Prevention and Support Service for Women and Women with Children, will receive almost three times its original budget. Of the additional \$70 million to be provided for complementary homelessness programs, \$31.2 million will be used to extend the Start Safely program, which provides stable private rental housing for women and children escaping domestic violence across New South Wales. An increased supply of transitional housing is also being provided through the new women's housing company, with 29 new homes for homeless women and children escaping domestic violence. The issue of women's safety remains paramount. The new contracts under Going Home Staying Home will contain a condition that specifies that women and men cannot be housed in the same property unless related to each other and if a full risk assessment has determined that there is no unacceptable risk to the other residents.

No government-owned property will cease to be part of the new specialist homelessness service system. The services currently provided to women and children escaping domestic and family violence, including services through refuges and transition accommodation, will continue to be provided under the new funding contracts. Some of the organisations currently providing services may experience change but services will continue to be provided by the organisation that has demonstrated through the open tender process that it is best able to deliver them.

### **ILLAWARRA WOMEN'S SUPPORT SERVICES**

**The Hon. SOPHIE COTSIS:** My question is directed to the Minister for the Illawarra. Given that the latest data from the Bureau of Crime Statistics shows that there were more than 1,000 cases of domestic violence in the Illawarra last year, why has the Government cut funding to organisations like Wollongong Emergency Family Housing and Wollongong Women's Housing, which support women fleeing domestic violence?

**The Hon. JOHN AJAKA:** I refer to my previous answer.

### **STATE BUDGET**

**The Hon. CATHERINE CUSACK:** My question is addressed to the Minister for Fair Trading, representing the Treasurer. Can the Minister illuminate the House on the strong foundations underpinning today's budget?

**The Hon. Greg Donnelly:** Come on, Matt, flick the switch.

**The Hon. MATTHEW MASON-COX:** The word "illuminate" has been carefully chosen because a lot of illumination needs to occur on the other side of the House. We remember the dark shadows that we

inherited when we came to office in 2011. We remember the dark black hole that those opposite would seek to deny, and the former member for Monaro is chief amongst them. He always says, "No, that never happened under my watch. No, I am not responsible." But the economic facts cannot be disputed. Today a very powerful budget has been delivered. It has been built on three years of very hard work by this Government. I congratulate the Treasurer, the Hon. Andrew Constance, and the Premier and former Treasurer, the Hon. Mike Baird, on the excellent work they have done in preparing this powerful budget. I also acknowledge the hard work of the Hon. Greg Pearce. He did a lot of the heavy lifting in the early days of this Government—for example, the very important cap on public service wages, changes to workers compensation procurement and a range of other things, which have added a lot of grunt to the budget bottom line.

It is upon that basis that the Government will continue to build. However, I am somewhat disheartened that those opposite have not brought their moneyboxes with them today. This is a moneybox week and I want to see those opposite bring their moneyboxes every day. Over three years, despite the black hole we inherited, the Government has continued to build on its budget. This financial year we have a small deficit of \$283 million. That is, of course, founded upon Commonwealth funding of \$700 million, otherwise it would have been a surplus of \$440-odd million—we obviously acknowledge those accounting changes. I note also that next year we will move to a \$660 million surplus, followed by surpluses over the forward estimates. That is the truth of the matter, despite what those opposite would contend.

The budget message is simple: net debt is down, expenses are under control for the first time in many years—it never happened under the previous Government—and our triple-A credit rating will be maintained. New South Wales is growing at three times, not twice, the rate of Queensland and Victoria. Housing approvals are the highest in a decade. That comes on the back of our Housing Construction Acceleration Plan in previous budgets, our enhancements to the first home buyer scheme, and our general economic stimulus across a range of sectors in the economy. Since 2011 some 114,000 jobs have been created as a result of the Government's Jobs Action Plan. Those opposite do not understand how an economy works. It is quite fundamental: the Government does not create jobs, the private sector does. The Government understands its role is to create the right circumstances so those jobs and the economy continue to grow.

### NEWCASTLE RAIL LINE

**Dr MEHREEN FARUQI:** I direct my question without notice to the Minister for Roads and Freight, representing the Minister for Transport. The 2014-15 infrastructure budget statement about renewing Newcastle says: "by liberating the existing heavy rail corridor, land will be released and made available to realise its economic potential". Is this an admission that the truncation of the Newcastle rail line has nothing to do with improving public transport? Is it solely about selling off public land to private interests?

**The Hon. Rick Colless:** Where do they get it?

**The Hon. DUNCAN GAY:** Some days I wonder. The Government is finally going to build another light rail. The Greens love light rail. They want to shove a light rail up the middle of Parramatta Road, whether or not we want it. We will not remove the cars or the trucks but we will put a light rail up the middle of Parramatta Road. But when the great Minister for Transport, the Hon. Gladys Berejiklian, attempts to fix the situation in Newcastle we are criticised. The Newcastle central business district is not a pretty spot. The Greens love poverty and urban decay. That is the way they see communities growing; it is in their mantra. We are different. The Government wants to improve Newcastle because it has the bones of a beautiful city—for example, Mayfield, the terrific redeveloped Honeysuckle port area and the great Newcastle beaches. In fact, about a month after the *Pasha Bulker* was finally moved from Nobbys Beach we removed Joe Tripodi from dining on gourmet pizzas up there—he was harder to move than the *Pasha Bulker*.

Not only are we going to do urban renewal of this great city but—for the benefit of the honourable member who hates roads, who will not talk about roads—we will also be doing the inner city ring-road. How good is that? For years the people of Newcastle have been calling for it. Never in the dreams of the Labor-Green governments that pervaded this State for 16 years did they ever get to building something as sensible as the ring-road. We are stopping the heavy rail traffic, putting in light rail and improving that city centre. It has a bank of absolutely magnificent old buildings that are just screaming out for renovation. That is what we are doing there. Yet The Greens want to criticise it. As I said earlier, I give up.

### APPIN ROAD SAFETY

**The Hon. WALT SECORD:** My question without notice is directed to the Minister for Roads and Freight. What is the Government's response to the statement by the member for Heathcote, as reported in the *Illawarra Mercury* on 12 June, that safety improvements to and the installation of barriers on Appin Road were conditional upon the electricity assets sell off?

**The Hon. DUNCAN GAY:** Huge improvements have been made in the Heathcote area. We have a record \$5.5 billion infrastructure budget. It is the biggest infrastructure budget ever of any State in this country. Not one dollar of it is dependent upon the leasing of poles and wires. A large amount of it came from this Government operating under proper economic values in this State. The Government has been careful with our budget bottom line. The Government has recycled infrastructure in this State in order to improve things.

The member for Heathcote is an absolutely fantastic member. I had to move him. I had to get the crowbar out because he was camped outside my office. He was nearly as obnoxious as the Opposition spokesman on roads. He was not going to move until we fixed things up and started work on the pedestrian crossing on the Illawarra Highway. Now that work is underway, I can gain access to my office again. This is the sort of member we are talking about here. If the Hon. Walt Secord were half as good as the member for Heathcote he would contribute something. But, frankly, he is not—he is lazy, he is loose with the truth and he contributes nothing.

### ROAD FUNDING

**The Hon. JENNIFER GARDINER:** My question without notice is addressed to the Minister for Roads and Freight. Will the Minister update the House on the Government's record investment into the State's roads?

**The Hon. DUNCAN GAY:** I was encouraged by those opposite to reveal my hand a bit early. In fact, we may have revealed it accidentally when the Leader of the Opposition was giving a press conference yesterday. We are not sure who the Leader of the Opposition is at the moment. Dr John Kaye seems to be performing that role better than anyone from the Labor Party. As I indicated earlier, the Government is investing \$5.5 billion. It is pretty handy, and something those opposite would have loved to have delivered but they never got within a bull's roar. This is the largest roads, maritime and freight budget in the history of this State. It brings our overall funding commitment to more than \$20 billion since March 2011. That is not too shabby, I would say.

For too long, previous Labor Governments neglected critical infrastructure in this great State. Today this Government continues to build for the future, which Labor ignored. The historic roads, maritime and freight budget is up \$400 million from the previous financial year. It includes \$1.2 billion to continue the upgrade of the Pacific Highway to a four-lane, divided road, which for years under Labor was the cornerstone of their political road games. There is \$266 million to fast-track planning, land acquisition and pre-construction for Australia's largest urban motorway project, the WestConnex. That is something Labor could not even have dreamed of—let alone delivered. There is a further \$132 million for WestConnex construction and delivery costs, including \$109 million to commence widening of the M4. There is \$283.7 million for the NSW Road Safety Strategy. There is \$185 million to continue upgrading the Princes Highway to a four-lane, divided road. That is something else those opposite failed to deliver for those who used to vote Labor. The budget includes \$209 million for road upgrades to support population and economic growth in Western Sydney.

**The Hon. Walt Secord:** You forgot about the speed cameras.

**The Hon. DUNCAN GAY:** The speed camera money does not go anywhere near this. It is hypothecated by a bill which the Hon. Walt Secord passed in Parliament. The Hon. Walt Secord is being just a little sloppy here. There is also maintenance funding of \$131 million for roads in Western Sydney. There is \$113 million to continue upgrading the Great Western Highway, plus maintenance funding of \$21 million for the highway. There is \$70 million for upgrades to Central Coast roads, plus maintenance funding for Central Coast roads of \$39 million.

There is \$69 million for major road upgrades in country New South Wales, including constructing the second stage of the Moree bypass, additional overtaking lanes on the Newell Highway, further safety works on the Barton Highway, replacing the Tangaratta Bridge on the Oxley Highway, upgrades to Gocup Road, and

planning for the upgrade at Bolivia Hill on the New England Highway. There is money for a bypass of Queanbeyan. That is not something which has been achieved by us; it is something which has been achieved by the people of Queanbeyan by voting out the Hon. Steve Whan and the Hon. Mike Kelly. Because if they were still in Government, instead of on the losers lounge, nothing would have happened. [*Time expired.*]

### QUEANBEYAN DEMENTIA SERVICES

**The Hon. STEVE WHAN:** My question is directed to Minister for Ageing, representing the Minister for Health. In recent weeks the Government has deleted the positions of two on-the-ground Department of Health staff who assisted Queanbeyan dementia sufferers and their families. These two people spent years working with dementia sufferers and their carers—building links with other health professionals, providing advice and operating a support group. As a result, Queanbeyan dementia patients and their carers now have no services and only a vague promise of replacement non-government services. Will the Minister commit now to an immediate reinstatement of these services for dementia sufferers in Queanbeyan?

**The Hon. JOHN AJAKA:** I will refer the question to the Minister for Health and come back to the House with an answer.

### FEDERAL BUDGET AND SENIOR AND PENSIONER CONCESSIONS

**The Hon. RICK COLLESS:** My question is directed to the Minister for Ageing, and Minister for Disability Services. Will the Minister update the House on how the New South Wales Government is securing concessions for seniors and pensioners?

**The Hon. JOHN AJAKA:** On 8 June 2014 the Treasurer, the Hon. Andrew Constance, and I announced that New South Wales pensioners and seniors will not bear the brunt of harsh cuts to concessions by the Federal Government. As members would be aware, the national partnership agreement was axed in the Federal budget without consultation. This resulted in \$450 million over four years being withdrawn from pensioners and seniors concessions from July this year. The funding went to discounted public transport fares and cheaper energy and water bills, council rates and vehicle registration. To deliver such a budget shock to so many valued citizens in our community was unacceptable to our Government. The people who were going to be affected were some of our most vulnerable. Funding this shortfall is a prime example of the New South Wales Government appreciating some of its most valued citizens by ensuring their benefits and concessions are maintained.

The Government can confirm that this year's State budget will not burden those on fixed incomes by increasing the cost of living. Seniors and pensioners can rest assured that they will maintain their concessions. We are not in the business of creating bill shock through which people would have been left out of pocket in just a few weeks. The New South Wales Government will contribute an additional \$107 million in the State budget towards concessions for 2014-15. That is in addition to the \$807 million the Government has already committed to providing for the 2014-15 year.

We understand the cost of living pressures that seniors face and we are determined to ensure that they are not adversely affected by the Federal Government's harsh cuts. The New South Wales Government remains strongly opposed to the Commonwealth Government's termination of the concession agreement that has been in place since 1993. We oppose Canberra's cuts and we will continue calling on Prime Minister Tony Abbott and Federal Treasurer Joe Hockey to reinstate their modest contribution, which goes a long way to help our pensioners and seniors. We will maintain negotiations with the Commonwealth Government to ensure fair concessions are secured well into the future.

Members may be aware that on 29 May the Treasurer and I held a forum with organisations representing seniors and pensioners in New South Wales to discuss their concerns relating to how these cuts would affect their groups. Along with the organisations at the meeting the Treasurer and I wrote to the Minister to call on him to reverse the cuts. We will continue to oppose the cuts until a fair and equitable agreement is reached with the Commonwealth Government.

### SOCIAL HOUSING POLICY

**The Hon. GREG DONNELLY:** My question without notice is directed to the Minister for Ageing, and Minister for Disability Services, representing the Minister for Family and Community Services. In July

2013 the Auditor-General recommended that the State Government develop a social housing policy asset portfolio strategy and a strategy for public housing estates by December 2013. Why has the Government still not released these documents?

**The Hon. JOHN AJAKA:** I will refer the question to the Minister and come back with an answer.

**The Hon. GREG DONNELLY:** I ask a supplementary question. Will the Minister elucidate the answer he provides by outlining a specific timetable for releasing the documents?

**The PRESIDENT:** Order! The question is out of order.

### WORKERS COMPENSATION SCHEME

**The Hon. GREG PEARCE:** My question is directed to the Minister for Fair Trading, representing the Minister for Finance and Services. Will the Minister update the House on how the Government is working to help support New South Wales businesses?

**The Hon. MATTHEW MASON-COX:** This answer will be close to the member's heart because it is about the wonderful reforms he authored that have now percolated through and generated significant benefits for all businesses across New South Wales. It will take members opposite a little bit longer to work out that I am talking about this Government's changes to the workers compensation scheme.

**The Hon. Sophie Cotsis:** You're proud of it?

**The Hon. MATTHEW MASON-COX:** Exceedingly proud. Let me again educate members opposite about an important piece of microeconomic reform. Based on actuarial advice in 2011 when we came to Government we faced a deficit of about \$4.1 billion in the workers compensation scheme. I remember a number of the deeply emotional contributions members opposite made at the time. They were of the view that the situation should not be remedied and that it was only a case of figures and expenses that would evaporate in time. They thought that no government should take seriously a \$4.1 billion deficit in one of its working funds.

That was not good enough for the Government and so in his former capacity as the Minister for Finance and Services the Hon. Greg Pearce did something about it. The Government decided to act. As a result of those changes, which members opposite painfully accepted over time, there was an unprecedented turnaround in the scheme within 12 to 18 months. I see the Hon. Trevor Khan nodding profusely because he helped prepare the report that formed the basis of the changes the Hon. Greg Pearce introduced. He was in fact in the chair when the changes were brought in. The Hon. Trevor Khan points with gusto to his colleague the Hon. Niall Blair, who was also part of that committee. Those two members were part of the process to bring those important reforms into this place.

The reforms are very much at the fore of our efforts to repair the economic damage caused by members opposite. They might laugh about it. The former member for Monaro might laugh about these things but he was an architect of economic crimes against this State. That is what the Government has fixed. In the space of 12 to 18 months we turned a \$4.1 billion deficit into surplus. As a result, we have been able to ensure that some of the dividend comes back to businesses so that they can employ more people. That will make the economic pie grow and ensure that we can provide more services and infrastructure to people across this great State. That is what the reforms are about, whilst ensuring that workers are protected through the process. Indeed, for the first time many workers are being properly recompensed and assisted in contrast to the stipend that would have been given to them under the former Government.

I note that there has been an average premium reduction of 5 per cent for 200,000 employers across 414 industries, saving more than \$113 million. That is the announcement that the Minister for Finance and Services made today, which we think is an excellent announcement. The reality is that it builds on the former 12.5 per cent reduction in premiums created by the first tranche of reforms of the scheme, meaning that we have on average a 17.5 per cent reduction in workers compensation fees. That gives businesses the opportunity to employ more people in this State. [*Time expired.*]

### ILLAWARRA TRANSPORT ACCESS PROGRAM

**The Hon. SHAOQUETT MOSELMANE:** My question without notice is directed to the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra. Given that people with disabilities at

Unanderra station have to travel by taxi to either Wollongong or Dapto stations to board a train, what is the Minister doing in his capacity as Minister for Disability Services and Minister for the Illawarra to assist rail commuters with a disability in the Illawarra region?

**The Hon. JOHN AJAKA:** I note the hypocrisy of members opposite. During 16 years in government they failed to take any real or appropriate action for easy access. Based on their funding for easy access programs while they were in government it would have been 50, 60 or 70 years before it came through. Last year the New South Wales Government announced a new Transport Access Program that will deliver accessible, modern, secure and integrated transport infrastructure where it is needed most. It includes station upgrades, better interchanges, ferry wharf upgrades and commuter car parks. The Transport Access Program includes more than \$770 million for improvements over four years at 60 locations. Had members opposite undertaken anywhere near that sort of work in their 16 years, we would not be in this position.

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

**The Hon. JOHN AJAKA:** We would not be in this position, and members opposite know it. The New South Wales Government recently completed more than \$1 million worth of work to install lighting and closed-circuit television at the Unanderra station.

**The Hon. Shaoquett Moselmane:** Point of order: My point of order relates to relevance. My question is specifically about the Unanderra rail station. Will the Minister answer that question?

**The PRESIDENT:** Order! The Minister has been generally relevant.

**The Hon. Penny Sharpe:** He can't answer it.

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

**The Hon. JOHN AJAKA:** As I was saying, the New South Wales Government recently completed more than \$1 million worth of work to install lighting and closed-circuit television at the Unanderra station, to remediate the platform, and to fix the stairs so that they are non-slip. Further work at the Unanderra station will be considered under the Transport Access Program and assessed against other projects using evidence-based criteria. The Illawarra region already is benefiting from the Transport Access Program with easy-access ramps now open to the public at the Austinmer and Gerringong stations. Albion Park station has received an easy-access ramp and interchange upgrade. The construction of commuter car parks at Kiama and Oak Flats stations has been announced.

The Transport Access Program is part of the New South Wales Government's commitment to improve public transport services and provide a world-class transport system that people want to use. As the Minister for Transport stated, "The Unanderra station upgrade will be considered for future rounds of Transport Access Program funding."

## TRANSPORT INFRASTRUCTURE

**Mr SCOT MacDONALD:** My question is directed to the Minister for Roads and Freight, representing the Minister for Transport. Will he update the House on the Government's investment in the State's transport infrastructure? And that will need a supplementary.

**The Hon. DUNCAN GAY:** Yes, it will.

**The Hon. Steve Whan:** I do not think you can pre-empt that. We might be bored by then.

**The Hon. DUNCAN GAY:** The Hon. Steve Whan is always bored by good news, but there is so much good news here. I thank Mr Scot MacDonald for his question and his ongoing interest in regional matters as well as freight. Commuters will benefit from a \$9 billion investment in the New South Wales Liberals-Nationals Government's 2014-15 budget to expand infrastructure and boost public transport services. This includes more than \$1.5 billion this year alone to build new rail and light rail lines. It is interesting to note that no question has been asked by the Opposition in relation to these matters. They are relying on The Greens to lead the Opposition. Dr John Kaye is the Leader of the Opposition. John Robertson has gone back into his cave like the



troglodyte he is. The budget includes \$863 million to get on with major construction of the \$8.3 billion North West Rail Link, which is Australia's first fully automated high-capacity rapid transit network for Sydney's growing north-west region.

**The Hon. Steve Whan:** The most expensive railway line in Australian history. You do not have the courage to go into the details.

**The Hon. DUNCAN GAY:** No, it is not the most expensive rail project. The most expensive one was the one that the former Government put in, the Rozelle Metro: \$500 million and not an inch of track laid. Along with the South West Rail Link, this vital project is well underway.

**The Hon. Steve Whan:** In actual fact you are spending an awful lot more than that, Duncan. You did not have the courage to tell them they should go above ground.

**The Hon. DUNCAN GAY:** The first of four tunnel-boring machines—like the Hon. Steve Whan—is on track to be in the ground by October.

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

**The Hon. DUNCAN GAY:** We all recall that Labor promised that but never delivered. In fact, in Labor's entire 16 years, its achievements in rail were half a rail line between Epping and Chatswood and \$500 million wasted, and not an inch of track, as I indicated earlier, on the failed Rozelle Metro. In contrast to that, while this Government is building today's rail lines it is also planning for tomorrow's expansion of the rail network. The budget includes \$7 million for more detailed planning work on the new Sydney Rapid Transit rail network extending from the North West Rail Link west to Bankstown, and including a second harbour rail crossing. This once-in-a-generation rail project will include three new central business district underground stations and unlocking of a major bottleneck in the CBD, delivering 60 per cent more trains in the peak hour across the rail network and catering for an extra 100,000 people per hour.

**The Hon. Steve Whan:** When did you vote for the electricity sale, Duncan? It is a sell-out.

**The Hon. DUNCAN GAY:** A sell-out? The Hon. Steve Whan says, "When?" The only reason that the people of Queanbeyan got a bypass was that they voted him out and sent him to the losers lounge where he is wasting his time and will waste more time.

**The Hon. Lynda Voltz:** Point of order: The Minister well knows he should direct his comments through the Chair. There would be fewer interjections if he did so.

**The PRESIDENT:** Order! The Minister was responding to an interjection, which I have cautioned all Ministers against doing.

**The Hon. DUNCAN GAY:** I apologise, Mr President. The budget puts a priority on light rail projects, with \$400 million set aside for light rail in Parramatta, subject to a business case. In this year's budget \$265 million has been included to begin major construction of the light rail network linking the Sydney CBD with sporting, health and educational precincts in the south-east. More than \$60 million will be spent in the next 12 months on refreshing and modernising train stations across the network and \$66 million will be spent to deliver a much-needed \$100 million upgrade of Wynyard station. But there has not been a question from the Opposition's Transport spokesperson, who is silent and has said nought. [*Time expired.*]

**The PRESIDENT:** Order! The Minister will resume his seat. The House will come to order.

#### **FREE-RANGE EGG STANDARD**

**Dr JOHN KAYE:** My question is directed to the Minister for Fair Trading. Will he outline the steps he will take to ensure that the nationally agreed legislative standard for free-range eggs, as agreed to by the ministerial council for fair trading, will genuinely respect community expectations of the ethical treatment of hens?

