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# LEGISLATIVE COUNCIL

Wednesday 10 September 2014

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

**The President** read the Prayers.

## ADMINISTRATION OF THE GOVERNMENT OF THE STATE

**The PRESIDENT:** I report the receipt of the following message from Her Excellency the Governor:

Marie Bashir  
GOVERNOR

Office of the Governor  
Sydney 2000

Professor the Honourable Dame Marie Bashir, AD, CVO, Governor of New South Wales, has the honour to inform the Legislative Council that she has reassumed the administration of the Government of the State.

Saturday, 16 August 2014

## ASSENT TO BILLS

Assent to the following bills was reported:

St Shenouda Coptic Orthodox Monastery (NSW) Property Trust Bill 2014  
Disability Inclusion Bill 2014  
Road Transport Amendment (Mandatory Alcohol Interlock Program) Bill 2014  
Universities Legislation Amendment (Regulatory Reforms) Bill 2014

## FORESTRY ACT: REVOCATION OF DEDICATION

**The PRESIDENT:** I report the receipt of the following message from Her Excellency the Governor:

Monday, 18 August 2014

Mr David Blunt  
Clerk of the Parliaments  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Blunt,

I acknowledge receipt of your letter dated 12 August 2014, addressed to the Official Secretary, enclosing a copy of a resolution passed by the Legislative Council on 12 August 2014, concerning the revocation of the dedication of part of a State Forest.

Yours sincerely,  
Professor Dame Marie R Bashir AD CVO  
Governor of New South Wales

## DISABILITY INCLUSION BILL 2014

## ST SHENOUDA COPTIC ORTHODOX MONASTERY (NSW) PROPERTY TRUST BILL 2014

**Messages received from the Legislative Assembly returning the bills without amendment.**

## HARMONY DAY

**Motion by the Hon. HELEN WESTWOOD agreed to:**

(1) That this House notes that:

- (a) as part of Harmony Day 2014 Sydney's multicultural community celebrated the nationwide launch of the Welcome Dinner Project;

- (b) the launch of the Welcome Dinner Project held in Martin Place on 22 March is an initiative that brings together local Australians with new arrivals over a pot luck dinner;
  - (c) the Welcome Dinner Project is enabling newly arrived people and established Australians to meet over dinner conversation in the comfort of their own home;
  - (d) newly arrived people include migrants, refugees, asylum seekers and international students;
  - (e) the aim of these pot luck style dinners is to create a platform for meaningful connection, sparking friendships between people of diverse cultures who are living in close proximity to one another but have not had an opportunity to connect in a supported environment; and
  - (f) the project is also encouraging further local collaborative endeavours and will result in significantly increased social cohesion by involving the broader community in building a welcoming Australian society, one which embraces and celebrates diversity.
- (2) That this House congratulates Penny Elsley, the founder of the community organisation Joining The Dots, who started the Welcome Dinner Project initiative last year which is making a positive contribution to community harmony across New South Wales and Australia.

### **MR REGINALD GASNIER, AM**

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

- (1) That this House notes:
- (a) with sadness the passing of Mr Reginald William Gasnier, AM, on Sunday 11 May 2014, just one day before his 75th birthday;
  - (b) Mr Gasnier was the first son born to William Arthur and Violet Gasnier and was raised in the southern Sydney suburb of Mortdale;
  - (c) Mr Gasnier was educated at Sutherland Intermediate High School and while there displayed his natural sporting ability competing in rugby league, cricket, baseball and athletics;
  - (d) Mr Gasnier later attended Sydney Technical High School and while at "Tech" became a champion schoolboy sportsman in both rugby league and cricket;
  - (e) Mr Gasnier was selected at age 13 in a New South Wales Schoolboy side in a curtain raiser to the 1952 Australia and New Zealand Test;
  - (f) in 1957 at the age of 18 Mr Gasnier was forced to choose which sport to focus on having already achieved junior State representative honours in both cricket and rugby league, and subsequently signed on to play for the St. George Dragons, his local rugby league club for the start of the 1958 season;
  - (g) Mr Gasnier's talents had been noticed while he was playing for junior club Renown United;
  - (h) Mr Gasnier's rise through the game was meteoric and after only six games in third grade he was selected for his first grade debut and after only five first grade games he was selected to represent New South Wales;
  - (i) by 1959 Mr Gasnier had become an established member of both the New South Wales and the Australian international teams;
  - (j) Mr Gasnier was a vital member of the all-conquering Dragons team of the later 1950s and early 1960s that won 11 successive premiership victories, with Mr Gasnier himself enjoying seven of those premiership victories;
  - (k) Mr Gasnier has been described as the ultimate all round rugby league player, possessing speed and a beautiful running style, good hands, a superb change of pace and great anticipation along with being a sound defender and was dubbed "Puff the Magic Dragon" by Dragons fans because of this;
  - (l) Mr Gasnier finished his career with the Dragons in 1967 with 127 tries and 20 goals in only 131 appearances;
  - (m) Mr Gasnier made his international debut for Australia against New Zealand in the first test in 1959 and played in all three tests of that series and at the end of that season toured England with the Kangaroos a highlight being his three tries in the first test against a star-studded Great Britain team at Station Road, Swinton;
  - (n) Mr Gasnier became Australia's youngest ever captain in 1962 when he led Australia against England aged 23 years and 28 days, he also toured Europe on another two occasions in 1963 and 1967, the latter also as captain;
  - (o) Mr Gasnier's career was prematurely ended on the 1967 European tour when in a minor game against a French provincial team he sustained a broken leg, as he had suffered a cruciate ligament injury in a game against the Parramatta Eels in early 1966 he never played competitively again; he was only 28 years old;

- (p) Mr Gasnier finished his international career as Australia's most capped player, with a total of 36 test caps, which remained a record until broken by Mal Meninga in 1992 and he also scored 26 tries for Australia and captained the side on eight occasions;
  - (q) upon Gasnier's retirement the then Australian Rugby League chairman Bill Buckley was quoted, "On his day, he was the greatest rugby league player I have ever seen. Gasnier had an amazing change of pace and great anticipation. He was also particularly unselfish. He was without peer"; and
  - (r) Mr Gasnier was bestowed numerous honours, including in 1985 he was selected as one of the initial four post-war "Immortals" of the Australian game with Churchill, Raper and Fulton; in December of that year he was inducted into the Sport Australia Hall of Fame; in 2002 he was inducted into the Australian Rugby League Hall of Fame; in 2008 he was named in the list of Australia's 100 Greatest Players, 1908–2007; he was named as one of the centres, along with Mal Meninga, in Australian rugby league's Team of the Century; in 2008 New South Wales included him in its rugby league team of the century; was made a life member of the Sydney Cricket Ground and a plaque in the Walk of Honour there commemorates his career; he was appointed in 1989 a Member of the Order of Australia [AM]; and in 2010 a bronze statue of Mr Gasnier was unveiled as the seventh inside the Sydney Cricket Ground precinct as part of the Basil Sellers Sports Sculpture project.
- (2) That this House:
- (a) acknowledges that Mr Reginald William Gasnier, AM, is one of this nation's finest ever rugby league players and has made an outstanding contribution to sport in Australia; and
  - (b) extends its sincere sympathy to the family of Mr Gasnier; his wife, Maureen, son Peter and daughter-in-law Angelique, daughter Kellie and son in-law Peter, and grandchildren Sheri, Jack, Bryce, Erin and Mitchell on their sad loss of a fine gentleman.

### **DEMENTIA AWARENESS MONTH**

#### **Motion by Ms JAN BARHAM agreed to:**

- (1) That this House notes that:
- (a) September 2014 is Dementia Awareness Month, an awareness-raising period supported by Alzheimer's Australia and community organisations across the country which aims to build on the previous success of Dementia Awareness Week; and
  - (b) the theme for Dementia Awareness Month 2014 is "Creating a dementia-friendly nation", where people with dementia are able to maintain a good quality of life following a dementia diagnosis.
- (2) That this House notes that:
- (a) research is progressing for new diagnostic tools, including smell and vision tests, to detect Alzheimer's disease before symptoms appear;
  - (b) multiple strategies and programs are being developed for reducing risk of dementia by early detection;
  - (c) intervention programs are being introduced in the United Kingdom to reduce depression and anxiety for family carers of a person with dementia; and
  - (d) there is agreement among the dementia research community that without appropriate strategies in place, the global epidemic of Alzheimer's disease and other types of dementia will continue to grow, but that new data has suggested that the number of new cases of Alzheimer's disease in developed nations is declining.
- (3) That this House:
- (a) congratulates all people and organisations involved in supporting Dementia Awareness Month;
  - (b) recognises the important contribution of the professionals, organisations and carers who deliver advocacy and care for the growing numbers of people suffering dementia in our community; and
  - (c) acknowledges the ongoing efforts of researchers who are developing new tools and interventions to address the risks and impacts of dementia.

### **TRIBUTE TO MS HEATHER HARFORD**

#### **Motion by Ms JAN BARHAM agreed to:**

- (1) That this House celebrates the life of Heather Harford, who passed away on 30 May 2014 after an active life helping to protect the estuarine and shorebirds of the north coast of New South Wales and to restore the natural environment.
- (2) That this House notes that:
- (a) Heather Harford was born on 4 July 1946 in Epping, New South Wales;

- (b) she was as an active committee member of the Sunshine Coast Environment Council, and on Australia Day 1998 was awarded Citizen of the Year for her selfless commitment to the preservation of Maroochydhore's natural environment and her commitment to conservation since the 1970s;
  - (c) Heather then moved to New South Wales and became actively involved in a number of organisations on the far north coast, including Byron Environment and Conservation Organisation [BEACON], Federal Landcare of which she became coordinator, and Byron Bird Buddies, and she later represented groups on the Regional Shorebird Committee;
  - (d) education was also an important facet of her work as she was responsible for informative signs erected at key shorebird sites and for educative brochures which she distributed widely and she participated in community and school education programs;
  - (e) Heather actively assisted in monitoring shorebird nesting and maintained a vigil, often camping overnight, to protect chicks from marauding dogs and beachgoers posing risks to the birds;
  - (f) Heather was active in the protection of the coastal emu in the Clarence Valley, and at home hand reared abandoned chicks of many species; and
  - (g) despite her illness, Heather maintained an interest in and committee membership of Birdlife Northern New South Wales.
- (3) That this House acknowledges the contributions of Heather and other members of the conservation fraternity for their work to slow the decline of our rare and endangered bird populations on the far north coast, to repair the damage to the environment through their work for Landcare and other community-based organisations helping to preserve the environment, and the contribution that this makes to the enhancement of New South Wales for future generations and for the benefit of the visitor economy which is such an important part of the north coast economy.
- (4) That this House extends its condolences to Heather's children, grandchildren, friends and fellow conservationists; Heather's enthusiasm and knowledge of birds and conservation will be missed greatly.

#### **MS DONNA RYGATE, CHIEF EXECUTIVE OFFICER, LOCAL GOVERNMENT NSW**

##### **Motion by the Hon. HELEN WESTWOOD agreed to:**

- (1) That this House notes:
- (a) that Ms Donna Rygate has been appointed as the Chief Executive Officer of the New South Wales Local Government Association;
  - (b) that Ms Rygate is the first woman to be appointed to this most senior management position of the peak industry association representing local government in New South Wales; and
  - (c) the significance of a woman holding this most senior position in New South Wales local government where there is a lack of women in senior decision-making roles with just 11 per cent of general managers, 13 per cent of mayors and 27 per cent of councillors being women.
- (2) That this House congratulates Ms Rygate on her appointment that should serve to encourage other women to take up key roles in local government throughout New South Wales.

#### **AZERBAIJAN AGGRESSION**

##### **Motion by Reverend the Hon. FRED NILE agreed to:**

- (1) That this House notes that over the course of seven days in July and August 2014, eight Armenians, including one civilian, were killed and seven wounded by Azeri forces during the following course of events:
- (a) on 28 July 2014, Azeri snipers targeted International Committee of the Red Cross [ICRC] officials touring the Tavoush region in Armenia, and while there were no reports of casualties, the ICRC suspended its work in Armenia as a result of the sniper attacks;
  - (b) on the evening of 28 July 2014, Azerbaijan attempted a first incursion into Nagorno-Karabakh, resulting in the death of one Armenian soldier;
  - (c) on the evening of 31 July and 1 August 2013, Azerbaijan attempted a full-scale incursion into Nagorno-Karabakh with the support of elite military forces, and while they were again repelled by Armenian forces, two Armenian soldiers were killed and 14 Azeri died;
  - (d) on 2 August 2014, Azerbaijan continued heavy artillery fire across the line of contact in Nagorno-Karabakh and directly into Armenia, killing one Armenian soldier defending his post;
  - (e) on 3 August 2014, Azerbaijan continued to attempt a large-scale incursion into Nagorno-Karabakh, which was repelled by Armenian soldiers defending their territory;

- (f) on 6 August 2014, an Armenian civilian farmer living on the Armenia/Azerbaijan border was captured by Azeri forces and paraded as a military combatant on State television, before later dying in custody with no explanation from Azeri authorities;
  - (g) on 7 to 9 August 2014, Azerbaijan President Ilham Aliyev threatened war via Twitter against Nagorno-Karabakh and Armenia, while Azeri forces continued to shoot towards the direction of Armenia and Nagorno-Karabakh on over 500 occasions, shelling the town of Aygepar and destroying numerous homes; and
  - (h) on 10 August 2014, the Russian President met with his Armenian and Azeri counterparts to discuss the escalation of violence and called for a peaceful negotiated settlement.
- (2) That this House further notes international condemnation of Azerbaijani aggression, including:
- (a) United Nations Secretary General Ban Ki-moon urging Azerbaijan to "respect the ceasefire agreement, refrain from further violence and commit themselves to immediate de-escalation and continuing dialogue in the pursuit of a rapid and peaceful political solution";
  - (b) OSCE Chairperson-in-Office and Swiss Foreign Minister Didier Burkhalter along with OSCE Minsk Group Co-Chairs expressing "deep concern about the fact that a clearly marked International Committee of the Red Cross vehicle came under fire while assisting the local population on the Armenian-Azerbaijani border on a humanitarian mission", and "strongly condemning the deliberate targeting of civilians and shooting at representatives of international organizations and reminding the parties of their obligations under Geneva Conventions";
  - (c) the State Department of the United States "expressing its concern about the escalation of violence along the Line of Contact that resulted in significant casualties on July 31", "extending our condolences to the families of those killed or injured and calling on the sides to take immediate action to reduce tensions and respect the cease-fire", and stating that "there can be no military solution to the conflict" and that "retaliation and further violence will only make it more difficult to bring about a peaceful settlement"; and
  - (d) the Russian Ministry of Foreign Affairs "expressing our concerns over the aggravation of the situation on the Nagorno-Karabakh conflict zone, which caused human casualties", stating that "we qualify the recent incidents as a resinous case of violation of the ceasefire agreement and other arrangements", and "urging the sides to show tolerance, refuse the use of force, and immediate steps for the stabilization of the situation".

### **WORLD SUICIDE PREVENTION DAY**

#### **Motion by Ms JAN BARHAM agreed to:**

- (1) That this House notes that:
  - (a) World Suicide Prevention Day is on Wednesday 10 September 2014;
  - (b) the theme for this year's World Suicide Prevention Day is "One World Connected" to emphasise the need to connect on every level to prevent suicide; and
  - (c) R U OK? Day is on 11 September, immediately following Suicide Prevention Day.
- (2) That this House acknowledges the work of Suicide Prevention Australia in developing the National Research Action Plan to increase suicide prevention research and research funding.
- (3) That this House thanks organisations such as Lifeline, StandBy Response Service, On the Line and SANE for the work they do to help all people in times of crisis and suicide risk.

### **BUSINESS OF THE HOUSE**

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

**Private Members' Business item No. 1978 outside the Order of Precedence objected to as being taken as formal business.**

### **NATIONAL CHILD PROTECTION WEEK**

#### **Motion by Ms JAN BARHAM agreed to:**

- (1) That this House notes that:
  - (a) 7 to 13 September 2014 is National Child Protection Week;
  - (b) the term "child abuse" includes physical abuse, psychological abuse, sexual abuse, neglect and child exposure to family violence;

- (c) child abuse and neglect is one of Australia's most significant social problems; and
  - (d) last year over 35,000 Australian children were found to have been abused or neglected.
- (2) That this House acknowledges the work of the National Association for Prevention of Child Abuse and Neglect [NAPCAN], which was founded in 1987.
- (3) That this House thanks all people and organisations who work to raise awareness of child abuse and neglect and its impacts by developing and promoting effective prevention strategies and programs for the wellbeing of children and young people.

## **BUSINESS OF THE HOUSE**

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

**Private Members' Business item No. 1981 outside the Order of Precedence objected to as being taken as formal business.**

### **CWA AWARENESS WEEK**

#### **Motion by Ms JAN BARHAM agreed to:**

- (1) That this House notes that 6 to 13 September 2014 is Country Women's Association of New South Wales [CWA] Awareness Week.
- (2) That this House notes that:
- (a) this week marks 92 years of the CWA in New South Wales, an organisation formed at a bushwomen's conference timed to fit in with the Royal Agriculture Show in Sydney;
  - (b) the CWA's objective was concise: "To improve the conditions of women on the land", and its motto was a little longer: "Honour to God, Loyalty to the Throne, Service to the Country, Through Country Women, For Country Women, By Country Women";
  - (c) the CWA grew at a rate many organisations today could only wish for, with 4,500 members by 1924, double that by 1927, and reaching 28,000 by 1953, with 517 branches, 182 rest rooms and 157 baby health centres;
  - (d) during World War II the CWA knitted garments, made thousands of camouflage nets in netting circles and many women ran the family farm while the men were away at the war; and
  - (e) times have changed, and while their numbers have decreased, their spirit certainly has not, and their focus has broadened to embrace international goodwill, while still maintaining a special interest in those living in rural areas, in the welfare of rural communities and the natural environment.
- (3) That this House notes that while many of us may associate the CWA with standards of excellence in lamingtons, scones and sponges, their many achievements and interests show us that they are much more than cooks and writers of cookbooks, including that they:
- (a) administer a raft of educational grants to students;
  - (b) run a disaster relief fund; and
  - (c) support a medical research project each year, with recent examples including Crohn's disease, prostate cancer and haemophilia.
- (4) That this House notes that the CWA's advocacy and lobbying actions include:
- (a) supporting the protection of prime agricultural land from mining activities;
  - (b) calling for an inquiry into the massive amounts of water used by some sectors of the mining industry;
  - (c) calling for coal train wagons to be covered to prevent the dispersion of coal dust; and
  - (d) lobbying for a long list of improvements to health and social services.
- (5) That this House notes that the CWA's praises have been sung in this House for, among other things:
- (a) providing food and drink for firefighters;
  - (b) the numerous CWA halls in country towns; and
  - (c) advocating relief during times of extreme drought.

- (6) That this House acknowledges that, as the synopsis for the book *Great Australian CWA stories* says:

"CWA women dig bogged vehicles out of sand dunes, look after the lost and lonely, speak at national events, and can still, at the end of the day, serve up a plate of scones just out of the oven and a strong cup of tea. We couldn't get by without CWA."

## **BUSINESS OF THE HOUSE**

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

**Private Members' Business items Nos 1984 and 1985 outside the Order of Precedence objected to as being taken as formal business.**

### **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.

## **UNPROCLAIMED LEGISLATION**

**The Hon. Matthew Mason-Cox** tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 9 September 2014.

## **LEGISLATION REVIEW COMMITTEE**

### **Report**

**The Hon. Dr Peter Phelps** tabled the report entitled "Legislation Review Digest No. 60/55", dated 9 September 2014.

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

## **COMMITTEE ON THE OMBUDSMAN, THE POLICE INTEGRITY COMMISSION AND THE CRIME COMMISSION**

### **Report: 2014 General Meetings**

**The Clerk** announced the receipt of report No. 8/55 entitled "2014 General Meetings", dated August 2014, received out of session and authorised to be printed on 18 August 2014.

**The Hon. SARAH MITCHELL** [11.13 a.m.]: I move:

That the House take note of the report.

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

## **AUDIT OFFICE**

### **Report**

**The Clerk** announced the receipt, pursuant to section 12A of the Annual Reports (Statutory Bodies) Act 1984, of the report of the Audit Office of New South Wales for the year ended 30 June 2014, received out of session and authorised to be printed on 29 August 2014.

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

### **Report: Review of the Exercise of the Functions of the Workers Compensation (Dust Diseases) Board**

**The Clerk** announced the receipt, pursuant to standing order, of report No. 53 of the Standing Committee on Law and Justice entitled "Review of the Exercise of the Functions of the Workers Compensation

(Dust Diseases) Board", dated September 2014, together with transcripts of evidence, submissions, correspondence and answers to questions taken on notice, received out of session and report authorised to be printed on 3 September 2014.

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [11.14 a.m.]: I move:

That the House take note of the report.

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

## **SELECT COMMITTEE ON SOCIAL, PUBLIC AND AFFORDABLE HOUSING**

### **Report: Social, Public and Affordable Housing**

**The Clerk** announced the receipt, pursuant to standing order, of the report of the Select Committee on Social, Public and Affordable Housing entitled "Social, Public and Affordable Housing", dated September 2014, together with transcripts of evidence, submissions, tabled documents, correspondence and answers to questions taken on notice, received out of session and report authorised to be printed on 8 September 2014.

**The Hon. PAUL GREEN** [11.15 a.m.]: I move:

That the House take note of the report.

I am pleased to present this report of the Select Committee on Social, Public and Affordable Housing. The foundation of my approach to this inquiry was that everyone should have a place to call home—a place that provides stability, security, safety and connection to family and community. Whether it be a cottage, terrace, studio, bedsit, unit, caravan or a room in a boarding house, access to affordable, safe and sustainable housing is imperative because it can ameliorate disadvantage and enable people to participate in society both economically and socially.

We have an ageing population and people want to age in place, to flourish and to live independently. Despite the fundamental importance of a home, evidence taken during the inquiry clearly highlighted that for many access to housing is quickly becoming increasingly difficult. Not only are lower income households finding it difficult to locate affordable housing but first home buyers are also finding it hard to break into the property market due to a significant increase in house prices, with prices doubling in the past decade and increasing significantly faster than incomes.

House prices in Sydney continue to rise sharply. Sydney is sadly holding its position as the fourth most unaffordable city in the world. Key workers in our economy, such as nurses and police officers, are gradually being pushed out of inner-city Sydney. They are being forced to live further away from their workplace because of housing unaffordability. As a result, many face long commuting times or, alternatively, opt to pay higher housing costs, which often they cannot afford. In addition to key workers, many households across the State are experiencing housing stress because they are paying more than 30 per cent of their income on housing. Living expenses are rising and families are struggling to make ends meet, with many now experiencing what is called "food insecurity". That includes children who are missing important daily meals because their parents have high living and housing costs.

The pressure in the housing market is having a cascading impact on social housing and causing homelessness. As highlighted in the Auditor-General's report, 58,000 people are waiting for social housing and demand is predicted to increase to 86,000 by 2016. Social housing is meeting 44 per cent of the need and many individuals and families are unable to obtain housing because of tightened eligibility policies and the lack of dwellings. For those eligible for housing assistance, lengthy waiting lists mean that some are waiting for more than 10 years for a property, even in regional areas.