**The Hon. Walt Secord:** It is a serious question.

**The Hon. MATTHEW MASON-COX:** I thank Dr John Kaye for a very serious question. On 13 June it was my pleasure to attend a consumer affairs forum to discuss this very matter. It was a very long discussion in relation to a whole range of consumer matters. I am able to report that the outcome from that forum was that New South Wales would take the lead, as the member explained, to develop a draft information standard under the Australian Consumer Law. In that regard it is worth noting that the Australian Consumer Law gives power to the States and the Commonwealth to agree upon certain information standards, which then are enforceable under the Australian Consumer Law. As Dr John Kaye would be aware, that is a very important consumer protection.

In regard to the issue of free-range eggs, it is an issue that I know is very close to the heart of Dr John Kaye. I understand he was on the radio in a flap about it. I know that many people find it perplexing when they go to supermarkets to buy their eggs. I have lined up in front of the display and have tried to understand what free range, barn laid and cage all mean. The eggs have different labels on them and perhaps pretend that they are one thing and yet are another. It is very confusing.

A majority of the States are of the view that we need to look at this, but it is a complex area. Let us not be simplistic about it: This is a complex area that has a range of consequences for farmers in the egg-producing industry and there is a model code that has been agreed to by the industry that refers to 1,500 hens per hectare as well as a whole range of other factors that are taken into account when deciding whether an egg is free range. All those issues must be taken into account. I understand that a review of the model code is underway and will be progressing during the next three years. I also understand that various primary industries Ministers are considering the issue in earnest.

I report that the Australian Competition and Consumer Commission is undertaking in relation to the code a number of prosecutions that are particularly focused on misleading and deceptive conduct. I await the outcome of those prosecutions, because in a sense they will light the way to developing an appropriate information standard. New South Wales will lead the development of that information standard and come back to the next meeting of the consumer affairs forum in April next year. At that forum I am sure there will be robust discussion about exactly what should be in such a standard. As I noted, there is a range of views in this difficult area.

In the interim, I intend to visit a number of egg producers to see what happens and to understand clearly the challenges that they face on a daily basis, not only cage-egg producers but also free-range producers and even barn-laid egg producers. I very much look forward to understanding the complexity of egg-laying in New South Wales, and indeed Australia. I am sure I will be educated by my primary industries colleague the Hon. Katrina Hodgkinson. I look forward to sitting down with my officials to develop a draft standard which will then be tested at the meeting of the consumer affairs forum in April next year.

### ILLAWARRA ECONOMY

**The Hon. LYNDIA VOLTZ:** My question is directed to the Leader of the Government, representing the Minister for Regional Infrastructure and Services. Why is his Government paying residents of Wollongong \$7,000 to move to Nowra when community leaders and small business owners are urging the Government to look at ways of attracting investment and people to Wollongong?

**The Hon. DUNCAN GAY:** It is a question that I will certainly take on notice. It is hard to understand exactly what the question is about: that is, assuming there is any accuracy to it as a number of members on the other side of the Chamber tend to be inaccurate in some of the questions that they ask. Frankly, if they were fair dinkum about the questions that they ask they would ask the Minister for the Illawarra, because this bloke has a good handle on the Illawarra. Nothing happens in the Illawarra that he does not know about. I know Opposition members know about the table of knowledge, but that knowledge does not go beyond the table of knowledge. I will take that question on notice and seek a detailed answer. As interesting as question time is, the time for questions has expired. If members have further questions, they should place them on notice.

### FOX CONTROL

**The Hon. DUNCAN GAY:** On 13 May 2014 the Hon. Robert Borsak asked me whether the Government would declare foxes a pest under the Local Land Services Act or move to make it illegal to keep foxes in captivity. The Minister for Primary Industries has provided the following response:

In New South Wales feral pigs, wild dogs and wild rabbits are declared as pest animals under the Local Land Services Act 2013. Each of the pest declarations makes it an obligation for land managers to control the specified pest on their land. However, many public and private land managers expend considerable efforts in addressing the impacts of a wide range of invasive animal species regardless of their declared pest status.

As an example, the European Red Fox is currently managed in New South Wales through pest control programs including Fox Threat Abatement Plans to protect threatened native species and coordinated, community based fox control programs, implemented principally to protect livestock.

Despite the widespread implementation of these successful types of fox control programs, the declaration of the fox as a pest may provide improved pest management options in New South Wales. The NSW Department of Primary Industries is currently exploring further options to control the European Red Fox.

### NEEDLES GAP DAM PROPOSAL

**The Hon. DUNCAN GAY:** On 13 May 2014 the Hon. Robert Brown asked me a question about recent comments from the Deputy Premier regarding a new dam at Needles Gap. There is obviously an answer to that.

**The Hon. Mick Veitch:** Well, maybe not; it has to go through a process.

**The Hon. DUNCAN GAY:** Are you telling me you are against it?

**The Hon. Mick Veitch:** It has to go through a process. The Premier made that clear on Saturday.

**The Hon. DUNCAN GAY:** The Deputy Premier has provided the following response:

The New South Wales Government is examining a number of potential dam sites across New South Wales with a view to improving water security. A new dam in the central west, near Canowindra, is one that is under consideration.

The New South Wales Government is also willing to consider any proposals from local government or the Commonwealth Government for new or augmented water infrastructure to enhance regional water security.

Detailed investigations and cost/benefit analysis would be required to support such proposals.

Any proposed Belubula River dam would need to satisfy environmental impact assessment criteria and be compliant with the Murray Darling Basin Plan.

### LOCAL GOVERNMENT TREE MANAGEMENT

**The Hon. DUNCAN GAY:** On 13 May 2014 the Hon. Paul Green asked me a question about what steps the Government was taking to ensure that local councils take the concerns of constituents seriously and remove trees that pose a risk to people and property. The Minister for Local Government has provided the following response:

A council's power to remove trees is discretionary and controlled by the Environmental Planning and Assessment Act 1979, which is administered by the Minister for Planning.

Trees located on private land, nuisances caused by trees (including overhanging branches) are generally civil matters between the affected parties.

### TAXI CARD PAYMENT SURCHARGE

**The Hon. DUNCAN GAY:** On 13 May 2014 the Hon. Penny Sharpe asked me when the Government would cut the 10 per cent surcharge on taxi fares when the fare is paid by debit or credit cards. The Minister for Transport has provided the following response:

I am advised:

The surcharge on card fare payments will be capped at 5 per cent later in 2014.

### UNITY GRAMMAR COLLEGE

**The Hon. JOHN AJAKA:** On 13 May 2014 Reverend the Hon. Fred Nile asked me a question about Unity Grammar College. The Minister for Education has provided the following response:

Yes. The New South Wales Government is aware an audit is being undertaken.

Yes.

If found to be operating for profit under section 21A of the Education Act 1990, the school will not be eligible for New South Wales Government funding.

### CONTAINER DEPOSIT SCHEME

**The Hon. MATTHEW MASON-COX:** On 14 May 2014 Dr Mehreen Faruqi asked me a question about introducing a container deposit scheme in New South Wales. The Minister for the Environment has provided the following response:

I am advised as follows:

The New South Wales Government recognises that packaging waste is a major issue for our environment and local communities. The environmental and economic costs and benefits of many different options to increase recycling and reduce litter are currently being assessed. The New South Wales Government will make an informed decision based on the available evidence to arrive at a solution to address packaging waste that is both environmentally effective and economically responsible.

### MILLERS POINT PUBLIC HOUSING

**The Hon. MATTHEW MASON-COX:** On 13 May 2014 the Hon. Sophie Cotsis asked me a question about the proposed sale of 293 Millers Point properties. The Minister for Planning has provided the following response:

I am advised:

As per the Government's announcement on 19 March 2014 the sale of properties at Millers Point will be undertaken by Government Property NSW.

### OUTLAW MOTORCYCLE GANGS AND NORTH COAST REAL ESTATE

**The Hon. MATTHEW MASON-COX:** On 13 May 2013 the Hon. Walt Secord asked me a question about outlaw motorcycle gangs from Queensland dealing with New South Wales real estate agents. I provide the following response:

The Property, Stock and Business Agents Act 2002, and associated regulation, does not preclude a person or a class of persons from purchasing a property. Licensed real estate agents must comply with the Rules of Conduct as prescribed.

### DEFERRED ANSWERS

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

#### NIMBIN HEMP EMBASSY

On 6 May 2014 Reverend the Hon. Fred Nile asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Police and Emergency Services, a question without notice regarding the Nimbin Hemp Embassy. The Minister for Police and Emergency Services provided the following response:

The NSW Police Force has advised me that significant resources are deployed on an ongoing basis, both overtly and covertly, to combat the issue of illegal drugs in Nimbin. This includes regular high-visibility foot patrols, drug dog operations and random drug bus testing operations. Police also regularly monitor local business operations to enforce compliance with relevant laws. Police will continue to focus efforts on reducing drug related activity in the Nimbin village. Anyone with information in regard to such activity should report it directly to police so that appropriate action may be taken.

#### JAMES PACKER AND DAVID GYNGELL PUBLIC ALTERCATION

On 6 May 2014 Mr David Shoebridge asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Police and Emergency Services, a question without notice regarding the James Packer and David Gyngell public altercation. The Minister for Police and Emergency Services provided the following response:

The NSW Police Force has advised me that the Eastern Suburbs Local Area Command appropriately managed the investigative response and decisions, with no direction given on the outcome of that investigation. Mr Packer and Mr Gyngell were issued with Criminal Infringement Notices for Offensive Conduct on 9 May 2014 in relation to the incident in question.

#### BENTLEY BLOCKADE

On 6 May 2014 Ms Jan Barham asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Police and Emergency Services, a question without notice regarding the Bentley blockade. The Minister for Police and Emergency Services provided the following response:

The NSW Police Force has advised me that it received a letter from the Casino RSM Club regarding the proposed Bentley blockade that was forwarded by the member for Lismore.

A search of ministerial correspondence has revealed no relevant representations in the terms outlined above.

### WILD HORSE CULLS

On 6 May 2014 the Hon. Robert Borsak asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for the Environment, a question without notice regarding wild horse culls. The Minister for the Environment provided the following response:

I can advise as follows:

The Office of Environment and Heritage is currently reviewing its wild horse management plan. An independent technical reference group will review the available science and provide technical advice on reducing the impacts of a growing wild horse population. Any method used to remove wild horses will need to be humane, cost effective and supported by expert advice.

### SEXTON HILL BYPASS

On 6 May 2014 the Hon. Walt Secord asked the Minister for Roads and Freight a question without notice regarding Sexton Hill bypass. The Minister for Roads and Freight provided the following response:

I am advised:

Any application for compensation is assessed on a case-by-case basis by Roads and Maritime project team members and professionals independent of the project. Where resolution cannot be reached, the issue is elevated to a team separate to the project to ensure a fair and equitable process.

### MARINE PARKS

On 6 May 2014 the Hon. Robert Brown asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for the Environment, a question without notice regarding marine parks. The Minister for the Environment provided the following response:

I am advised as follows:

The Government is implementing reforms to the management of the New South Wales marine estate. Priority projects include developing a threat and risk assessment framework to identify and assess the key threats and associated risks to the values of the New South Wales marine estate, and to develop a new approach to marine park management and zoning.

The Government's future actions in marine estate management will be informed by the outcomes of the reform projects.

More information on the marine estate management reform projects is available at <http://www.dpi.nsw.gov.au/info/marinereform/scheduleofworks>.

### FISHING INDUSTRY REFORM

On 6 May 2014 the Hon. Steve Whan asked the Leader of the Government, and Minister for Roads and Freight, representing the Minister for Primary Industries, a question without notice regarding fishing industry reform. The Minister for Primary Industries provided the following response:

The New South Wales Government is committed to delivering the change the commercial fishing industry needs to ensure its long-term sustainability.

The Commercial Fisheries Reform Program is responsive to the Independent Review of Commercial Fisheries Policy, Management and Administration and it seeks to provide improved meaning and value in shares in commercial fisheries so that commercial fishing effort can be efficiently managed. The program is designed to assist the transfer of shares from those who are not using them into the hands of more active fishers, to solidify a positive future for commercial fishers who rely on this industry, and the broader industry as a whole.

As part of this reform program, the New South Wales Department of Primary Industries [DPI]—in conjunction with industry—has spent the past 18 months developing a series of options papers which were put out for an extended period of public consultation. No decisions have been finalised.

At the completion of the consultation process, a summary of submissions, input from key stakeholder groups and advice from DPI will be provided to the independent Structural Adjustment Review Committee [SARC]. The SARC will then prepare final recommendations for the consideration of the New South Wales Government.

### TANGARATTA CREEK BRIDGE PROJECT

On 6 May 2014 the Hon. Steve Whan asked the Minister for Roads and Freight a question without notice regarding the Tangaratta Creek bridge project. The Minister for Roads and Freight provided the following response:

I am advised:

Since the mid 1990s community groups have been making representations to the State Government to see a new bridge built at Tangaratta Creek on the Oxley Highway. On 7 May 2014, the member for Tamworth, Kevin Anderson, announced a preferred option and design. Construction will start in early 2015 on the Tangaratta Creek Bridge. Work will involve road realignment and construction of a new bridge immediately west of the existing bridge with an additional 700 meters of road built.

### **MARTINS CREEK PUBLIC SCHOOL**

On 7 May 2014 the Hon. Paul Green asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Education, a question without notice regarding Martins Creek Public School. The Minister for Education provided the following response:

The Government has not closed any schools in 2014. Grong Grong Public School was closed in December 2013. This closure was gazetted in March 2014.

Five schools are currently in recess. Directors, Public Schools NSW, are monitoring the local arrangements made for affected students and staff to ensure these arrangements are of benefit to them. No final decision about the operation of these schools has been made. The five schools are:

- Milbrulong Public School
- Poongarie Public School
- Reids Flat Public School
- Windeyer Public School
- Wyong Grove Public School

A community consultation process is considering the most effective educational provision for the six students currently enrolled at Martins Creek Public School. No recommendations will be made until the community consultation is concluded.

The minutes of the meeting are available to any member of the public and may be obtained from the principal at Martins Creek Public School.

### **FORESTRY BIOMASS MATERIALS**

On 7 May 2014 Dr John Kaye asked the Minister for Fair Trading, representing the Minister for the Environment, a question without notice regarding forestry biomass materials. The Minister for the Environment provided the following response:

As Minister for the Environment, I have not been contacted by any lobbyist on the New South Wales Government Register of Lobbyists in respect of the commencement of the Protection of the Environment Operations (General) Amendment (Native Forest Bio-material) Regulation 2013. I am advised that my ministerial staff have not been contacted by any lobbyist on the register in respect of the commencement of the regulation.

I am also advised that no staff at the Environment Protection Authority have been contacted by any lobbyist on the register in respect of the commencement of the regulation.

### **BROTHELS**

On 7 May 2014 Reverend the Hon. Fred Nile asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Police and Emergency Services, a question without notice regarding brothels. The Minister for Police and Emergency Services provided the following response:

The NSW Police Force has advised me that the investigation of complaints and enforcement action in regard to brothel activity is primarily the responsibility of local councils. Police may investigate any criminal offence associated with brothels.

The Special Minister of State has policy responsibility for this area and any further questions should be directed to the Minister.

### **MINISTERIAL CODE OF CONDUCT**

On 7 May 2014 the Hon. Peter Primrose asked the Minister for Fair Trading a question without notice regarding the Ministerial Code of Conduct. The Minister for the Fair Trading provided the following response:

I refer to my answer to the Hon. Peter Primrose's question without notice on Ministerial Code of Conduct given in the House on 8 May 2014.

### **MINISTERIAL CODE OF CONDUCT**

On 7 May 2014 the Hon. Peter Primrose asked the Minister for Fair Trading a question without notice regarding the Ministerial Code of Conduct. The Minister for the Fair Trading provided the following response:

I refer to my answer to the honourable member's question without notice on Ministerial Code of Conduct given in the House on 8 May 2014.

### **PORT OF NEWCASTLE LEASE**

On 7 May 2014 the Hon. Robert Brown asked the Minister for Fair Trading, representing the Treasurer, a question without notice regarding the Port of Newcastle lease. The Treasurer provided the following response:

The net proceeds directed to Restart NSW will be available for infrastructure investment across the State, with 30 per cent of the funds reserved for projects in regional areas. The full extent of Government's commitments from Restart NSW, including to the Newcastle region, will be outlined in the upcoming budget.

The Premier has indicated that additional moneys from \$1.5 billion net proceeds of the transaction will go towards Newcastle and the Hunter. This will be announced in due course.

**MINISTERIAL CODE OF CONDUCT**

On 7 May 2014 the Hon. Greg Donnelly asked the Minister for Fair Trading a question without notice regarding the Ministerial Code of Conduct. The Minister for Fair Trading provided the following response:

I refer to my answer to the Hon. Peter Primrose's question without notice on Ministerial Code of Conduct given in the House on 8 May 2014.

**CHILD SEXUAL ASSAULT POLICE PROCEDURES**

On 8 May 2014 Mr David Shoebridge asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Police and Emergency Services, a question without notice regarding child sexual assault police procedures. The Minister for Police and Emergency Services provided the following response:

The NSW Police Force has advised it has identified other instances of Future Court Attendance Notices served on non-police officers for relevant offences under section 66A of the Crimes Act.

**RENTAL AFFORDABILITY**

On 8 May 2014 the Hon. Walt Secord asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Family and Community Services, a question without notice regarding rental affordability. The Minister for Family and Community Services provided the following response:

The New South Wales Government is committed to improving housing affordability and availability across New South Wales under NSW 2021, and offers a range of housing assistance options, including private rental assistance products, private rental subsidies, temporary accommodation, emergency temporary accommodation, supported and crisis accommodation, affordable housing and social housing.

**MARINE PARK SANCTUARY ZONES**

On 8 May 2014 Dr Mehreen Faruqi asked the Minister for Fair Trading, representing the Minister for the Environment, a question without notice regarding marine park sanctuary zones. The Minister for the Environment provided the following response:

I am advised as follows:

The Government is currently considering advice on recreational fishing in marine park sanctuary zones to inform its decision on this issue.

**CHILD SEXUAL ABUSE**

On 8 May 2014 Reverend the Hon. Fred Nile asked the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Family and Community Services, a question without notice regarding child sexual abuse. The Minister for Family and Community Services provided the following response:

The New South Wales Government is committed to protecting the most vulnerable in our community, including children and young people. We are reforming the delivery of community services so that they better meet the needs of the vulnerable. The "A Safe Home for Life" reforms, the transferring of out-of-home care to the non-government sector and the increased transparency around the child protection system are some of the ways we are improving the child protection system so that our children and young people have a safe home for life. Additionally, the Department of Family and Community Services also operates the Child Protection Helpline 24 hours a day. The Helpline manages an after hour's crisis response team that investigates reports about risk of significant harm to children and young people.

**FINANCIAL COUNSELLING SERVICES**

On 8 May 2014 the Hon. Helen Westwood asked the Minister for Fair Trading a question without notice regarding financial counselling services. The Minister for Fair Trading provided the following response:

The New South Wales Government's Financial Counselling Services Program provides \$6.4 million per annum in funding for the provision of free-of-charge financial counselling by accredited counsellors, consumer legal casework, education programs in debt and credit management, and training of financial counsellors.

**MINISTERIAL CODE OF CONDUCT**

On 8 May 2014 Dr John Kaye asked the Minister for Fair Trading a question without notice regarding the Ministerial Code of Conduct. The Minister for Fair Trading provided the following response:

I will comply with all ministerial obligations in respect of the matters raised by the honourable member.

**Questions without notice concluded.**

**Pursuant to resolution Government business proceeded with.**

**ENERGY LEGISLATION AMENDMENT (RETAIL PRICE DEREGULATION) BILL 2014****Second Reading**

**The Hon. JOHN AJAKA** (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [5.04 p.m.]: I move:

That this bill be now read a second time.

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

**Leave granted.**

This bill makes good on the Government's commitment to place downward pressure on the cost of living by increasing competition in the electricity market and reducing prices for New South Wales customers.

The bill amends both national- and state-based energy laws and regulations as they apply in New South Wales, to increase competition and choice in the State's electricity market.

The Energy Legislation Amendment (Retail Price Deregulation) Bill 2014 provides for: the removal of retail electricity price regulation; the establishment of a Market Monitor in New South Wales to monitor and report annually on the performance and competitiveness of the electricity retail market; the appointment of the Independent Pricing and Regulatory Tribunal [IPART] as the Market Monitor; the transition of electricity customers currently on regulated offer contracts to standard retail contracts; and the continuation and maintenance of retail gas price regulation.

The move to a more competitive energy market without price controls has been in train for nearly a decade. In 2004 the Commonwealth of Australia, along with all State and Territory governments, entered into the Australian Energy Market Agreement. The agreement set the agenda for phasing out retail electricity and gas price regulation in markets where competition is found to be effective.

A competitive market provides the best form of customer protection and the lowest prices for customers. Competitive markets give customers the power to change retailers if they are unhappy with the prices or level of service offered by their existing retailer. This means that over time retailers will compete to retain their customers by offering more competitive prices, better products and better protection for customers.

I turn first to the electricity price amendments. Competition has been steadily evolving in the New South Wales electricity market over the past decade. Already, more than 60 per cent of New South Wales customers have switched from the regulated price to a competitive market contract, and more are switching each and every day. Currently, approximately 16 electricity retailers are actively offering products and services in New South Wales, a far cry from the days of the government-owned monopoly retailers where customers were given one choice and one price. A further 33 companies are licensed to operate in New South Wales, and are expected to enter the market as a result of this reform.

Over the past few years the New South Wales Government has encouraged the development of competition in the retail electricity market through the terms of reference it has provided to IPART. Among other things, the Government's instructions to IPART were to set average regulated prices which reflected the efficient costs of supplying electricity to customers. In addition, the regulated retail prices were to support the long-term interests of consumers and the stability of the electricity market. The practical outcome of this is that over the years electricity prices have been set at cost-reflective levels, allowing smaller, newer retailers to enter the market. This has helped to create a competitive retail electricity market.

In 2013, the Australian Energy Market Commission [AEMC] undertook a comprehensive review of the effectiveness of competition in the New South Wales retail energy market. As part of this review, the AEMC consulted extensively with households, small business holders, consumer groups and industry. The AEMC found that competition is sufficiently developed in the New South Wales electricity market to justify removing retail price regulation. Based on the AEMC's recommendations, the New South Wales Government has decided to proceed with deregulation of the electricity market.

The bill before the House will remove the requirement for IPART to regulate retail electricity prices and will make consequential amendments to the State's energy legislation to remove references to retail electricity price regulation. As a result, retailers will no longer be required to offer customers regulated retail electricity prices. Electricity deregulation will not degrade customer protections. The regulation of retail prices only provides an effective form of protection for customers in markets where competition is not effective, and where individual retailers can exert their market power and influence prices. As the AEMC has made clear, this is not the case here in New South Wales.

Importantly, retail price regulation does not prevent price increases, and this has been seen through the double-digit electricity price rises over the past few years. Quite simply, retail price regulation does not provide effective protection for customers in a competitive market.

An effective and competitive market provides the strongest protections and lowest prices for customers, and this is what this historic reform delivers. Importantly, electricity deregulation will reduce red tape and the administrative burden this imposes on retailers. This means that the cost of this red tape will no longer be passed onto consumers, placing further downward pressure on electricity bills.

Electricity deregulation will also further encourage competition in our State. Retailers have advised that they will be able to offer customers new, innovative and more competitive electricity offers.



In addition, as I mentioned earlier, electricity deregulation will encourage new retailers to enter the New South Wales market, further enhancing competition and providing customers with increased choice.

The Government is proceeding with electricity deregulation because evidence has shown there is strong competition in the New South Wales electricity market. To keep an eye on the level of competition in the New South Wales market, the bill provides for the appointment of a Market Monitor. This Market Monitor will scrutinise and report annually on the competitiveness and effectiveness of the retail electricity market. This will ensure that any problems arising in the market can be addressed early so that customers will not be subject to unfair pricing.

The Government has nominated IPART as the Market Monitor. IPART has the experience in the New South Wales electricity market and as such is considered an appropriate body to monitor the market in its transition away from retail price regulation. To ensure that the competitiveness of the market is reviewed in a comprehensive manner, IPART will assess the extent to which customers are engaged with the market and the measures retailers are taking to attract and retain customers. The Market Monitor will also look at whether there are any barriers preventing retailers from entering or exiting from the market. The Market Monitor will consider the movements of electricity prices and product diversity in the market to determine whether these movements are typical of competitive markets.

The bill also provides the New South Wales Government with the power to request IPART to conduct a "special review" if necessary. The special review will include a detailed review of retail prices and profit margins in NSW, and whether these reflect a competitive market. The Minister for Resources and Energy is charged with the responsibility of requesting a "special review" if required, and may request the Market Monitor to consider other matters should there be additional concerns. This provides an additional layer of customer protection as the Market Monitor acts as a "watchdog" over the market. If these special reviews highlight any concerns with the competitiveness of the market, the Government will take swift action.

In making the transition to a market free of retail electricity price controls, customers will not face any disruption or be required to do anything extra to maintain access to the supply of electricity. Customers on regulated contracts will automatically transition to standard retail contracts. The terms and conditions of these contracts will be exactly the same as those under the regulated contracts. If customers were on a payment plan, or subject to a hardship policy, then these protections will automatically continue to apply to their new contracts. In fact, the only changes most customers will notice in the move to a market free of retail price regulation will be a reduction in their electricity charges.

Under this reform, the Government has ensured that most customers moving to the transitional tariff will receive a 1.5 per cent decrease compared to the regulated price. This is the first time in more than a decade that customers on the regulated price will experience a decrease, an achievement for which this Government is rightly proud.

Importantly, customers are not required to remain on the transitional tariff and have the option of shopping around for a better deal at any time. In many cases, regulated offer customers may be able to save hundreds of dollars a year by switching to a competitive market offer. Indeed, in its 2013 report on the competitiveness of the New South Wales market, the AEMC highlighted that most families could save \$300-\$400 on an average annual household electricity bill. The bill will also make consequential amendments to the New South Wales Electricity Supply Act 1995 to remove references to "regulated offer customers" and related terms.

The bill will also preserve the eligibility of Solar Bonus Scheme customers to ensure that these customers continue to receive scheme payments until the closure of the scheme in 2016.

An additional safeguard in the national framework is the "standing offer" price. This is a default price, set individually by each retailer, which they are required to offer to customers. Standing offer prices have intrinsic protections built into them, such as minimum terms and conditions and restrictions on how often the prices can be changed. The bill ensures that customers can choose standing offers with these baseline protections, and is consistent with the national legislation.

I turn now to the second area of amendments. These relate to retail gas price regulation. In its report on competitiveness in New South Wales energy markets, the AEMC also reviewed the effectiveness of competition in the New South Wales retail gas market. The AEMC found that while competition was effective in some sections of the retail gas market, some regional areas did not show effective levels of competition. Overall, competition in the retail gas market has not evolved to the extent that it has in the retail electricity market. The Government is committed to ensuring strong and effective protections are available for New South Wales customers. For this reason, the Government will not remove retail gas price regulation.

Consultation with industry, consumers, regulators and government bodies was a key part of the AEMC's review of competition in New South Wales. Submissions were received from industry groups, consumer groups and the New South Wales Energy and Water Ombudsman. This feedback and ongoing consultation informed the bill before the House today. In addition, public forums were held throughout the State and stakeholder working groups were convened to canvass different issues. The information gathered from this consultation played a key role in the development of the policy positions underpinning this bill.

As I mentioned earlier, the shift to a deregulated electricity market has been in train since the former Government first entered the Australian Energy Market Agreement in 2004. We are finalising this process and delivering on the commitment to reform this market and empower New South Wales customers. Households and businesses in New South Wales will benefit from more retailers and more innovative energy offers in the market.

The bill before the House delivers on the New South Wales Government's commitment to place downward pressure on energy prices. It delivers on the Government's commitment to maintain best practice consumer protection in the energy market and it delivers on the Government's commitment to deliver a more competitive and innovative electricity market for the benefit of the people of this State.

**The Hon. LUKE FOLEY** (Leader of the Opposition) [5.05 p.m.]: On behalf of the member for Heffron, who has responsibility for this bill as Labor's shadow Minister for Energy, I speak in debate on the

Energy Legislation Amendment (Retail Price Deregulation) Bill 2014 and indicate at the outset that the Opposition opposes this bill. The object of the Energy Legislation Amendment (Retail Price Deregulation) Bill 2014 is to amend the Electricity Supply Act 1995 and the Electricity Supply (General) Regulation 2001 while abolishing electricity regulation, establishing a Market Monitor that will report on the performance and competitiveness of the electricity retail market and providing the means for customers on regulated offer contracts to be transitioned to standard retail contracts. However, gas price regulation will continue unchanged by this legislation.

Amendments proposed in the bill will remove protections for electricity consumers across the State. The deregulation of electricity prices in New South Wales will give retailers the permission they need to charge their consumers whatever price they feel is appropriate. The Labor Party brings a perspective to this debate where it is concerned about the phenomenon of energy poverty. The average electricity bill in New South Wales today is around \$2,000 annually. Energy poverty is experienced when a family or a household spends more than 10 per cent of its disposable income on energy. We believe that the deregulation of retail pricing, the move to permit electricity companies to charge what they like, will exacerbate the problem of energy poverty in our State.

I will talk about some of the trends in the energy market that do contribute to the price of electricity. The fact is that the demand for electricity is reducing and it has been reducing for several years now. In 2009 electricity consumption fell by around 2½ per cent. It has been falling ever since. Australia now has an oversupply of electricity generation. Currently more than two million households in Australia use solar photovoltaic power or solar hot water—in many cases both—and another one million households are expected to install solar power by 2020. About one in 10 Australian households get their daytime power from solar panels. Those households bypass the retailers completely at times of peak demand, which is when some of the coal fire companies make the majority of their profits. In fact some of those companies can make up to a quarter of their annual profit at peak demand times, often in as little as 36 hours. So electricity companies are under attack on two fronts: from the rise in renewable energy, particularly from home-based sources, and from decreasing demand for electricity.

Labor believes that profitability reduction requires more than ever that the electricity market be monitored and watched carefully, yet this bill does the opposite: it removes the ability to regulate electricity prices. The Independent Pricing and Regulatory Tribunal [IPART] will cease to be the regulator and will become an interested spectator charged with monitoring but, in effect, will be a toothless tiger. A toothless observer is of minimal or no benefit to those suffering energy poverty—those who need help the most. The Labor Opposition does not believe the Minister's assertions that this bill will place downward pressure on the cost of living for people on modest and low incomes. The bill involves, in part, a political stunt whereby from 1 July this year a 1.5 per cent reduction in the regulated rate will be forced for a transitional period of 12 months until 1 July 2015.

**Dr John Kaye:** After the election that would be.

**The Hon. LUKE FOLEY:** I acknowledge the interjection of Dr John Kaye. We call that move a stunt because it involves a very small reduction of 1.5 per cent in the current regulated price to get this Government through the upcoming election. From 1 July 2015—a matter of three months after next year's election—there will be no constraints on electricity prices in this State. If we believe the assertions of the Minister for Resources and Energy that deregulation in and of itself will lead to lower prices for households, why have a transition period? If those assertions stand-up to scrutiny, simply deregulate prices now. The Government is putting off deregulation until after the election and in the interim has engaged in a stunt. The bill provides for the appointment of a Market Monitor, which the Minister has advised will be the IPART. But it has not given IPART any teeth, just the opportunity to monitor and write a report.

The regulated rate is, in effect, a ceiling rate. Those in the competitive market have to date, on most occasions, charged less than the regulated rate. Origin Energy and Energy Australia provide a regulated rate. The regulated rate is a ceiling rate and to date more than 60 per cent of consumers have switched to a deregulated rate. So competition now can be said to be having an effect. However, the existing regulated rate puts in place a ceiling—a safety net for New South Wales consumers. The New South Wales Government through the Council of Australian Governments [COAG] process in 2004 entered into an Australian Energy Market Agreement which set the agenda for "phasing out retail electricity and gas price regulation in markets where competition is found to be effective". I accept the theory that the consumer will benefit in a free market with genuine competition.

The difficulty is that competition is not always fair. The regulation of competition is not always an easy task to ensure that competition benefits consumers. The Australian Competition and Consumer Act was established to try to control anti-competitive conduct, as was its predecessor, the Trade Practices Act. The difficulty is that the electricity industry is an essential service that we all need. With the establishment of the National Electricity Market, competition is one but not the only factor influencing the price of electricity. In fact, network costs in New South Wales have been responsible for the explosion of electricity prices under both Labor and Coalition governments. No amount of competition between companies affects the massive network upgrades in which the industry has engaged in this State and which are passed on directly to electricity consumers through the pricing process.

In 2013 IPART increased regulated prices and enacted what was called a customer acquisition and retention cost alliance. This increased fee pushed up the regulated price, which it said was designed to increase competition. In effect, the ceiling price was pushed up to encourage people to switch to a deregulated market. Retail contracts are unclear, confusing and complicated, and have a lack of transparency. The Australian Competition and Consumer Commission, the Australian Energy Regulator and IPART have all been ineffective in simplifying that process. If it were otherwise, 40 per cent of electricity consumers would not currently be paying a regulated or ceiling rate. That is why the Labor Opposition does not accept the assertions of the Australian Energy Market Commission. As I said, electricity prices have increased under governments of both persuasions.

Over a number of years there have been increases of 16 per cent, 17 per cent and more than 20 per cent. A lot of fibs have been told about the reasons for it. The truth is that the massive capital expenditure on network upgrades has been the overwhelming driver of massive electricity price rises. Whatever factors contribute to price rises, it is absurd to suggest that when the Government removes the maximum price the suppliers, out of the goodness of their hearts, will sell electricity at a lower rate than now when a maximum price is in place. I do not think the Government really believes that. That is why it is leaving it until after next year's election to bring in deregulation. If the Government really believed deregulating the market and removing the maximum price would expand competition and lead to a fall in electricity pricing, it would not need to introduce the monitoring process through this bill. Feigning the appearance of looking after the consumer interest is a sop to those consumers.

The monitoring process set out in paragraph (b) of the bill's objects does not give the Government, the Minister, IPART or anybody an opportunity to say that a price rise is unfair and will not be allowed. Of course it does not because this is a bill to deregulate electricity pricing. The Opposition does not accept the claims made by the Minister for Resources and Energy. We do not accept the claims made by those in the industry who ferociously advocate for full deregulation of electricity pricing because we do not accept that it is in the interests of consumers. The Opposition opposes the legislation.

**Dr JOHN KAYE** [5.20 p.m.]: On behalf of The Greens I contribute to debate on the Energy Legislation Amendment (Retail Price Deregulation) Bill 2014. The Greens comprehensively oppose this legislation. As the Hon. Luke Foley indicated, this legislation is an invitation to widespread energy poverty. This legislation is based on the ideology and hope that deregulation will bring down prices but it will expose 40 per cent of households to an unwanted complex and competitive environment. Comparisons between different offers will be almost impossible. Hidden fees and charges will hit individual households and lead to an unsatisfactory position in which they will not cope. However, the 16 privatised energy retailers will grow rich off impoverished households across New South Wales.

There is no argument that the electricity industry is a complex and difficult place. This bill responds to that complexity by stripping away the electricity retailing price regulation. Retailers no longer will be required to offer a price set by the Independent Pricing and Regulatory Tribunal [IPART]. Within a year, every household and every small business across New South Wales will be at the mercy of the market. The only role for IPART will be to monitor the behaviour of the market. The bill reauthorises gas price regulation and the gas pricing order will be retained. There is no equivalent protection for electricity users. This legislation will leave households at the mercy of the electricity retail industry's predatory behaviour.

In May this year the St Vincent de Paul Society published a document titled "Energy Retail Market: Additional Fees and Charges" in which it observed that many retailers impose additional fees and charges, some of which are not known prior to a contract being signed and many of which form a substantial component of household bills. The fees and charges vary significantly from retailer to retailer and many retailers provide ambiguous information about when the additional fees and charges apply. The charges include well-known fees

such as early termination and late payment fees and almost unknown fees such as dishonoured payment fees, payment processing fees and an administration fee for network services. Most households would find that array of information extremely complex and troubling. The St Vincent de Paul Society made the observation that product complexity increases the chance of consumers making poor decisions. It stated:

Energy contracts are already complex products as consumers need to understand their usage and needs when comparing offers. Additional fees and charges add another layer of complexity to this process and as some fees are linked to consumer behaviour or future decisions ... it can be almost impossible to determine what offers are most suitable in the long run. Linked to this, lack of market transparency and comparability impact on consumer confidence and market participation. This can cause consumer detriment in the longer term if it lessens competition.

The St Vincent de Paul Society is observing that the electricity industry is a complex place. The contracts it offers are extremely complex and the capacity to make comparisons between different contracts requires a detailed understanding of an individual's use of energy. Some 40 per cent of households across New South Wales have opted not to be part of that process. It is too frightening for some individuals and others know they lack the knowledge of their own system and the financial nous to make those decisions. Some individuals simply live busy lives and do not have time to shop around and make decisions.

Consider the example that I used before of a single mother who is working to support her four adolescent children. They live hand to mouth. Her costs are always within a few fractions of a per cent of her income and are due many months ahead of her capacity to pay. Such individuals are now being told that they no longer have the protection of regulated prices. Instead, they will have to shop around to get a good deal. If they make a mistake and choose the wrong contract or the wrong supplier, they will end up paying more than they pay now. In many cases those households will plunge into poverty as a result of their energy bills. It is the Government's role to protect individuals who do not have the capacity or the time or willingness to participate in a market and to not allow the predatory private electricity competitors to be enriched by consuming the last few spare dollars those individuals have.

People talk about a competitive electricity market and members have spoken about the marvels of such a market. Let us be absolutely clear how competitive this market is. The New South Wales Government ran into all sorts of bother when it tried to sell Macquarie Generation, which operates the Bayswater and Liddell power stations. They produce approximately 27 per cent of New South Wales electricity generation capacity, which it wants to sell to AGL. The Australian Consumer and Competition Commission [ACCC] has identified that AGL is already a substantial electricity retailer. In a media release on 4 March it stated:

The proposed acquisition would result in the largest source of generation capacity in NSW being owned by one of the three largest retailers in NSW. Indeed, with this acquisition, the three largest retailers in NSW would own a combined share of 70 to 80 per cent of electricity generation capacity or output.

...

... the acquisition would be likely to prevent sufficient vigorous competition with AGL, Origin and EnergyAustralia, who already have 85 per cent of the overall retail market and 95 per cent of the mass market ...

How can we talk about competition in an area in which a "triopoly" dominates 95 per cent of the mass market? Those 40 per cent of customers are to be cut loose in a market where a highly effective and predatory triopoly is in operation. It is not a competitive market.

**The Hon. Dr Peter Phelps:** You mean like telecommunications? Telstra, Vodafone, Optus.

**Dr JOHN KAYE:** I thank the Government Whip, as I often do, for his interjection. He said there is a triopoly in mobile phones—Telstra, Optus and Vodafone. He is quite right. If the Government Whip talked more to people he would realise that they are desperately unhappy with the way it works. They recognise that they are being ripped off by one, if not all three, of the companies in that triopoly. The Government Whip wants to reproduce the same dysfunctional market structure in electricity retailing. If you cannot afford to pay your mobile phone bill, your mobile phone gets cut off.

**DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones):** Order! The Government Whip will come to order.

**Dr JOHN KAYE:** If you cannot afford to pay your electricity bill then in many instances you cannot afford to cook, heat your house or turn on your lights. The telephone and electricity markets are not in any way equivalent or comparable. This is an essential service that has been handed over to a retail triopoly, and if the

Baird Government gets its way it will become a vertically integrated generation and retail triopoly. Who will get their hands on the wires and poles? Perhaps it will be a completely integrated, privately owned triopoly. It is a catastrophe waiting to happen and this legislation takes away the last safety belt, the last life jacket, for consumers. Retailers are known for their predatory behaviour. A media release issued by the Australian Competition and Consumer Commission on 27 June 2013 stated:

... ACCC Deputy Chair Delia Rickard said that the ACCC is increasingly concerned about possible misleading conduct by energy retailers in their promotion of energy plans.

These concerns relate to the promotion of discounts and savings of energy use and/or supply charges under those plans.

Crucially, Ms Rickard went on to state:

Comparability is a dilemma facing Australian energy consumers.

While retail competition and choice have delivered many benefits, unfortunately it is a difficult and complex process for the average consumer to compare and decide on which energy plan suits them best.

It is not only The Greens and Labor saying this, but the ACCC is also warning of a lack of comparability and complexity. Too many households are going to end up in the situation identified by the consumer group Choice—namely, a legal loophole means that electricity retailers can currently "increase electricity prices without first telling their customers about it." Those 40 per cent of households for whom price rises can occur only after a public consultation process and a public finding by the Independent Pricing and Regulatory Tribunal [IPART] might suddenly wake up and find that their bill has increased dramatically because their retailer has raised prices. Without any protection, those people could be plunged into energy poverty.

No doubt the Government will say it has the market monitor: IPART. But the market monitor is a toothless tiger. It is like a fire brigade with no water: It can sit back and watch a house burn down. IPART can jump up and down and say how terrible it is but it cannot save those households from rising prices. The fundamental protection for those households is being taken away. It is not surprising that the Baird Government is trying to play politics with power bills. Indeed, it is not the first time that this Liberal-Nationals Government has politicised power bills. I do not know whether Madam Deputy-President has noticed this on her power bill but in late 2011 the then Minister for Resources and Energy, Mr Chris Hartcher, introduced a requirement for all power bills to state:

The NSW Government estimates that the Federal carbon tax and other green energy schemes add about \$316 a year to a typical 7MWH household bill.

That statement is profoundly misleading. IPART stated:

The driving factor behind increases in New South Wales electricity bills is investment in the transmission and distribution networks which according to the Independent Pricing and Regulatory Tribunal (IPART) accounts for 50 per cent of retail energy bills ...

Conversely, during the same period quoted IPART stated:

... costs associated with the carbon price make up 8 per cent of New South Wales electricity bills while green schemes contribute 7 per cent.

The O'Farrell and now Baird Government then distracted households from the real cause of electricity price rises. The Government claimed that the carbon tax—which is more accurately called the carbon price—was the big-picture issue. The carbon price and other green schemes only make up 15 per cent of bills. The Government was not talking about the 50 per cent of bills—namely, the gold plating of the wires and poles, which is the real driver behind electricity price rises. So it is hardly surprising that a Government that is prepared to play politics with power bills is prepared to hand consumers over to the market to be exploited and driven into energy poverty.

The bill states that there will be a regulated transition period during which consumers will see a reduction of 1.5 per cent in the regulated price. This will last for 12 months. Where will we be in 12 months? Gosh, that will take us to just after the next election. Is it a coincidence that protection will continue until just after the next election? The Greens will vote against this legislation because it stinks. I challenge the Government to have the courage of its convictions and to go bare right now. I challenge the Government to go out and show the people of this State what it is really made of. Do not put in the protection. I challenge the Government to go to the election with rising power bills and see how the voters

react to that. No, this Government is no more honest and has no more integrity than its predecessor. But it is much cleverer. For example, in today's budget all the nasty stuff is up-front and all the goodies are left to the end.

This bill puts off the nasties until after the next election. The Baird Government's plan is to get re-elected. It will then let its mates in the private retail industry make a fortune at the expense of impoverished households and it hopes that everyone will have forgotten by the time of the subsequent election. But The Greens will not let people forget who did this to them. These price rises will drive 40 per cent of households into energy poverty and force them to spend time they do not have sourcing better electricity deals. Just as the gentrader disaster and the privatisation of retailers has Labor's name written all over it, this attack on affordability, on decent living standards, for no-, low- and middle-income people in this State will have the Coalition Government's name written all over it. This will be the Coalition Government's power bill increase. This will be the Coalition Government's contribution to poverty in New South Wales. This will be the Coalition Government's failure to stand up to the private retail industry and say that it cannot get away with it. This bill is contemptible and The Greens will vote against it.

**The Hon. PAUL GREEN** [5.38 p.m.]: I speak in debate on the Energy Legislation Amendment (Retail Price Deregulation) Bill 2014. As part of the Council of Australian Governments reform process in 2004 the New South Wales Government entered into the Australian Energy Market Agreement [AEMA]. The AEMA requires jurisdictions to phase out electricity and gas retail price regulation in markets where competition is found to be effective. In 2013 the Australian Energy Market Commission [AEMC] found competition in the New South Wales electricity market to be effective and providing benefits to customers. The AEMC found that, while competition was effective in some sections of the retail gas market, many regional areas did not show effective levels of competition. Given these findings, the New South Wales Government has agreed to remove price regulation for the retail electricity market but maintain price regulation for the retail gas market. This is a reasonable proposal that will allow the Government to retain reserve powers in case they are needed.