The rate of homelessness is rising and, sadly, more women, children and veterans are represented in the homeless statistics. Alarming, overcrowding, couch surfing and sleeping in cars is becoming more commonplace. That is unlikely to change significantly unless the shortage in the supply of social housing is promptly addressed. In addition, we have a portfolio of public housing properties that are rapidly deteriorating and treasured properties such as the Sirius Building in The Rocks are being sold to address funding shortfalls

and a public housing maintenance backlog. The situation is becoming dire, with evidence suggesting that New South Wales is experiencing a housing crisis, with critical need for additional social and affordable housing properties, and a new policy approach and direction to ensure growth and sustainability of the sector.

In addressing the shortage in supply of social housing, one key solution emerged: for the New South Wales Government to re-engage with the community housing sector to help build and enhance the social housing system. Enabling the community housing sector to play a greater role in the social housing system has significant advantages. Firstly, community housing providers can raise finance against public housing properties transferred to them, thereby enabling them to expand and develop more housing.

Secondly, tenants will benefit from their holistic, integrated and wraparound service delivery approach. Community housing providers have also demonstrated a sound, economical and responsive approach to maintenance, thereby achieving higher rates of tenant satisfaction. In addition to this new approach, it is vital that the Department of Family and Community Services finalises a number of key policy documents, as recommended last year by the Auditor-General, including the social housing policy, asset portfolio strategy and strategy for managing public housing estates, all of which were due by December 2013.

At the conclusion of our inquiry, these policies had still not been released, despite being essential to addressing the challenges in the housing system. These policies are crucial in providing a clear direction forward and to enabling key stakeholders to align their long-term plans. The social housing policy is particularly imperative, as it provides an opportunity for the department to define key terms, consult with stakeholders and learn from other jurisdictions, many of which have faced similar issues to those faced by New South Wales.

Strong government leadership is also essential, to drive the necessary reforms for sustainable growth in social and affordable housing, and to help alleviate the existing unrest in the housing sector, particularly given many organisations have also been acutely affected by the Going Home Staying Home homelessness reforms and the loss of the National Rental Affordability Scheme. Whilst this report highlights the breadth and complexity of social and affordable housing issues, I hope its findings and recommendations provide the foundation for much-needed revitalisation and growth of the social and affordable housing sector.

On behalf of the committee, I express our gratitude to all who participated in the inquiry, including those organisations and individuals who appeared at the hearings and public forums, and those who helped to facilitate site visits. I also thank my committee colleagues for their work and commitment to this inquiry. This report is a reflection of all our passions in this area and our dedication to improving access to social, public and affordable housing for those in New South Wales, many of them being some of our most vulnerable people.

The social, public and affordable housing issue is not about staying in a particular category of need but it is a continuum, as suggested in this report. We want to move people from one spot into, hopefully, fulfilling the dream of owning a house. That is the greatest challenge faced by us. Once again I thank all involved in this committee, particularly Tina Higgins who put this report together. She did a marvellous job.

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

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

#### **Government Response to Report**

**The Clerk** announced the receipt, pursuant to standing order, of the Government's response to Report No. 29, entitled "Removing or reducing station access fees at Sydney Airport", tabled on 28 February 2014, received out of session and authorised to be printed on 27 August 2014.

### **MINISTERIAL CONSULTATIVE COMMITTEES**

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

**The Clerk** tabled, pursuant to the resolution of the House of 14 August 2014, documents relating to an order for papers regarding Ministerial Consultative Committees, received on 4 September 2014, from the Acting Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

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

**The Clerk** tabled a return identifying documents that are claimed to be privileged. The Clerk advised that pursuant to standing orders the documents are for inspection by members of the Legislative Council only.

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

#### **Government Response to Report**

**The Clerk** tabled correspondence from the Leader of the Government advising that the Government's response to Report No. 30, entitled "Tourism in local communities", tabled on 6 March 2014, which was due on 6 September 2014, will be finalised and tabled shortly.

### **PETITIONS**

#### **Public Libraries**

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

### **BUSINESS OF THE HOUSE**

#### **Postponement of Business**

**Business of the House Notice of Motion No. 1 postponed on motion by Dr John Kaye and set down as an order of the day for a future day.**

### **BUSINESS OF THE HOUSE**

#### **Postponement of Business**

**Government Business Orders of the Day Nos 4, 5, 6 and 8 postponed on motion by the Hon. Duncan Gay and set down as orders of the day for a later hour.**

### **PARLIAMENTARY BUDGET OFFICER**

#### **Appointment**

**The PRESIDENT:** I inform the House that, pursuant to section 6 of the Parliamentary Budget Officer Act 2010, Mr Steven Bartos has been appointed as Parliamentary Budget Officer. Mr Bartos was most recently employed as a director and head of the Canberra office of ACIL Allen, an economic consulting and advisory firm. He has extensive experience working in the Federal public service, including as deputy secretary of the Department of Finance and Administration, where he was responsible for the Government Budget Group. Mr Bartos will be located at Parliament House from 22 September 2014 until 26 June 2014.

### **AUSTRALIAN WOMEN'S HOCKEY TEAM**

#### **Motion by the Hon. DUNCAN GAY agreed to:**

- (1) That this House notes that:
  - (a) the Australian women's hockey team won against England in the final at the recent Commonwealth Games; and
  - (b) this is the Hockeyroos' fourth gold medal at a Commonwealth games.
- (2) That this House acknowledges:
  - (a) Crookwell residents Kellie White and Emily Smith were part of the Hockeyroos side that won gold;

- (b) thousands of residents of Crookwell Shire attended a grand parade and civic reception at the Memorial Park in Crookwell;
  - (c) the *Crookwell Gazette* reports it as one of the best homecoming parades Crookwell has ever delivered; and
  - (d) hundreds of supporters lined the street waving banners and streamers and showering the girls with confetti.
- (3) That this House congratulates Kellie and Emily on their great victory against the English.
- (4) That this House notes that Crookwell is probably the most successful town in the State.

#### **INDUSTRIAL RELATIONS AMENDMENT (DISPUTE ORDERS) BILL 2012**

##### **Discharge of Order of the Day and Withdrawal of Bill**

**Order of the day discharged and bill withdrawn on motion by the Hon. Duncan Gay.**

#### **PETROLEUM (ONSHORE) AMENDMENT BILL 2013**

##### **Discharge of Order of the Day**

**Order of the day discharged on motion by the Hon. Duncan Gay.**

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

#### **ENERGY LEGISLATION AMENDMENT (RETAIL PRICE DEREGULATION) BILL 2014**

##### **Discharge of Order of the Day**

**Order of the day discharged on motion by the Hon. Duncan Gay.**

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

#### **FAIR TRADING AMENDMENT (TICKET RESELLING) BILL 2014**

##### **Second Reading**

**The Hon. MATTHEW MASON-COX** (Minister for Fair Trading) [11.45 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Fair Trading Amendment (Ticket Reselling) Bill 2014. This bill will bring openness and transparency to the secondary ticketing market, help to protect consumers from price gouging and fraud, and empower event organisers to enforce their ticket terms and conditions. Ticket scalping is the unauthorised resale of tickets for a price above the original value of the ticket. It is an ongoing problem for consumers, event organisers, sporting codes and performers. When tickets having sold out on official sites within minutes of going on sale are immediately listed on online auction sites for several times the original price, consumer confidence in the ticket market is eroded. Spruikers selling tickets outside venues immediately prior to an event are almost a thing of the past as the internet is now the main arena where scalping takes place.

Consumers who buy tickets from scalpers face the risk of counterfeit tickets. Even if a purchased ticket is genuine, the ticket may still be worthless if the event promoter cancels the ticket for being resold in breach of its terms and conditions. From the perspective of event organisers, sporting codes and artists, scalping diverts income towards those who took no part and bore no risk in staging an event. Performers and sporting codes may also deliberately set ticket prices to be affordable for their fans—an aim that can be frustrated by scalping. With New South Wales attracting more and more high-profile events and international acts, the issue of ticket scalping is attracting increasing levels of media and public interest.

Event organisers employ a variety of ticketing strategies to reduce scalping. These include staggering the release of tickets, providing tickets to fan clubs and using e-tickets. However, they have not been successful in preventing ticket scalping. Strategies such as requiring names to be printed on tickets and the presentation of photo identification or a credit card on entry are expensive. These strategies are also only suitable for events where attendees arrive over a long period of time due to the potential to create bottlenecks. Most tickets are sold

subject to restrictions on resale and particularly on resale for a profit. However, it is difficult for events owners to enforce such conditions because resale advertisements do not provide enough details to enable identification of the ticket.

The reforms in this bill will protect consumers who are purchasing tickets for prices above face value by ensuring that they have clear information to make informed decisions. These reforms will also empower event organisers, who are accountable to their fans, to enforce their ticket conditions. The reforms are a light touch and will not involve the imposition of costly red tape. The reforms in this bill have been developed following consultation with representatives of sporting codes, the entertainment industry, ticketing organisations and consumer groups. As a result, a number of these stakeholders have publicly supported the measures in the bill. Mr James Sutherland, Chair of the Coalition of Major Professional and Participation Sports [COMPPS] said:

COMPPS believes that these reforms will introduce fairness and transparency to the ticket resale marketplace, which is sorely needed.

Similarly, the reforms have been welcomed by Mr Michael Gudinski, Managing Director of the Frontier Touring Company, who said:

For too long scalpers have been able to hide behind anonymity online. Music should empower and real artists do not want to see their fans ripped off.

Mr Cameron Hoy, Managing Director of Ticketek Australia, said:

Ticketek welcomes the New South Wales Government reforms in this area and supports measures such as these to clamp down on this unsound practice.

I now turn to the detail of the bill. The bill applies to tickets to sporting and entertainment events held in New South Wales, but only if the ticket is subject to two conditions: first, a condition prohibiting the ticket being resold or resold for a profit; and, second, a condition requiring an event owner to take reasonable steps to notify a ticketholder if the event owner intends to cancel the ticket for being resold in breach of a resale restriction. The setting of ticket conditions is a matter for event organisers and sporting codes, which are accountable to their fans to ensure access to tickets.

Limiting the bill's application to tickets with conditions restricting resale recognises that it is not appropriate for the bill's requirements to cover small-scale events such as the local school play, where the event organiser has not deemed it necessary to impose such conditions. The bill sets out a number of requirements for resale advertisements for tickets that are covered by the bill and are being resold at a price above the face value of the ticket. The Government has limited the bill to tickets being resold at a price above face value in order to ensure that ordinary consumers who wish to resell tickets at face value because they can no longer attend an event are not covered by the bill's requirements.

For tickets being sold above face value, the bill requires that a resale advertisement, other than an advertisement published by or on behalf of the event organiser or their agent, must: specify the ticket number, and the bay, row and seat number if applicable; specify the terms and conditions of the ticket or where these can readily be found; include a notice specifying the circumstances in which the resale of the ticket may result in the cancellation of the ticket; and contain a photograph of the ticket that clearly shows any ticket number, row number or seat number, but does not show any barcode on the ticket. The requirements to disclose ticket details and display a photograph of the ticket will also apply to e-tickets. E-tickets can take the form of a PDF file which is emailed to the buyer and able to be printed, or an electronic ticket which remains on an electronic device such as a person's phone. Similar to paper tickets, e-tickets contain details of the ticket number and seat and row numbers, and a photograph of the ticket can be taken by a screenshot of the phone or other means.

The requirements in the bill aim to address the information imbalance that exists in the secondary ticket market by alerting consumers to the possibility that tickets may be cancelled and providing important information about the ticket. While a photograph in an advertisement cannot provide a complete assurance against fraud, genuine resellers of most goods accept that transparency requires a photograph, and tickets should be no exception. The requirement that any barcode on a ticket should not be shown in the photograph is to prevent unscrupulous persons from printing out the barcode and using it to gain entry to the event. Including the ticket number and bay, row and seat numbers in advertisements for tickets resold at a profit will also assist event owners to enforce their ticket conditions.

The decision on whether to cancel a ticket in line with stated terms and conditions belongs to an event organiser. Event organisers, whether of a sporting code, an artist or a performer, are accountable to their fans to ensure equitable access to tickets, to keep ticket prices affordable and to prevent fans being disadvantaged. They are best placed to make decisions about how to do this. Importantly, the bill restricts an event organiser's ability to cancel tickets by providing that cancellation can only take place if the front of the ticket carries a prescribed warning advising purchasers of the risk of cancellation for unauthorised resale. This restriction will provide an incentive to event owners to ensure that tickets provide this warning to consumers.

The event owner will still be able to enforce any other terms and conditions of the ticket, including those related to event entry and behaviour. An event owner who intends to cancel a ticket must take reasonable steps to give the ticket holder reasonable notice of the event owner's intention to cancel the ticket. This will help to ensure that event owners cancel the correct ticket, and not the ticket of an innocent consumer who has not resold the ticket in breach of its conditions. In order to ensure that advertisements comply with the new requirements, the bill provides that a person who provides a public forum for advertisements, such as a website, newspaper or magazine, will be subject to certain obligations.

First, the person will be required to take reasonable steps to ensure that advertisements posted in their forum comply with the new requirements. Secondly, they will be required when notified in writing by the event owner or their nominee of a non-compliant ticket advertisement on their forum and where it is reasonably practicable to remove the advertisement or ensure that the advertisement is amended so that it is compliant. These obligations will apply to forums that are accessible to the public at large. The requirements will not apply to private communications used by consumers to offer their tickets to limited personal networks, such as a post on a private Facebook page.

The obligation to take reasonable steps to ensure that advertisements comply will require hosts or publishers of advertisements to use mechanisms similar to those already used to ensure that advertisements are not in breach of the law or the host or publisher's policies. It is anticipated that NSW Fair Trading will consult with relevant hosts and publishers of ticket advertisements and, if necessary, issue guidelines regarding what may constitute "reasonable steps" in this context. The obligations will not apply to any host or publisher that has been officially authorised by the event owner to carry ticket resale advertisements for an event. This means that the bill will not impede efforts by event owners and the ticketing industry to provide their own official resale marketplaces, which offer consumers protection against fraud and price gouging. This is appropriate.

The Government recognises that there is a need for a secondary ticket marketplace for people who can no longer attend an event and need to sell their ticket. The measures in this bill, which have the support of sporting bodies, entertainment promoters and the nation's leading ticket facilitator, will provide greater protection and transparency to consumers who wish to purchase tickets in the secondary marketplace, with minimal cost and disruption for event organisers. I commend the bill to the House.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [11.56 a.m.]: I lead for the Opposition in debate on the Fair Trading Amendment (Ticket Reselling) Bill 2014. The Opposition provides conditional support for the legislation. We support protecting consumers from ticket scalpers who take advantage of them through price gouging and fraud. Furthermore, the Opposition supports striking a fair balance between protecting the ability of event operators to enforce their contractual rights and the ability of consumers to distribute tickets in a secondary marketplace. The Opposition recognises that consumers need to be protected from ticket scalpers who seek to profit from high-demand events occurring in this State. We support this sentiment; however, we do understand that there is a diversity of views about the nature of the difficulties and how to address them.

This legislation amends the Fair Trading Act through the addition of provisions to eliminate what is termed "ticket scalping". The Minister has gone through the detail of the bill and all aspects of the bill were canvassed in great detail in debate on this bill in the Legislative Assembly. As such, I will not repeat them. The Opposition remains resolutely in support of stopping the scourge of ticket scalping and also providing certainty for the secondary market for people legitimately reselling their tickets. However, the Opposition still has concerns about the state of this legislation. The Opposition understands that, notwithstanding the testimonials quoted by the Minister from sporting bodies and those engaged in the ticketing industry, there still remains concern in the industry about the terms of the legislation before the House.

The Opposition also has concerns that the bill does not properly and appropriately secure the legitimate objective of protecting consumers. We acknowledge that in debate in the Legislative Assembly a number of

concerns held by the Opposition and indeed the wider community were reluctantly addressed by the Government. We note that the Government accepted amendments from the Opposition which allowed consumers to resell tickets if personal circumstances changed, including where someone had a family sickness or work commitment; requiring event organisers to notify consumers before the cancellation of an event, which the Minister spoke of; and requiring event organisers to issue tickets prior to the event to allow consumers to be able to resell unwanted tickets. We acknowledge that the Government has come some way to meeting the concerns that we outlined but this may be a function of so many Ministers in such a short period of time. This bill has been loitering now for some 11 months and has gone through a number of hands, which in many respects no doubt has contributed to the lack of clarity around the debate.

We have formed the view that the changes to the bill, accepted by the Government and adopted by the other place, unfortunately still fall short of securing the proper objectives of the legislation: to ultimately protect consumers and to provide certainty for the secondary ticketing market. Some of those concerns include that anyone who hopes to resell a ticket for a number of other legitimate reasons will still not be able to recoup the full value of their initial purchase. There is no provision in the legislation to recoup booking or handling fees that are added on top of the face value of the ticket and, of course, any person who has bought tickets to sporting or other entertainment events knows that these additional costs can constitute a significant proportion of the overall cost to consumers.

We also retain concerns expressed in debate in the other place and in dialogue with stakeholders that the requirement for a photograph of the ticket to be included with any resale advertisement could open up the risk of identity theft and breaches of privacy for the seller. We think this requirement could lead to fraud and make the process for reselling more onerous for people who try to legitimately resell tickets. Tickets often contain the name of the purchaser and include other personal information. By including a photograph, we think there is a real risk that a consumer's personal details could be made public and misused. A photograph will do little to combat sophisticated fraudsters and scalpers, particularly with modern software where images can be manipulated.

**The Hon. Dr Peter Phelps:** By schoolkids.

**The Hon. ADAM SEARLE:** By schoolchildren, yes. We retain these concerns. It is unfortunate that the Government has not been able to complete the journey with us to meeting those concerns.

**The Hon. Matthew Mason-Cox:** We have tried.

**The Hon. ADAM SEARLE:** I acknowledge that interjection from the Minister; he is very trying. We acknowledge those efforts, but the legislation is still not in a state that can be properly described as fit for purpose. We believe there is still significant concern amongst consumers that their interests are not being properly secured; that the legislation may be more skewed to securing certain commercial interests, which of course have to be part of the mix. The question is: Has the balance been properly achieved? We think that more work needs to be done. I foreshadow that the Opposition will move amendments. The first amendment would be the requirement for the inclusion of a ticket and the second amendment would allow consumers to recoup booking and transaction fees as well as the cost of the ticket on the secondary market. However, even if those changes were adopted by the House, we remain concerned that the opportunity to secure proper and lasting consumer protection would be missed. Therefore, I move:

That the question be amended by omitting the words "be now read a second time" and inserting instead "be referred to General Purpose Standing Committee No. 4 for inquiry and report".

We acknowledge that the Government has reluctantly, kicking and screaming through a number of Ministers, come some of the way to meeting the concerns that arise from the bill and I acknowledge the efforts of the current Minister in that regard. But we have those concerns and they remain. They are abroad in the community and they are abroad even among the commercial players in the industry, notwithstanding the testimonials read by the Minister. Therefore, it seems to me that rather than run the risk of the legislation with its imperfections being debated on the floor of the House, it might be better for us all to take a deep breath, take a step back and have a close examination of the legislation and its objectives, and ascertain whether they are properly secured by the terms of the bill in its current form and how they might be better secured. The Opposition believes that referring the bill to the relevant general purpose standing committee affords the members of this House and the Parliament the proper opportunity to have a closer look at the issues underpinning the legislation.

I believe that the major parties in this place—I would like to think all members of this House—would share the objective of securing legitimate consumer interests. We are, of course, mindful of the commercial

interests of those who sell the tickets and who control the events, and that a proper balance must be struck between those sometimes competing interests. The bill does not do that and we want to take the opportunity to see whether the right balance can be properly struck. Therefore, I hope that all thoughtful and reflective members would join with the Opposition in referring the legislation to the committee.

**Dr JOHN KAYE** [12.06 p.m.]: On behalf of The Greens I address the Fair Trading Amendment (Ticket Reselling) Bill 2014, this being the second print of the bill. From the outset I state that The Greens have major concerns with the way the bill is currently drafted. The second print is certainly an improvement on the first print in that a number of the edges were removed but not a sufficient number to warrant its passage through this House. I note the amendment of the Deputy Leader of the Opposition to refer the bill to General Purpose Standing Committee No. 4 and I indicate that The Greens will support that referral. The matter is significantly controversial amongst consumers and a number of potential ticket resellers, who have found the legislation to be both excessively onerous and unjustified. The imposition on the capacity of people to resell tickets means that the legislation has not found a landing yet.

The legislation has its origins in Ministers who no longer hold their original portfolios. The rumour mill says that it originally came out of the office of the then Minister for Sport and Recreation, Graham Annesley, and was strongly promoted by his office for and on behalf of the sporting codes. The sporting codes wanted this legislation, Fair Trading has been landed with it and three or four Ministers have tried to steer it through. It has lounged around on various notice papers for various periods of time, which is an indication that the legislation is certainly not urgent. If it had been urgent, the bill would have been pushed into this House earlier and we would have had this debate last year, not this year. I suspect that people finally realise that the supposed end that the bill serves is not even justified by its impositions on the rights of consumers, let alone the end that the bill serves, which is probably not much at all other than increasing the power of the sporting codes to manipulate tickets.

To that extent we strongly support the amendment to send the bill to a general purpose standing committee for examination, where a better solution can be reached. The starting point of any such deliberation ought to be the protection of consumers. Consumers who purchase tickets should have the right to use them. Equally, if they purchase tickets and something happens in their lives—such as a family illness or another commitment because people live busy lives—they should have the right to easily resell the tickets. That is only reasonable and rational. Any attempt by a ticket provider or an event manager to suggest tickets cannot be resold is a total imposition on the rights of individuals who purchase those tickets.

Equally it makes sense, from a utilitarian perspective, that if tickets are not needed or cannot be used by one individual they should be available to another individual who wants them. There is a strong argument for a secondary market in tickets. It should be well regulated and well protected from gouging. The Greens accept the need to ensure that scalping in the form of imposing punitive costs above and beyond what the ticket was sold for is stamped out, and there are real reasons to do that. It should provide a reasonable return for people who have tickets and cannot use them. This bill does not reach that compromise point.

The second issue with the bill is the question that arises as to how significant the scalping problem is. In March 2014 the Senate Economics References Committee conducted an inquiry into ticket scalping and it found that there was no persuasive evidence that ticket scalping presents a significant problem, other than with a limited number of events. That committee came to the conclusion that there was no need to regulate the ticket industry in any particular way.

A 2010 report by the Commonwealth Consumer Affairs Advisory Council came to a similar conclusion when it looked at ticket scalping in Australia. It is difficult to see where the evidence is coming from, other than a few stories that emerge around grand final time, that are generally stirred up by the sporting codes themselves, about a few outrageous examples of ticket scalping. It seems to deal with a small number of cases. This bill seeks to impose restrictions on the vast majority of individuals who might end up with a ticket that they cannot subsequently use. Imposing those restrictions is unfair and it appears from the evidence that it is unwarranted given the size and nature of the scalping problem.

The provisions of the bill are unlikely to solve the scalping problem. Scalpers are an inventive crew who will find another way to sell the tickets. If they cannot do it electronically they will revert to pubs, clubs and street corners, as they have done in the past. The Greens have grave concerns about the requirement to place an image of the ticket on any resale advertisement. Those images can be easily manipulated and they create a false sense of security for an individual who purchases those tickets. The purchaser thinks that because there was an image all will be well but when they turn up they find the ticket was not a legitimate ticket in the first place.