The bill will amend the Electricity Supply Act 1995 and the Electricity Supply (General) Regulation 2001 to remove the requirement for the Independent Pricing and Regulatory Tribunal [IPART] to make electricity pricing determinations. Gas pricing order provisions will be retained and revived in the Gas Supply Act 1996. The bill also amends the National Energy Retail Law (NSW) to remove the requirement for regulated offer retailers to offer electricity at a regulated price to certain small customers. Regulated offer retailers are the only retailers permitted to offer their customers the regulated price set by IPART. The only regulated offer retailers in New South Wales are EnergyAustralia and Origin Energy.

Specifically, the bill removes regulated offer contracts for electricity from 1 July 2014. It provides for customers on regulated offer contracts to transition onto standard retail contracts. It removes the retail price determination role and subsequent retailer compliance with the retail price determination of IPART in the retail electricity market. It introduces a market monitor to evaluate the performance and competitiveness of the retail electricity market and, if requested by the Minister for Resources and Energy, to conduct a special review of retail prices and profit margins. Finally, the bill appoints IPART as the market monitor. In his second reading speech on the bill the Hon. Anthony Roberts, MP, Minister for Resources and Energy, told the Parliament that in 2004 the Commonwealth, State and Territory governments of Australia entered into the Australian Energy Market Agreement. The agreement set the agenda for phasing out retail electricity and gas price regulation in markets where competition is found to be effective.

I note that Mr Roberts stated further that in 2013 the Australian Energy Market Commission undertook a review of the effectiveness of competition in the New South Wales retail energy market, consulting extensively with stakeholders. The review found that competition is sufficiently developed in the New South Wales electricity market to justify removing retail price regulation. However, it also found that competition in the retail gas market has not evolved to the same extent. For this reason, the bill removes the requirement for the Independent Pricing and Regulatory Tribunal to regulate retail electricity prices and retailers will no longer be required to offer customers regulated retail electricity prices. However, it makes no such change in relation to gas.

I note that schedule 1 [9] modifies the National Energy Retail Law (NSW) by inserting new part 9A. The proposed part establishes a market monitor, to be prescribed by regulations, to monitor the performance and competitiveness of the retail electricity market in New South Wales for small customers and to report annually on it. The annual report is to include any steps necessary to improve the competitiveness of the market, whether there is a need for a detailed review of retail prices and profit margins in the market, the participation of small

customers in the market, barriers in the market, competition between retailers and other matters. The annual report is to be tabled in Parliament. The market monitor must carry out a detailed review of retail prices and profit margins in the market, and other matters—that is, a special review—if requested to do so by the Minister. Regulations may be made with respect to reports by the market monitor, conferring functions on the market monitor that are related or ancillary to its review, reporting and monitoring functions, and the conduct of special reviews. Regulations may also apply provisions of the Independent Pricing and Regulatory Tribunal Act 1992 while the Independent Pricing and Regulatory Tribunal is prescribed as the market monitor.

I note that similar legislation was introduced in other States—for example, Victoria and South Australia—by Labor governments. So I expect it would be reasonable to see a level of support for this in Parliament. The reality of a competitive market clearly demonstrates that customers have limited brand loyalty—proactive marketing is the major driver behind switching between companies. The existence of price regulation in some States is a barrier to more companies entering the market and providing better deals for families who are struggling with the increasing cost of living and higher power bills. This applies not only to families but also to pensioners. Pensioners are doing it tough out there.

There are a number of benefits for consumers: improved product innovation, improved customer service and responsiveness, and the option to shop around for a better deal. Even though this bill is essentially about deregulation, there are some safety nets built into it. The State Government will retain the power to re-regulate if the AEMC review finds that competition is no longer effective. The onus will be on businesses to do the right thing. If they do not then the Government can, and should, step in. It is important to note the vast majority of the charges that consumers pay in a typical electricity bill are for network costs—I think it is around 50 per cent, from memory—and for the generation of energy. It is also clear that the carbon price added to energy bills, which certainly added to the burden on families. The Christian Democratic Party will gladly share in the relief of many families and pensioners throughout New South Wales when that burden is removed from their cost of living expenses, hopefully after July this year.

We know that the States with price monitoring have greater competition, more retailers and greater choice. I commend the Government for bringing network costs under control. I expect that energy generation costs are likely to be reduced though the abolition of the carbon tax. This bill is evidence based, and the philosophy behind it was backed by the Labor Party in other States. I think everyone in this Chamber will agree that we need to do something to bring some relief from energy costs to people throughout New South Wales. I am sure all members have their own ideas about how to achieve that. There is no doubt that the Government thinks this is one way forward. It remains to be seen whether it will be supported when the bill is put to the vote in this House. The Christian Democratic Party will do whatever we can to reduce the cost of living for families across New South Wales. We know that they need relief, particularly in winter when power bills go up and it becomes almost impossible for many families to cover their heating and energy costs. The Christian Democratic Party supports the bill in the hope that it may give people across New South Wales some relief from rising cost of living expenses.

**The Hon. ERNEST WONG** [5.48 p.m.]: I join my colleagues in opposing the Energy Legislation Amendment (Retail Price Deregulation) Bill 2014. Labor has always fought for families and communities on cost of living issues, and this bill is no exception. We oppose the bill because it will inevitably lead to higher prices for New South Wales families, who are already doing it tough. Labor's view is that this bill will not, as the Minister asserts, place downward pressure on the cost of living for ordinary and low-income pensioners and families. The experience of similar measures in Victoria shows that it will open up the prospect of unconstrained increases in electricity prices for the people of New South Wales. More concerning is the way that this bill is being sold by the Government. It is deeply duplicitous. The Government talks repeatedly of a 1.5 per cent reduction in prices as a result of the bill. But this is a pea and thimble trick. Yes, it causes a reduction of 1.5 per cent in the regulated rate for 12 months in a transitional period until 1 July 2015 but it then moves consumers onto a standard retail contract.

In other words, the Government is forcing a reduction of 1.5 per cent to get past the March 2015 election, after which time the real price will kick in. That real price will now be unfettered. This behaviour is no different from banks that lure consumers to switch cards with promises of low interest rates that then revert to higher rates after six months. However, credit cards are an optional decision for consumers and the principle of caveat emptor applies. In this case, consumers have no choice as ill-considered reform is rammed through in preparation for a greater power sell-off. The spruiking the Minister has done for this con job is worthy of an old-school snake oil salesman. The Minister said in his second reading speech on 13 May 2014:

Under this reform, the Government has ensured that most customers moving to the transitional tariff will receive a 1.5 per cent decrease compared to the regulated price. This is the first time in more than a decade that customers on the regulated price will experience a decrease—an achievement for which this Government is rightly proud.

The Government could be proud of a 1.5 per cent reduction if it were not for the massive increases that preceded it. Under this Government electricity prices in this State rose by 17 per cent in 2011-12 and by 18.1 per cent in 2012-13. Now facing an election and an unpopular privatisation push the Government has come in with a 1.5 per cent sweetener. Seventeen per cent and 18 per cent up followed by 1.5 per cent down? I think New South Wales families can do their maths on that little trick. They will see through this. That is why families and communities are deeply suspicious of the Government's agenda in this area. Indeed, the addition of this election-timed "reduction" proves that even Government members do not believe their spin that deregulation will lower prices. If deregulation really will reduce prices they would deregulate now and reap the rewards come election time. Instead, they seek to shield themselves from the backlash that will follow when families realise they have been duped by this so-called reform.

Again, the Government's bill demonstrates that it expects prices to rise. The bill provides for the appointment of a market monitor, which the Minister has advised will be the Independent Pricing and Regulatory Tribunal [IPART]. But IPART is not given any teeth; just the opportunity to write a report. We are moving from a system in which this fundamental service can be influenced by an independent regulator—a system that we do not hear communities asking be changed—to a system in which the old regulator can only comment on how much prices went up. I do not think New South Wales families will need that advice; they will see it each time they open their bill. It raises the question of why this economic rationalist Government thinks we need a market monitor to measure a deregulated retail market. It is because it knows that when the regulated rate is removed prices will rise. The issue becomes most critical for the consumers who can least afford it, who are often the elderly and those on low incomes. They currently have a choice between regulated and deregulated plans. More than 60 per cent of the market has switched to a deregulated rate, which shows that competition is in fact working.

But the regulated rate puts a ceiling on the market. It is a safety net for consumers who cannot afford the risk of a deregulated rate. The safety net is not just for those paying the regulated rate: It provides a safety net for all consumers by keeping a lid on the retail electricity market. Further, anyone who has taken up the Minister's catchy call to switch will know that many deregulated contracts are unclear, confusing, complicated and lacking transparency. This is yet another reason why 40 per cent of customers remain on a regulated rate. They need the security and safety net it provides, and they deserve that certainty for such an essential service. Labor will oppose this bill accordingly. The Government has simply not made the case for this change and has taken a sales approach that is worthy of a carnival con artist. No wonder New South Wales families are deeply worried about the Premier's next attack on their essential services. I thank members for their attention.

**Mr DAVID SHOEBRIDGE** [5.54 p.m.]: I acknowledge the comments of my colleague Dr John Kaye in debate on the Energy Legislation Amendment (Retail Price Deregulation) Bill 2014 and make this simple observation: This bill removes the ceiling for electricity prices. Despite all the spin and nonsense we have heard from the Government, nobody has been able to explain cogently how removing the ceiling on prices will cause prices to fall. Government members cannot explain it because it is not true. It is a con job for their mates in the industry. This bill should be defeated and I hope it will be defeated in this House. The Greens oppose it.

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

## **CRIMES (DOMESTIC AND PERSONAL VIOLENCE) AMENDMENT (INFORMATION SHARING) BILL 2014**

### **Second Reading**

**Debate resumed from 28 May 2014.**

**Dr MEHREEN FARUQI** [5.55 p.m.]: On behalf of The Greens and as our spokesperson on the status of women I speak to the Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2014. I start by echoing the concerns of my colleague Mr David Shoebridge about the haste with which this bill has been brought into this Parliament and its complicated nature. Domestic violence is a serious crime. Responses have to be well thought out and must consider the impacts of unintended consequences. There is complete agreement in this Chamber about the seriousness of the domestic violence that women in this State face every day. The NSW Bureau of Crime Statistics and Research estimates that around 1.8 million Australians have been victims of domestic violence and that nearly one-quarter of all assaults are related to domestic violence. Many more assaults go unreported each year by women who feel too threatened to go to the police.



Domestic violence is an extremely serious matter that has the potential to affect some of the most vulnerable in our society. It is also a complex issue and the safety of our community is of the utmost importance in dealing with it. It is critical that we understand every nuance of the legislation we pass and try to make sure that we minimise any unintended consequences. We should be doing everything we can to prevent domestic violence and to provide services and support to those who have faced difficult circumstances. Many members have raised the fact that at the same time this legislation is being debated women's only services are being shut down not only in the inner city but also in Western Sydney. I have extensive dealings with women from multicultural communities who have under the Going Home Staying Home program lost out on tenders to larger and more generalist providers who lack the expertise that their organisations have built up over decades. No amount of legislation can replace well-funded specialist support services.

I have had it expressed to me that a number of areas apart from this information-sharing legislation also need to be looked into. Examples include the completion of the national apprehended violence order database and increased funding for domestic violence liaison officers, particularly for multicultural communities. I have had the opportunity to discuss the bill with Women's Legal Services and Domestic Violence NSW, which have expertise in specialist services relating to domestic and family violence. I think most members have received letters from them. The services have expressed concerns similar to ones raised about the Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2013, which was brought to this Chamber before I started in my role here. However, it has been more than a year since that bill was passed and stakeholders have still not seen the protocols that will guide its implementation. They are also waiting for the response to the review of the Crimes (Domestic and Personal Violence) Act to which they made submissions in 2011. We are being asked to amend an Act the review of which has been outstanding for several years.

The Greens will not oppose the bill, but I will raise some serious concerns and urge the Government to consider and respond to them. The bill primarily enables information sharing without a victim's consent. Of course, information is vitally important and efforts to support the system's responsiveness to disclosures should be improved, but simply requiring all information to be shared, despite a woman's circumstances and over her objections to the information being shared, is a matter requiring very careful consideration. The most important thing needed for information sharing is establishing a clear structure and protocols—something the Government has failed to do.

Proposed section 98M of the bill allows sharing of information even when the victim expressly consents against it. In the majority of cases, it may well be appropriate for that information to be shared, but what if—even if it is in a minority of cases—the non-consensual information sharing causes a woman to think twice about reporting domestic violence, or when a woman knows full well that the information may be used or abused? This provision seems to me to be a hugely disempowering move inflicted on women who already may be disempowered.

Another concern is that proposed section 98E allows a Local Court to share information, unless a victim expressly opts out. Many women undertake private applications for apprehended violence orders in the courts. There may be a wide range of reasons for doing this. Some of the reasons have been explained by Domestic Violence NSW, which have stated in a letter that key domestic violence sector organisations—including court advocacy, legal, Aboriginal, and lesbian, gay, bi-sexual, transgender, queer and intersex [LGBTQI] groups—met with representatives of the Attorney General in 2013 specifically to discuss this issue. There was unanimous agreement within the sector that private applicants should not be forced into the mainstream reform response.

There are many reasons why a victim of domestic violence chooses a private apprehended domestic violence order [ADVO] application rather than involve police, not the least of which are the most marginalised and vulnerable groups within the community, who historically have a poor relationship with police intervention in smaller communities where privacy is difficult to maintain and where stigma and isolation from community are a real risk. This bill will rely on the victim knowing the law and knowing to opt out of the process in a situation in which they have quite deliberately avoided the police system. I will be moving an amendment to that effect.

Obviously, there are procedural issues about how this bill will operate. As I understand it, this legislation will be active across the whole State, but with only two coordination points at the implementation sites of Waverley and Dubbo being funded. Will compulsory information sharing be occurring without local coordination points? I hope the Parliamentary Secretary will address this issue during his reply. There is also concern about how this legislation would operate in practice in regional areas. As members would well be

aware, regional women especially suffer a particularly large proportion of this violence, as evidenced by 19 of the 20 local government areas having the highest per capita domestic violence rates being classified as remote or very remote. In many regional areas where the community is much smaller and personal connections are much closer, there are risks. Will a victim even report domestic violence if she knows her information will be shared with someone she may know or who has a conflict of interest? This legislation disempowers the victim to make decisions about her own safety.

Domestic Violence NSW has raised some concerns about the safety action meetings. Many unanswered questions remain about them—for example, the rights of victims to access and/or amend their records, make a request for a specialist advocate to speak on their behalf at the safety action meeting and to know who will be attending, or how, and if, they will be able to notify conflicts—and the meetings' operation. However, overall I am pleased that a review of this amending part will be taken over the period of two years from commencement. I ask the Government not only to review but also to undertake an evaluation so that we can see what has happened. Overall, the sector is deeply concerned that this bill is proceeding before the protocols of information handling have even been released. There is no reason why the Government has not consulted with the sector. The best outcomes will be achieved if the Government works openly and closely with key stakeholders in the sector. I urge the Government to do so immediately.

**The Hon. PAUL GREEN** [6.04 p.m.]: I participate in debate on the Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2014 on behalf of the Christian Democratic Party. The bill will amend existing information sharing legislation relating to domestic violence to support the Government's domestic and family violence reforms. The Government's domestic and family violence reforms will establish a number of new referral pathways for victims of domestic violence to link them with appropriate support services and to improve victim safety. In particular, the reforms establish a "central referral point" for victims' services within the Department of Police and Justice, which will receive referrals from the police, government agencies and the Local Court in specified circumstances. The referrals then will be passed on to a "local co-ordination point" that is operating in the victim's local area.

The local coordination point will seek consent for further sharing of information, when necessary, as well as handle case management and other service provision for the victim. There will be safety action meetings at which multiagency conferences will identify ways to address victim safety in cases in which the victim has been identified as being at serious threat of domestic violence. The bill will support the sharing of information through those referral pathways. The bill will be supplemented by information management protocols, which are being developed by the Department of Police and Justice and will require approval by the Attorney General.

This bill amends the Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Act 2013 to permit dealings with information about a domestic violence victim and any perpetrator, without the consent of the victim. This will be done in order to seek the victim's consent to facilitate the provision of domestic violence support services and address situations in which someone faces a serious threat of domestic violence and they have refused to consent, but an agency considers that sharing information is necessary to prevent or reduce the serious threat. The Act already covers situations in which it is unreasonable or impracticable to seek consent.

This bill permits dealing with information about a domestic violence victim and any perpetrator with the consent of the alleged victim in circumstances in which the victim faces a domestic violence threat. This will be to facilitate the provision of domestic violence support services. I note that this bill has been in the public spotlight since early this year. A *Sunday Telegraph* article dated 15 February 2014 by Linda Silmalis states:

"... the first two of up to 24 new Central Referral Point centres will be established in Wentworth in southern NSW with a second in Orange in the State's central west.

The sites were chosen based on the high rates of domestic violence in the surrounding suburbs.

The NSW Police Domestic Violence Liaison Officers (DVLOs) and the Women's Domestic Violence Court Advocacy Services (WDVCAS) will be responsible for implementing the new referral pathways in the launch sites.

NSW Minister for Women Pru Goward said the framework represented biggest change in the approach to domestic violence in recent years.

"It Stops Here puts victims of domestic and family violence at the centre of the system so that they can access specialised services and the support they require," she said.

"This framework is the Government's response to the clear and immediate need to protect vulnerable women and families. It strengthens our approach to violence prevention by changing the way we deliver services and prevent perpetrators from reoffending.

The It Stops Here reforms have been drawn from various sources including existing evidence, agency experience, the wisdom of service providers and, most importantly, the views of those who have experienced violence."

In 2011 the Auditor-General's report said: "Domestic and family violence damages too many people in our community.

Organisations do not have a strategy for working together across the State in response to domestic and family violence.

There is no shared understanding between organisations of each other's roles in providing a more responsive system that encourages people to seek help and provides them with support when they do so."

Domestic violence is the single greatest cause of death, ill health and disability for women aged under 45.

In 2012, NSW Police recorded almost 30,000 domestic violence-related assaults.

The Government received more than 200 responses containing over 700 pages of feedback from the community on how to improve the system.

Other initiatives in the It Stops Here strategy include a trial whereby offenders who become the subject of an Apprehended Violence Order [AVO] are given legal advice to help them understand their obligations to bring down the number of breaches.

Some statistics in the article from the NSW Bureau of Crime Statistics and Research in 2012 shed light on domestic violence hotspots: Bourke, 4,295 per 100,000 head of population; Walgett, 2,705; Moree Plains, 1,679; Coonamble, 1,258; Wentworth, 1,061; Inverell, 949; Wellington, 894; Hay, 814; Lachlan, 787; and Forbes, 784. The article continues:

The strategy will be funded from the \$9.8 million, three-year Domestic and Family Violence Funding Program, announced in 2012.

The overhaul of the response system addresses a key area of ... concern among domestic violence victims such as Nanette.

Nanette, whose psychotic ex-boyfriend was deported to Germany after serving just three years of a 25 year sentence, said both the police and legal system failed to act prior to her horrific attack in 2006.

The assault, which occurred after Nanette returned from overseas where she had fled to escape for two months, was so horrific she suffered a brain injury, but it was the process after the attack that really failed victims, she said.

"Victims are the ones who get the life sentences. We have to watch our backs, change our names, protect ourselves and fight for our rights in a system that is very offender-biased", she said.

"Anything that goes towards a more victim-centred approach is welcomed. I am still trying to get my life together."

Another part of the article refers to statistics from the New South Wales Auditor-General's report into domestic violence in 2011 and provides a snapshot of domestic violence:

Estimated cost of family violence alone to the Australian economy was \$13.6 billion.

Domestic and family violence is estimated to cost the New South Wales economy more than \$4.5 billion each year.

Scathing New South Wales Auditor-General report says Government is not doing enough to address underlying problem.

In 2010, NSW Police responded to over 126,000 incidents involving domestic and family violence.

Domestic violence present in half of all households where children are abused.

Nearly 20 per cent of homelessness is as a result of domestic violence.

Australian studies indicate that domestic and family violence contributes to death, ill health and disability among women under 45 years of age more than any other single factor, including smoking or obesity.

Two in three victims of violence do not go to the Police.

On average, domestic and family violence kills 36 people each year, but only one in ten victims were known by Police to be in an abusive relationship in the year before their deaths.

Nearly half of the 92,215 victims and 81,772 perpetrators, who came to the attention of Police in 2010 over family and domestic violence incidents, had a history of such incidents over the preceding five years.

Twelve per cent (10,680) of victims had been victimised five or more times and 16 per cent (12,980) of perpetrators had been identified as perpetrators five or more times.

Domestic and family violence generates a significant amount of work for Government, including nine per cent of police callouts, 13 per cent of persons charged in Local Courts and significant health and welfare activity.

Although it is a worldwide phenomenon, domestic violence is a scourge in our society and the Christian Democratic Party will always be committed to supporting bills to deal with it and, more importantly, to eradicate it. The Christian Democratic Party commends the bill to the House.

**The Hon. HELEN WESTWOOD** [6.15 p.m.]: I speak to the Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2014. We have discussed this issue a number of times in this Parliament, both in relation to legislation and the work of the Social Issues Committee on domestic violence trends and issues in New South Wales. That is one of the things that led to this bill. It is clear that information sharing is important for victims, as the Attorney General stated in his second reading speech. One of the things that the Social Issues Committee heard from both victims and advocates was the importance of victims not having to tell their story over and over again and being referred as quickly as possible to appropriate support services. I know that that is the intention of the bill and I endorse it.

There are, though, some legitimate concerns about the bill that I want to speak about. I acknowledge that The Greens will move an amendment in Committee that I think addresses some of my concerns. I hope that the Government is willing to consider that amendment. One of the things we need to understand about domestic violence is that it is about power—it is about taking power away from the victim. One of the important approaches for victims of domestic violence, if they are ever going to be able to live their lives free of that violence, is empowerment. Taking away consent, or their right to consent, to have their information shared really works against that. It makes women feel powerless in those circumstances, and they have felt powerless in the abusive relationships they have been in. The purpose of domestic violence is to take power away from the women involved in those relationships.

The Government should always have at the fore of legislation the principles behind it. The Government needs to consider the process and how working with and treating women can empower them so that they do not return to abusive relationships. Taking away their right to consent to sharing information sends a message to them that they are still powerless. Therefore, I ask the Government to seriously consider that issue. I have concerns about some practical aspects of information sharing. I acknowledge and thank Women's Legal Services NSW, which has written to all of us and shared some legitimate concerns. My concern is with the proposed service delivery model as part of the Government's domestic violence framework.

Information a victim provides in an initial contact with services—the Local Court, police, Health, Education, Family and Community Services or another service provider—will be shared with the central referral point, which is just an electronic database. Advocates or service providers will not assess the information. I understand the intention at this stage is to use Local Court support services as local coordination points for victim information. In regional communities those services could be staffed by relatives of the victim or perpetrator. Concerns have been expressed about privacy. Victim information could be shared with people they know or are related to, or, indeed, with people who have a relationship with the perpetrator. There are no guarantees that will not happen.

The Government has been remiss in not consulting the experts on this issue. It did not speak to organisations such as Women's Legal Services NSW or Rape and Domestic Violence Services Australia, which is one organisation at the forefront of providing services and working with victims of domestic violence to ensure women can leave abusive relationships. Had the Government followed that consultation process, it would have understood the problems with this proposal, even taking into account its best intentions. Sharing information without consent, particularly in regional and remote parts of New South Wales, will deter women from reporting domestic violence. That is the last outcome we want. We want women to report domestic violence and get the services they need to escape violent relationships.

If we are going to support women in escaping violent relationships, one key thing we need to do is empower them. Taking away their right to consent to share their information removes their power. I urge the Government to reconsider that aspect. I commend The Greens for proposing its amendment. I wish my party also had proposed it. I acknowledge that the Hon. Sophie Cotsis, the Hon. Linda Burney, both shadow Ministers, and our party leader, John Robertson, held a domestic violence roundtable in this place a few weeks ago. People from a range of backgrounds—mostly service providers but also members of the Police Force,

academics, criminologists, et cetera—attended and expressed their concerns with this legislation. The Government has not consulted the experts. However, I am pleased that domestic violence now is considered a serious and social criminal issue in this State. The media has paid much attention to the issue of domestic violence.

I am pleased that John Robertson acknowledges the seriousness of domestic violence and has spoken with service providers and victims so that we better understand the policies needed if we are to address this serious social issue. For decades horrendous damage has been inflicted upon women and their children. A few weeks ago I was preparing to speak about domestic violence at a function. I went to the police web page, which lists its media releases, to look up the latest trends in unreported crimes. I was gobsmacked. On 2 April a woman was assaulted in Inverell and sustained serious head injuries. On 8 April a 53-year-old woman was murdered in Murwillumbah. Her 61-year-old partner was charged with her murder.

On 10 April a 25-year-old woman was murdered in Auburn and her 46-year-old husband was charged. I have since learned much more about that case because it happened not far from where I reside. It is a very distressing and sad case involving children. On 14 April a 61-year-old woman was murdered at Redfern and her 38-year-old nephew was charged. On 17 April a 34-year-old woman was found dead in Maryville. A man in his forties was questioned and subsequently charged with her murder. He was in an intimate relationship with her. On 21 April a 42-year-old Doonside woman was found dead. A 38-year-old man was found with self-inflicted wounds and later charged in relation to her death.

In a matter of weeks so many women were the victims of violence. Regretfully, domestic violence continues. I do not have the latest Bureau of Crime Statistics and Research statistics with me, but they demonstrate an increase in domestic violence. I acknowledge the argument that the increase is occurring because more reports are being made. That may be so, but I am not convinced. I believe more violent incidents are occurring. Society still has serious problems with its attitude towards women and this has led to domestic violence continuing as a serious social and criminal issue. I urge the Government to consider The Greens amendment because it certainly is worthy of support. I remind the House that if we are to support women in escaping domestic violence and ensure they do not return to abusive relationships, we need to empower them. Sharing information without the victim's consent takes power away from those who already feel seriously powerless.

*[The Deputy-President (The Hon. Natasha Maclaren-Jones) left the chair at 6.28 p.m. The House resumed at 8.00 p.m.]*

**The Hon. SOPHIE COTSIS** [8.00 p.m.]: I speak in debate on the Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2014 which has as its objects:

- (a) to permit dealings with information about a primary person (being a person who is (or is alleged to be) subject to, or threatened by, domestic violence) and any associated respondent (being a person who is (or is alleged to be) the perpetrator of the violence or the cause of the threat) without the consent of the primary person or associated respondent but only to seek the primary person's consent:
  - (i) to the provision of domestic violence support services to the primary person, or
  - (ii) to further dealings with the information in relation to the provision of such services,
- (b) to permit dealings with information about a primary person and any associated respondent with without the consent of the associated respondent for the purposes of providing domestic violence support services to the primary person,
- (c) to set out the circumstances in which an agency may deal with information about a person without the person's consent where the agency believes domestic violence poses a serious threat to the life, health or safety of any person.

The bill makes a number of changes to part 13A of the Crimes (Domestic and Personal Violence) Act 2007. That part was inserted into the principal Act by the Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Act 2013. The Opposition received a copy of the bill on 26 May when the second reading commenced in the other place. If the bill does what it says it will do, the Opposition will support it. The Opposition supported similar legislation that was introduced into this House last year. This bill amends legislation that was passed through the House last year but that has not commenced. The Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill was introduced on 27 March 2013, passed through the Parliament on 23 May 2013 and assented to on 23 May 2013. On the first anniversary of that legislation being assented to, another bill has been introduced to amend it. Domestic violence is an important issue and perhaps members should welcome the flurry of legislative activity in this area. However, it is concerning that the Government is rushing legislation through the Parliament on such an important issue.

When the Government introduced the bill on 27 May it had not spoken to any relevant stakeholders. The Government must take the issue of domestic violence and sexual assault seriously. It has not proclaimed the legislation that it passed last year. The bill amends a law that never came into force. Evidently the law that was passed last year was so flawed that the Government has sought to rush this bill through, but rushed legislation is not the answer to flawed legislation. The right approach is to sit down with the stakeholders and to develop well-considered legislation that will stand the test of time. My colleague in the other place the shadow Attorney General hit the nail on the head when he said that this bill is a disgrace because it shows that the Liberal-Nationals Government is not taking the issue of domestic violence seriously, that it is incompetent and that this bill is being rushed through Parliament to cover up the Government's failure to take one of the most important issues in our State seriously.

It is worth considering the Government's limited record on matters related to domestic violence. I noted that in August 2012 the Legislative Council Standing Committee on Social Issues released its report on domestic violence trends and issues in New South Wales. I applauded the committee's recommendations. The committee conducted an extensive inquiry which received hundreds of submissions. Among the recommendations was a call for the NSW Police Force to allocate police sergeants to deal specifically with domestic violence matters. The committee's report stated that the allocation of sergeants to deal with domestic violence matters would ensure that such sensitive matters would be handled by a senior officer with the experience to provide support and supervision to police constables. In February 2013 the Government responded to the committee's report and gave in principle support to this recommendation. However, in November 2013 when the Government was asked to report on its progress in implementing this recommendation it reversed its position and stated:

... the creation of a dedicated domestic violence sergeant position is not required ...

This backflip shows the uncoordinated approach that the Government has taken to domestic violence. However, it does not stop there. Last year the Coalition significantly cut the compensation available to victims of crime. The effect of these changes was to dramatically cut the assistance that had previously been available for long-suffering victims of domestic violence. The Government's budget cuts have also impacted on the ability of victims of domestic violence to access Local Court services. On 15 December last year the *Sun-Herald* reported:

Domestic violence victims will be deterred from seeking orders from abusive partners as deep cuts to local courts are rolled out from January, advocates say. Nine courts across NSW are slated for closure, or will have their sitting days cut, forcing women to travel longer distances to seek an apprehended violence order or make court appearances to recover belongings in the home.

The Women's Domestic Violence Court Advocacy Service, which works closely with police and assists 21,000 women a year, has written to NSW Chief Magistrate Graeme Henson to protest the cuts.

The advocacy service is concerned at the impact on women seeking protection from violence in Windsor, North Sydney, Camden, Ryde, Port Macquarie, Kempsey and Coffs Harbour.

That report is relevant to the bill because it shows that, whilst the Government claims that the laws it is passing will improve access to justice for domestic violence victims, the budget cuts the Government is implementing completely undermine those claims. We saw the Government's flawed approach to domestic violence when it announced its Going Home Staying Home reforms to funding for homelessness services. These reforms have cut funding from specialist homelessness services, including many of the women's refuges that shelter women fleeing domestic violence. The Government cannot claim that it is helping victims of domestic violence when it is forcing the closure of services that assist these women.

An analysis by the Opposition has uncovered that at least 80 homelessness services—many of which have been helping the most vulnerable in our community for decades, in particular women—are being forced to close their doors as a result of the Liberal-Nationals Government's Going Home Staying Home program. The list of homelessness organisations that are no longer funded represents a conservative analysis of unsuccessful tenders for Going Home Staying Home and does not include the organisations that declined to submit a tender due to the Government's failure to include their category. We know from the latest crime statistics that domestic violence and sexual assaults are on the rise, and the Coalition's approach to helping these victims is to force the closure of specialist women's homelessness services across New South Wales.

Because of this ignorant approach, and particularly the work of the former Minister for Family and Community Services, Elsie Women's Refuge, which is the oldest women's refuge in Sydney, will have to close its doors, as will other services such as Erin's Place in Ryde. The closure of these organisations will be a massive loss to women who rely on those refuges to escape dangerous homes. Make no mistake, the closure of

at least 80 homelessness services, including a large number of specialised women's refuges, will not make women safer. Women escaping domestic violence and sexual assault need specialist and gender-specific services, not generalist services.

In the lead-up to the last election Coalition members said that, if elected, they would institute a coordinated approach to domestic violence. The Government is working in silos and, consequently, the recommendations of this inquiry are not being coordinated. The Government's homelessness policy is an absolute disaster. It closes an escape route for many women who find it difficult to leave their homes and lives behind. Under this policy they will have to rely on generalist services that will likely see men and women housed together. That is hardly a welcoming environment for women escaping sexual assault and domestic violence. It is also unacceptable that the Government has taken a year to address the flawed law that this bill seeks to amend. I seek leave to table a list of the organisations that the Government is forcing to close.

**Leave not granted.**

I call on the Government to step back and consider how the pieces of the puzzle fit together. Domestic and family violence now accounts for 40 per cent of all police work. We need dedicated and highly skilled officers to deal with these offences. The legal system can be confusing and confronting for victims. We should make Local Court services accessible. When women flee domestic violence they should be able to take refuge in specialist women-only services.

I take this opportunity to acknowledge the Leader of the Opposition and the Deputy Leader of the Opposition, who headed a roundtable discussion on domestic violence and sexual assault. The Hon. Helen Westwood also spoke at that discussion of her extensive experience in dealing with victims of domestic violence and sexual assault. We also heard from many experts and specialists who are on the front line. This is an important issue. Endless meetings have been held and many specialists have corresponded with the Government, but we need to go back to the drawing board. Governments are elected to represent the people and bureaucrats provide advice; at the end of the day the Government has to make decisions on behalf of the people of this State. Hundreds of organisations have corresponded with members from all parties on this issue. I urge the Government to reassess its Going Home Staying Home reform. Many women who are in need of crisis accommodation will not go to generalist services. My concern is that many will be forced onto the street. No-one wants that to happen. As I said, the Opposition supports the bill; but I hope the Government will give due consideration to my comments about Going Home Staying Home.

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [8.14 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank all members for their contributions to this debate. In response to Dr Mehreen Faruqi's question about the location of the coordination points for the rollout of the scheme, I can advise that two women's domestic violence court advocacy services will be established: initially at Waverly and Orange. In other areas in the State police are able to refer directly to agencies and non-government organisations. The bill provides for sharing of this information between government agencies with consent, or without consent in cases where a victim is at serious threat and it is necessary to prevent or lessen that serious threat. Over time further local coordination points will be added in other areas in New South Wales.

The Hon. Adam Searle requested clarification as to why the bill differs from the existing Act. In its current form the bill supports both the implementation of our Domestic Violence Justice Strategy and the broader domestic violence reform titled "It Stops Here". It also supports the introduction of a single information-sharing framework, which will offer more clarity to government and non-government stakeholders sharing information. As the Deputy Leader of the Opposition pointed out, the bill thus replicates provisions included in both the existing sections 98C and 98D of the Act. The bill additionally inserts a number of new provisions into existing section 98C to support key elements of It Stops Here—namely, the new central referral and local coordination points. For clarity and ease of reading, this required renumbering and some redrafting. The substance of existing section 98D has been reproduced in proposed section 98M, with the additional provision that agencies will be able to deal with information in cases of serious threat where a person has been asked and has refused consent but the agency nevertheless considers the dealing is necessary to prevent or lessen that serious threat to life, health or safety.

Both the Deputy Leader of the Opposition and Mr David Shoebridge raised the matter of the protocols that will supplement these legislative provisions. Mr Shoebridge noted that draft protocols have not been made available either to non-government providers of domestic violence support services or to members of Parliament. The intention is to produce a single framework for information sharing for all stakeholders and the

protocols will reflect the new combined Act in its entirety. A draft of the protocols will be released for consultation if this bill is passed. The protocols will then be finalised, taking into account the views expressed in that consultation prior to the commencement of the Government's reforms. While the bill provides for the secretary to the Department of Police and Justice to function as the central referral point, this function will be carried out under delegation, which is provided by proposed section 98P, by Victims Services in the department.

The central referral point is an electronic database to which information will be able to be sent by those making referrals, including agencies which identify victims at threat, Local Courts and police. The central referral point database will automatically allocate referrals by postcode and gender to the appropriate local coordination point. Authorised persons in the organisations designated as a local coordination point will then be able to log into the central referral point database to access information about victims referred to it. This information will then be used to contact the victim and to seek consent. Once the victim's consent has been obtained, information may be shared with other support service providers for the provision of domestic violence support services. It should be noted that there may be some cases involving a serious threat where consent may not necessarily be required as it is believed the victim's safety is paramount.

Mr David Shoebridge also noted concerns raised in relation to the potential impact on Indigenous people of the framework for the sharing of information. Due to a range of factors, Aboriginal women are six times more likely to be victims of domestic and family violence than non-Aboriginal women. Aboriginal and Torres Strait Islander victims who have had negative experiences with agencies and services in the past may be reluctant to engage with the support services facilitated by the New South Wales Government's Domestic and Family Violence Framework for Reform. It must be emphasised that the purpose of automatic referrals by police is to allow the local coordination point to contact the victim to seek consent for any further sharing of information.

It will only be in limited cases where a victim is at "serious threat" that agencies may deal with information where the victim refuses consent—where it is believed the sharing of information is necessary to prevent or reduce that serious threat to the victim's life, health or safety. It is intended that the level of support that will be provided as part of the new referral pathways, and the information sharing framework, will ensure that families have more support than they did previously to address the difficulties associated with domestic violence. It is intended that support services will be wrapped around victims and their children, in response to their identified needs.

It is also intended that information sharing will help to reduce the incidence of deaths and serious injuries caused to victims and their children from domestic violence. Each local coordination point will provide case coordination and referrals to local domestic violence support services. The case coordinator will assess a victim's needs and consider the circumstances of a victim's background—such as whether they are from an Aboriginal or Torres Strait Islander or non-English speaking background community, and whether the victim has any disability. They will then develop a safety plan that addresses the victim's specific identified needs.

Mr David Shoebridge also requested further information on the Safety Action Meetings. Safety Action Meetings have been established as part of the New South Wales Government's Domestic and Family Violence Framework for Reform. A Safety Action Meeting will be established in each local area with the aim of providing a rapid and coordinated response to victims identified as being at serious risk in order to prevent death, disability or injury as a result of domestic violence. At the heart of information sharing is the assumption that no single agency or individual has a complete picture of the victim's situation but all may have information that is crucial to securing a victim's safety and that, with a more comprehensive understanding of the level of risk faced by the victim, more effective action can be taken by each agency and organisation.

Safety Action Meetings will provide a forum for government agencies and non-government organisations and services—including: the NSW Police Force, the Department of Education and Communities, the NSW Ministry of Health, the Department of Family and Community Services, the Department of Police and Justice, the local coordination point and local non-government organisations providing domestic violence support services—to share information about victims at serious risk of domestic violence and their situation. Based on this comprehensive picture of each victim's situation, agencies will develop a Safety Action Plan, which consists of actions that agencies and services will complete to "prevent or lessen serious threats to the life, health and safety of victims, their children or other persons".

It should also be noted that, although the bill provides for the sharing of information in cases involving serious threat in spite of a refusal of consent by a victim, it is intended that most referrals of victims to Safety



Action Meetings will occur with the consent of the victim. This bill amends the Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Act 2013 to further facilitate the sharing of personal and health information about victims and perpetrators of domestic violence for the purposes of providing domestic violence support services to those victims, and for other purposes. I commend the bill to the House.

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

**Motion agreed to.**

**Bill read a second time.**

### **In Committee**

**Clauses 1 and 2 agreed to.**

**Dr MEHREEN FARUQI** [8.25 p.m.]: I move The Greens amendment No. 1 on sheet C2014-055:

No. 1 Page 4, schedule 1 [4], proposed section 98E (2), lines 24 and 25. Omit "unless the primary person expressly objects to the disclosure". Insert instead "with the consent of the primary person".

The Greens have proposed this amendment in an attempt to ameliorate some of the unintended impacts of the bill. As it stands, proposed section 98E allows courts to share a person's information unless that person expressly requests that his or her information not be shared—that is, an opt-out situation. This amendment, as opposed to that, proposes an opt-in requirement. This section primarily deals with the private applications of apprehended domestic violence orders [ADVOs]. These are situations where an individual applies directly to the court for an ADVO and does not engage with the police. This could happen for a wide range of reasons. Perhaps applicants have a distrust of the police, perhaps they do not believe the police will treat them equally, or perhaps they want their privacy maintained in a small community—where stigma and isolation from the community are real issues.

As Women's Legal Services NSW points out, women need to be supported to take protective action and the option of making a private ADVO application where information is not shared without consent is one important way of doing this. They also state that removing an alternative avenue for seeking an ADVO which avoids information sharing without consent will deny some people the opportunity to take early intervention measures. The potential consequences include the escalation of violence. Proposed section 98E also relies on individuals knowing that their information will be shared unless they opt out. The Greens amendment changes it to an opt-in system where at least victims will be asked if they wish to be referred to the central referral point. Hence this important conversation about information sharing will happen. I hope the Government will agree to this amendment. I commend the amendment to the Committee.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [8.27 p.m.]: The Opposition will be supporting The Greens amendment. A week or two ago the Opposition convened a domestic violence service providers roundtable. It was convened by the shadow Minister for Women, the Hon. Sophie Cotsis, MLC, and Linda Burney, MP, Deputy Leader of the Opposition. Many service providers were there at the roundtable. We heard from them firsthand the concerns they have arising from the legislation about the sharing of information without express consent.

They understood the policy purpose behind the legislation, which is laudable; but they did express concerns that having an opt-out situation rather than an opt-in situation could, in some circumstances, lead to a situation where women at risk—and with children also at risk—may not seek support or assistance for fear that the information they impart might, without their consent, be shared. This would be of particular concern outside the Sydney metropolitan area in regional centres and the like. That is the information we were getting. For safety's sake and to avoid that possibility, we think this amendment is both prudent and sensible. We will be giving it our support.

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [8.29 p.m.]: Currently proposed section 98E would permit the Local Court to disclose personal information about alleged victims and alleged perpetrators in apprehended domestic violence order applications to the central referral point unless the alleged victim objects to the disclosure. The Greens amendment to the provision would replace this with a requirement that the Local Court could not disclose this information unless the alleged victim consented. The purpose of this provision is to facilitate victims' access to domestic violence support services by allowing the Local Court to disclose

information about applicants for apprehended domestic violence orders more easily. Victims are often distressed when making an application for a private apprehended domestic violence order. As a result, it is considered that they will be more likely to take up services when the service offers assistance rather than a police officer or, in this case, a court officer. Unlike domestic violence support workers, court officers are not trained in offering or providing support to victims.

The framework will operate so that if an alleged victim objects to the Local Court then no information will be forwarded to the central referral point. If the alleged victim does not object, a trained victims services worker at the local coordination point will seek consent immediately upon contact with the alleged victim. It was originally intended that this framework would operate as an automatic referral mechanism with no need to seek consent in any case. However, following consultation with non-government organisations, the opt-out option was included so that where a victim specifically objects they are able to refuse the referral or a referral to a particular service. For these reasons the Government opposes The Greens amendment.

**Mr DAVID SHOEBRIDGE** [8.30 p.m.]: I support the amendment moved by my colleague Dr Mehreen Faruqi. The amendment comes from the very support agencies that the Government says it has consulted. The current drafting of new section 98E has the defect that it requires the person who seeks the apprehended domestic violence order to proactively object to the disclosure of her information. At no point has the Government said what arrangements have been put in place to facilitate that. It has not said what regulations, forms or structures will be put in place to empower women, who will be the people mainly subject to this new law, to express their objection. In his contribution to the discussion on the amendment the Parliamentary Secretary made it clear that these women are almost always in difficult circumstances and facing emotionally challenging and distressing situations. Therefore, in the worst possible situation they are expected to protect their rights to privacy or to express their concerns about their information being shared. In those circumstances the only safe course is for an opt-in regime rather than the opt-out regime that the Government is proposing.

I accept it is how the Parliamentary Secretary has been briefed, but the Government says that the information will be used only to put domestic violence counselling providers in contact with women who have come before the courts and who may benefit from counselling. If that was the only purpose for which it could be used then stakeholders, The Greens and the Opposition may not hold the same concerns we currently have about the legislation. But of course the legislation does not contain those limitations. It does not say that the information can be used only for the purposes of counselling. It allows the information to be provided to police for the purposes of prosecution and to Family and Community Services [FACS], which may use it to remove children. The legislation allows the information to be shared with any agency and it is not limited in the way that the Parliamentary Secretary says.

The sector expressed these concerns to us when the prior bill was introduced and it has repeated the concerns about this bill. As I understand it, these concerns were also raised at the roundtable with the Labor Opposition. It is these concerns that the Government should listen to far more closely than it is listening to whichever bureaucrats are saying an opt-out process would be administratively easier. Yes, it would be administratively easier but this addresses far more important principles that relate to protecting women from domestic violence and making them feel comfortable to come forward.

**The Hon. Trevor Khan:** And children being protected from domestic violence.

**Mr DAVID SHOEBRIDGE:** And children. We do not suggest that the Government has some deep malign intent.

**The Hon. Trevor Khan:** That is a reasonable concession to make.

**Mr DAVID SHOEBRIDGE:** No, the Government has a genuine intention to attempt to draw the line so that information can be shared in all circumstances. That will, in the eyes of the Government, produce more safety for children and women at risk. But stakeholders are saying that, by having no protections in place, many women will feel anxious about taking that first step to seek protection. They will feel anxious about disclosing the details of their situation to the courts or other agencies if they feel that the information can spread throughout the government apparatus and go to the police, FACS and other organisations. Rather than serving the purpose that the Government intends, which is protecting more children and women, it may do the opposite. When all the stakeholders that have contacted The Greens and the Opposition have acknowledged the difficulties but have effectively said the same thing about this aspect of the bill, the Government should listen. For these reasons I support Dr Faruqi's amendment.