The Greens have concerns about the capacity that the bill creates for event organisers to cancel a ticket without any respect for the rights of the person who purchased it. We are particularly concerned that individuals will in good faith purchase tickets only to find they have been cancelled by the ticket provider. New section 59 (5) requires an advertisement to include a photograph of the ticket. Some analysis suggests that requirement will increase fraud, not reduce it. It is not moving in the right direction. How concerned are consumers about ticket scalping? That ought to be the starting point. Certainly there is media concern, but it responds in large measure to concerns raised by the sporting codes.

Ticketing is not referenced in the list of the top 10 consumer complaints received by the Office of Fair Trading. It is not high on the agenda of individuals who are seeking help from the Office of Fair Trading. Given the nature of this bill, its genesis, the concerns that have been raised about it, the number of Ministers whose hands it has been through, and the lack of enthusiasm for it in this Parliament, it is time to pass it on to a committee. The committee can have a second look at it and come back with recommendations as to how to address the issues without imposing upon people who buy a ticket or find they need to sell a ticket. At the same time the committee can address whatever scalping problems exist. The Greens support the Hon. Adam Searle's amendment. The Greens do not support the bill.

**The Hon. PAUL GREEN** [12.14 p.m.]: I speak on behalf of the Christian Democratic Party to the Fair Trading Amendment (Ticket Reselling) Bill 2014. The object of this bill is to amend the Fair Trading Act 1987 with respect to tickets to sporting or entertainment events held in New South Wales that are subject to resale restrictions—that is, terms or conditions that limit or prohibit the resale of any such ticket or provide for the ticket to be cancelled or rendered invalid following the resale. Under new division 6, new section 60 of the bill requires a person conducting the business of or undertaking a public forum such as a website, newspaper or magazine, to ensure, first, that any advertisement in the forum for the sale of such a ticket complies with certain requirements such as including a photograph of the ticket specifying the ticket, bay, row and seat numbers and setting out the circumstances in which resale of the ticket may result in the ticket being cancelled or rendered invalid.

Secondly, if the person is notified in writing by any person about an advertisement in the forum that does not comply with those requirements in so far as reasonably practicable the advertisement is removed or corrected. It makes void any resale restriction that provides for a ticket to be cancelled or rendered invalid if it is resold unless the ticket contains a prescribed warning. In the other place the second reading speech of the former Minister for Fair Trading, the Hon. Anthony Roberts, indicated that the aim of this bill was to bring openness and transparency to secondary ticket marketing, help to protect consumers from price gouging and fraud, and to empower event organisers to enforce their ticket terms and conditions.

The Minister stated that ticket scalping or unauthorised resale of tickets for a price above the original value is an ongoing problem for consumers, event organisers, sporting codes and performers. In some cases tickets are sold out within minutes of going on sale on official sites and then immediately are relisted on online auction sites for several times the original price. Consumers who buy tickets from scalpers face the risk of counterfeit tickets or, when the tickets are genuine, they may still be worthless if the event promoter cancels them for being resold in breach of the terms and conditions. Mr Roberts indicated that he and the former Minister for Sport and Recreation held forums with representatives of sporting codes, the entertainment industry, ticketing organisations and consumer groups, and their officers met individually with key stakeholders to discuss these issues. The reforms introduced by the bill are the result of that consultation.

We met with many stakeholders with differing views on this issue. I cannot say that they were all satisfied with the potential outcomes, hence the amendment. The bill has a number of specific provisions. New section 58 applies to tickets to sporting and entertainment events held in New South Wales that are subject to resale restriction. "Resale restriction" is a term or condition of the ticket that limits or prohibits resale of the ticket, including any term or condition that provides for the ticket to be cancelled or rendered invalid if it is resold.

New section 59 sets out what advertisements are "unauthorised advertisements" for the purposes of new division 6 and an advertisement that offers a ticket for sale is an unauthorised advertisement if the advertisement does not satisfy the requirements of the new section. Those requirements include that the advertisement must specify the ticket, bay, row and seat numbers, if the ticket has such a number. It must specify the terms and conditions of the ticket or specify where those terms and conditions can be readily found. The advertisement must also include a notice specifying the circumstances in which resale of the ticket may result in the ticket being cancelled or rendered invalid. Finally, the advertisement must contain a photograph of the ticket that clearly shows any ticket number, row number and seat number, but the photograph must not show any barcode.

An advertisement is not an unauthorised advertisement if it is published by or on behalf of the organiser of the event to which the ticket relates or any agent of the organiser, or if the advertisement is an advertisement of a class prescribed by the regulations under the principal Act. It would be interesting to see the logistics of enforcing this clause in practice when dealing with overseas websites. I do not believe that they will necessarily honour New South Wales law and be compliant. There is a realistic concern that ticket reselling might move from domestic to international ticket selling websites.

New section 60 places obligations on a person who conducts the business or undertaking of a forum, including the owner of the forum. A "forum" is defined to include any forum having advertisements to which members of the public have access, whether or not a member of the public is first required to pay a fee or subscription, register or become a member, such as a website, a newspaper, magazine or other publication, or a public noticeboard. Any such person is required to take reasonable steps to ensure that no advertisement in the forum is an unauthorised advertisement. Failure to do so is an offence with a maximum penalty of \$22,000. That is probably much more than the ticket is worth.

**The Hon. Matthew Mason-Cox:** Probably.

**The Hon. PAUL GREEN:** I wonder who I would see if I paid \$22,000 for a ticket. Such a person is also required to ensure that an unauthorised advertisement in the forum is removed or corrected within a reasonable time after the person is notified in writing that the advertisement is an unauthorised advertisement, but only if it is reasonably practicable to do so. Failure to do so is an offence with a maximum penalty of \$5,500. The regulations under the principal Act can prescribe circumstances in which the person is taken to have been notified in writing. The offences do not apply to an advertisement offering a ticket for sale in a forum that has been authorised for the purposes of such sale by the organiser of the event to which the ticket relates.

New section 60A provides that a resale restriction allowing a ticket to be cancelled or rendered invalid if it is resold or if it is resold in certain circumstances, such as resale for a profit, is void unless the ticket contains a warning in the form prescribed by the regulations. New section 60B requires the Minister to conduct a review of the proposed division after three years and to table a report on the outcome of that review in Parliament. This is a good provision that is designed to determine the efficacy of the law in a practical sense. The Christian Democratic Party will await the outcome of that review in a few years' time. I understand that if this bill is passed a number of people will be legally restricted from advertising tickets unless the tickets show the ticket price, seat row and number, and the terms and conditions of the original sale.

It is interesting to compare this bill with the Queensland legislation dealing with this issue. Queensland already has the Major Sports Facility Act 2001, which makes it illegal to sell tickets to major event facilities for more than 110 per cent of the tickets' face value. While this bill is a step in the right direction, I note that it is significantly different from the Queensland Act because it does not outlaw reselling tickets for more than 110 per cent of the ticket's face value but provides that consumers must be given correct, sufficient and legal information about the ticket.

Selling a ticket can be a costly affair, with online sellers such as Ebay charging a certain percentage of the proceeds of everything that is sold through its website. If legislation capped a seller's capacity to sell a ticket only at its original price, the person who bought the ticket would never recoup their costs. On the other hand, a modest 10 per cent mark-up would probably ensure that the seller experienced no loss. The Christian Democratic Party would like to see that in this legislation, and I understand that the Shooters and Fishers Party agrees with that proposal.

It will be interesting to see how this legislation is enforced. Given the global scale of the internet, it would be difficult for it to stop someone using an overseas website that does not abide by New South Wales law to advertise and sell tickets online and then to make a local exchange for the physical tickets. If the primary point of the legislation is to stop ticket scalping, I do not see how it will be able to achieve that. The Government should think this through carefully. I agree with Dr John Kaye's statement that we cannot stop people who are determined to do the wrong thing; they will simply find another way to do it. I commend the Government for making moves to stop ticket scalping. Although the Christian Democratic Party has concerns about the bill's practical logistics and effectiveness, it believes it could be passed and put through its paces. We could then await the outcome of the review.

**The Hon. Trevor Khan:** A very fair approach.

**The Hon. PAUL GREEN:** However, in light of the amendment moved by the Hon. Adam Searle—

**The Hon. Trevor Khan:** You were going so well.

**The Hon. PAUL GREEN:** I know. The Hon. Adam Searle has moved an amendment referring the bill to a general purpose standing committee. That is probably the better option. There could be further debate and we might agree on a final version. While the bill has merit, it could probably be more closely scrutinised. I commend the bill to the House.

**The Hon. MATTHEW MASON-COX** (Minister for Fair Trading) [12.26 p.m.], in reply: I thank members for their contributions to this debate. I note again that it is all about making the secondary ticket market transparent. As members have heard, consumers who buy tickets from online scalpers face the risk of receiving counterfeit tickets. That cannot be denied. Even if a purchased ticket is genuine, it may still be worthless if the event promoter cancels it because it has been resold in breach of the terms and conditions. The reforms proposed in this bill have a light touch and will not involve the imposition of costly red tape. However, they will have the dual effect of not only protecting consumers who buy tickets at a mark-up but also enabling event organisers to enforce their own ticket terms and conditions if they choose to do so. The reforms protect consumers because they will have the necessary information to make an informed decision when purchasing tickets that are being resold at a profit.

This bill was drafted after substantial consultation with key stakeholders, who have expressed their support for these reforms. Given that New South Wales is attracting increasing numbers of high-profile events and international acts, the Government is proactively addressing ticket scalping to protect consumers and to ensure that event owners continue to see New South Wales as the major events and sporting capital of Australia. I note the Opposition's amendment to refer the bill to General Purpose Standing Committee No. 4 for consideration. That amendment has been moved on the basis that the Government was not listening and that the bill required further amendment to get the balance right. I believe that is a reasonable precis of the Opposition's view.

**The Hon. Adam Searle:** That is a reasonable summary.

**The Hon. MATTHEW MASON-COX:** In that regard, it is worth noting that the proposed amendments have been subjected to extensive discussion. As the Deputy Leader of the Opposition said, amendments were made in the other place to accommodate some of the Opposition's suggestions, and I am willing to concede that they improved the bill. Two other significant amendments were proposed. The first proposed the removal of the requirement for a ticket resale advertisement to include a photograph of the ticket, and the second proposed including the cost of booking and credit card charges in the price at which a ticket could be resold. The Government was prepared to consider both amendments; in fact, we thought the discussions were well advanced.

We raised with the shadow Minister a concern about the second amendment and the need to provide some certainty. It was proposed that there be a percentage increase rather than an ill-defined collection of fees and charges that might be added to the cost of the ticket. The proposal was cost plus 10 per cent. We thought that had been agreed to, because we think that is a reasonable proposition, but it seems the Opposition were moving down another path with the amendments they had put forward. It became very difficult to understand exactly what the shadow Minister was putting forward.

I think, in the end, the Opposition have lost confidence in their proposed amendments, which the Government was willing to entertain. It seems that they have come to the decision that the easy thing to do—perhaps the lazy thing to do—is to refer the bill to a committee for report rather than get on with the job of protecting consumers in this State. We believe that is what we should be doing in relation to this bill. I put on the record that it has been difficult to deal with the shadow Minister and her office in relation to the amendments. It has been a movable feast. The goalposts have changed on more than one occasion.

**The Hon. Adam Searle:** Point of order: The Minister is reflecting on a member of the other House and needs to do so by way of substantive motion rather than by this tawdry sideline.

**The Hon. MATTHEW MASON-COX:** To the point of order: I was simply saying it has been a difficult process to work through exactly what the shadow Minister wants in relation to amendments to this bill. That is a statement of fact on why we are in this position.

**The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile):** Order! There is no point of order.

**The Hon. MATTHEW MASON-COX:** It has been put by the Opposition that the Government was not willing to move on this bill. It is very important for this House to understand that the Government has gone to great lengths to engage with the Opposition in relation to the proposed amendments. We have made amendments in the other House, as I have said and as the member opposite has acknowledged. We have met on a number of occasions with the Opposition to try to sort out these final two amendments, but to no avail despite our willingness to entertain them. The House should understand our resolve to ensure that consumers in this State are protected and the right balance is struck between consumer protection and the obligations and rights of those who sell tickets in the first place.

**The Hon. Trevor Khan:** Because we care.

**The Hon. MATTHEW MASON-COX:** Indeed, we do care. I reiterate that the New South Wales Government has got the balance right. This legislation will bring openness and transparency to the secondary ticket market without affecting the ability of consumers to resell tickets in the event of a change of circumstances. The legislation will not only protect fans but also empower event owners, and it will ensure that consumers can sell and purchase tickets with confidence.

I note the Hon. Paul Green's comments in relation to the regulation of overseas websites selling tickets for Australian events. That is a practical difficulty. I acknowledge that it is a practical difficulty in relation to anything sold on an overseas website, be it goods or other items. It is a common issue under Australian consumer law and will continue to be so. Our ability to reach beyond the shores of this country to overseas sites regulated and operated in another jurisdiction is limited. That should not stop us from trying to ensure consumer protection as a touchstone for what we do in relation to amending this important legislation. Accordingly, I believe the Government has got this right. The Government will therefore oppose referral of this bill to General Purpose Standing Committee No. 4. Instead, I strongly commend this bill to the House.

**Question—That the amendment of the Hon. Adam Searle be agreed to—put.**

**The House divided.**

**Ayes, 21**

|               |               |                 |
|---------------|---------------|-----------------|
| Ms Barham     | Dr Kaye       | Ms Westwood     |
| Mr Borsak     | Mr Moselmane  | Mr Whan         |
| Mr Brown      | Reverend Nile | Mr Wong         |
| Mr Buckingham | Mr Primrose   |                 |
| Ms Cotsis     | Mr Searle     |                 |
| Mr Donnelly   | Mr Secord     | <i>Tellers,</i> |
| Dr Faruqi     | Mr Shoebridge | Ms Fazio        |
| Mr Green      | Mr Veitch     | Ms Voltz        |

**Noes, 16**

|               |                    |                 |
|---------------|--------------------|-----------------|
| Mr Ajaka      | Mr Khan            | Mrs Pavey       |
| Mr Clarke     | Mr Lynn            | Mr Pearce       |
| Ms Cusack     | Mr MacDonald       |                 |
| Ms Ficarra    | Mrs Maclaren-Jones | <i>Tellers,</i> |
| Miss Gardiner | Mr Mason-Cox       | Mr Colless      |
| Mr Gay        | Mrs Mitchell       | Dr Phelps       |

**Pairs**

|           |              |
|-----------|--------------|
| Mr Foley  | Mr Blair     |
| Ms Sharpe | Mr Gallacher |

**Question resolved in the affirmative.**

**Amendment of the Hon. Adam Searle agreed to.**

**Question—That the motion [That this bill be now read a second time] as amended be agreed to—put and resolved in the affirmative.**

**Bill referred to General Purpose Standing Committee No. 4 for inquiry and report.**

## **BUSINESS OF THE HOUSE**

### **Suspension of Standing and Sessional Orders: Order of Business**

**Mr DAVID SHOEBRIDGE** [12.41 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 1795 outside the Order of Precedence, relating to a Select Committee on the planning process in Newcastle and the broader Hunter region, be called on forthwith.

I move this motion because it is clearly an urgent matter. It is a matter of deep urgency for this Parliament, before it closes and ends its business prior to the upcoming State election, to look at the web of intrigue, the web of donations and the rationale behind a series of key planning decisions in the Hunter. The Premier has repeatedly said that he and his Government are absolutely committed to each and every one of the planning decisions that have been made by his Government and by Newcastle City Council over the past three years. I am talking about the truncation of the railway line, the extraordinary decision that has been made to remove the review of the courts regarding—

**The PRESIDENT:** Order! I remind Mr David Shoebridge that at this stage of the debate he should be discussing why the matter is urgent; he should not be canvassing the substance of the motion.

**Mr DAVID SHOEBRIDGE:** I am talking about developments in Lake Macquarie which, if nothing is done, will have substantial and negative impacts before the end of this parliamentary term. The urgency of this matter is clear. It is enormously urgent that the Parliament establishes an independent committee to closely review this array of planning decisions. The people of Newcastle and the broader Hunter have been demanding action and independent scrutiny from this Parliament for years. If we do not act now, if we do not seize the moment and establish a planning inquiry now, it will be too late; there will be no time for this Parliament to do so. I commend the urgency motion to the House and I commend the establishment of the inquiry to the House. I hope to see majority support for the motion so that we can begin to do our work as parliamentarians and look behind those grubby deals in Newcastle and the Hunter and shine some genuine light and some decent government on this State.

**The Hon. Duncan Gay:** Point of order: Mr David Shoebridge is using rhetoric rather than addressing the reason why this matter is urgent.

**The PRESIDENT:** Order! While there may well have been some substance to the point of order, the member has concluded his remarks.

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [12.45 p.m.]: The Government opposes this motion. If this matter was urgent—

**The Hon. Dr Peter Phelps:** The Shooters would have moved it if it were really urgent.

**The Hon. DUNCAN GAY:** If it were urgent the Shooters would have moved it. If The Greens believed it was urgent and had some relevance they would have come and spoken to us, but they did not. This is an ambush and a stunt by a person who is famous for stunts. He just wants to play the sensational card because he is going through some sort of relevance deprivation at the moment: he has not been in the media.

**Dr John Kaye:** Point of order: First, the Minister is casting aspersions on an individual in the Chamber. Secondly, the Minister is a long way from being relevant to the substance of the matter, which is whether this motion is urgent.

**The PRESIDENT:** Order! I apologise to Dr John Kaye—I was distracted and did not hear the Minister's remarks. However, I am sure the Minister knows the standing orders and knows that he should not reflect on individual members while making a contribution. The Minister has the call.

**The Hon. DUNCAN GAY:** The key is that if this matter were urgent and had some relevance there would have been dialogue—a conversation. There has not been any conversation. This motion has come suddenly out of the blue. The Government was not aware, and from my observations of the House nor was the Opposition aware, that this ambush was about to take place. Government business is laid down in the program for today and private members' business is set down for tomorrow. If Mr David Shoebridge wants to try to sneak ahead of someone else in private members' business tomorrow he should do so, and good luck. But it is totally inappropriate to ambush the House today. We oppose the motion.

**Motion adjourned on motion by the Hon. Paul Green and set down as an order of the day for a future day.**

## **SNOWY HYDRO CORPORATISATION AMENDMENT (SNOWY ADVISORY COMMITTEE) BILL 2013**

### **Second Reading**

**Debate resumed from 12 August 2014.**

**Dr JOHN KAYE** [12.48 p.m.]: On behalf of The Greens I speak in debate on the Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Bill 2013.

**The Hon. Dr Peter Phelps:** Do you support it?

**Dr JOHN KAYE:** The Greens vehemently oppose this legislation, which will have severe environmental, heritage and social costs associated with it. The legislation demonstrates this Government's neglect of the priceless environmental heritage of the Snowy Mountains region, the montane region of the lower Snowy River and the other rivers that are fed out of the Snowy Mountains. This legislation comes at the end of a long saga that goes back to the previous Government's refusal to appoint the scientific committee and provide independent scientific advice to decision-making about the release of water from the Snowy Mountains scheme.

The bill replaces the independent statutory entity of scientists—that is, the Snowy Scientific Committee, which is entirely under the control of the Minister—with an advisory committee that will fail to provide independent advice as the previous committee did; a committee that will not have the same scientific expertise as the previous committee; and a committee that will not have the same focus on environmental outcomes and the same accountability as the previous committee. In every measure, this is a step backwards for the environment, heritage and the community that knows and loves the upper montane region and the lower Snowy Mountains. This is another step in a long campaign to rescue the Snowy and upper montane rivers from the devastation that the Snowy scheme has brought upon them.

This battle should start with recognising the specific and irreplaceable cultural and environmental heritage of the upper mountain region. The cultural heritage is not only European but specifically Indigenous cultural heritage—a cultural heritage that is definitive of who we are as Australians and as citizens of New South Wales. This battle is to protect a priceless environmental resource that has been placed at risk by substantial human interference but is still within our grasp to rescue, restore and reinvigorate; an environmental asset that is central to the future of the east coast of Australia; and an environmental asset that has immeasurable and irreplaceable values for all of us.

This begins with a vision before the Second World War of water irrigation and electricity generation which, throughout its implementation, ignored the consequences of everything downstream of the impoundments and diversions. By the time the scheme was completed and fully operational the area had turned into a wasteland. What has made matters much worse has been the voracious appetite of irrigators and the irrigation industry downstream and the massive amounts of money that have been made from the peak electricity market and the electricity hedging market, particularly since the advent of the National Electricity Market. In the tensions between the downstream irrigation industry and the Snowy Mountains Corporation, and its appetite for selling peak electricity, little space has been left for protection of the environment.

At the time of corporatisation in 1997 a number of far-sighted crossbenchers recognised that the environment would not survive unless there was an independent committee with scientific reach and understanding to protect and provide advice. I specifically recognise Ian Cohen and Richard Jones—a member of The Greens and a Democrat, although Richard Jones may have become an Independent by that time—who realised that the Snowy needed an independent voice, and they forced the then Government to insert section 57

into the Snowy Hydro Corporatisation Act. Section 57 set up the Snowy Scientific Committee so that it was chaired by a scientist and made it absolutely clear that its focus was science, and independent science at that. The committee was set up to produce reports, which would be publicly available, on the state of the environment so that the community could make informed contributions to and decisions about the future of the Snowy Mountains scheme, the montane region, the lower Snowy and the other rivers that feed to the north and the west out of the Snowy Mountains.

The committee focused on a broad membership not appointed by the Minister but appointed by a variety of Ministers with a variety of focuses and from a variety of States in order to ensure that no one interest dominated the committee and genuine science could emerge from it. As the agreed outcomes of the Snowy Water Inquiry Outcomes Implementation Deed became clear in 2002 the need for the Snowy Scientific Committee became even greater. At the same time the value of the Snowy water for electricity generation, and hence the value of diverting water from the Snowy River and the other montane rivers and into the generators and out through the Tumut and Murray generators, became even greater because of the advent of trading on the National Electricity Market and the increased value associated with electricity at peak times and at times of system stress. That put an enormous dollar value on water being diverted out of the environment.

Sadly, the Snowy Water Inquiry Outcomes Implementation Deed did not take instant effect. Indeed, it did not take effect until 2008 because the previous Labor Government allowed water borrowing to occur, which included borrowing against future releases. Eventually in 2008, when the committee was set up, it showed its valuable role with chairs such as Dr Jane Roberts and Professor Sam Lake. It produced two reports, including an environmental report. Both Dr Roberts and Professor Lake are experts on the environment and particularly in the upper montane environment and they were able to inform the community and inform decision-making with high-quality advice. That advice was invaluable. For the three years that the committee operated it proved to be highly successful. I fear the reality was that it was too successful. It provided independent advice, and it talked about the need to shape the releases down the Snowy River in a way that suited the restoration of the Snowy River.

The committee expired in May 2011 and there has been no committee since then. There has been a variety of Ministers in this Government: Ministers Pearce, Hartcher, Hodgkinson and Humphries have all had some responsibility for this. I may have the order wrong because every time I tried to contact the ministerial office about the failure to appoint the scientific committee since May 2011 I was told, "No, mate, you've got the wrong Minister again. Go see another Minister." It was a ministerial-go-round. I think at one stage even the Minister for Roads and Freight thought he might have had responsibility for it.