**The Hon. HELEN WESTWOOD** [8.35 p.m.]: Service providers and experts working with women and children who are victims of domestic violence have raised legitimate concerns. There has been no explanation of the local coordination points through which the information will be received and shared. We have had no guarantees that information about a victim will not end up in the wrong hands or be disclosed to people who know or are related to the victim. None of that information is available, yet we are making laws that pose the real risk of decreasing the number of women who are willing to report domestic violence because they fear their information will be shared. I cannot see how it will reduce the effectiveness of this legislation if we take the time to get a woman's consent. Once we have her consent we can share the information and refer her on to services. But, as I said in speaking to the bill, the important thing for women who are in abusive relationships and victims of domestic violence is that they feel empowered. Taking away their right to consent to their information being shared does the opposite and reinforces their sense of powerlessness.

If the Government does not accept the amendment that The Greens have put forward then I think we will place some women at risk. The Government owes it to victims and their advocates to tell us how it will ensure that the information does not end up in the wrong hands, breach women's privacy or place them at risk. The Government has not been able to give any information that gives me, the service providers and the advocates any feeling of confidence. If someone had spoken to the service providers before the Government brought this bill before the House then we would have had quite a different outcome. It is not just the Opposition and The Greens members saying what I have said; it is the experts. I implore Government members to hear the people who work with victims of domestic violence. They are the people who know how to support women to leave abusive relationships, not return to them, and live their lives in safety.

**Question—That The Greens amendment No. 1 [C2014-055] be agreed to—put.**

**The Committee divided.**

**Ayes, 19**

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

**Noes, 20**

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

**Question resolved in the negative.**

**The Greens amendment No. 1 [C2014-055] negatived.**

**Schedule 1 agreed to.**

**Title agreed to.**

**Bill reported from Committee without amendment.**

**Adoption of Report**

**Motion by the Hon. David Clarke, on behalf of the Hon. John Ajaka, agreed to:**

That the report be adopted.

**Report adopted.**

### **Third Reading**

**Motion by the Hon. David Clarke, on behalf of the Hon. John Ajaka, agreed to:**

That this bill be now read a third time.

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

### **RURAL FIRES AMENDMENT (VEGETATION CLEARING) BILL 2014**

**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. John Ajaka.**

**Motion by the Hon. David Clarke, 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 future day.**

### **MARITIME AND TRANSPORT LICENSING LEGISLATION AMENDMENT BILL 2014**

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

### **LAW ENFORCEMENT (POWERS AND RESPONSIBILITIES) AMENDMENT BILL 2014**

### **Second Reading**

**Debate resumed from 28 May 2014.**

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [8.52 p.m.]: I lead for the Opposition in debate on the Law Enforcement (Powers and Responsibilities) Amendment Bill 2014. The Opposition will not oppose the legislation but will move some minor amendments. The object of the bill is to amend the Law Enforcement (Powers and Responsibilities) Act—which is known as LEPR—following a number of reviews and reports, which include a statutory review of the principal Act by the Department of Attorney General and Justice and the Ministry for Police and Emergency Services dated 2013 that was tabled recently. Unhappily, those two bodies now are part of one entity: the Department of Police and Justice. The statutory review flowed from section 243 of the principal Act.

The review stated that it took into account two reports prepared by the NSW Ombudsman: the 2006 "Review of the Police Powers (Drug Detection Dogs) Act", which is known as the drug dog review; and the February 2009 "Review of certain functions conferred on police under the Law Enforcement (Powers and Responsibilities) Act 2002". That report in turn stemmed from section 242 of the Law Enforcement (Powers and Responsibilities) Act and dealt with personal searches, crime scenes and notices to produce. The statutory review was stated to be the Government's response to the Ombudsman's report on the Law Enforcement (Powers and Responsibilities) Act. The principal Act, in the words of the 2009 Ombudsman's report, "represents the most extensive codification and consolidation of the criminal law enforcement powers most commonly used by police in New South Wales." The bill was assented to in 2002 and came into force in stages, the first of which was in 2004.

The development of the bill arose from the Wood royal commission, which envisaged consolidation and codification of police powers. For anyone who supports a society governed by the rule of law—and the Opposition does—such a development was welcome. The other relevant report was the more recent Tink-Whelan review, commissioned in October last year by the former Premier. That was not pursuant to specific statutory review provisions. They prepared one report dealing with section 99 of the Law Enforcement (Powers and Responsibilities) Act within two weeks of the referral. That resulted in legislation in this place in November last year. The second Tink-Whelan report, dated 12 December, took a little longer to complete but was still done within two months and dealt with parts 9 and 15 of the Law Enforcement (Powers and Responsibilities) Act, which respectively concerned investigation and questioning, and safeguards relating to police powers. The recommendations in that review on those parts of the Act have given rise to a large part of the bill that is now before this House.

The authors of the Tink-Whelan review made it clear—and granted the time frame they were provided gave them little option—that their consultation was very restricted for reviewing legislation of this type. Their consultations were restricted to the police, the department and the ministry. There is reference to their reading submissions made to the statutory review, but it is clear that the consultation was not sufficiently broad or wide ranging, given the important nature and important public policy underpinnings of this legislation. The impression one gains of the process of the review—and this is not a criticism of the authors—is of a lopsided and very truncated approach to what, as I have indicated, was a very important task. As the shadow Attorney General in the other place said during the November 2013 debate, the process was highly unorthodox and without the usual public consultation that such a process should involve.

The most substantial change introduced by the bill to part 9 of the Act relates to the establishment of a new category of protected suspects. A definition is provided in the bill. It means a person in the company of a police officer who is participating in an investigative procedure concerning an offence, who has been informed they can leave if they want to and the police officer believes there is sufficient evidence to indicate that the person committed the offence. This category of persons is distinguished from suspects who have been detained—that is, people who have been arrested. This part of the Act is aimed at providing for the rights of the person so detained. Tink and Whelan quote criticisms of part 10A of the Crimes Act in 2001 to establish that there are problems with the interpretation of the existing provisions. Part 10A of that Act became part 9 of the Law Enforcement (Powers and Responsibilities) Act. They say that much of this stems from the confusion over whom it applies to. The solution they proposed is to ostensibly simplify the current position by creating the two categories of a detained person and a protected suspected.

There are precedents in other jurisdictions for this approach. Whether creating extra categories is a simplification or a complication is an interesting question, and whether it leads to simplification in practice is not clear to us. The inadequate public consultation over this proposal also robs one of confidence in the ultimate outcome of the process as well as the practical outcome represented by this legislation. Another change made by schedule 1 to the bill to part 9 of the principal Act relates to the time limit for which a suspected offender can be detained for the purpose of investigation. Currently an offender can be detained for a period of four hours. This can be increased to a further eight hours by a detention warrant. In the December 2013 Tink-Whelan report this is incorrectly described at page 9 as an extension warrant rather than a detention warrant. The bill, on the basis of the Tink-Whelan report, proposes an increase to six hours, but retains the overall limitation of 12 hours, reducing the second period from eight hours to six hours. When determining the application for a detention warrant, the decision-maker must take into account any time for which the person concerned was a protected suspect.

The bill also adopts the Tink-Whelan recommendations about the applicability of part 9 outside a police station. It will apply to the execution of search warrants in the field but not otherwise in the field. The major policy basis proposed for this in both the Tink-Whelan review and the second reading speech is police convenience. Minds may legitimately differ as to whether this is sufficient basis for the law reform. New section 112A (2) reduces the current threshold at which the presumed custody manager is able to not comply with the statutory obligations relating to communication.

The other change in the bill to part 9 recommended by the Tink-Whelan review relates to providing details of the rights to protected suspects or persons under arrest. This can be done by way of providing a summary of the provisions in a form prescribed by regulation. The Tink-Whelan review suggests that the Crown Solicitor's advice allows this to occur already, but police will not do it unless it is made as explicit as the new provision provides. The other focus of the Tink-Whelan review was part 15. Schedule 2 to the bill deletes part 15 and replaces it with a new part 15. The redrafting stems from the apparent fact that many police seem to be unable to correctly state their name and place of duty while exercising their powers—surely that cannot be correct.

These issues have been the subject of debate over time and the Tink-Whelan review has come down on the side of the police. On this side of the House a more considered discussion of the issues with a range of perspectives being considered may well have given rise to a different policy outcome: we will not know. The new provisions are presented as a simplification. The argument that the regime presented in the new part 15 is simple is just objectively not correct. The bill purports to remove the need in many cases for a two-stage warning under current section 201 (2C). The requirement under new section 201 (2) for an officer to provide details of his or her identity and reasons for the exercise of specified powers is reduced so it only has to be done as soon as reasonably practicable unless it is to a single person. Setting up different regimes for a single person as opposed to more than one person does not seem to make the provision simpler. In addition, there is an exception if the police officer is asked for information.

Probably the most significant change in this part of the law is new section 204A, which means that failure by the police to comply with obligations imposed on them in the exercise of their powers under this part, by law, no longer will render that exercise of powers unlawful. That is a significant step. The law is in force, but one concludes from this that the police do not have to obey. People not adhering to the law are normally behaving unlawfully, although not now in relation to police in these situations. The Ombudsman will scrutinise compliance for 12 months. Of course, that scrutiny is certainly welcome and, hopefully, will provide some clarity about how this provision is working.

Schedule 3 to the bill deals with amendments other than those from the Tink-Whelan review. These seem largely to stem from the statutory review and a much more comprehensive consultative approach. Some amendments seem sensible and uncontroversial. A search under the Act can include the search of a person's mouth; protections that apply to searches are clarified in relation to transgender persons; and the term "request" is replaced with the term "requirement", when in fact it is a requirement.

Associated with the Deputy State Coroner's recommendations in the matter of Jason Plum, a search of a person in lawful custody can be carried out immediately before or during the transportation to or from a place of detention. Jason Lee Plum died from a self-inflicted gunshot wound while in police custody. That power to search includes before a person is put into a police car and when custody is transferred from one group of officers to another. The statutory review pointed to situations referred to by the Ombudsman where Corrective Services staff will not accept someone unless they have been searched first by police—another persuasive and practical reason to support the amendment.

Significant changes have been made in relation to searches. Currently there are three types of searches: ordinary, frisk and strip searches. The review recommended, and the bill implements, the combination of frisk and ordinary searches into one consolidated search. The Ombudsman's LEPRA review recommended a simpler two-tiered system of searches, although a three-tiered system might better match the level of invasiveness of the search with the reasons for it. In practical terms the way the two tiers of frisk and ordinary search are conducted blurs the lines between them, and there is little practical difference in how they are conducted. Also there is the impact of a possible increase in police power in relation to knife searches. Page 26 of the statutory review states:

However, the Ombudsman's LEPRA review notes that while they would not argue for any expansion of police powers in relation to such searches, the practical differences between frisk and ordinary searches were so slight that any increase in powers would be minimal.

Section 32 prohibits questioning for the purposes of investigation during searches. In our view, that is entirely appropriate for reasons that should be obvious. However, for equally obvious reasons, new section 32 (8A) also is entirely sensible: it allows questions to be asked only if they relate to personal safety issues associated with the search. Section 31, which relates to strip searches, also is amended to provide a lower threshold being stipulated for a strip search to be carried out in a police station. The main purpose of strip searches in custody is for the safety of the person being searched and also of the police involved. The Ombudsman recommended that the seriousness and urgency test for a strip search not apply to searches in custody. This was adopted by the review and is in the provisions of the bill.

New section 32 (7A) makes it clear that police can delegate a search power to another person of the same gender as the person to be searched. This clarification was recommended by the Ombudsman and the statutory review. One persuasive argument in support of this is that in rural areas police officers request female Corrective Services officers, ambulance officers and nurses to search a female suspect when no female police officer is on duty. In accordance with these recommendations, the class of person who can conduct the search will be prescribed by regulation.

Other provisions relating to strip searches include clarifying that a person of the opposite sex can be present with the consent of the person being searched—this clarifies that a guardian, parent or support person can be present—and they restrict the grounds on which a person in the 10 to 18 years age range, or who has impaired intellectual functioning, can be strip searched. New section 34A creates a statutory basis for consent searches, which includes a requirement for explicitly seeking consent. This is a sensible provision that was recommended by the statutory review and developed from concerns expressed by the Law Society, Legal Aid and the Shopfront Youth Legal Centre.

Provisions relating to issuing notices to produce are clarified and amendments are made concerning police powers at scenes of domestic violence offences. Further amendments concern powers at crime scenes. The review's recommendations aimed to require warrants for more intrusive powers but not necessarily

comparatively minor ones. Minor changes are made to the time periods in which the powers can be exercised. Crime scene warrants may apply to more than one set of premises—more than one premise can, of course, be involved in an incident. A person can seek a review of the grounds on which a warrant was issued. Consent may be given to the exercise of crime scene powers but it must be informed consent.

Evidence of conversations recorded on in-car audio will now be admissible in court proceedings where appropriate and not subject to a complete ban. The Commissioner of Police is given discretion to order the destruction of photographs, fingerprints and palm prints. Miscellaneous police powers concerning vehicles and traffic are moved to the Road Transport Act. Other miscellaneous amendments are made in schedules 4 and 5. A number of recommendations from the statutory review have not been dealt with in the bill.

The shadow Attorney General in the other place specifically asked the Attorney General to indicate in his reply the Government's response to the statutory review non-legislative recommendations Nos 1, 31, 32, 34, 35, 10—especially the last portion of that recommendation—and 16. From my review of *Hansard* the Attorney General did so. I invite the Parliamentary Secretary in this place to state the Government's intention regarding those matters. Of course, the Attorney General's speech in *Hansard* speaks for itself, but it is not clear what the Government intends to do or whether it intends to implement those recommendations fully.

The Attorney General indicated, following advice from his department, that the implementation of those recommendations—or at least some of them—was a matter for the police and emergency services to advise on. Of course, police and justice are now all in the same department, although I am sure different elements work on different aspects. However, I invite the Government in this place to provide a comprehensive and combined answer to what it intends to do regarding those non-legislative recommendations and, indeed, the time frame for addressing them if known at this point.

The shadow Attorney General in the other place drew the attention of the House to communications he had received from the New South Wales Council for Civil Liberties and the concerns that were expressed by that organisation about a number of provisions in the bill. The shadow Attorney General dealt with those issues in the other place and I will not repeat them here. Many of those concerns have been expressed by the New South Wales Law Society, which has been in communication with the Opposition. While the intentions behind some of those points are well made, as I indicated at the outset, the Opposition will not be opposing this bill. However, we will be proposing some minor amendments directed at time frames for review of the legislation and annual reporting.

**Mr DAVID SHOEBRIDGE** [9.13 p.m.]: On behalf of The Greens I speak in opposition to the Law Enforcement (Powers and Responsibilities) Amendment [LEPRA] Bill 2014. The bill is the result of an extraordinarily rushed and one-sided piece of pretend statutory review by this Government. The bill was meant to have a statutory review in 2009 but the former Labor Government and this Coalition Government have dragged the chain on conducting a statutory review. Through the combined efforts of the Police Association and the *Daily Telegraph* a crisis was created at the end of last year that something desperately needed to be done about the LEPRA law.

The terrible crisis was created because the Labor Government and the Coalition Government had done little to review the Act since 2009. The Government set up a Shanghai process, a kangaroo court that commenced in October of last year. I will read from the Tink-Whelan report, which comprised former shadow Minister for Police, Andrew Tink, and former Minister for Police, Paul Whelan, who were hand-picked by the Government to write the report that it wanted. The two hand-picked suspects—who probably would have been protected suspects under this new law if anyone had looked at them closely—were briefed on 10 October last year. In their 12 December report they stated:

On 10 October 2013 we were tasked by the Premier to inquire into and report on the statutory review of the Law Enforcement (Power and Responsibilities) Act 2002 (LEPRA).

A report on section 99 of the LEPRA and draft bill were provided to the Government on 25 October 2013 ...

That is two weeks and one day after they started their inquiry. It is an enormously complex piece of legislation that operates in a number of different ways in its interaction with the public across this State, yet they managed to conduct their review in two weeks and one day.

**The Hon. Matthew Mason-Cox:** How good were they?

**Mr DAVID SHOEBRIDGE:** How efficient they were indeed. They go on to state:

... and we note that legislation to amend section 99 was passed by the Parliament on 19 November 2013 and assented to on 27 November 2013.

They are good figures for a sausage factory but they are not good figures for a statutory review. They further stated:

We are advised the new police powers of arrest without warrant will commence later this month.

This Report, on the remaining parts of LEPR, focuses on the following:

- Part 9—investigations and questioning
- Part 15—safeguards relating to police powers

They knocked this report out on 12 December, two months and two days after they commenced their review. The people of New South Wales should feel confident that these two fine, upstanding former members of Parliament consulted broadly. Well, no, they should not, because we read in the report—conveniently located at tab A—who Mr Tink and Mr Whelan decided to consult. They consulted Mr Andrew Scipione, the Commissioner of Police. They consulted three deputy commissioners to provide a balanced view of what the commissioner said. Also to ensure they had balance, they spoke to the Director General of the Department of Attorney General and Justice. So they were not looking only at the Department of Attorney General and Justice; they also spoke to the Chief Executive Officer of the Ministry for Police and Emergency Services.

To flesh out their consultation, having spoken with the commissioner and three deputy commissioners, they thought they would obtain a balanced view from two assistant commissioners to ascertain whether they had a different view to their bosses. Having spoken to the assistant commissioners and having considered their views, to further round out their inquiry they spoke to the superintendent of police prosecutions. Not satisfied that they had done enough thorough consultation with the chief superintendent, they spoke to Senior Sergeant French. Apart from the array of police officers and executives from the Department of Attorney General and Justice and the Ministry for Police and Emergency Services, they spoke to the General Counsel from the Department of Premier and Cabinet, and Don Colagiuri, Parliamentary Counsel. I will stop to say that at least then they would have received impartial advice about how the law actually works.

They then spoke to three executives from the Department of Attorney General and Justice and three executives from the Ministry of Police and Emergency Services. To really flesh it out and get a sense of how the community feels, they finished up having a discussion with Ms Hodge, the General Counsel of the NSW Police Force. That consultation was a joke. Mr Tink and Mr Whelan talked only to police and the Government members who tasked them with the report and this is the result, a pretend consultation, which is a truly embarrassing spectacle if ever there was one. The outcome was a report that stripped down civil liberties and increased police powers that led to increased periods of arrest for people. There was a genuine and widespread reduction in the protection of civil liberties in New South Wales.

Dealing with the more specific elements in the bill, schedule 1, item [5] creates a new category of protected suspect, being someone who is not under arrest but, at least in the eyes of the police, is voluntarily in police company. Such a person must be told that they are entitled to leave at will and that the officer believes there is sufficient evidence that the person has committed an offence. Part 9 of LEPR outlines the safeguards that will apply to protected suspects in the same way as those under arrest. Item [6] of schedule 1 to the bill creates new section 112A, which provides that the functions of a custody manager under part 9 can be exercised by a police officer on the premises who is not connected to the investigation and does not participate in the search, which is a broadening of that provision.

Item [9] and item [15] of schedule 1 make changes to the length of time that people can be detained for investigation, which is mentioned in section 115 of the Act. Obviously the provisions apply only to people who have been arrested and not protected suspects, but the maximum initial period for investigation for which people can be detained is proposed to be increased from four hours to six hours. That period can be extended by another six hours by an authorised justice. The new section 115 requirement will include that the time period for which people are held must be reasonable in all the circumstances and consideration of what is reasonable continues to be referenced under new sections 116 and 118.

Schedule 2 amends the safeguards in new sections 201 and 204 of the Act. Effectively while police officers are still required to provide evidence that they are police, unless they are in uniform, they are still



required to provide their name and station and the reason for the exercise of their power—at least prima facie they are. Currently they are required to provide this information before or at the time of exercising the power, if it is practicable to do so, or as soon as is reasonably practical after exercising the power if it was not practical to do it either before or during the exercise of their power. The bill proposes to change this to say that an officer has to comply with the section and advise their name and station as soon as is reasonably practicable to do so. That removes the imperative to do this before or at the time the power is exercised. The likely end result will be that warnings are given well into the person's interaction with police.

A specific provision has been put in place to allow a direction to be given to a group of people so it does not have to be repeated to each person, but there is no specific requirement to say that each and every person in the group is likely to have heard it. New section 202 (5) provides that a person subject to the exercise of a power can ask a police officer present for information about their name and place of duty and that the police officer must provide this information. New section 203 codifies some of existing section 201, which relates to warnings, to consolidate the current two-step warning process into a single warning. Currently the initial warning is that a person is required by law to comply with the request or direction, with a second warning if the person does not comply that failure to comply is an offence. Instead, there will now be a single warning that the person is required by law to comply with the direction, requirement or request.

Disturbingly, new section 204A validates police exercise of powers even where officers fail to provide their name or place of duty, unless they are explicitly asked to do so by the person who they are exercising the power over. This is a significant and backward change to the law. I note that the Council for Civil Liberties stated:

Currently failure to comply with the provisions of Sections 201 renders the exercise of the powers unlawful and is a powerful incentive for compliance. The Bill proposes to explicitly remove this provision ...

NSWCCL strongly opposes this amendment. It is a major weakening of important safeguards and accountability provisions. Police irritation with the exercise of their powers being declared unlawful in courts should not be addressed by the removal of appropriate and necessary legal provisions but by police complying with them. This is a dangerous slippage of safeguards and accountabilities. NSWCCL urges the Government and the Parliament to block this amendment.

The Greens strongly share that concern. Schedule 3 [1] and [14] clarify that a search under the Act includes a person's mouth, which for the purpose of searches is not considered to be a body cavity. New provisions, including a definition under item [3], are inserted to extend some protections under the search regime to transgender people. In fact, they mirror those contained in the Crimes (Forensic Procedures) Act 2000. I note that this is an advance in this bill.

Schedule 3 [15] and [16] make it clear that a person can be searched before they are transported to a place of detention. The definitions of "frisk" search and "ordinary" search are changed and provisions relating to strip searches have been changed so that the requirement that "the strip search is necessary for the purpose of the search and that the seriousness and urgency of the circumstances make the strip search necessary" only apply in the field, with the more general "the police officer suspects on reasonable grounds that the strip search is necessary for the purposes of the search" applying in most other circumstances. Schedule 3 [25] alters the prohibition on asking questions during searches to allow questions relating to issues of personal safety. This modest clarification of the law is not opposed by The Greens.