**The Hon. Duncan Gay:** No, I didn't.

**Dr JOHN KAYE:** I might have misled the House on that. I recollect checking my correspondence. It amazed me that four Ministers—the Minister for Finance and Services, Mr Pearce; the Minister for Energy and Resources, Mr Hartcher; the Minister for Primary Industries, Ms Hodgkinson; and the Minister for Water and Natural Resources, Mr Humphries—at some stage thought they had control of the process. When we thought we were making progress with Minister Pearce it was galling that the matter was bounced to Minister Hartcher. Just as we thought Minister Hartcher understood the significance of what we were talking about, it was bounced to Minister Hodgkinson. I cannot say we were ever able to get Minister Hodgkinson to understand anything we were talking about.

For 3½ years, since May 2011, there has been no advice on releases, on timing and on shaping the releases. Releases into the Snowy River are critical for gouging out the accumulated silt and other materials, removing invasive species and doing so in a way that does not cause unnecessary bank slumping or damage to the downstream environment and animals. A large volume of advice from scientific and technical officers has disappeared. Many of those scientific and technical officers have now been sacked, the expertise of the committee has been broken up and irreplaceable opportunities for data collection have now been lost.

After the excuses for not appointing the Snowy Scientific Committee dried up, eventually Minister Hodgkinson said, "Well actually we are getting rid of it and we will replace it with our own advisory committee." A highly dodgy public consultation process that led nowhere, and largely ignored what was being said by the Snowy community, resulted in the legislation that is before the House today. It is flawed legislation. There is no requirement for any scientific expertise on this committee. It is an appalling anti-science agenda of the previous Minister who is the same Minister who devastated the expertise of Cronulla Fisheries.

*[The Assistant-President (Reverend the Hon. Fred Nile) left the chair at 1.01 p.m. The House resumed at 2.30 p.m.]*

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

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

## **QUESTIONS WITHOUT NOTICE**

### **NURSING HOMES FIRE SAFETY**

**The Hon. LUKE FOLEY:** My question is directed to the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra. In light of the Combined Pensioners and Superannuants Association's criticism that a quarter of nursing homes have failed to meet the Government's deadline to provide life-saving sprinkler systems, what is the Minister doing to ensure that aged residents and those with disabilities in nursing homes are protected in the event of a fire?

**The Hon. JOHN AJAKA:** I thank the honourable member for his question. The New South Wales Government has responded with decisive action to improve safety in residential aged care accommodation and to ensure that our most vulnerable are protected. From 1 January 2013 laws came into effect to require all Commonwealth accredited residential aged care facilities to install automatic sprinkler systems within three years. Sprinklers clearly save lives. They reduce a fire's intensity and help buy critical time to safely evacuate residents. Across New South Wales more than 60,000 people live in Commonwealth Government accredited residential aged care facilities.

As at 1 September 2014 an additional 120 facilities have installed the required system, which means 25 per cent of facilities that needed to install fire sprinklers have done so. As at 1 September 2014 more than 40 facilities had completed installation, which is more than a year ahead of the 2016 deadline. Another 305 facilities have commenced work to install the required system. Under the laws aged care providers were required to nominate a completion date for the installation of the required system, either 1 September 2014, 18 months, or 1 March 2016, three years. Providing lead time for the aged care sector to get the work done is a position backed by Fire and Rescue NSW.

The latest information indicates that facilities with the September 2014 deadline have made good progress towards meeting that deadline. The laws also include concessions on fire sprinkler standards compared with new buildings to help reduce the cost of sprinkler retrofits. In order to save time and money, approvals for the installation of sprinklers were fast-tracked using the complying development approval process. The Government established the Fire Sprinkler Systems Implementation Committee under the planning legislation to monitor the installation program. The committee comprises representatives from the Department of Planning and Environment, Fire and Rescue NSW, the aged care industry, the fire protection industry and a consumer representative. It regularly reports to government on progress and any potential impediments to successful implementation.

Aged care providers are demonstrating a high level of cooperation with the program, including reporting and monitoring requirements. As required by the legislation all providers in the three-year implementation category have submitted sprinkler implementation plans and progress reports. These documents are published on the department's website. The Department of Planning and Environment is supporting the aged care industry and trades and professionals involved in fire protection through the provision of ongoing advice, a list of requirements, approval processes and case studies on sprinkler installation issues. We expect aged care providers to do everything possible to meet the deadline. The New South Wales Government is committed to making residential aged care facilities safe places for our senior citizens and will continue to work closely with the industry and healthcare providers to effectively implement the changes.

### **RURAL AND REGIONAL ROADS**

**The Hon. DAVID CLARKE:** My question is directed to the Minister for Roads and Freight. Will the Minister update the House on historic investments for roads in country New South Wales?

**The Hon. DUNCAN GAY:** If I want a good question, I have to get a good member to ask it. I thank the honourable member for that question.

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

**The Hon. DUNCAN GAY:** What a great question. The question allows me to highlight the stark difference between what this Government is delivering and the magnificent nothing of past Labor governments. I take no joy in exposing the neglect and mismanagement.

**The Hon. Adam Searle:** You lie.

**The Hon. DUNCAN GAY:** I acknowledge that interjection as a compliment. Every day I am faced with cleaning up the mess left by the Opposition.

**The Hon. Adam Searle:** Nonsense.

**The Hon. DUNCAN GAY:** I am. It is true. Labor's inaction over 16 years led to a critical infrastructure backlog on council-owned roads. Since April 2011 the New South Wales Liberal-Nationals Government has committed a record \$1.55 billion to help councils across the State build and repair their local roads, bridges and culverts. The latest budget provides \$268 million for councils across the State to fund block repair and bridge grants, which is a massive 42 per cent increase compared to the \$188 million in Labor's last full financial year in government. No wonder Opposition members are quiet; they are ashamed of their track record. In addition to this record funding the Government has provided an extra \$37.5 million for councils this financial year through the Fixing Country Roads program. By the end of 2014 funding will be allocated based on the recommendations of an independent assessment panel comprising Fiona Simpson from NSW Farmers, Barney Hayes from the Livestock and Bulk Carriers Association of New South Wales, Roger Fletcher—

**The Hon. Greg Donnelly:** Mate!

**The Hon. DUNCAN GAY:** —from Infrastructure NSW and senior officials from Transport for NSW and the Office of Local Government. I do not think Roger Fletcher considers himself a mate of the Hon. Greg Donnelly, but I will ask him. We have had to breathe life back into road and bridge construction in country New South Wales. The patient is by no means 100 per cent, but it is no longer trapped in its previous Labor-induced coma. Our medicine is strong and effective, as evidenced by the \$10 million committed to construct a major bypass at Byron Bay. The Government has injected \$209 million into Bridges for the Bush to upgrade and replace structures at 17 key locations across rural and regional New South Wales.

Examples include the recently completed bridge over the Crookwell River at James Park, a project that the Opposition spokesman does not want to go ahead, and the commencement of preconstruction activities for a new road-over-rail bridge at Kapooka, Wagga Wagga. Approach works are underway to build a new bridge at Tulladunna near Wee Waa and construction for replacement of the Holman Bridge at Gooloogong is happening as I speak. I drove over it the other day and it is going well. Next month we expect to complete construction of the first of seven new overtaking lanes on the Bells Line of Road. The fact is we are well ahead.

#### WHITEBRIDGE LAND SALE

**The Hon. ADAM SEARLE:** I direct my question to the Minister for Roads and Freight. On 22 April 2013 the *Newcastle Herald* reported that the then member for Charlestown, Andrew Cornwall, had negotiated a deferral of the proposed sale of five lots of land owned by Roads and Maritime Services following public concern being raised. Given this, will the Minister inform the House why the sale of 142 to 146 Dudley Road, Whitebridge went ahead?

**The Hon. DUNCAN GAY:** I understand that the community wanted the sale to go ahead. I will take the question on notice and provide a detailed answer. However, Opposition members should remember not to impose their principles on us.

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

#### STATE EMERGENCY SERVICE CANINE SEARCH UNIT

**The Hon. ROBERT BORSAK:** I direct my question to the Minister for Ageing, representing the Minister for Police and Emergency Services. Is it a fact that since the State Emergency Service took over the

Urban Search and Rescue Canine Search Unit dogs and their handlers have not fully maintained the appropriate credentials required for their specific work? Were the dogs from the unit sent to the Rozelle fire last week properly certified? When were they last tested?

**The Hon. JOHN AJAKA:** I will refer the question to the Minister for Police and Emergency Services and provide an answer as soon as possible.

### ILLAWARRA DISABILITY ACCOMMODATION

**The Hon. TREVOR KHAN:** I address my question to the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra. Will the Minister update the House on the progress of disability accommodation in the Illawarra?

**The Hon. JOHN AJAKA:** It is timely that we ask this question about progress on infrastructure projects in the Illawarra. Just last week I inspected a site at Kanahooka with the member for Kiama, Gareth Ward, and the member for Heathcote, Lee Evans, where a consortia led by the IRT Group will deliver 12 innovative and purpose-built homes for people with intellectual disability and their carers. The consortia building this state-of-the-art facility includes the IRT Group, Greenacres Disability Services, Community Options Illawarra and Interchange Illawarra. The Government is contributing \$2.9 million to the approximately \$3.8 million project. This is an example of the Liberal-Nationals Government funding vital infrastructure services and supports.

This Government listened to what the community said it needed and it is now delivering. In 2008 more than 1,400 people with a disability in New South Wales were being cared for by an ageing carer. That figure has now reached more than 3,000. It frustrates me to hear criticism from members opposite about the Restart NSW Illawarra Infrastructure Fund. The fund will provide the Illawarra with approximately \$190 million worth of innovative, state-of-the-art infrastructure as well as services for some of the most vulnerable people in our community. At first members opposite did not even want the Restart NSW Illawarra Infrastructure Fund. Can members believe they opposed it? Without that fund the Government would not be able to provide these vital homes to the most vulnerable people in our community.

The project I inspected this week will be the first of its kind in New South Wales, and it is in the heart of the Illawarra. Being the Minister for Ageing, the Minister for Disability Services, and the Minister for the Illawarra it is rare that I have the opportunity to welcome projects that address all three of my portfolios. There are some people with disability who have the love and support of their carers, who are now ageing and who still wish to reside with their carers. Ageing people with intellectual disability represent a growing group in the community and this project will address the challenge of not only accommodating them but also supporting their ageing carers. Like everyone else in society, people with a disability age and deserve to be supported, as do their carers.

The New South Wales Government has joined with providers and local innovative businesses to build accommodation that addresses the needs of both ageing carers and people with disability. This multiple accommodation option is being made available because every family's home needs are different. This is about choice and control for families. This project demonstrates that as the Illawarra economy transitions from its traditional manufacturing base the Baird Government has strong plans for the region to expand into other growing sectors, such as ageing and disability services in which the region is excelling. The Illawarra is the leader in innovative thinking and design and has a blueprint for organisations that are looking to address these same needs. I am proud that the Restart NSW Illawarra Infrastructure Fund is providing funding to these vital projects. Not only are we building infrastructure for the region; we are also creating investment and employment while supporting our most vulnerable.

**The PRESIDENT:** I welcome to the President's gallery Pastor and Mrs Kim. Pastor Kim is the senior minister of the Full Gospel Korean Church in Greenacre. Welcome to the Legislative Council. I hope you enjoy your visit.

### WHITEBRIDGE LAND SALE

**The Hon. PETER PRIMROSE:** I direct my question to the Minister for Roads and Freight. I refer to the land at 142 to 146 Dudley Road, Whitebridge, which was purchased by Simhill Living, which is 50 per cent owned by Hilton Grugeon. Were there any tenderers for the land other than Mr Grugeon and his company?

**The Hon. DUNCAN GAY:** This is a follow-up question and I indicated earlier that I would seek details. Roads and Maritime Services does not handle these sales; it is done by a different government agency. I will refer the question to the Minister, but believe it should have been ruled out of order because it was not addressed to anyone who has a title—

**The PRESIDENT:** Order! I remind the Leader of the Government that it is in order for members to ask all questions of him because he represents the Premier in this place.

### TOORALE STATION

**The Hon. ROBERT BROWN:** I direct my question to the Minister for Ports and Freight, representing the Minister for Western NSW. When in opposition in 2008 and speaking about the previous Government's purchase of Toorale near Bourke to create yet another national park, the Minister said, "Land was successfully managed for agriculture and the environment in other countries and the State Government could achieve the same at Toorale." He further stated, "We need to have Toorale as a working pastoral operation." As Minister for Western NSW, what representations has he made to restore Toorale as a working pastoral operation-national park as he suggested happens elsewhere in the world?

**The Hon. DUNCAN GAY:** I cannot pretend to know the inner thoughts of the Minister for Western NSW. However, I acknowledge what a great guy he is and that he is doing a great job. I will refer that interesting question, which has some merit, to the Minister for a detailed answer.

### CENTRAL WEST NO INTEREST LOAN SCHEME

**Mr SCOT MacDONALD:** I address my question to the Minister for Fair Trading. Will the Minister update the House on the No Interest Loan Scheme in the Central West?

**The Hon. MATTHEW MASON-COX:** I thank the honourable member for this insightful question. I was in the Central West just last week, and it is a magnificent part of the world. There are great local members—the member for Bathurst, Paul Toole; the member for Orange, Andrew Gee; and the member for Dubbo, Troy Grant. What a wonderful threesome. They are doing a wonderful job and meeting them on their own turf was a good experience. We were there to talk to locals about a number of wonderful organisations looking after the No Interest Loan Scheme [NILS] in those parts of the Central West.

By way of background, so members are aware of the importance of this scheme, the scheme reaches out to people in New South Wales who are outside the general purview of the credit system. Those people cannot get access to a loan from a bank and would otherwise have to go to a payday lender to seek finance. The scheme reaches out in a practical way. People are able to access up to \$1,200 to buy an essential household good, normally whitegoods or a computer, or to register a car to get it back onto the road so they can look after loved ones or go to work. This is an important way in which the Government offers a hand-up rather than a handout to people at the fringes of society. The Hon. Mick Veitch understands this program well and he has been a supporter of it.

Members from the Central West were pleased to see the Minister for Fair Trading in their area offering cheques to worthy organisations providing support for this important scheme. Under the scheme we support local families. The Government, in collaboration with a range of not-for-profit organisations, reaches out to people where they are located. This is an effective way to ensure we provide a range of services through not-for-profit organisations in those areas. In Bathurst, the Josephite Foundation began work to introduce this scheme about 16 years ago. It brought it in with the help of local not-for-profit community organisations. Last year it approved 105 loans to a value of more than \$85,000. It was terrific to meet the chairperson, Anthony Eviston; the executive officer, Kirsty Gilmore; and the Bathurst NILS coordinator, Kellie-Ann Smith. These people give generously of their time to help the most disadvantaged people in their community purchase essential goods that we take for granted.

In Orange, with Andrew Gee, I visited the Anglicare Western New South Wales centre, where I presented a cheque for \$43,516 to help run the scheme in the Orange area. There I met Evelyn Trainor, the manager of Anglicare in Orange. In Dubbo, with Troy Grant, I presented a cheque to Anglicare Western New South Wales as well as the local branch of Global Care, which operates out of the Riverside Lifehouse in Dubbo. Both organisations do a wonderful job and employ local people to facilitate this scheme. They reach out

to many vulnerable people in those communities. I note the model that Anglicare Western New South Wales uses reaches across western New South Wales by using technology including computer systems and fax machines. It uses a telephone service to provide loans.

#### **WATERMARK COALMINE**

**Mr JEREMY BUCKINGHAM:** My question is directed to the Minister for Roads and Freight, representing the Minister for Trade and Investment. Is it still the case that Shenhua, the Chinese Government-owned company developing the Watermark coalmine in the Liverpool Plains, is scheduled to pay the New South Wales Government more than \$300 million once the mine is approved and a mining licence is granted?

**The Hon. DUNCAN GAY:** I will dutifully ignore the xenophobia that comes from The Greens whenever they talk about Chinese companies employing people in New South Wales. I will take the rest of the question on notice.

**Mr JEREMY BUCKINGHAM:** I ask a supplementary question. Will the Minister elucidate his answer as to whether the Government expects this money to be paid via BPAY, cheque or in brown paper bags?

**The PRESIDENT:** Order! The supplementary question is clearly out of order. Does the Minister want to give a supplementary answer at the end of question time?

**The Hon. DUNCAN GAY:** I am happy to do so now or then.

**The PRESIDENT:** Order! We will do it at the end of question time.

#### **WHITEBRIDGE LAND SALE**

**The Hon. LYNDA VOLTZ:** My question is directed to the Minister for Roads and Freight, representing the Premier. Given that Mr Grugeon has applied for a development application for 87 townhouses and four shops on the 142 to 146 Dudley Road, Whitebridge, site and the \$4.95 million sale price by Roads and Maritime Services makes each parcel of land worth \$54,407, and in light of the sale price and the land being formerly owned by RMS, will the Government order an investigation into the artificially low sale price?

**The Hon. DUNCAN GAY:** Earlier in question time I was asked this question and I indicated that the disposal of government land is not done by RMS. It is done by a different department.

#### **BYRON BAY BYPASS**

**The Hon. JENNIFER GARDINER:** My question is addressed to the Minister for Roads and Freight. Will the Minister update the House on how the New South Wales Government is easing congestion in Byron Bay?

**The Hon. DUNCAN GAY:** I thank the honourable member for her question. Last week I joined the Deputy Premier, Andrew Stoner, and the great member for Ballina, Don Page, to announce \$10.5 million to help build a bypass of Byron Bay's town centre. This is in addition to our record investment in roads and infrastructure projects right across the North Coast in this year's State budget. This bypass will reduce travel times, improve pedestrian safety and reduce traffic volumes in the town centre, particularly during the busy summer holiday season. I take it from the noise coming from The Greens and the Opposition that they are opposed to this bypass.

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

**The Hon. DUNCAN GAY:** Tens of thousands of holidaymakers enjoy the many unique attractions of Byron Bay each and every year, so it is only fitting the township has the road network it needs to cater for the influx of visitors. When it became obvious that council could not afford to alleviate the local traffic problems, Mr Page supported the council's request for State Government financial assistance, given the traffic congestion that both tourists and locals have to endure.

Those sitting opposite had 16 years to relieve the burden of congestion for the people and businesses of Byron Bay. However, they did not do it. Also sitting opposite is a former Mayor of Byron Bay, a member of

The Greens, who had an inordinate time to fix it, but she did not fix it. She is late to the Chamber and late in fixing Byron Bay's congestion problem. Those opposite were too incompetent to deliver what the Byron Bay community has needed so desperately for years. It has taken the Liberal-Nationals Government to listen to communities and deliver infrastructure to regional New South Wales. Those on the losers lounge and their friends in The Greens would like these communities to think otherwise. Despite all their big promises State Labor neglected these communities, but this Government is building for the future of this region. After years of neglect regional communities will never forget how Labor was more than happy to abandon them for as long as they did.

The New South Wales Government has committed \$500,000 to finalise plans for the preferred route and \$10 million towards building the inner-town bypass. Byron Shire Council has resolved to proceed to an environmental impact statement for its preferred option of a major bypass from Shirley Street via Butler Street, with a second rail crossing at Browning Street. We will continue to work closely with the council to finalise plans for its preferred route before the end of the year. Labor did not, could not and would not deliver projects like this to the North Coast of this great State. I am proud this State Government is listening to the concerns of regional New South Wales and I am proud this Government is delivering for the future of the New South Wales North Coast. I am disappointed to hear to this day that The Greens and the Labor Party are opposed to what we are doing on this bypass in Byron Bay.

### YASMAR ESTATE

**Dr MEHREEN FARUQI:** My question without notice is directed to the Minister for Roads and Freight. Will the Minister confirm that the Yasmar Estate in Haberfield will not be affected or destroyed by the WestConnex toll road?

**The Hon. DUNCAN GAY:** I totally confirm that the Yasmar Estate will not be destroyed by WestConnex. We, like the community, value Yasmar Estate.

**The Hon. Catherine Cusack:** Unlike Labor.

**The Hon. DUNCAN GAY:** Unlike Labor. Many in the community told us about the vandalism that happened to Yasmar under the former regime. We value the estate; we understand its historic value and importance and we acknowledge the neglect it has been allowed to slip into. Equally, we acknowledge the importance of Ashfield Park, as highlighted by the community. Ashfield Council is great in its interaction; at least the council will talk to us, unlike the commissars and commies at Leichhardt council who decided that they do not want to engage with us. We have also had great engagement from the Hon. Robert Borsak from the Shooters Party in representing his community and expressing his concerns about Ashfield Park. I cannot believe The Greens would ask a question like this because it should be self-evident that something as historically important as that building would be protected, and we certainly will protect it.

### LONG-RANGE TRAFFIC CAMERAS

**The Hon. WALT SECORD:** My question without notice is directed to the Minister for Roads and Freight. Is the Centre for Road Safety investigating the Victorian Government's use of new cameras that are able to detect and photograph motorists from 700 metres away who are using mobile devices while they are driving and are there plans to introduce them in New South Wales?

**The Hon. DUNCAN GAY:** There are some people in the Labor Party who continue to use mobile phones in an inappropriate way. It is an important message that you should get your hand off it. Yes, we are examining cameras with the ability to have better resolutions not only to pick up numberplates and detect speeders but also to identify people who are using mobile phones inappropriately. I believe the community expects us to examine that sort of technology. Whether it adds up or not is a different matter. We will have to examine whether the technology works and the proper processes for going forward with it before we make a decision on whether we use it. We have to examine how it has worked if it is operating in other precincts. Just because it is not operating in other precincts does not mean that it is not something we would look at introducing in New South Wales.

We certainly have been interested in this sort of technology because, frankly, too many people are dying because of inattention when they are driving on roads. Our "Get your hand off it" campaign is working well and it is having an effect. I was pleased to be able to link the campaign with the Swans last week.

Congratulations to the Swans on their win on the weekend. What a great pleasure it was to meet Kieren Jack, whom I had not met before—what an outstanding young man from a great family. The Jacks of course are integral to rugby league. Keiren's father, Garry, played for New South Wales in a past era; many older members, including me, would remember him playing. This new technology is an important area and I thank the Hon. Walt Secord for his question. He has obviously got something out of the visits that we allowed him to make over the past week or so.

**The Hon. WALT SECORD:** I ask the Minister a supplementary question. Will the Minister elucidate his answer in regard to these super cameras in relation to privacy and modesty concerns expressed by motorists in other jurisdictions?

**The Hon. DUNCAN GAY:** Although it is a new question I am willing to answer it because I believe the words I used earlier were that we will examine the operation before we make—

**The PRESIDENT:** Order! There is far too much noise from the Government benches. It would assist if the Leader of the Opposition resumes his seat.

**The Hon. DUNCAN GAY:** I believe I answered this question earlier, but I am rising to my feet because I know the Hon. Walt Secord can be, on occasions—when he is not being lazy and loose with the truth—the master of distortion.

**The PRESIDENT:** Order! The Minister is reflecting on the Hon. Walt Secord. He should stick to giving an answer.

**The Hon. DUNCAN GAY:** I indicated earlier that we will examine whether the cameras have been working in other areas, how they have been working in those areas and whether there are particular problems. As I said previously in answer to the question, just because there is technology does not mean that we will automatically use it. If the member had been listening he would not have needed to ask a supplementary question. It is an indication that he is lazy.

**The PRESIDENT:** Order! I call the Hon. Duncan Gay to order for the first time. I welcome to the public gallery 34 students from 10 schools in the Riverstone electorate: Hambledon Public School, John Palmer Public School, Mary Immaculate Primary School, Norwest Christian College, Parklea Public School, Quakers Hill East Public School, Riverstone Public School, Schofields Public School, St John XXIII Primary School and St John's Primary School. Welcome and I hope you enjoy your visit to Parliament House today for the Junior Youth Leadership Assembly organised by the member for Riverstone.

### DISABILITY GROUP HOMES

**The Hon. NATASHA MACLAREN-JONES:** My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra. Will the Minister update the House on new disability group homes being built in New South Wales?

**The Hon. JOHN AJAKA:** The New South Wales Government is getting on with closing large residential centres across New South Wales to improve the lives of people with disability. I had the recent privilege of visiting one of the new group homes in Liverpool that will soon be home to some residents from institutions such as Westmead, Rydalmere and Stockton. Five residents will call this new development their home. This financial year alone, the New South Wales Government will spend more than \$43 million to redevelop Metro Residences as part of the biggest decentralisation undertaken in New South Wales to date.

In the coming months more than 90 people will move from outdated facilities into purpose-built new group homes and they will be integrated within the local community. By the end of 2015 this will grow to 300 people. People with disability and their families have chosen where their new homes are to be built and they were closely involved in the design process. The brilliantly designed homes will place residents closer to their families and will provide opportunities to the residents for increased participation in their local communities. The new group homes will provide every resident with their own bedroom, an accessible kitchen, two large living rooms and a landscaped backyard.

It saddens me to see some opposition to the closure of these large residential centres. But I am pleased to see that the vast majority, in a very bipartisan way, support their closure and the transitioning of residents into

community-based group homes. Keeping people with disabilities in institutions is something that the United Nations Convention on the Rights of People with Disability argues against. Indeed, it states that all people have the right to "full inclusion and participation in the community".

On 27 August 2014 the *Australian* newspaper reported on the redevelopment of large residential centres using the Liverpool house as an example because one of the new residents will be moving from the Stockton Centre. The article states that these large institutions are "portals to a time when people with disability were to be neither seen nor heard by mainstream Australia". How we have changed in society! What was standard in the 1950s and 1960s is no longer what we think is best for the clients. Governments of all colours have agreed that these institutions must close, with continued bipartisan support. The small number of people who do not agree with the National Disability Insurance Scheme [NDIS] transition process are making a lot of noise about these redevelopments. The commitment to redeveloping large residential centres such as Stockton predates the NDIS by almost 15 years. The NDIS should not be confused with the redevelopment of large residential centres.

The recent article in the *Australian* even pointed out that the Baird Government committed to do what various leaders have promised to do for the better part of two decades: close all institutions. All the residents and families of residents I speak with who have moved into group homes within the community are ecstatic. They continue to confirm that this was the right decision. Families like the ones featured in the *Australian* will be able to spend a lot more time with their loved ones because they now live closer. For clients like Davey, moving from Stockton will improve his quality of life and increase time with his family. How could anyone oppose that? We need to look beyond self-interest for the benefit of our most vulnerable in our society—people with disabilities—and support this appropriate change.

#### SCHOOL SAFETY OFFICERS

**The Hon. PAUL GREEN:** My question without notice is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra, representing the Minister for Education. Given the disturbing number of children in New South Wales who have been sexually abused, and given that safety officers are employed by NSW Health and safety committees are already in New South Wales schools, will the Minister establish a qualified safety officer position in every school specifically to update teachers on child protection, raise awareness of child protection and safe practices in schools and keeping our kids safe?

**The Hon. JOHN AJAKA:** I thank the member for his question. As he is seeking certain assurances and actions by the Minister for Education, I will refer the question to the Minister and come back with an answer.

#### PYRMONT BRIDGE

**The Hon. PENNY SHARPE:** My question without notice is directed to the Minister for Roads and Freight. Is the Minister aware of the significant concerns being articulated by pedestrians and cyclists in relation to the AMAZE development proposal for Pyrmont Bridge? The AMAZE Pyrmont Bridge proposal suggests that a garden be built in the middle of Pyrmont Bridge. Has Roads and Maritime Services been consulted about AMAZE, given the significant issues relating to access to the central business district for people in Ultimo and surrounds?

**The Hon. DUNCAN GAY:** I was absolutely amazed when I saw in the media recently that The Greens had decided that bridges should not be used as bridges but should be used for gardening. We live in a weird and wacky world when The Greens suddenly decide that a bridge should not be a bridge but should be a garden area—

**The Hon. Penny Sharpe:** It's actually a SHFA proposal.

**The Hon. DUNCAN GAY:** —and we should not have sheep and cattle running on our properties and farm livestock. I am unaware where the proposal is at but I take it from the tone of the question that the Hon. Penny Sharpe disapproves of it. I suspect that we have a shared view on the proposal. I will find out exactly what the situation is and come back with an answer.

**The PRESIDENT:** Order! I remind the Hon. Walt Secord that he is two calls to order. He should resist the temptation to interrupt the Minister.

**The Hon. DUNCAN GAY:** Throw him out.

**The PRESIDENT:** Order! I remind the Minister that he is on one call to order.

#### **TAFE NSW**

**Dr JOHN KAYE:** My question without notice is directed to the Minister representing the Minister for Education, and refers to TAFE institute change management consultations currently in progress. Will the Minister explain why more than 230 jobs are proposed to be deleted across the Illawarra, the Hunter, northern Sydney, Western Sydney and south-western Sydney institutes in critical areas, including business, foundation skills and pathways, students with disabilities, engineering and auto, and customer services?

**The Hon. JOHN AJAKA:** I thank the member for the question. As requested, I will refer it to the Minister for Education and come back with an answer.

#### **NSW FAIR TRADING CONSUMER PROTECTION**

**The Hon. MELINDA PAVEY:** My question is addressed to the Minister for Fair Trading. Will the Minister update the House on how the New South Wales Government is protecting consumers through the Electricity (Consumer Safety) Act and the Gas Supply (Consumer Safety) Regulation?

**The Hon. MATTHEW MASON-COX:** I thank the member for that important question, which gives me another opportunity to educate members opposite on some of the important functions that Fair Trading undertakes in New South Wales. Indeed, I know that the Hon. Peter Primrose is keen to understand the gas regulation and its application in New South Wales, and I will take some time to work through that with him. Under the legislation, Fair Trading has a range of powers to protect consumers from unsafe gas and electrical products. We have a proactive compliance regime and warn consumers of unsafe products and remove them from the marketplace as soon as possible. Under the Electrical (Consumer Safety) Act 2007, all declared electrical items must be safe, compliant and approved for sale. Certain electrical products and appliances, known as electrical articles, have been declared under the Electrical (Consumer Safety) Act as needing to be certified against Australian standards and approved before they can be sold in New South Wales.

Actions taken under the legislation include the blitz on unsafe electrical goods and USBs—to which the Hon. Walt Secord referred—a recall of electrical heaters, a recall of hot water bottles following the serious injury of a lady in South Australia, a recall of electrical blankets, and action taken on gas cabinet heaters. As for USBs and electrical goods, it is probably a good opportunity to update the House about the important compliance that has been undertaken in this area. Some 2,124 articles have been inspected across 1,166 individual traders in New South Wales, 17 penalty infringement notices have been issued and two matters are subject to an ongoing investigation, which we believe will involve prosecution in the courts under the legislation.

In July NSW Fair Trading inspectors conducted unannounced audits on non-compliant electrical goods in the marketplace. That auditing process continues. More than 1,370 items were inspected, with 138 of those items being non-compliant. Penalties range from \$500 to \$87,500 and two years imprisonment. So these are very serious offences. I am pleased to report that the ongoing compliance regime will include revisiting a number of retailers who were identified as selling non-compliant USBs in the first raids that occurred several weeks ago. That compliance program will continue over the coming months to ensure that traders understand their obligations and that consumers are adequately protected from these dangerous goods.

In relation to electrical heaters, Fair Trading inspects thousands of electrical and gas heaters each year. Recently we ordered the removal from the shelves of several unapproved and unsafe gas and electrical products. We have year-round safety checks, helping to protect New South Wales residents because Fair Trading orders the removal of unmarked, unapproved and unsafe products. Over the coming weeks we will be returning to stores and outlets to ensure that traders are complying with the law. Recently a hot water bottle under the Skyla brand was recalled nationally following negotiations between NSW Fair Trading and the supplier, Haven Hall Pty Ltd. These products are designed to be connected to electrical power to heat liquids contained within the bladder of the heat pack with the use of electrodes.

Members may be aware—it is distressing—that a lady in South Australia was seriously injured with terrible burns on her torso when the bladder in one of these electrical hot water items burst. So that has been recalled and we are working with the company to ensure that those products are off the shelf as soon as possible.

**ONLINE RETAIL INDUSTRY**

**The Hon. ERNEST WONG:** My question is directed to the Minister for Fair Trading. Last year only four prosecutions occurred out of 6,668 consumer complaints to the Department of Fair Trading regarding goods purchased online or through online auctions.

**The Hon. Duncan Gay:** Point of order: Question time is about asking questions, not making statements to the House.

**The Hon. ERNEST WONG:** I am about to ask the question.

**The Hon. Duncan Gay:** The standing orders indicate that a question should be asked and not a statement made.

**The Hon. ERNEST WONG:** It is the background to the question.

**The PRESIDENT:** Order! I have ruled on this matter previously.

**The Hon. Walt Secord:** You show Reverend the Hon. Fred Nile this courtesy.

**The PRESIDENT:** Order! The Hon. Walt Secord is skating on extraordinarily thin ice. I have previously ruled that a proportion of the question may provide some information in order to elucidate the question but it should never be the majority of the question. I do not believe the Hon. Ernest Wong was at that point when he was interrupted. I will allow the Hon. Ernest Wong to ask the question but essentially the Leader of the Government is correct, which is that a question should be a question and not a statement of facts that should take up most of the allocated time.

**The Hon. ERNEST WONG:** What is the Government doing to protect online consumers from unscrupulous Australian online operators?

**The Hon. MATTHEW MASON-COX:** As the Hon. Ernest Wong would be aware, Fair Trading is in the marketplace every hour of every single day on consumer issues. I cannot verify the figures quoted by the Hon. Ernest Wong without actually sourcing them myself, but I will take his word on them. Fair Trading, particularly with online retailers, is very conscious of a whole range of complaints it has received in that regard. Recently we saw a 17 per cent surge in online complaints about online retailing. In that regard Fair Trading particularly notes that a lot of the complaints revolve around receiving defective goods or, indeed, not receiving the goods at all.

As the Hon. Ernest Wong rightly pointed out some websites are unscrupulous and they might operate from Australia or from overseas. Just last week I was on radio stations across Sydney and New South Wales advising people that they need to be very cognisant of the risks and take the necessary precautions. People can do some simple things in order to minimise the risk of being caught with an online trade that does not work to their satisfaction. They should ensure that they trade online with a reputable trader and look for an Australian reputable trader. Maybe they can purchase goods from Harvey Norman or one of the major retailers, like Myer or David Jones, that have an online presence.

Once people have identified a reputable trader—preferably Australian because we want to see that money spent in Australia and the taxation revenue from the goods and services tax go back into the Commonwealth Government coffers so that New South Wales can get its fair share—I recommend that a credit card is used. I will educate members of the Opposition that if the goods are not received or are defective they can use charge-back facilities on their credit card. If people are not happy with the goods they can send them back and get their money back. If that does not work, people should contact Fair Trading because it provides a mediation service between traders and consumers.

Fair Trading receives more than 40,000 complaints a year about those sorts of issues. The Hon. Ernest Wong might like to record this figure: Fair Trading solves 93 per cent of those complaints without taking action against a retailer in a court of law or by issuing an infringement notice. Fair Trading is very successful at mediating between consumers and retailers. It does that every hour of every day of every week so the consumers of the New South Wales know that Fair Trading is always on the go and makes for a safe marketplace. The last thing Fair Trading wants to do is to escalate matters to a full process when it can solve problems 93 per cent of

the time by getting the consumer and the retailer together. Retailers understand that they must take notice when they receive a call from Fair Trading because if they do not there will be consequences, and that is the way it should be.

### COMMUNITY ROAD SAFETY FUND

**The Hon. RICK COLLESS:** My question is addressed to the Minister for Roads and Freight, and Leader of the Government. Will the Minister update the House on government programs and funding to improve road safety in New South Wales?

**The Hon. DUNCAN GAY:** I hope that one day the Opposition will ask a sensible question like this one.

[*Interruption*]

They are saying "Where's Wally? What's Wally doing?" I thank the Hon. Rick Colless for a bright, intelligent and great question. Under the New South Wales Liberal-Nationals Government, and for the very first time in this State's history, a Community Road Safety Fund has been established. It means every single cent from red light and speed camera fines goes directly into the Community Road Safety Fund and from this fund every cent then goes back into making our roads safer. How good is that? Under Labor, money from camera fines went straight into the State's coffers—Labor was paying the salary of the Hon. Walt Secord.

The fund is not just money from camera fines. In 2013-14 we invested \$238 million, \$131 million of which was from camera fines, to make our roads safer. Now let me advise exactly where this money goes. Firstly, the Hon. Walt Secord keeps saying that we do not have enough high-visibility policing. He either has not done his homework—and, based on his record, that is likely—or is trying to knowingly misinform the community, which is also very likely.

**The PRESIDENT:** Order! There is too much audible conversation in the Chamber.

**The Hon. DUNCAN GAY:** This Government has significantly increased investment in high-visibility policing. In 2009-10, Labor invested \$10 million on enhanced police enforcement in New South Wales. In 2012-14 this Government spent more than \$25 million, an increase of approximately 150 per cent. We have the highest number of police in the State's history. Why does the Hon. Walt Secord tell us that we are not investing in high-visibility police enforcement? Let us face it, we are and he cannot say that. Now let us look at the other critical safety programs that are funded from the Community Road Safety Fund.

For safety around schools, which includes things like school crossing supervisors and flashing lights, there is an investment of \$21.3 million. The State's Blackspot Program, which provides critical safety upgrades to dangerous roads to save lives, is an investment of more than \$25 million. The NSW Safer Roads program to address run-off-road crashes and pedestrian safety is an investment of nearly \$39 million. Setting up the Safer Drivers Course so L-platers are better prepared when getting behind the wheel for the first time is an investment of nearly \$3.2 million. And that is just a start. We have delivered the biggest road safety budget in New South Wales history but one does not need to take our word for that. I will leave members with the words of the NRMA on television earlier this week, which said:

We want the community to understand that the cameras are there for safety not about revenue-raising.

That is from the NRMA, which gets it. The NRMA is not playing petty politics; it is representing road users.  
[*Time expired.*]

### ISIS FLAG

**Reverend the Hon. FRED NILE:** My question is addressed to the Hon. Duncan Gay, representing the Premier, the Hon. Mike Baird. Is the Minister aware that the ISIS flag was recently auctioned for \$3,000 by Sheikh Abu Adnan Mohamad at the Liverpool mosque? Is he aware that the ISIS flag has been flown in Sydney city for at least two years, publicly appearing on YouTube newsclips from the 2012 Hyde Park riots? Is the Minister aware that this flag represents the terrorist organisation that has publicly beheaded two journalists and tortured, raped and murdered thousands of innocent civilians, as well as Iraqi and Syrian soldiers who surrendered? What steps is the Minister taking to ban public displays of this offensive and deeply divisive flag in our community?

**The Hon. DUNCAN GAY:** I thank the member for his question. It is certainly one of concern in the community. If I had to bid at the auction I would not give anyone two bob for it. The concerns the member raises are appropriate concerns that I will pass on to the Premier and receive a detailed answer.

As the time for questions has expired, I suggest that if members have further questions they place them on notice.

### **WATERMARK COALMINE**

**The Hon. DUNCAN GAY:** Earlier in question time I was asked a question regarding Shenhua Watermark. If I remove the xenophobia from the question the answer is that the Government is currently considering the Planning Assessment Commission [PAC] report so I cannot comment on any specifics. However, what I can say is that the Government has kept its commitment to introduce world's best practice, evidence-based decision-making into the approvals process—

**Mr Jeremy Buckingham:** What about the money? Did you get the half a million dollars?

**The Hon. DUNCAN GAY:** —for mining projects such as this. The Department of Planning and Infrastructure will carefully consider the PAC review report. I heard by way of interjection, "What about the money?" I remind the member that that was a business arrangement entered into by the previous Government and this company dependent on whether it ticked the appropriate boxes and met the appropriate approvals. It is not at that stage yet. As with many things, the member has gone off half-cocked. It has not quite reached that stage. The appropriate action is taking place. The Government is currently considering the PAC report, which is part of the process.

### **WHITEBRIDGE LAND SALE**

**The Hon. DUNCAN GAY:** Earlier I was asked about some surplus land. I indicate that, as has been the case for many years, Roads and Maritime Services [RMS] rezones any land surplus to road construction.

**The PRESIDENT:** Order! Mr Scot MacDonald and the Hon. Charlie Lynn will not converse audibly while the Minister is giving an answer.

**The Hon. DUNCAN GAY:** In June 2006 the East Charlestown bypass was abandoned by the then Minister for Roads, Eric Roozendaal, as the M1 Pacific Motorway made it unnecessary. Consequently, properties acquired by the predecessors of Roads and Maritime Services, including the old Roads and Traffic Authority, became surplus to requirements. As such, I am advised that RMS properties north of Dudley Road at Whitebridge were rezoned to a combination of residential, urban living, urban centre, tourism and recreation, conservation and environmental. This happened via amendment of the Lake Macquarie Local Environmental Plan of 2004. This came into effect on 2 September 2011. I am advised that following completion of due diligence research the property at 142-146 Dudley Road, Whitebridge, was offered for sale by a call for expressions of interest [EOI].

**The PRESIDENT:** Order! There is too much audible conversation while the Minister is giving his answer.

**The Hon. DUNCAN GAY:** Advertising of the EOI commenced on 1 March 2013, with the closing date for EOIs being 10 April 2013. The top six EOI respondents were subsequently invited to participate in a tender process. The tender process closed on 29 April 2013. Contracts for the sale of 142-146 Dudley Road to Simhill Living Pty Ltd exchanged on 30 April 2013. Settlement occurred on 28 October 2013. RMS, which did this, followed standard practices in having surplus land rezoned.

**Questions without notice concluded.**

### **SNOWY HYDRO CORPORATISATION AMENDMENT (SNOWY ADVISORY COMMITTEE) BILL 2013**

#### **Second Reading**

**Debate resumed from an earlier hour.**

**Dr JOHN KAYE** [3.37 p.m.]: As I was saying before the luncheon adjournment, we worked our way through a series of three Ministers and just as we got close to both Minister Pearce and Minister Hartcher

understanding what was going on, we lost those Ministers and responsibility for this legislation passed to another Minister. Finally, we got to Minister Hodgkinson, who simply refused to understand anything we were talking about and refused to engage in any degree of intelligent conversation on this matter, instead flicking the matter to a public consultation process. It was public consultation in name only, producing the dodgy outcome that we see in the bill before us today.

The bill has no requirement for science in it whatsoever. The great notion of Ian Cohen and his colleagues when the legislation went through in 1997 has been lost entirely. The notion that critical decisions about heritage, the environment, the social values of the Snowy and the upper montane rivers would be protected by scientific advice has been entirely trashed. What we see here is an appalling anti-science agenda. There is no independence in the committee at all; there is no attempt to distance the committee from the Minister, and there are functions missing. Section 57 (3) (b) of the Act, which relates to the Snowy Scientific Committee and states that it is "to advise that Corporation from time to time on the adequacy of those releases and the programs for management and restoration of the catchments ... receiving water from those releases, including the arrangements for consultation, monitoring and on-going research about those programs" is to be entirely deleted. Section 57 (4) states:

- (4) The Committee is to produce every year a public state of the environment report on the catchments (and the Snowy River and other rivers and streams) affected by the Snowy Mountains Hydro-electric Scheme. The report is to include an executive summary of its contents. The Committee is to provide a copy of each such report to the Water Administration Ministerial Corporation.

That subsection has been deleted entirely. Why is this happening? The real reason is that Snowy Hydro is sitting on the edge of wanting to be privatised. The new chief executive officer [CEO], Paul Broad, has a history of privatisation.

**The Hon. Matthew Mason-Cox:** He is a good CEO.

**Dr JOHN KAYE:** I note the Minister's endorsement of Paul Broad and his privatisation agenda. For a long time it has been in the minds of both political parties to privatise Snowy Hydro. Labor attempted privatisation when it was in Government but was eventually dissuaded by a massive public outcry. They were led into it by the then Howard Government. There is no question that an entity with a \$1.2 billion turnover and a \$280 million a year profit is a target for privatisation. It will not happen before this election because the Coalition will not want to take the electoral hit, but I guarantee if this Government is re-elected that on 1 April 2015 we will see plans to sell off Snowy Hydro leaked to the media in order to soften up the public.

As sure as a newly elected government finds a budget black hole, a first-term government immediately turns around and looks at everything it can sell, and Snowy Hydro will be the first to go. The argument it will use is that it is the only publicly owned generator within 1,000 kilometres, it is isolated and needs to be with its private sector mates. If the Government does try that on, even without the Snowy Scientific Committee it will be facing a major battle. The Minister and this Government are clearly backing away from the process that saw restoration of the Snowy River. The 21 per cent of pre-scheme flows that should be raised to 28 per cent of pre-scheme flows and that would have occurred if the Snowy Scientific Committee had been appointed and given that advice will be lost because the Government is destroying the Snowy Scientific Committee.

The loss of the Snowy Scientific Committee is a loss to the entire community, not just to those who live in the Snowy but across New South Wales. The Snowy Mountains are an icon that belongs to all Australians current and future. It can only be preserved through independent scientific advice to the corporations responsible for water releases into the Snowy River. The public must have an informed say in future water releases. Progress has been made towards restoring the Snowy River and the upper montane rivers. That progress will stall unless there is independent advice. That independent advice must gather, store and analyse data. That will not happen under the new committee. The advisory committee will not speak truth to power.

Former chairs of the Snowy Scientific Committee such as Dr Jane Roberts and Professor Sam Lake were people of great integrity and courage who were prepared to speak out and say what the Snowy needed. The proposed advisory committee will not have a public voice and is unlikely to have the independence to make those sorts of statements, even within closed corridors, to the Minister and the corporation. This bill should not be supported. If The Nationals are serious about protecting the future, the environment, the icon, the heritage of both European and non-European Australians, Aboriginal heritage, the long-term health of the Snowy River and the people downstream in towns like Dalgety, who are dependent upon the Snowy River surviving, growing and thriving, then The Nationals members will cross the floor and vote with The Greens against this bill. This bill is against the environment, against science and against the best interests of the people of New South Wales.