Schedule 3 [27] and [28] restrict the grounds on which young people or those with intellectual impairments can be searched to specify that they must be conducted in the presence of a parent or guardian or other person who can represent their interests, rather than the current situation where this only applies when it is reasonably practicable. I note that this is also a modest advance in the law. New section 34A will provide for consensual searches. Before these can occur the police officer must provide their name and station details as well as evidence that they are a police officer, unless they are in uniform. On the whole this bill is yet another incremental attack on civil liberties in New South Wales. There is this pretence that politicians, the Minister for Police and Cabinet consider these matters, but when push comes to shove the law and order in this State is run by the Commissioner of Police and it is pushed by the Police Association of NSW.

Changes to the section 201 safeguards that currently require police officers to provide their name and duty station before exercising a power seem designed to excuse officers from providing this basic information. The idea that we cannot expect police officers to comply with such a modest requirement when exercising their powers over members of the community is worrying. The Police Association says it is an unreasonable burden that police officers have to say their name, their duty station and why they are exercising their powers before they exercise them wherever reasonably practicable. That is particularly concerning given the ever expanding police powers that this Government keeps throwing at them.

It is claimed that new section 204A is intended to act as a safety net only for inadvertent breaches of this requirement. However, knowing that there will no longer be penalties in the courtroom for failing to comply with the section 201 safeguards, it is likely that a culture will develop where this is no longer routinely provided by officers in their interactions with the public. That is not something this Parliament should be encouraging but, of course, this Parliament is not really reviewing it, is it? The Greens note that under schedule 1 [15] this change will be monitored by the Ombudsman for a period of 12 months after the commencement of the section. That is a ridiculously short period of time in which to monitor. Twelve months is not considered sufficient to ensure that there is not a cultural change for the worse within the NSW Police Force relating to these safeguards. Indeed, The Greens will be moving amendments to increase that to at least a period of three years to allow some proper monitoring of the changes.

It is extraordinary that when considering amending safeguards intended to provide some basic protections for the general public from police powers, Mr Whelan and Mr Tink thought it was appropriate to basically consult only with police. They did not consult with the public over who the police will be exercising their powers, with the Law Society of New South Wales, the New South Wales Bar Association or the New South Wales Council for Civil Liberties. They did not even put it out more broadly for public comment. When looking at the exercise of police powers over the public the only people this Government spoke to, apart from maybe the *Daily Telegraph* State political reporter, were police. That is a true failure of consultation if ever there was one.

Perhaps one of the most disturbing aspects of this bill is the proposed changes to section 115, which will allow the detention of persons for up to six hours for police to investigate—an increase from four hours. The rushed review by Tink and Whelan provides no rational support for the change. I quote from page 9 of their report:

The current provisions in LEPRA allow for an offender to be detained for the purpose of investigation for a period of 4 hours (section 115), with an additional 8 hours available by extension warrant if required (section 118).

Police originally requested consideration be given to dispensing with the fixed time period, and have a more flexible 'reasonable' time provision.

Wouldn't they just. The report continues:

Police advised that the 4 hour limit is often not enough, and applying for an extension warrant is a time consuming process. This means people are detained for much longer than necessary while the extension application process is finalised.

We considered a NSW Law Reform Commission (LRC) Report, entitled *Criminal Procedure: Powers of Detention and Investigation after Arrest*, in which they noted that a 'reasonable time' formula for investigation, without any fixed limits or presumptions is "much too uncertain to regulate an area which touches on the fundamental liberty of an individual". It would mean a person held in custody would have no idea when they would, or should, be released, or whether the detention was lawful or not.

I note that Tink and Whelan conveniently failed to recognise that the Law Reform Commission also said that the current four-hour limit was perfectly reasonable and sufficient in the circumstances. I continue the quote:

Police we consulted advised us that in the great majority of cases 4 hours investigation time is sufficient. However, in complicated matters police require longer than 4 hours to investigate, and the process of applying for an extension is time consuming.

The report goes on to say how it can sometimes take two hours or one hour and 40 minutes to get the extension time. The core finding from Tink and Whelan is:

Police we consulted advised us that in the great majority of cases 4 hours investigation time is sufficient.

If police are telling the Government that in the great majority of cases four hours is sufficient, why on earth is this legislation proposing to increase it to six hours? It is a fundamental issue of civil liberties that once people are subject to arrest they can be held in detention by police for six hours as the standard time period, yet the police are saying that in the great majority of cases four hours is working. The Law Society of New South Wales, writing on behalf of its Criminal Law and Juvenile Justice Committees, had this to say about this aspect of the report:

A key justification the Report puts forward to support the extension of the initial period is on the basis that:

"Police advised that often the 4 hour limit is not long enough, and applying for an extension warrant is often a time consuming process".

The Report proposes people be detained for longer when applying for an extension. The Committees note that on the same page, the Report states that police have indicated that four hours is generally sufficient in most cases.

The Committees submit that if there is an issue with regards to the time it is taking to have applications granted, the process for having applications heard and reviewed should be examined. There is no mention in the Report of any attempts to address this process. The Committees further submit that when one considers the significance of increasing the time period and the impact this will have on individual liberty, it should be incumbent upon the government to either increase resources or review the efficiency of processes relating to the time it is taking to hear and determine extension applications.

The New South Wales Council for Civil Liberties provided a similar rationale in its submission. It is obvious, is it not, that if in the majority of cases four hours is more than enough time for police and it is only in a small minority of cases that police get stuck spending one or two hours getting an extension of time the solution is to make the extension of time process efficient. We need to fix that obvious failure of the regime on the extension of time process.

Rather than grapple with that obviously minor difficulty of improving police and court efficiency, this Government decided to remove everybody's civil liberties and extend the period to six hours for everybody. This bill has come about as the result of a one-eyed, short-run, predetermined report by Tink and Whelan. It provides a series of recommendations that police powers should be increased and civil liberties should be removed. The Greens will be opposing this bill. It is surprising to find that so many other members of Parliament have so little concern about these changes.

**The Hon. PAUL GREEN** [9.31 p.m.]: I make a brief contribution to debate on the Law Enforcement (Powers and Responsibilities) Amendment Bill 2014. This bill amends the Law Enforcement (Powers and Responsibilities) Act 2002 to implement the recommendations made by the review of the Act by Mr Andrew Tink and the Hon. Paul Whelan—what is known as the "Tink-Whelan review"—

**Mr David Shoebridge:** The "Tink and Wink" review, I think it is called.

**The Hon. PAUL GREEN:** I note the interjection of Mr David Shoebridge. The bill also implements recommendations made by the statutory review of the Act by the Department of Police and Justice and the Ministry for Police and Emergency Services. The statutory review recommendations incorporate the Government's response to the New South Wales Ombudsman's recommendations regarding certain powers under the Law Enforcement (Powers and Responsibilities) Act. The bill makes those amendments to the Act that were recommended by the Tink-Whelan review. These include amending part 9 which governs detention for investigation to create two categories of people under part 9 being "detained persons", or arrested people, and "protected suspects", or suspects in the company of a police officer for the purposes of an investigation who have been told they are free to leave.

The amendments will allow part 9 safeguards to apply at premises being searched under a search warrant. These amendments will allow the independent officer at the search to act as the custody manager for the person. The amendments will clarify that all of the part 9 safeguards apply to detained persons, but only the division 3 of the part 9 safeguards will apply to protected suspects. The amendments will also extend the initial period during which police can detain an arrested person for investigation from four to six hours. I note that that does not necessarily mean the police will detain someone. I am sure the police will use their discretion, as they do normally.

The amendments to part 15, which sets out safeguards, will remake section 201 of the Act. This section sets out the information a police officer must provide when exercising certain powers—being his or her name and place of duty, evidence that he or she is a police officer and the reason for the exercise of the power. The amendments will clarify that the police officer must provide this information as soon as reasonably practicable or before exercising the power if he or she is issuing a direction, requirement or request to a single person. The amendments provide one consolidated warning that a police officer must give when issuing a request, requirement or direction. The amendments will provide that if police officers fail to give their name and/or place of duty this will not invalidate the exercise of the power. This provision will not apply to a police officer who gives a direction, requirement or request to a single person. The amendments will require that the Ombudsman monitor and report on the impact of the reforms on the requirement to provide name and place of duty.

The bill makes further amendments to the Act recommended by the statutory review, including amendments to search powers. The Christian Democratic Party notes that these amendments will clarify when a person in lawful custody may be searched, provide for police to undertake searches with consent and apply

certain safeguards, and make further provision for strip searches, including when they may be conducted outside a police station, who may be present and limits on when they can be conducted on juveniles and people with impaired intellectual functioning.

We note also the amendments to crime scene powers. These amendments provide police with the power to remain in a dwelling in which a domestic violence offence has been committed and to preserve the scene. The amendments also expand crime scene investigation powers without warrant to include some investigation powers. The period during which police can exercise these powers will be extended from three to four hours—and to six hours in prescribed rural areas. This bill will also make amendments recommended by the Ombudsman. The bill also contains miscellaneous amendments. These amendments change references to "request" in the Act to "requirement" when a person has to comply with the power the police officer is exercising. Amendments allow conversations recorded on in-car video equipment after arrest to be admitted as evidence and allow the Commissioner of Police to order the destruction of identification particulars.

According to the latest statistics as at 2 May 2014, there are between 15,000 and 16,000 police officers in New South Wales running at an operational capacity of 94 per cent. We have an obligation to ensure that we do what we can to make their jobs easier not harder. I further note that the latest quarterly statistics from the Bureau of Crime Statistics and Research have seen across New South Wales a 1.7 per cent reduction in violent offences and a 3.5 per cent reduction in property offences. These statistics are promising, but there is more work to be done. We need to empower our police with the capacity to get the job done—not disempower them. Having been the mayor of a city, I know that the police take great pride in discharging their duties and in how they go about their work. They do not look for loopholes or seek to exploit a situation. They are very professional. They do all they can to deal with matters as fast and as efficiently as the law allows.

Sometimes the law does not help them in dealing with some situations, certainly in rural areas, as efficiently as they can. In Sydney there are more resources either in their precinct or in one very close to them. We appreciate what the police do—from the Commissioner of Police down. They do their very best with the resources that they have. I thank God for them. While we are tucked up at night having a good sleep, the police are out on the streets keeping our community safe and doing the best they can with the resources that they have. God bless the police. The Christian Democratic Party commends the bill to the House.

**The Hon. ERNEST WONG** [9.38 p.m.]: I join my colleagues in this discussion of the Law Enforcement (Powers and Responsibilities) Amendment Bill 2014. The Opposition does not oppose the bill, but there are a number of issues which should be briefly mentioned. This bill builds upon previous statutory efforts to codify the scope, effect and operation of police powers in New South Wales. In such matters we are constantly seeking to balance the need to make police work effective for both police officers and the community with protecting the very rights and liberties governed by law that we retain our police in service of. It is always complex and often involves a competing mix of issues. It is often best served by careful review and consideration prior to any change. While it is true that this bill follows a number of reviews and reports, I note Labor's concerns that some of the consideration and consultation leading to these changes has been less than adequate. As my colleague Paul Lynch noted, the second Tink-Whelan review makes it clear that many recommendations were not subject to the kind of consultation one would expect with such reforms. He said:

It is clear in the review—and granted the time frame gave them little option—that their consultation was remarkably restricted for legislation of this type ... The overwhelming impression is a lop-sided approach to the task ... this process was highly unorthodox and innocent of the usual public consultation that such a process should involve.

Those are valid points and it is perhaps no wonder that the New South Wales Council for Civil Liberties has raised concerns about this bill, especially regarding new section 204A. That section enacts by statute that failure by the police to comply with obligations imposed on them in the exercise of their powers no longer renders that exercise of powers unlawful. That is, of course, a significant departure from the universality of the rule of law.

Under the new section the law is in force but one can conclude that the police do not have to adhere to it. People not adhering to the law are normally deemed to be acting unlawfully but will no longer be so deemed in these situations. It is perhaps unsurprising that the Council for Civil Liberties is strident in its assessment of the provision and strongly opposes the amendment. It is a major weakening of important safeguards and accountability provisions. Police irritation with the exercise of their powers being declared unlawful in courts should not be addressed by the removal of appropriate and necessary legal provisions but by police complying with them.

I stress on this point that I appreciate the unique role that police play and that it requires effective powers that are not afforded to ordinary citizens. Indeed, I acknowledge that exceptional statutory provisions

are sometimes required to overrule common principles of law. My point is that when such powers are required the case for them should be clearly and publicly made and widely consulted upon. Here the perception of a "lop-sided approach" in the formation of these changes does neither the Government nor our hardworking police officers any favours. I note that the Ombudsman will scrutinise compliance for 12 months. That scrutiny is welcome and I hope it will provide some clarity and public assurance about how these new measures play out.

Significant changes have been made in relation to searches. Currently, there are three types of searches: ordinary, frisk and strip searches. The review recommended and the bill implements the combining of frisk and ordinary searches into one consolidated search. The bill also prohibits questioning for the purposes of investigation during searches, which is an appropriate protection of suspects. However, the bill allows questions to be asked that relate to personal safety issues associated with the search, which is an appropriate protection of our officers.

In general there is consensus that the changes to searches are an area of the bill in which more timely consideration has seen the balance come out right. For example, new section 34A creates a statutory basis for consent searches, which includes a requirement for explicitly seeking consent. That is a sensible provision that was recommended by the statutory review and developed from concerns expressed by the Law Society, Legal Aid and the Shopfront Youth Legal Centre. It illustrates that it is more than possible to give effective powers to our police while providing effective protections for individual rights.

As per recent remarks by former Prime Minister Howard, the community is well able to take in sensible and detailed arguments for change provided those arguments are pursued with the community. It is on this last point that the Government has done these reforms and the officers it serves a disservice. For example, a lack of consultation regarding the changes to new section 115 has led to a perception advanced by the Council for Civil Liberties that we are extending detention power to mitigate inefficient policing practices at the cost of individual freedom.

I do not doubt that the case for change to that section is far more complex and nuanced than that, but it is what occurs when important changes such as this are rushed through without a transparent process. As I said, such rushed processes do both our community and police officers a disservice. While the Opposition supports the bill, I strongly encourage the Government to improve public engagement on changes of such an important nature. I thank members for their attention.

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [9.44 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank members for their contributions to debate on the Law Enforcement (Powers and Responsibilities) Amendment Bill 2014. Some concerns were expressed regarding the consultation process involved with the Tink-Whelan review. In response I note that at the time of that review the departmental statutory review was well advanced and significant public consultation had occurred as part of it. Key stakeholders were invited to make submissions and advertisements were placed in newspapers and online advising of the review and submission process.

Mr Andrew Tink and the Hon. Paul Whelan had access to and utilised the results of the substantial consultation process including submissions from the Law Society, the Shopfront Youth Legal Centre, the Aboriginal Legal Service New South Wales, the Australian Human Rights Commission, Legal Aid NSW and the Public Interest Advocacy Centre. Mr Andrew Tink and the Hon. Paul Whelan also had extensive access to key personnel within the NSW Police Force, the Ministry for Police and Emergency Services and the then Department of Attorney General and Justice.

In relation to the implementation of the statutory review recommendations relating to operational police matters I am advised that the NSW Police Force is currently preparing to implement the reforms proposed in the statutory review report including updating training and education materials and guidelines. I am advised that all non-legislative recommendations have been endorsed and will be progressed. The NSW Police Force advises that many of the non-legislative reforms will be implemented following the passage of the bill so that they reflect the final legislation.

The bill makes significant amendments to the Law Enforcement (Powers and Responsibilities) Act 2002, including the provisions governing investigation and questioning of suspects, search powers and safeguards relating to the exercise of police powers. The amendments give effect to recommendations made by

the statutory review of the Act as well as a review by Mr Andrew Tink and the Hon. Paul Whelan. The amendments in the bill will ensure that police have clear and appropriate powers to get on with the job of protecting the community of New South Wales. I commend the bill to the House.

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

**The House divided.**

**Ayes, 33**

Mr Ajaka	Mr Green	Mr Secord
Mr Blair	Mr Khan	Ms Sharpe
Mr Borsak	Mr Lynn	Mr Veitch
Mr Brown	Mr MacDonald	Ms Voltz
Mr Clarke	Mrs Maclaren-Jones	Ms Westwood
Mr Colless	Mr Mason-Cox	Mr Whan
Ms Cotsis	Mrs Mitchell	Mr Wong
Ms Cusack	Mr Moselmane	
Mr Donnelly	Mrs Pavey	
Ms Ficarra	Mr Pearce	<i>Tellers,</i>
Miss Gardiner	Mr Primrose	Ms Fazio
Mr Gay	Mr Searle	Dr Phelps

**Noes, 5**

Mr Buckingham  
Dr Kaye  
Mr Shoebridge  
*Tellers,*  
Ms Barham  
Dr Faruqi

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

**In Committee**

**Clauses 1 and 2 agreed to.**

**Mr DAVID SHOEBRIDGE** [9.58 p.m.], by leave: I move The Greens amendments Nos 1 to 4 on sheet C2014-046 in globo:

- No. 1 Page 4, schedule 1 [9], lines 17 and 18. Omit all words on those lines.
- No. 2 Page 4, schedule 1 [11], lines 22 and 23. Omit all words on those lines.
- No. 3 Page 4, schedule 1 [12], lines 24 and 25. Omit all words on those lines.
- No. 4 Page 4, schedule 1 [14], lines 31 and 32. Omit all words on those lines.

The amendments, taken together, would keep the existing periods for which people can be detained for the purposes of investigation and questioning and in particular would reverse the proposed changes whereby the initial period for which people could be detained can be six hours as a standard period rather than four hours as is the existing law. Earlier I read a contribution from the Law Society about the reasons it opposes this change but I will now read onto the record the quite short position for opposing it put by the Council for Civil Liberties, which states:

Section 115—Extension of maximum investigation time—New South Wales Council for Civil Liberties opposes this strongly. No persuasive case is made in the Tink and Whelan Review nor in the Explanatory memo. The police concede that four hours is sufficient in most cases. For the minority of cases for which it is not sufficient the Act provides for an application for an extension.

Police argue that this process can take longer than the extended time needed. If this is the case, the focus should be on improving the efficiency in this process—not extending by 50 per cent the permitted detention time. New South Wales Council for Civil Liberties opposes the increase in investigative time because: it is not necessary for most cases; the loss of liberty is a hugely important right and six hours is an onerous period of detention—particularly at night and for the young and vulnerable.

I said before that the Tink and Whelan report, which the Government relies on for this change, includes the acknowledgement, "Police we consulted". I pause there to say that they consulted only police. They should say, "The people we consulted", and have a quick definition at the beginning: "For the purposes of this report, 'people' equals 'police'." Anyhow they did not do that. They continue:

Police we consulted advised us that in the great majority of cases four hours investigation time is sufficient.

Parliament is on notice the police say that in the great majority of cases four hours is sufficient. Why on earth is Parliament increasing the period to six hours? If the police find that they cannot get their act together in sufficient time to get the extension papers done, and it is taking the police and the court two hours on average to get the extension period in the tiny minority of cases where they need it, then fix that process, make it quicker and more efficient but do not remove everybody's civil liberties. I commend the amendments to the Committee.

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

### ADJOURNMENT

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [10.03 p.m.]: I move:

That this House do now adjourn.

### THE NATIONALS ANNUAL GENERAL CONFERENCE

**The Hon. JENNIFER GARDINER** [10.03 p.m.]: Last week my Nationals colleagues and I attended our party's annual general conference, which was held in Queanbeyan. This was the third annual general conference that The Nationals have held in Queanbeyan and they have all attracted a strong attendance from across New South Wales. The conference was hosted by the tremendously resilient Queanbeyan-Jerrabomberra branch and local electorate councils and by the member for Monaro whom the branch so strongly supports, Mr John Barilaro, MP. John Barilaro's successful representations on behalf of his constituents led, for example, to the announcement during the conference by The Nationals Federal Leader and Acting Prime Minister, the Hon. Warren Truss, and The Nationals New South Wales Minister for Roads and Freight, the Hon. Duncan Gay, that \$50 million—half from the Federal Government and half from the New South Wales Government—would be allocated to build the Queanbeyan bypass.

Mr Truss pointed out during the conference that there were times during the Australian Labor Party's last stint in office in New South Wales that the State Government was so disorganised that, when Anthony Albanese was the Federal infrastructure Minister, there were no New South Wales roads projects in a shape that justified the Federal Labor Government allocating funds to them. So Queanbeyan had to wait until The Nationals trio, Messrs Barilaro, Truss and Gay, gave the project the priority it deserves. At the annual general meeting of the party's Central Council the State chairman, the Hon. Niall Blair, as he had previously promulgated, did not seek re-election to that role. As members of this House appreciate, Niall is possessed of many excellent qualities, including the many attributes of being an outstanding leader. He has been a terrific leader of the New South Wales Nationals organisation over the past two years and of the party as a whole. No doubt Niall's family is mightily pleased that they can reclaim him, to a certain extent, from the often multiple and mainly unseen demands of heading any significant political party. I think Niall is pleased about that too.

I congratulate the incoming State Chairman of The Nationals, Bede Burke, and the other incoming and re-elected office bearers of The Nationals, and I look forward to working with them in the year ahead. Indeed, I thank them for electing me to be one of those re-elected office bearers. Congratulations are also in order for the State Chairman of the Young Nationals, Mr Dom Hopkinson, on his report to the conference updating the party membership on Young Nationals initiatives and activities in the past year, including the conduct of the very successful annual State Conference at Wagga Wagga, under the leadership of then State chairman Felicity Walker.

**The Hon. Sophie Cotsis:** So who is the chairperson now?

**The Hon. JENNIFER GARDINER:** Mr Bede Burke. I congratulated him. During the conference, the recently established New South Wales Nationals Women's Council was politically blooded. The council has acknowledged the obvious: The New South Wales Nationals need to take more steps to lift the membership of women in both its Federal and State parliamentary parties as well as on its governing bodies, including the Central Council. The Nationals Women's Council, under both its inaugural chairman, Sharon Cadwallader, and her recently elected successor, Claire Coulton, has decided that there is no point in having a women's council unless it works—alongside other party units and individual men and women party members—to ensure the party lifts its game in respect of delivering a more satisfactory balance of candidates, as between men and women, presenting for Federal and State preselections and being elected to the four Houses of Parliament for which the party promotes its endorsed candidates.