**The Hon. ERNEST WONG** [3.44 p.m.]: I join my colleagues in opposing the Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Bill 2013. The Hon. Steve Whan has provided a detailed and compelling case as to why the Opposition rejects this bill. Always a voice for regional communities and their concerns, he has given a strong clear voice to this important issue, which relates to one of the most iconic natural assets of regional Australia. As the Hon. Steve Whan outlined, the Government is being duplicitous with this bill and attempting to play sneaky tricks on the communities who depend on the health of the Snowy River. The object of the bill states:

The object of this Bill is to amend the Snowy Hydro Corporatisation Act 1997 to establish the Snowy Advisory Committee to advise the Water Administration Ministerial Corporation each year on the timing and pattern for the release of water for environmental reasons under the Snowy water licence.

That structure sounds a little convoluted to me but the real sting is in the detail. As the Hon. Steve Whan has explained, the original Snowy Hydro Corporatisation Act put in place a scientific committee to advise on the regime and adequacy of environmental flows down the Snowy River. This was an essential part of the historic Carr-Bracks agreement to return 21 per cent of the natural flow to the Snowy River. The committee operated independently and provided advice that was held in high regard by the community and the Government. That expertise is clearly not respected by Minister Hodgkinson. When the terms of the original committee expired Minister Hodgkinson delayed taking any action to reappoint the committee. As a result there has been no scientific committee in place for more than two and a half years.

The Snowy Scientific Committee, which has provided expert independent advice about Snowy River flows for years, will be abolished by this bill. This Government is walking away from a key commitment of the Snowy River agreement and a promise to the region's communities. But do not worry, the Government says the Snowy Advisory Committee will replace the Snowy Scientific Committee. The question is, "If it ain't broke why fix it?" How will the Snowy Advisory Committee replace the Snowy Scientific Committee when it includes no scientists? That is the fact of this Snowy Advisory Committee. The make-up of the committee will now be at the behest of the Minister with no direct representatives from the Environmental Protection Authority, the National Parks and Wildlife Service or what was the catchment management authority.

Most revealing is that there is now no requirement for an independent scientist on the committee. The replacement Snowy Advisory Committee does not include a scientist. It seems that this Government is determined to wipe out any independent oversight of the Snowy. It has terminated the employment of most of the staff working on environmental monitoring of the river. Its amendments provide no mention of funding for the new committee, which we know is essential to independence, and its deletion of section 57 of the Act will further stifle levels of public reporting on the issue.

In summary, the bill offers less protection for the Snowy, less independence for its management, less information for communities and less transparency from a Government that promised new levels of transparency. This trend is generated by a Government that promised accountability while in opposition but has shied away from it when in Government. It is particularly concerning when we are discussing the future of a generational and iconic asset such as the Snowy River. It is not a plaything of the Minister or the Government, it is not even a possession of New South Wales; it is a critical part of the natural estate of Australia and governments can only hope to play a temporary custodial role over it. That custodial role carries with it a duty to care for, to control and to manage using the best and most independent information available. With this bill the Government is turning its back on that duty. It is turning its back on both the Snowy River and New South Wales regional communities. Accordingly, the Opposition rejects the bill.

**Dr MEHREEN FARUQI** [3.49 p.m.]: I speak on behalf of The Greens on the Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Bill 2013. I support 100 per cent what my colleague Dr John Kaye has said and also strongly oppose this bill. This bill seeks to remove and dismantle the independent Snowy Scientific Committee and to replace it with a committee handpicked by the Minister. This new committee will have its responsibilities significantly diminished to the detriment of the environment. The Greens do not want to see the abolition of the independent Snowy Scientific Committee. Our former member Ian Cohen was one of the members who first lobbied the Government to establish the committee. It should be retained and its members reinstated, and it should be given a proper budget to fulfil its function.

One of the principal roles of the independent Snowy Scientific Committee has been to produce environmental reports about the fragile ecosystem and the health of the Snowy River system. However, it has been prevented from being as effective as it could be through a deliberate strategy engaged in by this Government and a lack of funding under the Labor Government. I understand that this bill moves the power to

appoint the chairperson from the Minister for the Environment to the Minister for Primary Industries. It is clear that there is no intention that this new body will maintain its role as an independent environmental arbiter and adviser. We will be left with a handpicked ministerial committee that will not speak out or speak up for the environment, effectively leaving the Minister and the Snowy Hydro Corporation with little or no oversight, independent analysis or, indeed, scientific oversight.

It is sadly not surprising that this anti-science, anti-environment Government would move to undermine independent scientific advice. I am afraid that that is the trend with this Government, as it commits to environmental destruction of our cherished marine park estate, compromises our wilderness areas in the Kosciuszko and allows the burning of native forests. Its proposed planning laws also seek to remove the integral concepts and guiding principles of ecologically sustainable development.

This Government seeks to remove anyone who would provide independent scientific evidence that might be to contrary to its short-term interests. One previous prominent victim of this thinking is the Natural Resources Scientific Council, a multi-stakeholder group that included a cross-section of conservation, environmental, planning, minerals, forestry, farming, indigenous, country women's and union groups. The council provided independent advice to the Minister for Primary Industries before it was abolished by this Government during its first year in office. The Government should not abolish the independent Snowy Scientific Committee. It should retain at least some shred of environmental credibility by retaining the independent scientific advice and scrutiny which it provides and which will benefit the fragile ecosystem of the Snowy River. The Greens oppose this bill.

**The Hon. WALT SECORD** [3.52 p.m.]: I rise to make a contribution on the Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Bill 2013. It has been almost a year since the Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Bill 2013 was introduced. It will abolish the Snowy Scientific Committee and replace it with an advisory group. But more importantly, the so-called scientific committee will no longer include a scientist. As so often happens with this Government, it claims one thing and does the other. I will be brief because my colleague the Hon. Steve Whan, as shadow Minister for Rural Water, has primary carriage of this bill on behalf of the Labor Party. He has a deep and personal commitment to the Snowy River and the region. I also commend him on his comprehensive contribution earlier this year. However, I will place on the record my firm views about this bill and formally express my opposition to the latest plan by the Liberal-Nationals Government to wind back environmental protections.

I, too, have long had an interest in water flows involving the Snowy River and the historic moves by the New South Wales and Victorian State governments to protect this iconic river. I remember with pride late August 2002 when former New South Wales Premier Bob Carr and former Victorian Premier Steve Bracks ceremonially pulled a switch that reopened a partial flow of mountain waters to feed the mighty river. It symbolised an historic agreement on an iconic Australian river. These two leaders were instrumental in efforts to restore and breathe life back into the Snowy River. The Hon. Steve Whan will recall this as a long-term advocate for the Snowy River and its protection.

Returning life to the iconic Snowy River was one of the Labor Government's most important environmental achievements. As a former senior adviser to Premier Carr, I proudly associate myself with it. I have been advised that we will see the largest volume of environmental water released into the Snowy River below Jindabyne, which was expected to be more than 190 gegalitres in total in the 2013-14 water year. This was achieved through a more variable flow regime, including a trial of five high-flow releases over the spring period instead of one large event. This was designed to improve the habitat of the river for fish and other species. These flows are a result of the original Carr-Bracks agreement. That agreement responded to and respected hard-won scientific evidence of the benefits of these flows.

Members may also recall that I spoke recently on the Snowy Mountains Cloud Seeding Trial Amendment Bill 2012. It also aimed to increase water flows in the Snowy River by increasing the volume of snow. This was a Labor Government initiative that was also initiated by Bob Carr. Again, it was a policy response to longstanding, well-researched and well-respected scientific endeavour. The Snowy Mountains Cloud Seeding Trial Amendment Bill 2012 allowed for cloud seeding to occur on a permanent basis in all suitable weather fronts between May and September. By expanding the target area, Snowy Hydro Limited will produce more precipitation that can be used to create electricity and potentially increase the amount of water available for release for agricultural and environmental use.

With that background in mind, I now return to the bill before the House. As the Hon. Steve Whan has indicated, the Opposition opposes this bill. From the outset, this bill is not as simple as the Minister for Primary

Industries indicated in her second reading speech on 16 October 2013 in the other place. The Minister claimed that the amendments to section 57 of the Act would create a new Snowy Advisory Committee that would replace the Snowy Scientific Committee. That verb "replace" is simply a distortion. The Government will not replace the Snowy Scientific Committee; it will scrap the scientific input. It will then create a new, diminished and much weaker body. The committee will have less expertise, less independence and less scope. The scientific committee will no longer have a scientist.

The Minister also claimed that the Snowy Advisory Committee would build on the strengths of the previous committee. Given the previously stated points, that is simply misleading. She also incorrectly claimed that the committee would be more responsive to the needs of both the community and government. The Opposition believes otherwise. The Minister has indicated that the role of the Snowy Advisory Committee will be to advise on the timing and patterns of the release of environmental water each year from that recovered under the Snowy water licence. However, as the Hon. Steve Whan has indicated, the Opposition sees this bill as a reduction in environmental protections for the Snowy River.

The Opposition has three key objections to the changes to the scientific committee contained in this bill. Under the Liberal-Nationals Government model, the Snowy Advisory Committee will: first, no longer provide scientific expert advice on the adequacy of releases on the Snowy River; secondly, no longer be required to produce a public report on the state of the rivers in the system each year; and, thirdly, no longer be required to include a scientist. Instead, the committee will be left with a single function. It will advise only on the pattern of release of water for environmental flows, and it will do so without the scientific expertise to underpin that advice. It will see almost all other functions and responsibilities disappear.

In addition, the Opposition is extremely concerned about the attempt by the Minister for Primary Industries to remove the independence of the appointments to the committee. This bill will give the Minister the power to appoint the majority of representatives. That is a retrograde step and the Minister is removing any semblance of genuine independent advice on the future of the river. This would be a matter of concern in any supposedly independent body, but particularly so in one where advice should clearly be based on testable evidence, not preferred politically expedient opinions. Furthermore, non-expert scientific advice can also lead to uninformed decisions and can cause a disaster. This is only exacerbated by removing the requirement for an independent scientist to be a member of the committee. For those reasons, the Opposition will be opposing the Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Bill 2013.

In my previous role as shadow water Minister I often discussed the paramount status of water amongst our public resources. Our communities regard our water supplies as both critical and sacrosanct from politics. They demand transparency in the care and management of all water resources. There is arguably no natural resource more iconic than the river we discuss today. I am confident that New South Wales communities will share Labor's views on the need to manage the Snowy, both scientifically and independently. I thank the House for its consideration and oppose the bill.

**The Hon. PAUL GREEN** [3.59 p.m.]: On behalf of the Christian Democratic Party I address the Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Bill 2014. The object of this bill is to amend the Snowy Hydro Corporatisation Act 1997 to establish the new Snowy Advisory Committee to advise the Water Administration Ministerial Corporation each year on the timing of and pattern for the release of water for environmental reasons under the Snowy Water Licence. The Snowy Advisory Committee replaces the Snowy Scientific Committee, which is to be dissolved by the proposed Act.

I understand that this bill is one of harmonisation. The bill has been introduced to allow the new committee's arrangements to be consistent with other environmental water advisory committees across New South Wales, which include both community and government representatives. The bill makes some specific changes. Clause 1 sets out the name, also called the short title, of the proposed Act. Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 [2] constitutes the Snowy Advisory Committee and makes provision in relation to the committee's function, membership and procedure. The committee is subject to the control and direction of the Minister. Schedule 1 [4] dissolves the Snowy Scientific Committee and provides that members of the committee cease to hold office and are not entitled to any remuneration or compensation on ceasing to hold office. Schedule 1 [1] is consequential on the dissolution of the Snowy Scientific Committee. Schedule 1 [3] enables

savings or transitional regulations to be made as a consequence of the proposed Act. Schedule 2 omits uncommenced amendments relating to the Snowy Scientific Committee which will be redundant as a result of the proposed Act. In the other place the Minister said:

This year we will see the largest volume of environmental water released into the Snowy River below Jindabyne—over 190 gegalitres in total during the 2013-14 water year. This will be achieved through a more variable flow regime, including a trial of five high-flow releases over the spring period instead of one large event. This is designed to improve the habitat of the river for fish and other species. I have been advised that the Office of Water is already seeing good results from this new pattern of variable releases. The new committee will work hand in hand with government experts to review and refine the release patterns into the future.

I commend the Minister for recognising the necessity of routine releases of water to benefit the river habitat and fish species. The Christian Democratic Party understands that the aim of this bill is to produce a Snowy Advisory Committee, which has a broader range of representation. We also understand the Government's desire to seek an advisory committee that can address the broader range of issues associated with environmental flow releases, including Aboriginal issues, and that includes the technical and water management expertise that resides within government agencies.

As I mentioned before, this bill is one of harmonisation. To date, the Christian Democratic Party has allowed the Government to govern. In this Chamber we have endorsed the ability for the Government to put in place people who it considers will do the best job of managing New South Wales resources. This bill brings the legislation into line with existing environmental water advisory groups. The Christian Democratic Party commends the bill to the House.

**The Hon. MELINDA PAVEY** (Parliamentary Secretary) [4.03 p.m.], on behalf of the Hon. Duncan Gay, in reply: I thank honourable members for their contributions to the debate. In relation to points raised by the Hon. Steve Whan, there will be scientific and other expertise on the committee. The committee will have New South Wales government specialists—that is, staff from the Office of Water, Fisheries, and the Office of Environment and Heritage. Where other specialist scientific advice is required, those persons will be brought in as required. This is normal for government advisory committees across New South Wales.

The Hon. Steve Whan also believes the committee no longer will be independent. The committee will continue to provide independent advice. The committee will still have an independent chair outside of government and the Minister will have no influence over the content of the advice it provides. Importantly, this arrangement will improve the transparency of the advice and government process because the committee will involve a range of interest groups, including local community representatives.

Further, the Hon. Steve Whan believes the community is not supportive of changes to the committee. The Office of Water consulted various community representatives, including the local Aboriginal communities, who have indicated support for the proposed more inclusive process. The Office of Water released a discussion paper on 26 February 2013 seeking public views on the appropriate role, membership, chairperson and reporting arrangements for the Snowy Advisory Committee. Additionally, the Office of Water undertook targeted consultation with various community groups, such as the local chamber of commerce and Aboriginal groups. The Aboriginal elders were seeking, in particular, greater recognition of cultural water requirements and the local councils and businesses wanted an opportunity for input from fishing and recreational interests. The Office of Water, in fact, has been working very closely with the local Aboriginal communities to revise the ecological objectives for the Snowy River.

A total of 157,000 megalitres of environmental water will be released in the 2014-15 year under five high-flow events, which have already commenced and will continue into October. These releases, with the approval of the Aboriginal communities, have been given Aboriginal names to signify the enduring and strong connection of Aboriginal people to the Snowy River. Elsewhere in the State, such advisory committees on environmental releases are made up of a range of community and government representatives. As to the claim that there has been a failure to appoint a new committee, the Government conducted a transparent consultation process prior to proposing a new committee, and this takes time.

As to the claim that a 21 per cent flow down the river is 7 per cent short of the 28 per cent recommended, at the commencement of the Snowy Initiative, the Australian, New South Wales and Victorian governments committed \$375 million to fund and commission water efficiency projects to provide the environmental flows. Of this, the New South Wales Government has invested \$150 million for water recovery and Snowy Hydro Ltd has invested more than \$125 million in infrastructure upgrades to allow environmental water to be released. The target for the Snowy River is 212 gegalitres, or 21 per cent of the average natural flow.

This was achieved in July 2012. Whilst more water would generally provide improved environmental outcomes, the additional cost must be weighed up and compared with other government initiatives. This is also a decision that would need to be made by all three shareholder governments in the Snowy scheme.

I turn to the additional points raised by Dr John Kaye. The member claimed that releases will be in the absence of advice. On the contrary, the releases have taken on a broad range of scientific advice and on this basis various trials of different release patterns have been occurring. This year a regime is being trialled that involves five high-flow events combined with variable daily flows. As to the claim that previous data has been lost, there is no loss of data. The data and monitoring for the Snowy releases were always undertaken by the Office of Water, not the Snowy Scientific Committee. The Office of Water program has assessed changes in flow, habitat, water quality and aquatic flora and fauna and, more recently, additional research has been undertaken on carbon impacts and food webs.

The Snowy Hydro Corporatisation Amendment (Snowy Advisory Committee) Bill 2013 amends section 57 of the Snowy Hydro Corporatisation Act 1997 by replacing the Snowy Scientific Committee with the Snowy Advisory Committee. The purpose of this change is to broaden the membership of the committee and to establish it more specifically as an advisory committee to government. The amendments will focus the committee's work on providing advice on the timing and pattern of environmental flow releases. Other roles that are the responsibility of government agencies or that the Snowy Scientific Committee was not able to deliver will be removed. The membership will be broadened to include community, environmental, Aboriginal and government representatives. It will not just focus on the environmental scientific role. This gives all those with a stake or interest in this area input into the process.

The amendments outline the minimum membership requirements, which reflect the broadening of the membership. However, membership can also be specified in the regulations if changes are needed. The amendments will clarify that the committee reports to the Minister responsible for water and that the Minister can request a committee to undertake certain work if required. These changes will ensure that the committee will work more effectively and in alignment with government agencies in the management of Snowy environmental flows. We cannot afford to waste money and resources by doubling up. The amendments to section 57 are essential to bring the committee processes for the Snowy environmental releases into line with other environmental water supply advisory groups across the State. I commend the bill to the House.

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

**The House divided.**

**Ayes, 21**

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

**Noes, 18**

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

**Pair**

Mr Gallacher

Ms Fazio

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

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

### **Third Reading**

**Motion by the Hon. Melinda Pavey, 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.**

## **COURTS LEGISLATION AMENDMENT (BROADCASTING JUDGMENTS) BILL 2014**

### **Second Reading**

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [4.18 p.m.] on behalf of the Hon. John Ajaka:  
I move:

That this bill be now read a second time.

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

### **Leave granted.**

This bill amends the District Court Act 1973 and Supreme Court Act 1970 to create a presumption in favour of permitting the recording and broadcast of certain judgments given by those courts in open court, unless satisfied that one of a limited number of exclusionary grounds is present.

The presumption will also apply to proceedings in the Court of Criminal Appeal.

In announcing the Government's court broadcasting policy, the previous Attorney General, the Hon. Greg Smith, SC, MP, said:

Justice should be seen to be done and be accessible to all. Allowing more people to watch court decisions will help to show the considerations that go into the decisions judges make.

The Government thoroughly endorses that view.

While proceedings are generally heard in open court and the public are able to attend in person, with more than 170,000 criminal matters dealt with by our courts each year, the great majority of people rely upon electronic media for information about court cases.

New South Wales courts have allowed sentencing remarks to be broadcast previously, with four high-profile sentences filmed since 2009 and three documentaries made inside New South Wales courts since 2004.

However, there are currently no guidelines promoting consistency in deciding whether to allow cameras into the courts.

This bill seeks to bring greater transparency and consistency to the process.

I will now turn to the substantive provisions of the bill.

As I explained earlier, the bill creates a presumption in favour of granting applications by the media to record and broadcast certain "judgment remarks" given in open court.

The bill defines "judgment remarks" to mean:

- in relation to a criminal trial—the delivery of the verdict and remarks made by the court when sentencing the accused person that are delivered or made in open court, and
- in relation to any civil proceedings—remarks made by the court in open court when announcing the judgment determining the proceedings.

For the avoidance of doubt, I wish to emphasise that the bill does not apply to trials or civil hearings. It only applies to verdicts, sentencing remarks and civil judgments.

The chief risk associated with filming court proceedings is the defendant's right to a fair trial. This risk is most acute during the criminal trial process.

Therefore, the bill does not apply to the trial itself.

In further recognition that certain details contained in the courts' judgments may pose a risk to participants, related criminal trials or ongoing investigations, the bill also provides a limited number of "exclusionary grounds" upon which an application may be refused.

They are:

- (a) that the broadcast of the judgment remarks would be likely to reveal the identity of a person in circumstances where the disclosure, publication or broadcast of the person's identity is prohibited by a suppression or non-publication order or by law;
- (b) that the judgment remarks will contain material that is:
  - subject to a suppression or non-publication order or the disclosure, publication or broadcast of which is otherwise prohibited by law, or
  - likely to be prejudicial to other criminal proceedings (including proceedings for the same or a related criminal offence) or a current criminal investigation, or
  - likely to reveal the existence of a covert operation carried out by law enforcement officials.
- (c) that the broadcast of the judgment remarks would pose a significant risk to the safety and security of any person in the courtroom or who has participated or has otherwise been involved in the proceedings, or
- (d) that the Chief Judge of the District Court or the Chief Justice has directed that the judgment remarks not be recorded or broadcast because, in their opinion, the broadcast would be detrimental to the orderly administration of the court.

The presence of exclusionary grounds (a), (b) or (c) will not be sufficient justification to refuse permission unless the court is also satisfied that it is not reasonably practicable to implement measures to prevent the broadcast of anything that would otherwise give rise to the exclusionary ground.

To ensure the orderly process of recording and broadcasting court proceedings, the courts will be able to make rules about the manner in which recordings of judgment remarks are to be made, including:

- (a) limiting the number and kinds of persons who may be involved in making such recordings in the courtroom
- (b) providing for measures to prevent the recording or broadcast of any thing that may give rise to an exclusionary ground or prevent a contravention of the requirement for images of certain persons not to be recorded, and
- (c) providing for the shared use of recordings among broadcasters.

However, such rules cannot operate in a manner that is inconsistent with the presumption in favour of broadcasting. The Government's policy at this time is that broadcasting should be limited to verdicts, sentencing remarks and civil judgments.

For the avoidance of doubt, proceedings under the:

- Bail Act 2013
- Children (Criminal Proceedings) Act 1987
- Children and Young Persons (Care and Protection) Act 1998
- Crimes (Forensic Procedures) Act 2000, and
- the Supreme Court's inherent jurisdiction over the care and protection of children are expressly excluded by this bill. Proceedings that are held in closed court are also excluded.

The bill was subject to thorough consultation with the Chief Justice and the media to ensure that the legislation would operate to the mutual benefit of each.

I am advised that the Chief Justice is comfortable that the current drafting accommodates the courts' operational requirements.

The Media, Entertainment and Arts Alliance, the Australian Broadcasting Commission and FreeTV Australia, representing commercial TV stations, were very welcoming of the initiative.

The provisions of this bill will apply across a range of media channels including television, radio and the internet—including webcasting.

The principle of open justice is fundamental to our court system.

This bill enhances that principle and recognises the demands of the modern technology-driven age in which we live.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [4.18 p.m.]: I lead for the Opposition in debate on the Courts Legislation Amendment (Broadcasting Judgments) Bill 2014. The Opposition does not oppose the bill. The object of the bill is to make amendments primarily to two Acts: the District Court Act and the Supreme Court Act. These amendments are to require the District Court and the Supreme Court to permit the recording and broadcasting of certain judgments given by those courts in open court unless satisfied that one of a limited number of exclusionary grounds is present. There is currently a capacity for courts to allow the broadcasting of proceedings.

In his second reading speech in the other place—and I apprehend this will be in the Parliamentary Secretary's speech—the Attorney General noted that four high-profile sentences have been filmed since 2009 and three documentaries have been made inside courts since 2004. This bill will introduce a statutory scheme to deal with such instances. The scheme will undoubtedly create greater consistency, and appears to us to be designed to increase the number of instances when proceedings are broadcast.

The Attorney General said in the other place that the bill will bring greater transparency to the process. If by this he means the process of deciding whether broadcasting will be allowed in a particular case, that statement might be a slight exaggeration. Whether there is a broadcast will be decided on application by the court, as it is presently. However, it will make the decision more consistent and the courts will be more likely to allow broadcasting. The bill is restricted to specific and particular parts of court proceedings. These are called "judgment remarks" and they are defined to mean the delivery of the verdict and any remarks made by the court when sentencing the accused in criminal proceedings in open court, and any remarks in open court when the court announces the judgment determining the proceedings in non-criminal matters.

It should be noted that these are limited and specific parts of the proceedings. Similar amendments are made to both the District Court and the Supreme Court governing legislation. The exclusionary grounds that allow the presumption to permit broadcasts to be overturned are similar for the District Court and the Supreme Court. They include where the broadcast would be likely to reveal the identity of a person or when a suppression or non-publication order as to identity is in force. Likewise, exclusionary grounds include when the sentencing remarks contain material subject to a suppression or non-publication order or similar prohibition or is likely to be prejudicial to other criminal proceedings or to reveal the existence of covert operations by law enforcement bodies.

A further exclusionary ground is that broadcasting would pose a significant risk to the safety and security of any person in the courtroom or any person who has participated or been involved in the proceedings. All the exclusionary grounds I have mentioned are subject to a further caveat. These exclusionary grounds operate only if it is not reasonably practicable to implement measures to prevent the broadcast of anything that gives rise to one or more of the exclusionary grounds. A further exclusionary ground, which is not subject to that additional caveat, is if the Chief Judge or the Chief Justice has directed that the judgment remarks not be broadcast because, in their opinion, such a broadcast would be detrimental to the orderly administration of the court. There are some other restrictions.

No images are allowed to identify jurors, an accused person or a victim in a criminal trial, or a member of the accused person's family or victim's immediate family or anyone in a class of persons prescribed by regulation. For more abundant caution it is made clear that some proceedings are specifically not included in the bill. They include bail applications, proceedings in closed court, children's proceedings, Crimes (Forensic Procedures) Act proceedings and proceedings for extended detention or continuing supervision under the Crimes (High Risk Offenders) Act. The basic principle behind the approval of the bill is that of open justice. I quote the former New South Wales Chief Justice Spigelman who, in an article in the *University of New South Wales Law Journal*, said:

... open justice is one of the most pervasive axioms of the administration of justice in common law systems.

From the time of the Star Chamber there has been opposition to justice behind closed doors. In a democratic society it must be the case that public access to courts that deal with justice must be presumed and only in exceptional circumstances should that be departed from. So the argument goes: If the public and members of the media are allowed into open courts, why can the proceedings not be broadcast? The superficial simplicity of that argument is a little deceptive. The media inevitably will be selective. For example, if they broadcast only the prosecution's closing address or the defendant's address it is fairly obvious that those watching the broadcast may receive only part of what is happening in the courtroom. For that reason, we think "judgment remarks" have been defined very narrowly in the bill. That is certainly not a criticism of the bill; it makes perfect sense. However, it is important to acknowledge what the legislation will do.

The bill provides for the regulation of the manner in which broadcasts are made. No doubt that will be useful. A fear about these types of proposals in some places is where they might ultimately lead if they are not properly regulated or prescribed, such as in the way they are in this bill. The bill provides entirely appropriate mechanisms to prevent excesses and to make the approval for and conduct of broadcasting more systematic. More public access to judicial proceedings is a good thing; it has the potential to deflate that part of the current debate that may be described as uninformed. Evidence from Tasmania shows that jurors who are provided with the same information as judges regard the decision by the judge as "about right" or "too harsh" and a small percentage regard the judicial decision as "too lenient"—and that is in a State where sentencing patterns are generally less severe than those in New South Wales.

This bill should give rise to an important public discussion about these matters. If only selected elements are broadcast, there will be no progress in the debate. It could be said that this is potentially a step forward to a more informed public debate, but we will see. There are arguments against the bill, or at least cautionary arguments about it. It is possible that the statutory presumption in the bill may lead to appeals, and this potentially might give rise to more delays in the criminal process. There is also the possibility that broadcasting may encourage playing to the audience by some judicial officers, but we will have to see whether such apprehensions are crystallised. Despite the assumption of some in the media, judges are only human and the proximity of media may induce some behaviours uncharacteristic in them, as it does in other human beings. We hope that is not the case. We believe that most, if not all, judges will continue to discharge their duties in a sensible, sensitive and balanced manner.

There is also a possible disadvantage in civil proceedings where currently judgments may be given *ex tempore* or immediately after the hearing of evidence. This would be unlikely if proceedings were broadcast and may have the potential to slow down some proceedings. I pause there. I think that is unlikely to happen. When judicial officers are sufficiently seized of the material in order to deliver an *ex tempore* judgment, I do not see that the presence of cameras or the matter being broadcast would slow them down if they would otherwise feel able to discharge the matter finally there and then. But we will see. The final point is simply to note that it seems odd that a criminal verdict be broadcast because if there is a guilty verdict the court usually adjourns immediately, with sentencing stood over to some other time. These are cautionary notes rather than any reason to oppose the legislation. The bill appears to have merit.

A more general point that might be made is that we probably should think carefully about a broader statutory scheme for access to information in courts. Only now is New South Wales embarking upon this journey; although the journey is more advanced in other jurisdictions, at least we are taking this step. Now that we have this legislation before us we should begin to think more broadly about the matter. As I indicated, that is not a reason to oppose the bill, nor is it a substantive criticism of the bill. It is simply a comment on where we may now go in public discourse.

The Court Information Act 2010 has not been proclaimed. The shadow Attorney in the other place referred to an article in the *Alternative Law Journal*, Volume 39, No. 2, by Katherine Biber from the University of Technology, Sydney, who made some interesting points. She noted that the Court Information Act 2010 was an attempt to get a broader statutory scheme in place and provide statutory clarity. The legislation had bipartisan support at the time but it has never been proclaimed. Perhaps that matter could now be usefully revisited. With those remarks, and as I indicated earlier, we will not be opposing the bill.

**Mr DAVID SHOEBRIDGE** [4.29 p.m.]: On behalf of The Greens I support the Courts Legislation Amendment (Broadcasting Judgments) Bill 2014. This bill amends the District Court Act and Supreme Court Act to require those courts to allow the recording and broadcast of judgments in those courts unless an exclusion exists for the proceedings in question. Schedule 1 to the bill amends the District Court Act to insert a new part 5 regarding broadcast of judgments. The proceedings to which this does not apply are detailed in new section 177 and includes proceedings in closed court, proceedings under the Bail Act as well as other proceedings as defined by regulation. New section 179 introduces a presumption in favour of recording and broadcast of judgment remarks. For this to happen a person must apply to the court, and when such an application is made the court is to permit the recording and broadcast unless it is satisfied that there is an exclusionary ground or if it cannot take measures that would prevent the broadcast of something that gives rise to an exclusionary ground.

The exclusionary grounds that are set out seem realistic and include that it would reveal the identity of a person where a suppression or non-publication order is in application; that the judgment has material that is subject to a suppression or non-publication order; that it is likely to be prejudicial to other criminal proceedings or an investigation, including risking revealing a covert operation; that the broadcast poses a

significant risk to anyone who has participated in the proceedings, both victims and witnesses; or that the Chief Judge orders the remarks not be recorded or broadcast because they would be, in the opinion of the Chief Judge, detrimental to the orderly administration of the court. The broadcast cannot identify the jurors, the accused or a victim in a criminal trial, and their families, or any other person as defined in the regulations. Rules will be created that may regulate related matters, including the number and kinds of persons who can be involved in recordings and for shared use of recordings among broadcasters. As I understand it, the intent of those rules is to effectively have a pool camera and to require its footage to be made available to any broadcaster who seeks access to it.

Schedule 2 to the bill creates the same scheme for the Supreme Court. The Greens support this bill and indeed support an array of moves that have been made over the past few years that work to increase public access to and public information about the operation of the criminal justice system in New South Wales. The Greens firmly believe we have a world-class criminal justice system in New South Wales, we have courts that are the envy of the world, we have an independent judiciary and our essential freedoms and liberties are largely supported by an ongoing broad multi-party respect for the rule of law and our judiciary. For too long debate on law and order in New South Wales has been a race to the bottom with both old parties mischaracterising the role of the courts and the duties of judges. The recent so-called "debate" on bail would have to be a prime case in point, with tabloid newspapers glibly reporting the perceived shortcomings of the new bail scheme, with a focus on sensationalist cases without a real appreciation of how the scheme works, and with little or any regard to the full range of factors considered by a judge in each case.

More transparency about how our courts operate is welcomed by the New South Wales Greens. We believe the public has a deep and legitimate interest in understanding how decisions are made in the justice system, and this understanding should not be hampered by selective or sensationalist reporting. Let the light shine on the way our criminal justice system works. Let people see the full range of considerations that judges make. Let them see it for themselves in first person rather than through a mistranslation in the *Daily Telegraph*. Let us hope political parties also agree that in our debate on our criminal justice system we do not think to the bottom rung of discussion as has happened so often in this case. Let us look in a considered, fair-minded and, above all, a principled way about how our criminal justice system operates. If we do not do that, at least give the public direct access to the way our criminal justice system operates so they can make the decision for themselves. The Greens commend the bill to the House.

**Reverend the Hon. FRED NILE** [4.34 p.m.]: The Christian Democratic Party supports the Courts Legislation Amendment (Broadcasting Judgments) Bill 2014. The object of this bill is to amend the District Court Act 1973 and Supreme Court Act 1970 to require the District Court and Supreme Court to permit the recording and broadcast of certain judgments given by those courts in open court unless satisfied that one of a limited number of exclusionary grounds is present. The presumption will apply to proceedings in the Court of Criminal Appeal. I commend the Government for introducing this legislation. I believe anything that makes our courts more open and accessible so that the public understands what is occurring in our courts by hearing judgments is good for justice. I know some judges probably do not like too much public oversight in their court, particularly in the family law courts, but it is a good to open up our courts.

More than 170,000 criminal matters are finalised by our courts each year. While proceedings are generally heard in open court, the public may attend in person. The great majority of people rely on electronic media and television, for example, about court cases. How many members of the public have the time to attend court in person? In fact, I believe the whole court case should be shown on television to open them up. This bill will strengthen public access to New South Wales courts and improve public understanding of sentencing processes. The bill permits only judgment remarks to be broadcast. In relation to a criminal trial, this is defined to mean the delivery of the verdict and remarks made by the court when sentencing the accused person that are delivered or made in open court. In relation to any civil proceedings, it refers to remarks made by the court in open court when announcing the judgment determining the proceedings.

The bill contains a number of clear-cut exclusionary grounds upon which an application may be refused. For example, matters that could reveal the existence of a covert operation carried out by law enforcement officers or matters that may be prejudicial to other criminal proceedings. I believe all of the grounds are justified. Some other exclusionary grounds include that the broadcast of the judgment remarks would pose a significant risk to the safety and security of any person in the courtroom or who has participated, or has otherwise been involved, in the proceedings; and that the Chief Judge or the Chief Justice has directed that the judgment remarks not be recorded or broadcast because, in their opinion, the broadcast of the judgment remarks would be detrimental to the orderly administration of the court.

The decision to exclude those matters should be very rare. How it could be detrimental to the orderly administration of the court is difficult to understand. It may just give the Chief Judge or the Chief Justice the opportunity to prevent the judgment being broadcast, without a reason, which could act like a veto to this legislation. This is a step in the right direction. The Christian Democratic Party is pleased to support the bill.

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [4.38 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank members for their contributions to the debate on the Courts Legislation Amendment (Broadcasting Judgments) Bill 2014. The principle of open justice is a fundamental element of any democracy. The amendments in this bill will enhance the principle of open justice in this State by strengthening public access to the courts and improving public understanding of the sentencing process. The amendments will also bring greater transparency and consistency to the process of broadcasting court proceedings, while also balancing the need to ensure that defendants receive a fair trial. This is a good bill and I commend it to the House.

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

**Motion agreed to.**

**Bill read a second time.**

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

### **Third Reading**

**Motion by the Hon. David Clarke, on behalf of the Hon. 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.**

## **PASSENGER TRANSPORT BILL 2014**

### **Second Reading**

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [4.40 p.m.]: I move:

That this bill be now read a second time.

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

**Leave granted.**

The Passenger Transport Bill 2014 is the outcome of the first comprehensive review of passenger transport legislation since the Passenger Transport Act was enacted in 1990.

In 24 years much has changed in the delivery of public transport. Transport legislation needs to enable the outcomes we want to achieve in a modern, flexible and integrated public transport network driven by the needs of our customers.

In September 2012 Transport for NSW released a discussion paper calling for public submissions and feedback on how the Act could be improved. Since that time it has undertaken extensive consultation with industry and community organisations to ensure that all views were given careful consideration.

Approximately 50 submissions were received in response to the discussion paper. Transport for NSW then undertook further targeted consultations. This important piece of new legislation sets out the Government's response to the review of the 1990 Act, including the outcome of the feedback that was received.

The bill makes a number of important policy changes to improve the regulation of services in order to deliver better outcomes for customers.

At the end of the day it is about our customers. The key changes in the bill to the regulation of public passenger services include changes to the regulation of taxi networks and booking services. This will allow for the safe use of new app technologies so that customers have safer options to book a taxi.

There will be caps on taxi fare surcharges that will initially see the surcharge halved and capped at 5 per cent, saving taxi customers money when they pay by credit card.

The bill seeks to improve the administration of operator accreditation.

The bill introduces the concept of "close associates". This gives Roads and Maritime Services [RMS] the power to refuse an application for operator accreditation, or cancel an existing accreditation, where a close associate of the applicant previously held operator accreditation which had been cancelled because they were no longer a "fit and proper person".

This is designed to prevent an operator whose own accreditation has been cancelled from continuing to run their business using a front person.

The bill appropriately recognises community transport for the first time. It acknowledges the crucial role community transport providers play in providing much-needed transport to the most vulnerable in the community.

Every single member would appreciate the great work done by community transport and yet until now community transport was not recognised in the Passenger Transport Act.

The bill introduces and makes changes to service procurement to facilitate better overall service outcomes for customers rather than concentrating on mode-specific regulation for buses, trains and ferries. It allows for contracts with light rail and other new service modes.

This reflects the need for us to think about transport in an integrated way and shows the old Act, which did not even mention light rail, to be completely outdated.

In addition, the bill strengthens the existing regulatory frameworks for air transport services and the safety and competency regimes for the delivery of public passenger services generally. It also simplifies and streamlines the Act and removes outdated restrictions and red tape, which have hampered the ability of government and transport providers for so long to provide delivery of an integrated network and promote innovative ways to improve the customer experience.

There is no doubt that the new legislation is more customer focused. In place of the narrowly focused mode-specific approach of the 1990 Passenger Transport Act, this bill seeks to match the Government's new vision for transport by placing the customer at the centre of policy and decision-making.

The objects in the bill aim to facilitate the delivery of safe, reliable, efficient and integrated services that respond to customer needs. The bill is not structured around individual transport modes. It creates flexibility to accommodate new service models that emerge in response to customer demands and that will encourage greater innovation.

The Government's Long Term Transport Master Plan, released in 2012 following extensive community consultation, highlighted the need to look at public transport not in terms of modes but in terms of an integrated network where all modes work together. The bill formalises this approach, which is industry best practice around the world.

As I have stated, the bill ensures changes to taxi network and booking services and supports fare surcharge regulation.

There is no doubt taxis play an important role in the transport network. In April the Government announced a number of initiatives to make taxi services safer, more accessible and more affordable. This bill allows us to implement key policy announcements, including halving the typical surcharge on taxi fares paid by credit and debit cards from 10 per cent to 5 per cent, which will save customers \$2.50 on a \$50 fare. This is a real win for customers.

For the first time, the bill provides for the use of innovative new smartphone taxi booking apps to improve customer choice and convenience.

Taxi customers have told us that they want more reliable taxis, particularly in peak periods, and part of increasing reliability means giving customers more power in the booking process. Taxi apps are a convenient way for customers to connect directly with a driver, but are not currently acknowledged by outdated transport laws.

The bill modernises the Act by bringing these services into the regulatory framework. Under the bill taxi booking services, whether provided by the current network booking apps or other new market entrants, will be able to provide booking and related services to taxi customers.

To safeguard customers, taxi booking services will need to be accredited and meet the full range of customer service, privacy and safety standards that apply to existing booking services provided by taxi networks. They will also need to ensure that a taxi used to provide a service is licensed and that the driver is authorised.

Consistent with current practice, the bill makes it clear that Roads and Maritime Services may provide information about the currency of a taxi licence or a driver authority to booking service providers so that they can perform this important function. This puts beyond doubt the ability of RMS to provide this information, consistent with the requirements of privacy laws.

Taxi networks will continue to require accreditation, or "authorisation" as it is currently known, and networks will no longer be required to offer a booking service, but will be free to do so if they choose. Taxi operators will still need to be linked to a network, ensuring that important customer and driver safety services continue to be provided. However, there is no requirement for an operator to be part of a booking service nor are there limitations on the number of booking services to which an operator may belong.

However, for wheelchair-accessible taxis, regulations can be made making it a condition of a taxi licence or operator accreditation for the taxi to be linked to any centralised booking service that has coverage of the taxi's licensed area of operation.

These changes to the regulation of taxi networks and booking services will support innovation and competition in both markets.

Bringing new booking services into the regulatory framework provides regulatory certainty for taxi booking service providers and a level playing field for all industry participants. It will also mean that when using new, convenient booking technologies that are rising in popularity, customers can be sure that they are booking a licensed taxi, with an authorised driver who has been through the appropriate background checks and training. This will benefit customers and, at the same time, promote a taxi industry that is focused on better ways of providing services, helping to ensure its ongoing viability and sustainability in an increasingly competitive environment.

Developments in recent years have shown that where an industry is not delivering what customers want, others will innovate to meet unmet demand. The taxi industry has been working with the Government to ensure that it provides feedback on this important process and the additional flexibility that this bill provides will assist it.

While the bill establishes the necessary framework for regulating networks and booking services, the detailed requirements that give the Act practical effect are established by the regulations. All the existing performance obligations and safety requirements will be maintained, with accountabilities assigned, as appropriate, to networks and booking services. There will be extensive ongoing consultation with industry and other stakeholders in making the new regulations that will support the new Act.

As the bill means that new standards for taxi services, including networks and booking services, will be made under regulation, the outcome of this process will be subject to parliamentary oversight, providing an appropriate level of assurance to both industry and the community that the new regulations get the balance right and are in the public interest. The Government encourages innovation and competition, and the bill provides for new taxi booking services to be recognised and to operate services subject to meeting safety standards.

Other new services are emerging in the market, such as ridesharing services. Transport for NSW is currently considering how these new services could be addressed. The bill will allow the Government to respond to the current investigations through regulation, although it does not deal with that specific issue.

The level of regulation government considers appropriate for rideshare services and whether third parties should be captured under the Act are substantial issues that the Government believes need to be worked through, including in consultation with industry and the community.

As I said, I am very pleased that for the first time community transport will receive the recognition that it deserves. This bill proposes a major and important change to recognise the important role that community transport plays in this State.

The Liberal and Nationals Government has increased funding for the Community Transport Program by \$12 million over four years, demonstrating its commitment to these valuable services. As all members would be aware, community transport provides vital access to essential services, such as getting to the shops or attending doctors' appointments, for transport-disadvantaged members of our community.

The demand for these services is likely to grow as the proportion of the population aged 65 and over continues to grow. This shift in demographics means the community transport sector needs to be supported so that it can respond to future increases in demand.

Changes as a result of reforms at the Federal level also mean that community transport needs to be able to position itself for the future. By defining community transport services that operate under a transport agreement with Transport for NSW as a public passenger service, the bill brings community transport into the operator accreditation framework.

This will ensure that there are consistent and appropriate safety standards for services used by some of the most vulnerable members of our community. Having operator accreditation will also allow these services to diversify and grow their businesses. I thank the community transport organisations and the peak body in particular for the feedback that they have offered the Government in this process.

Drivers of community transport buses will also need driver authorisation under the new Act, although drivers for community transport services that use cars will continue to be covered by the Community Transport Driver Safety Framework, which is administered through the agreements between community transport operators and Transport for NSW.

While the bill covers only community transport services that operate under an agreement with Transport for NSW, we recognise that the Australian Government is considering changes to funding arrangements. The regulations will be able to accommodate any such changes. The proposal has broad support from the community transport sector. I again thank those involved for their ongoing feedback and consultation, and we will continue that dialogue.

The Government has also set aside funds to assist smaller organisations with transition costs. Regulations will need to be made to give effect to arrangements for community transport operator accreditation and authorisation for community transport bus drivers will be the subject of consultation prior to commencement of the relevant provisions. The Government recognises that community transport operators will need time to get ready for the changes. Therefore, the timing for commencement will also be a matter for consideration.

As I foreshadowed, the bill will also ensure changes to service procurement to facilitate better service standards for our customers. The Passenger Transport Act contract provisions are overly complex and prescriptive. At the same time, they focus on individual modes of delivery such as buses, trains and ferries, rather than on achieving service outcomes for customers. Some services, like light rail, are not even covered because the bill has not been reviewed since 1990. The bill introduces a streamlined service contracting framework and replaces 31 provisions dealing with bus, ferry and rail contracts in the 1990 Act with just five for all types of public passenger services.

The bill establishes the necessary authority for Transport for NSW to enter into contracts for public passenger services regardless of the mode of delivery or the service model. As now, this will allow Transport for NSW to procure traditional services such as

bus, train and ferry services, but it will also allow it to contract for light rail as well as new service models as they emerge. By removing the narrow focus on transport modes and models of service delivery, the bill creates the flexibility required to provide more customer-focused services. This will allow the Government to contract for the mix of services that best meet customer needs and improve service integration.

The bill also confirms that a contract may give an operator of timetabled bus, ferry or train services exclusive rights to provide the services. As well as dealing with service contracts, the new service procurement provisions in the bill bring the air transport licensing regime from the 1964 Air Transport Act into the Passenger Transport Act.

It provides for Transport for NSW to issue commercial air transport operators with licences on routes declared by the Minister to be regulated and establishes a power for Transport for NSW to issue a temporary licence for a regulated route, where there has been a service failure—regrettably, this happened in recent months. This means a temporary licence can be more easily issued to communities left isolated due to unforeseen issues related to the airline that holds the licence.

The bill also abolishes the defunct State Aviation Working Group, which last met around six years ago, I understand. As has been the practice since then, there will continue to be direct consultation with industry and local government on intrastate aviation issues.

Many local councils have indicated that they prefer direct consultation on regional aviation issues affecting their communities—in recent months Transport for NSW has been dealing directly with regional communities through councils.

The bill makes a number of changes aimed at reducing red tape and improving the administration of the regulatory regime for passenger services. The legislation that regulates passenger transport is overly complex. Governing provisions are set out in four Acts—the Passenger Transport Act, the Air Transport Act, the Transport Administration Act and the Independent Pricing and Regulatory Tribunal Act.

This bill brings together provisions relevant to the regulation of public passenger services—including fares and concessions and the air licensing regime—into a single instrument. As well as cutting down on the volume of the legislation, the bill is structurally simpler, making it easier to navigate.