To that end, the women's council proposed to the conference that, as was agreed in the 1970s, the party's rules be changed in a small way so as to boost the number of women on the Central Council. This was triggered by the fall in the number of women taking on governance roles in the party in recent years and also by the failure of the party to attract women preselection candidates for the 2013 Federal election. The Nationals Women's Council office bearers were supported in the debate by all National Party women parliamentarians who were present on the floor of the conference during the debate: Senator the Hon. Fiona Nash, the Hon. Sarah Mitchell, the Hon. Katrina Hodgkinson and me, as well as Bronwyn Taylor who, God willing, will be elected as a Nationals member of the Legislative Council next March. The conference did not pass the motion by the necessary majority. It was, however, by far the longest debate of the conference and saw a return to a level of delegate engagement in debates that was the hallmark of the party's conferences years ago.

Congratulations to Claire Coulton and Sharon Cadwallader on their leadership on this issue—one of the major ones facing the New South Wales Nationals. Sooner rather than later, The Nationals simply must catch up to other political parties on this issue. The conference dinner was addressed by the former Leader of the Western Australia Nationals, the Hon. Brendon Grylls, who for obvious reasons is a National Party legend in his own lifetime. It was a terrifically well-attended conference and a great success. The third one was as good as the previous two.

## FEDERAL BUDGET

**The Hon. WALT SECORD** [10.07 p.m.]: I note that earlier today the State Treasurer, Andrew Constance, presented the Liberal-Nationals Government's final budget before the March 2015 State election. As the Opposition is still examining the fine details of the budget, I will be making a contribution on it in the coming weeks as part of the take-note debate. However, today I wish to make a contribution on the impact of the recent Abbott Liberal-Nationals Federal budget. I note that earlier this week the Australian Local Government Association's National General Assembly meeting in Canberra passed a resolution from Tweed Shire Mayor Barry Longland calling on the Federal Government to reverse its decision to cut pensioner rates and subsidies. The assembly represents 565 local governments across Australia. I will discuss my attendance as the shadow Minister for the North Coast at the Fighting for a Fair Go rally on 12 June at the Tweed Heads Civic Centre on the Far North Coast.

First, I pay tribute to the Federal member for Richmond, Justine Elliot, and Labor's State candidate for the Tweed, Ron Goodman, for their tireless efforts to highlight the injustices in the Abbott budget and to stand up for North Coast families and pensioners. But I mainly pay tribute to the more than 300 pensioners who attended the rally. Some 20 of them stood up at the rally and told personal stories about how the Abbott budget will impact on their lives. After the meeting I spoke to other attendees about the cuts. They included a 61-year-old man named Wayne from Tweed Heads, who has been out of work for two years and is surviving on \$250 a week. He has applied for more than 30 jobs and is absolutely terrified for his future under the Abbott cuts.

I also met a young woman, Christine from Tweed Heads, who is caring for her father who is suffering from Parkinson's and early onset dementia. Due to other health problems he has to see a doctor or a specialist at least nine times a month to monitor associated illnesses. Christine does not know how she and her mother will be able to cope with the co-payment—or, as they call it, the "doctor's tax". We discussed State Labor's Health Services Amendment (Guaranteeing Free Public Hospital Services) Bill 2014 and how New South Wales Labor leader John Robertson is fighting the introduction of the \$7 charge in New South Wales. I urge Government members to think about their local communities when the bill comes to their party room for consideration.

I also met a young couple from Murwillumbah who have two sons with special needs—one in primary school and the other in high school—who no longer have support because the State Liberal-Nationals



Government has slashed the special needs program. They are devastated and fear for the future employment prospects of their sons. They were all there to protest and to speak out against the Abbott Government's unfair and cruel budget cuts as well as previous cuts by the State Liberal-Nationals Government. There is a variety of reasons to oppose the budget, in particular because of its devastating effect on New South Wales communities, particularly North Coast pensioners. For many at the rally it was the first protest they had attended in their lives. That shows the depth of feeling against the budget and how deeply these cuts will be felt.

Unfortunately, the Federal budget hits all generations: It is an attack on schools, parents, students, hospitals and the most vulnerable. But the most outrageous attack is on pensioners. Pensioners should be enjoying their grandchildren, the unique quality of life on the North Coast and their retirement rather than worrying about making ends meet or fearing the common cold. The Liberals and The Nationals—both at State and Federal levels—have forgotten that the pensioners they are attacking worked hard to raise their families and that the prosperity we all enjoy was due to their hard work. The Liberals and The Nationals have forgotten that pensioners defended this country. They have forgotten that pensioners have paid taxes for generations. In short, they built this wonderful country and we all know that our nation's pensioners deserve better. As we travel around the State locals tell us that they are worried about Tony Abbott's plans for a doctor tax, a petrol tax and cuts to the pension.

Sadly, we should not be surprised by the cuts because this is what Liberal-Nationals governments do when they come to power: They make cuts—nasty cuts. As for the State Government's claim that it will provide some limited assistance for one year to deal with the Abbott cuts, make no mistake that is Clayton's assistance. It is just about getting State parliamentarians with large pensioner populations, such as the member for Tweed, Geoff Provest, and the member for Lismore, Thomas George, past the March 2015 State election. If the Government were genuine, the pensioner rebates would be permanent—not just for one year. I repeat: The so-called assistance will be only for one year. The bottom line is clear: We all know that the Government will take it away after the election. Furthermore, the Abbott cuts come on the back of \$1.7 billion in cuts to education and \$3 billion to health by the State Government. We should not be fooled by the crocodile tears being shed by the State Liberal-Nationals Government.

They say that every Prime Minister and leader reshapes a country with their decisions. Tony Abbott and his Liberal-Nationals colleagues are planning to reshape Australia. This budget will change Australia as we know it. It takes our nation into the arena of dog-eat-dog and the survival of the fittest. The Liberals and The Nationals want to create a nation where pensioners are forced to fend for themselves and where pensioners will defer a visit to a doctor because they cannot afford the co-payment. The Federal budget has shocked the nation with its savagery and brutality. It is a budget of broken promises and it attacks pensioners. Before the election the Liberals and The Nationals said one thing but after the election they did another. The Federal budget cuts services to the bone. The budget takes away from the nation rather than investing in our future. For the first time in Australia's history, the budget deliberately plans to leave the next generations worse off than the current generation. It is a budget that considers seeing a doctor to be a privilege and it is a budget that considers our pensioners to be a burden. The Government does not recognise that pensioners built this nation.

### **BELL MINER ASSOCIATED DIEBACK**

**Ms JAN BARHAM** [10.12 p.m.]: Bell Miner Associated Dieback [BMAD] is a major threat to the ecological sustainability of vast areas of New South Wales forests, particularly in the north-east. The North East Forest Alliance actively raised concerns about this as far back as 1992. Former Greens member of the Legislative Council Ian Cohen raised concerns about bellbird dieback on 2 July 2003 during debate on the National Park Estate (Reservations) Bill. I recently visited the Border Ranges and was shocked to see the current state of the forests due to bellbird dieback and how the once delightful sound of the bellbird now heralds their domination and destruction.

When a forest is under stress—especially from logging—weeds, particularly lantana, invade and opportunistic bird species such as the bell miner rapidly multiply. Although native, mobs of these aggressive birds chase away insect-eating birds, allowing sap-sucking psyllid insects to breed in plague proportions and causing the death of many forest trees. Such tree loss has dire consequences for local economies, including tourism in World Heritage listed areas and for the environment through erosion and loss of water quality. In the 1940s and 1950s there was extensive defoliation and dieback due to insect outbreaks in the highland forests of New South Wales and Victoria. Also in the 1950s State Forests of NSW investigated dieback in Sydney blue gum forests on the Central Coast and found that it was associated with defoliation by psyllid insects.

Bellbird dieback has affected more than 100,000 hectares of north-eastern New South Wales forests and millions more hectares are under threat. It continues to spread into forest types previously unaffected. Bell Miner Associated Dieback and lantana invasion are both recognised as key threatening processes under the Threatened Species Conservation Act. On 25 February 1992 Mr West, the then Minister for Conservation and Land Management, referred to dieback due to insect attack. Ian Cohen then referred to the issue in Parliament in 2003. Major government departments, including Forests NSW, were a part of the BMAD Working Group, which produced the BMAD Strategy in 2004. This strategy proposed a series of actions that needed to be actively implemented. There is also a National Lantana Strategy that highlights the need for increased responsible action.

Despite producing a BMAD Strategy designed to guide action to combat this rapidly spreading threat, which is recognised as being of national significance, essentially little of value has been done. The Forestry Corporation is doing next to nothing to control this destructive disease. In 2009 the corporation logged two compartments in the Yabbra State Forest in excess of that legally allowed and undertook burning operations in September 2009 that got out of control. Logging and excessive burning destroy the canopy, allow lantana to proliferate and enable the opportunistic bell miner birds to flourish, resulting in increased psyllid attack and dieback of significant amounts of forest. The regulatory authorities issued six penalty infringement notices and four warnings for illegal logging.

Following complaints, inspections of the forest in 2012 with the chief executive officer and forest experts resulted in an agreement to rehabilitate some forest areas by controlling weeds and planting trees in areas of poor regeneration. There was recognition of some weed infestation but no recognition of BMAD in the rehabilitation plan. Some small-scale actions were undertaken to reduce lantana and to rehabilitate forests along some eroding forest coupes roadways. Also, some lantana reduction trials were attempted in the Donaldson and Mount Lindesay forests, but the Forestry Corporation's failure to acknowledge the significant threat of BMAD is tantamount to environmental vandalism. Some four years have passed and, despite these works, the remnants of original forest continue to die. Rehabilitation works are already estimated to cost more than \$30 million.

The further spread of dieback will only result in further loss of the forests' economic value for timber, tourism in World Heritage areas, honey and other environmental services. The more frequent and severe flooding that can result will cause further economic losses to the region. Rehabilitation action, if undertaken promptly, should cost less than the productivity losses. Additionally, the loss of habitat is resulting in significant losses of wildlife that rely on the forest. Tragically, the forests are dying. If nothing is done to prevent it, this and previous governments will be guilty of neglect.

### **PIG IRON BOB DOCUMENTARY**

**The Hon. LYNDA VOLTZ** [10.17 p.m.]: Recently I had the pleasure to attend a part screening of a new documentary, *Pig Iron Bob*. This documentary has drawn not only from the memories of those on the waterfront and in the Wollongong community but also from former Federal Liberal Minister David Kemp and Mrs Heather Henderson, who is Sir Robert Menzies' daughter. Also attending the part screening and fundraising dinner with me were the Consul General of the People's Republic of China, His Excellency Mr Li Huaxin; Deputy Consul General Ms Tang Ying; Deputy Consul General Mr Ton Zuejun; the Federal member for Throsby, Mr Stephen Jones; the State member for Strathfield, Mr Charles Casuscelli; and many members of the Chinese and Illawarra communities alongside the labour movement, particularly the Maritime Union of Australia and the South Coast Labour Council.

The documentary celebrates the seventy-fifth anniversary of the Dalfram Dispute during which 180 men prevented pig iron being loaded onto ships bound for the Japanese war machine. Reports were making their way back about the brutalities carried out by the Japanese Imperial Army when local branch secretary Ted Roach addressed the men at the labour pick-up for the *Dalfram* on the destination of the pig iron and the uses the Japanese would make of it: bombs—first against the Chinese and possibly against Australia. In protest, men walked off the ship, declaring they refused to load pig iron for Japan to turn into weapons.

The brutalities that the world was becoming to learn of included the Rape of Nanking. There is little doubt that in the annals of modern history the Rape of Nanking is one of the most shocking atrocities. The International Military Tribunal of the Far East estimated that more than 200,000 Chinese were killed in the incident. China's official estimate is that more than 300,000 were killed, based on the evaluation of the Nanking War Crimes Tribunal in 1947.

The atrocities inflicted on the Chinese, particularly on women and children, by Japanese soldiers were unimaginably horrendous. For many in the West, China is the forgotten ally of the Second World War. For more than four years until Pearl Harbor the Chinese fought the Japanese almost alone. China never capitulated and fought on bravely until victory in 1945. Up to 100 million people, 20 per cent of China's population, became refugees during the war and more than 15 million were killed. At least in Australia, amongst those who worked on the wharves, the atrocities inflicted on the Chinese people did not go unnoticed.

Although often threatened with the Transport Workers Act, commonly known amongst the union movement as the dog collar Act, wharfies around Australia took a stand on Japanese militarisation. Many of these wharfies later joined the war effort when Australia entered the Second World War. As Greg Mallory noted in September 1937, Fremantle wharfies refused to load supplies on the Japanese whaler. The slogan "No Scrap for the Jap" began to appear on wharves around the country. In October 1937 an embargo or boycott of Japanese imports and exports was organised. In that month Sydney wharfies walked off the *Tamon Maru* when they learned that scrap iron was on board and destined for Japan. Other bans were applied in Port Adelaide, Hobart and Brisbane. In January 1938 Sydney wharfies refused to load lead bars and tin clippings onto the *Melbourne Maru*. They argued that these materials were being used for war purpose against the Chinese, in particular against the civilian population.

In Brisbane a wharfie refused to handle this material and his registration disc was taken from him. On 15 November 1938 the British tramp steamer *Dalfram* berthed at No. 4 Jetty in Port Kembla. Mitsui, the controlling company for Japan Steel Works Limited, had chartered the vessel to take pig iron from Port Kembla to Kobe, Japan. The shipment was part of a contract to provide the Japanese steel mills with 300,000 tons of pig iron. Port Kembla wharfies walked off the job on 15 November, refusing to load the pig iron bound for Japanese militarisation. They held out until 29 January—2½ months—without any pay for them or their families. An eventual agreement with the Federal Government that no more pig iron would be shipped to Japan saw the end of the dispute that had caused considerable hardship for 4,000 workers in Port Kembla.

Sandra Pires is to be commended for her persistence in documenting this dispute from all sides, including that of the union movement, the then Federal Government under Robert Menzies and the Japanese. Her work goes a significant way to retaining an important slice of Australian history that was a harbinger of the war and atrocities to come. I understand that the next part of the documentary is to be recorded in Nanjing, the scene of such terrible atrocities inflicted on the Chinese that should never be forgotten. Importantly, as Sandra has stated, the *Dalfram* Dispute shows us what people united can achieve and, in particular, the strength of the community that continues to define Wollongong today.

## HUNTFEST

**The Hon. ROBERT BORSAK** [10.22 p.m.]: Tonight I inform the House of the outstanding success of the second annual HuntFest held at Narooma over the Queen's birthday long weekend. My colleague and I attended the event along with more than 2,000 hunters, shooters, fishermen and other like-minded outdoor people. I congratulate the organisers of the event, the South Coast Hunters Club, Dan Field and Onno De Smeth, and their team of fellow volunteers who worked hard to ensure its success. Since last year, the event has expanded from a photographic exhibition to include video competitions, firearms, taxidermy, clubs and a far greater range of other interests apart from firearms-related activities. The event was staged at the Narooma Sports and Leisure Centre, which gave organisers a far larger outdoor area than was available at the original event. Exhibits this year included camping, outdoor cooking, all-terrain vehicles and utility vehicles, four-wheel drive equipment, boats and kayaks, knife making, archery, and hide tanning to name a few. There was also an archery range, which gave people the opportunity to try that sport under close supervision.

Indoor exhibits included firearm and knife displays, hunting and target shooting equipment, reloading equipment, archery and bow hunting supplies, global positioning system equipment and programs, hunting outfitters, hunting clubs and camping accessories. There were also demonstrations of game-skinning techniques, as well as butchering, field processing and preservation techniques for game meat, including sausage making. Basically, there was something for everyone with an interest in outdoor pursuits. I congratulate also all exhibitors who attended HuntFest. These events rely on exhibitor support, and I expect that because of this year's success more people will be keen to join next year's HuntFest to show their products. New South Wales has more than 300,000 registered hunters. Therefore, events such as HuntFest have a big pool of supporters to draw on, which in turn allows such events to highlight in a positive way the benefits hunters bring to many communities, especially small regional and rural communities.

A study by the University of Queensland found that hunters spent \$76.2 million across New South Wales in 2011-12, and the hunting industry in New South Wales alone supports thousands of jobs. Enormous economic benefits flow on to these communities because of these outdoor activities, which are being recognised by more and more communities. A public benefit analysis of game licence holders shows that the average hunter spent \$4,296 on outdoor pursuits last year. I congratulate also the Eurobodalla Shire Council on its support for HuntFest, with the exception of one councillor—and do I really have to point out that it was a Greens councillor?

Everyone else backed the event. Predictably enough, The Greens managed to stage a "protest", as they would call it, against HuntFest being held. Unless The Greens agree with something, it is wrong. That party is full of individuals who are full of themselves. Interestingly, The Greens ran their own photographic competition in opposition to the HuntFest exhibition. One entry was a picture reported by Fairfax press as "an outstanding image of a grass owl, fleeing a harvester". An owl fleeing a harvester? Fair dinkum! What about a more truthful caption along the lines of "An owl flying ahead of a harvester as it swoops on mice for its daily feed"?

**The Hon. Rick Colless:** Feeding in front of the harvester.

**The Hon. ROBERT BORSAK:** I acknowledge that interjection, "Feeding in front of the harvester" because that is exactly what it was doing. In closing, I again congratulate the organisers of HuntFest, the Eurobodalla Shire Council, and everyone involved in making the event such an outstanding success. I look forward to going to Narooma again next year.

[Interruption]

**The Hon. ROBERT BORSAK:** He failed in his attempt.

**The Hon. Robert Brown:** He got plenty of publicity though.

**The Hon. ROBERT BORSAK:** He got plenty of free publicity. I wait with bated breath to see what Fairfax makes of next year's winning Greens photograph, whatever that may be—perhaps a dolphin fleeing a surfer as it scoops up its lunch from the small fish ahead of it.

## REBUILDING NSW

**Mr SCOT MacDONALD** [10.27 p.m.]: The Australian Labor Party [ALP] is the equivalent of this State's political boat anchor. The Liberal-Nationals Government has a plan to rebuild New South Wales. The Labor Party is still fighting last decade's battles. Contrast the leadership of the Premier and the Coalition with a strategy to unlock the value of the State's assets and reinvest in much-needed infrastructure with the ALP that is beholden to the Electrical Trades Union's unfounded, self-interested scare campaign that predicts the end of the world upon the lease of the poles and wires. The people of New South Wales understand that there is an infrastructure backlog. Congestion in Sydney is thought to cost more than \$5 billion per annum.

Regional hospitals, roads, bridges and schools have a capital works backlog in the hundreds of millions of dollars thanks to Labor. Though this Government has a record forward infrastructure budget of more than \$61 billion, our ability to fund additional works is constrained. The September 2011 NSW Treasury Financial Audit was damning of Labor's management. The final five years of its chaotic, irresponsible governance saw net debt balloon from \$9.8 to \$35.7 billion. Net financial liabilities rose from \$50.3 billion to \$86.3 billion. Today the Treasurer announced that the net debt as at 30 June 2014 will be \$8.6 billion and the net financial liabilities will be \$58 billion. The State's balance sheet is on its way to being repaired after the Labor train wreck.

The Coalition has proved adept at infrastructure recycling, with successful sales or long-term leases of generators, the desalination plant, Port Kembla and the Port of Newcastle. Net proceeds have been invested in Restart NSW and new productive infrastructure committed to, including 30 per cent for regional New South Wales. Rebuilding New South Wales through poles and wires privatisation will be a generational boost to our infrastructure, productivity and economy. Subject to realising greater-than-retention value for 49 per cent of Ausgrid, Transgrid, and Endeavour, the 99-year lease of these businesses may yield \$20 billion when the Commonwealth's Assets Recycling Fund contribution and interest earned is included.

The key infrastructure goals are a Sydney rapid transit system, including a second harbour rail crossing and western rail extension; Sydney roads renewal; \$1 billion for regional roads; \$1 billion for regional water; at least \$2 billion for a schools and hospital fund; and \$500 million for a sport and cultural fund. Of course, all of this is predicated on the Coalition winning the March 2015 election. The alternative is paralysis, greater debt,

fewer services and a heavier burden for future generations if Labor is elected. There is no substance to Labor's claim that electricity prices will rise unreasonably post privatisation. The evidence from Victoria's experience is that that State's privatised system very closely tracked the rest of Australia.

The Ernst and Young report "Electricity Network Services" commissioned by Treasury shows that the trends in underlying network costs were greater in the State-owned systems relative to the privatised networks. All the issues that rightly concern consumers such as reliability and response times to blackouts can be regulated by the Government. Ownership is irrelevant. For the New South Wales Australian Labor Party, power privatisation has never been about the wellbeing of families and businesses. It has been about its factions, personal ambition and desperation to retain power. Opposition leader John Robertson and Labor's leader in this place have a track record of undermining their own party and previous Labor Governments to sell or lease the State's poles and wires. As Paul Keating's 2008 letter to John Robertson, then past Secretary of Unions NSW and a new member of the New South Wales Legislative Council, said in part:

If the Government—

meaning the State Labor government of the day—

goes down, the lethal tally of men and women who will have lost their seats will be to your account and that of the Party officers who were complicit in the melee; namely Riordan, Bitar and Foley.

He went on to say:

When I met you and went through the history of the establishment of the east coast electricity market by the Government I led in the 1990s, and why the privatisation of the NSW power stations was consistent with the benefits of that market, you never offered one serious point in rebuttal. Not one cogent economic argument to thwart the logic.

He concluded:

I am ashamed to share membership of the same party with you.

Paul J. Keating

A lot will be said in the coming weeks and months on the network privatisation. The Coalition's intentions are transparent, and in the best interests of this State and future generations. ALP commentary will come from the perspective of whatever it takes and personal political enrichment. I seek leave to table Paul Keating's letter to John Robertson.

**Leave not granted.**

*[Time expired.]*

## **DOG CONTROL**

**The Hon. AMANDA FAZIO** [10.32 p.m.]: Tonight I raise the issue of dangerous dogs. I refer particularly to an incident that occurred not far from my home last week. A man was walking two pit bull dogs on retractable leads, which are not advisable for such dogs. The dogs broke free from him and attacked a cat within its front yard. The cat's owner tried to save the cat and was savagely mauled by the dogs. Indeed, the incident was contained in the manner it was only because many kind-hearted motorists driving on the main road stopped their cars and came out with tyre levers or whatever they had to stop the dogs from mauling the cat's owner.

I commend the police from Ashfield Local Area Command who responded quickly. They were able to trace the man with his two dogs; and they took appropriate action to charge him and have the incident reported to the local council. Once again it is a warning to people to be careful when they are out and they see somebody walking one of these dogs. The owners of these dogs often cannot control them. Frankly, these dogs are a public menace.

*[Time for debate expired.]*

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

**Motion agreed to.**

**The House adjourned at 10.33 p.m. until Wednesday 18 June 2014 at 11.00 a.m.**

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