For example, provisions relating to the regulation of fares, concessions, subsidised travel schemes, and terms and conditions of travel have been located in a single part of the bill. Like the Independent Pricing and Regulatory Tribunal Act, under which the Premier may give the Independent Pricing and Regulatory Tribunal [IPART] powers to regulate prices by declaring a service to be a "government monopoly service", the bill allows the Minister for Transport to make referrals to IPART, giving it the task of determining or recommending maximum fares. These referrals must be made with the Premier's approval, as Minister responsible for the Independent Pricing and Regulatory Tribunal Act.

As is the case now, the Government intends for IPART to continue to determine maximum fares for buses, trains and ferries. In addition, the bill includes a number of measures aimed directly at making it easier for industry to do business, as well as to improve administrative efficiency.

The Passenger Transport Bill 2014 represents an important step forward in achieving improvements in the delivery of public transport in New South Wales and reflects the framework for a modern, integrated transport network. One reason we can deliver the services we deliver is that we recognised the need for reform when we came to government. This bill reflects reform initiatives we have taken and brings legislation in line with community attitudes to and customer needs for public transport.

This bill reflects the need for a simpler framework, which recognises innovations through technology whilst safeguarding and maintaining the interests of our customers. I know that every member of this place has an interest in issues raised in this bill as every member has an interest in ensuring that his or her constituents receive adequate customer service through improved public transport services as well as recognition of transport such as community transport, which to date has not received recognition.

Based on extensive consultation and important changes brought forward by this legislation, I commend the bill to the House.

**The Hon. PENNY SHARPE** [4.41 p.m.]: I lead for the Opposition in debate on the Passenger Transport Bill 2014. I state at the outset that the Opposition supports the bill. Unlike some of the things that the Government drops on us, this bill has been through quite a rigorous process. There was a discussion paper in 2012 and a range of stakeholders put in submissions—I understand more than 50 submissions were made. I have consulted widely with transport stakeholders and acknowledge that they are broadly supportive of what is going forward in the bill. The bill essentially is a simplification bill. Over the past 20 years or so the legislation has grown and people have added to it.

**The Hon. Dr Peter Phelps:** It grows like Topsy.

**The Hon. PENNY SHARPE:** Yes, it grows like Topsy and there comes a time when it is appropriate for the Government to look at ways to simplify the way in which we regulate passenger transport in New South Wales. The Government conducted a review of the passenger transport legislation in 2012 and this bill makes a number of changes. It changes the way taxi booking systems work by authorising many new technologies that allow customers to interact directly with drivers. Anyone who ever catches a taxi in this city would agree that having the ability to book a taxi using one's phone, knowing the location of the taxi and how long it will be before it arrives at the front door is a massive improvement on our previous system. Our regulation simply has not kept up with the technological changes that continue within this industry.

The bill regulates the taxi payment surcharges down to 5 per cent from the current 10 per cent. The Labor Government held an inquiry into the taxi industry that was chaired by the Hon. John Ajaka. The committee made a number of recommendations in an endeavour to improve taxi transportation within Sydney and beyond. One of the key factors in that inquiry was the unnecessary and unfair levy of 10 per cent that was imposed on people using Cabcharge. It is pleasing that the committee's recommendation has finally been adopted by the Government and the surcharge has been reduced to 5 per cent. We will watch with interest as that rolls out across the industry.

The Opposition is pleased that for the first time the bill recognises community transport. Community transport will be required to be accredited to the same level as other forms of passenger transport on a like-for-like basis. Community transport plays a vital role in our communities. For many people it is the connection to health and other services when it is not appropriate for them to use the public transport system. All members will have visited community transport providers and would be aware of the extremely important role played by them and their volunteers. However, I note that some of the volunteers are older than the people they transport. The Opposition was concerned that the new accreditation would force more costs onto community transport, but I am pleased the Government has indicated that smaller community transport providers will be given some financial assistance to acquire appropriate levels of accreditation. We will watch closely to ensure that smaller providers are able to move to the new system.

All the passenger transport modes will now be covered by five provisions rather than the current 31 provisions. The bill will give Roads and Maritime Services the power to deny licences to applicants of close associates who have been accredited but who had accreditation taken away due to them no longer being a fit and proper person. This loophole in the current legislation meant that people who had their licences withdrawn were able to set up shop with someone close to them. This bill will close that loophole.

The bill replaces the Air Transport Act and includes a number of changes. The Standing Committee on State Development is currently holding an inquiry into regional aviation services. Significant issues have been identified. Earlier this year Moree was pretty much cut off from its air services because of the collapse of a company that had been awarded the tender. It became clear through the process that there were significant difficulties with the department being able to respond to provide the service while it was working through the issues. This bill cleans it up and is a step towards air transport regulation. Hopefully it means that regional areas will not suffer the same difficulties of losing vital air services, cutting them off from medical services and so on.

Finally, I note that for the moment the Government is parking the issue of rideshare. The Minister has made a commitment to try to look at regulation in the area of rideshare. Members may be aware that rideshare is a growing phenomenon across the world. It can be looked at in two ways. Some of our more conservative friends look at it as a way of deregulating the industry. Others look at it as a way of putting it in the collaborative consumption space so that we can better utilise our existing assets and cars on the road to increase carpooling, which will eventually mean fewer cars on the road. However, significant issues have been raised by the taxi industry and others about organisations such as Uber. I believe many of those can be overcome and we will look closely at how the Government moves in this space through the regulation process.

A number of issues have been raised about rideshare, some of which are worthy and should be considered. The first relates to the insurance arrangements if something goes wrong. It is all very well to be sharing a car, but if an accident occurs it is important to ensure that everything is covered. That is one question that remains unanswered. There are some claims and counterclaims around security. We need to acknowledge that some of the ridesharing applications work in a way that I would argue are as safe as the current system. That includes knowing the names of drivers, having a credit card linked directly to them with no cash changing hands, being able to track the course of the journey, how much it cost and having a receipt for the trip.

There are questions that need to be resolved when it comes to accreditation of the drivers in the first place. We do not want unacceptable people driving around offering lifts. We want to ensure that every trip is a safe trip and that people have the right accreditation. Jurisdictions across the world are currently working through this—I state again that we are not alone. We need to come to terms with changing technology and the way in which people want to use these services. We must ensure that it is fair, safe and that it works.

In conclusion, The Greens have put forward a range of amendments to the bill that we have only just seen. At this stage I am not inclined to support the amendments but I will listen closely to the debate during the Committee stage. I believe The Greens have some views around whether this is some sort of backdoor way for the Government to not refer fair pricing to the Independent Pricing and Regulatory Tribunal. I do not believe

that is the case and I am not convinced so far by that argument. I will listen closely to the Committee debate on the amendments and will decide as we go through, given that I have only been given about five minutes notice of them. This is a fairly straightforward bill. There has been considerable consultation in the community. Labor is happy to support the bill.

**Dr MEHREEN FARUQI** [4.49 p.m.]: On behalf of The Greens I speak in debate on the Passenger Transport Bill 2014. The bill seeks to combine the Passenger Transport Act 1990 and the Air Transport Act 1964 into one Act. While the clarification of legislation, especially if it is to be made more accessible, should be lauded, we should always be mindful that useful and important provisions are not lost in the process. It will surprise no-one here that The Greens are passionate advocates of public transport that is accessible, affordable and effective. It is deeply concerning that only a quarter of Sydney workers use public transport to get to work each day. This is not because Australians want to be "Kings in their own cars", as Prime Minister Tony Abbott would have us believe, but because we have failed to extend effective and efficient public transport options—especially to Western Sydney—through decades of underinvestment.

Scrutinising all 112 pages of the bill has been a big task. There are several key features of the bill. The first relates to the taxi industry, which I know a thing or two about. My husband's first job when we moved to Sydney was as a taxidriver. We know firsthand the exploitation that many drivers face through terrible working conditions, including wages that are often lower than the minimum wage. For the first time the bill will regulate taxi booking apps, allowing consumers to connect directly with registered drivers. This seems to be a sensible move, given taxi booking applications have been operating since at least 2011. Taxidriviers have expressed concern about the potential of these apps to undermine their incomes. Government needs to clearly explain how this regulation will apply to the industry and to drivers.

Another feature of the bill is regulation of the credit card surcharge. The new legislation allows the Government to issue a fares order to specify the maximum amount a taxi operator can charge as a surcharge. The Government has indicated that the maximum surcharge will be 5 per cent. This is a sensible move, given recent predictions from the Australian Payments Clearing Association that the cash component of society's spending will drop to just over 40 per cent, with electronic payments forming a large part of the balance. Even 5 per cent seems high, given the cost of processing credit cards falls somewhere between 1 per cent and 3.5 per cent. As the Hon. Penny Sharpe stated, this bill does not address the growing phenomenon of ridesharing. Whether one is for it or against it, continuing to have it operate in a grey area is problematic.

Another part of the bill is the recognition of community transport. In my travels around the State and as a part-time resident of Port Macquarie I know how valuable community transport is in regional areas where there are almost no public transport options. Transport encompasses issues of both mobility and access. While governments tend to focus on infrastructure there is a distinct social aspect to transport that is often overlooked. Lack of access to efficient transport networks can hinder access to suitable employment opportunities or to essential health services. Community transport can be a response to this, given government reluctance to invest in public transport in these areas. Community transport is a growing and essential part of providing transport to groups such as the elderly, but can be utilised to provide public transport solutions for other groups. It is good that the bill will look into this.

This bill empowers Transport for NSW to issue a temporary licence for a regulated air route when there has been a service failure. It is important that this power is only temporary to ensure that the best operator is selected going forward. I note the grounding and collapse of Brindabella Airlines late last year, which affected air transport options for people in Cobar, Moree, Mudgee and Narrabri. Another part of the bill is what the Government has described as red tape reduction. I must admit that when the Government talks about "red tape reduction" I become a little nervous as it is almost always an exercise in cost cutting and removing protections for our communities and our environment.

**The Hon. Duncan Gay:** What about green tape?

**Dr MEHREEN FARUQI:** I note that interjection. I am worried about green tape as well. The Government has taken 31 provisions around contracting and replaced them with just five. Privatisation of public assets and services is a threat to our public transport system. The Government has already privatised our ferry service and will build a privatised single-deck unintegrated North West Rail Link and a publicly built privately run light rail system all under the existing Passenger Transport Act 1990. Unfortunately, this bill will do nothing to reverse a trend that started with the former Labor Government and has accelerated under the Coalition. I appreciate that the Minister's office has been liaising with The Greens to try to clarify some of the complex aspects of the bill.

Based on our analysis there are several areas in this bill that The Greens are concerned about, including the new provisions that relate to fare pricing and the role of the Independent Pricing and Regulatory Tribunal [IPART] in determining maximum fares. As I understand it the consequence of these changes will result in removing government transport agencies from schedule 1 to the Independent Pricing and Regulatory Tribunal Act, which requires it to conduct investigations and make reports to the Minister on the determination of pricing, without the Minister having to refer it to IPART. The removal of transport agencies as standing reference government monopoly services from schedule 1 weakens conditions for proper independent scrutiny of fare pricing in government-run services.

I note that under the Passenger Transport Act 1990 operators of service contracts for regular bus services were also subject to IPART's investigations and reports on maximum fares and fare pricing policies. The bill effectively removes the mandated review of bus fares. Ecologically sustainable development [ESD] should be at the heart of transport planning and administration but this bill makes little effort to incorporate or acknowledge the importance of ESD. This continues the pattern established in planning legislation. The Greens believe ESD must remain at the front of our minds when Parliament decides legislation.

The current Act stipulates the length of contracts to be no more than eight years for ferry, bus and train services. The bill states that the length of the contract is to be determined during negotiations. How can we allow the potential of an open-ended contract for a private operator, especially when we know that the North West Rail Link will have to be reverted back to a double-deck system when wiser heads prevail? I know this is a complex piece of legislation but it is an important bill that might have unintended consequences against public interest. Whilst The Greens support aspects of this bill, we will move amendments during the Committee stage to ensure there is no confusion in how the bill could be interpreted or implemented.

I will foreshadow those amendments. The Greens want to ensure RailCorp, State Transit and Sydney Ferries remain in schedule 1 to the Independent Pricing and Regulatory Tribunal Act and have inserted into schedule 1 as the current rail operators in New South Wales Sydney Trains and NSW Trains. That means maximum fares and fare pricing policies continue to be mandatorily reviewed. The Greens will require the Minister to refer privately operated ferry, bus and rail services under passenger service contracts for review via IPART in the same way that government-run services are. The Greens want to ensure ecologically sustainable development continues to be a mandatory consideration of IPART in determining maximum fares and fare pricing policies and that the new legislation continues to imply a term into passenger service contracts that the private operators will not set a fare above the maximum determined by IPART. Finally, we want to ensure that eight-year contract term limits for passenger service contracts remain in place.

**The Hon. PAUL GREEN** [4.57 p.m.]: I will speak briefly in debate on the Passenger Transport Bill 2014 which simplifies and modernises the objectives of the Passenger Transport Act 1990, promoting greater integration and flexibility to better meet customer needs and respond to changes, including those driven by technology. It repeals and replaces the Passenger Transport Act 1990 and the Air Transport Act 1964. The current New South Wales passenger transport laws are outdated, overly complex and focused on the regulation of specific transport modes rather than an integrated network and achieving positive outcomes for all customers.

The current Act is so outdated it does not cover transport modes such as light rail or community transport, which is likely to grow due to the ageing population. The purpose of this bill is to ensure the legislative framework for providing passenger transport services supports the vision for customer-focused, integrated, safe and efficient transport services for New South Wales. This bill reduces red tape for transport operators. As I have repeatedly stated, the Christian Democratic Party is not a fan of red tape and it is constantly on the lookout for ways to improve efficiency and alleviate unnecessary burdens on business. The Government commenced the first comprehensive review of the Passenger Transport Act 1990 in 2012. Now, 24 years later, this bill is the outcome of that process, which involved extensive consultation with industry and other stakeholders.

The bill addresses key areas of change. It allows customers to book a taxi using innovative apps and taxi fare surcharges will be reduced. An ongoing issue for taxi customers is service reliability, particularly in peak periods. Part of increasing reliability is providing more booking choice and encouraging innovation by service providers. Technology is rapidly advancing and legislation like this is required to keep pace. The bill also reduces the typical taxi surcharge on card payments, from 10 per cent to 5 per cent. This bill also opens up the taxi booking market to allow customers to choose from a range of booking methods, including apps that connect them directly with a driver. This surcharge change will save customers about \$2.50 on a \$50 fare when paying by card.

The bill brings taxi booking apps into the regulatory framework and safeguards customers by ensuring that the apps meet safety standards, including guaranteeing that drivers providing services booked using an app hold a current drivers authority and that the vehicle is a licensed taxi. All the existing performance obligations and safety requirements for taxis have been maintained with the accountabilities assigned as appropriate to the network and the booking service.

This bill also recognises community transport services, and that is fantastic. It defines a "community transport service" as a public passenger service and therefore brings community transport into the operator accreditation framework. It also introduces appropriate operator and driver competency schemes to ensure consistent and appropriate safety standards for customers. The community transport services in the Shoalhaven are a fantastic part of our integrated transport services. When people cannot get from A to B they can rely on community transport services. Shoalhaven City Council was trying to provide subsidies to assist people who could not afford to use a taxi or some other user-pays service. This is a transport service they can rely on and it is often operated by volunteers.

That service makes a world of difference to many people and it is an important part of an integrated transport service. It is great to see that the Government acknowledges its role. The Christian Democratic Party understands that this proposal has broad support in the community transport sector. Further consultation with the sector, including about the timing of the commencement, will occur prior to the change. We hope that the Government will work closely with all operators on the implementation to ensure a smooth transition. We also hope that volunteer drivers are not overregulated to the extent that they cannot provide a service. The Government should be careful not to make it impossible for volunteers to help out.

The Christian Democratic Party welcomes moves by the Government to provide funding to the sector to meet the cost of accreditation for small organisations. There is no doubt that small community transport organisations have limited budgets; they run on the smell of an oily rag. It is great to see the Government's acknowledgement that it will help those small organisations to cover the costs of accreditation so that they can continue to provide a wonderful service. The recognition of community transport for the first time is crucial for this sector, which provides vital transport services, particularly to the disadvantaged and the vulnerable. Intrastate air services are also covered by this bill. Consistent with the removal of red tape to improve the regulatory regime, the bill proposes that the Air Transport Act be repealed and relevant provisions relating to exclusive licences moved to the Passenger Transport Act. At the risk of being repetitive, the Christian Democratic Party is proud to support this reduction in red tape. I said at a recent hearing inquiring into regional aviation services:

... that the New South Wales Government has an interest in increasing tourism by seven per cent by 2020. [There is] the importance of regional air in that. Sydney Airport is the gateway and it has to continue out to the regions. That is a very good point if we are going to reach the targets the Government has set.

I also heard at the Moree hearings about the effects of the \$200,000 Brindabella loss. Councils must have a large enough ratepayer base to maintain roads and other services let alone an airport. I cannot stress enough the importance of having an efficient and reliable air service; having such a service is not a luxury but a necessity. Someone might need chemotherapy or a need to attend other medical treatments and appointments in Sydney. It is difficult to reschedule appointments; they either get to the appointment or it falls off the radar for a month or more. It is very disappointing if people cannot access air services to get to their appointments.

I was the chairman of the Linear Accelerator Fundraising Appeal and I know that many people in the Shoalhaven area tailored their radiotherapy treatment to deal with the distance they had to travel to get treatment and the impact of that travel. Thankfully, we now have a cancer centre in the Shoalhaven, but many people must still travel from the south to receive that life-saving treatment. Sydney has trains, planes, automobiles, trams, buses, taxis and ferries. In the bush we are lucky to have a train or plane to travel to medical help. Why does the Government not provide a CountryLink in the sky for people needing to travel for health- and business-related reasons? That was a slight digression, but it is very important.

The bill also gives greater flexibility to respond to service failures and disruptions. It provides Transport for NSW with the power to issue a temporary licence for a regulated route where there has been a service failure and another commercial operator is interested in and ready to fly the route. This means a temporary licence can be issued more easily to communities left isolated due to unforeseen issues experienced by the airline that holds the licence. There is no doubt that regional New South Wales needs this sort of flexibility if people are to relocate from the city to the country. They need the assurance that they can access first-class medical services.

The bill covers the provision of transport services. It reduces red tape and simplifies this area. It replaces 31 provisions dealing with mode-specific contracts with just five provisions covering all types of passenger services. Light rail will be covered for the first time. This change provides flexibility for the Government to contract for services that best meet customer needs regardless of the mode or model of service delivery. I understand the Government intends that the Independent Pricing and Regulatory Tribunal will continue to determine maximum fares for buses, trains and ferries.

The bill also provides new powers for close associates. This gives Roads and Maritime Services the power to refuse an application for operator accreditation to provide a transport service, such as a taxi operator or bus operator, or to cancel an existing accreditation where a close associate of the applicant previously held operator accreditation that had been cancelled because he or she was no longer a fit and proper person. This is designed to prevent operators whose accreditation has been cancelled from being able to continue to run their business behind someone else; that is, a frontman or frontwoman.

The revision of the 1990 Act has been some time coming, but the provisions in this bill will be a fantastic improvement. We will see the fruits of the Government's continued customer focus. Roads and Maritime Services has made a particular effort to be customer focused; it is focusing on how it can improve our daily lives with regard to transport. I have noticed a real improvement in even the local branches of the RMS. That is a good approach. Never mind making it safe and secure or all the other things that come with quality of service. I commend the Government for its efforts. There is no doubt that there is a little way to go, but the Christian Democratic Party commends this bill to the House.

**The Hon. MARIE FICARRA** (Parliamentary Secretary) [5.09 p.m.]: The Passenger Transport Bill 2014 is the result of the first comprehensive review of passenger transport legislation in the past 24 years. As the Hon. Paul Green has indicated, it is long overdue. As we all know, much has changed in the manner in which public transport is delivered and this has naturally increased customer expectations. This bill facilitates processes of government service delivery driven chiefly, as indicated by the Hon. Paul Green, by customer-based needs. This Liberal-Nationals Government believes the delivery of safe, reliable, efficient and integrated services has been and should continually be based on comprehensive consultation with industry and community organisations.

It is not based on individual transport modes such as train, bus and ferry services, as the current Act enabled in 1990. Rather this bill has the flexibility to accommodate and integrate new service models that emerge in response to innovation and customer demands. The bill establishes the necessary authority for Transport for NSW to enter into contracts for public passenger services, regardless of the mode of delivery or the service model. For instance, the bill incorporates consideration of contracts and other issues involving the delivery of light rail for the first time. Community transport, vital to so many in our communities and often the most vulnerable, is also legislated for the first time under public passenger transport. Community transport has been lobbying for this for many years. Thankfully the current Government has listened.

The Liberal-Nationals transport master plan, released in 2012, incorporated a discussion paper by Transport for NSW which led to further targeted consultations that we believe will result in better outcomes for our customers and a focus on global industry best practices that are reflected in the bill before us. As Minister Gladys Berejiklian has repeatedly emphasised since becoming responsible for public transport, following the 2011 election and 16 years of Labor stagnation, customers will be at the front and centre of policy and decision-making in New South Wales.

I believe a most important aspect of this bill is that after 24 years we finally acknowledge the contribution of community transport in New South Wales by regulating it as part of the public passenger transport sector. This is particularly relevant as we move towards the increased provision of transport support and the expanded National Disability Insurance Scheme [NDIS] model of care. It has taken this sector many years to achieve this through constant representations to successive State governments and transport Ministers. I am pleased that Minister Gladys Berejiklian has not just given them the time but also listened to them; she has consulted widely with various community service providers and their boards and chief executive officers. Importantly, the Minister has taken up their requests and incorporated them into this bill.

I was delighted to hear the positive feedback on this legislation and, in particular, on the process of consultation that has resulted in the bill we have before us. That public comment of support came from the chair of the Community Transport Organisation [CTO] Incorporated, Ms Bethany Simmonds, during a recent interview with Tim Webster on Radio 2UE, one of many I heard. The CTO aims to provide peak body

representation, services and activities for member community transport groups which serve to alleviate transport disadvantage in New South Wales. The organisation's website sums up the breadth of the organisation's outreach:

From suburban Sydney to remote rural communities across NSW, community transport groups are assisting people from many walks of life to continue living an independent life. Community transport groups provide non-profit passenger transport services that cater to the needs of frail, elderly people and their carers who cannot make use of existing private and mainstream public transport systems or where public transport services are not available. The service also caters to those temporarily unable to access the usual forms of transport, younger persons with moderate or severe disabilities and isolated residents living in rural areas who do not have access to public transport.

I will also quote a short section from a letter I received from the executive officer of Community Transport Organisation Incorporated, Ms Sonya Philips, in response to my inquiry regarding aspects of this bill before the House. If the Opposition wants me to, I can table this letter. I believe this letter sums up the enthusiasm for this legislation of the people who matter—those who are responsible for the delivery of services:

It is with great enthusiasm that I write in regard to the passage of the above Bill through the NSW Parliament, and the Community Transport Organisation [CTO] commends Minister Berejiklian on the proposed changes.

CTO of New South Wales currently has 128 members who employ 1157 people and engage 3597 volunteers who combined, serve a client base of more than 107,381 people. Our last statistical data revealed that 2,100,000 trips were undertaken by our member community transport [CT] providers in 2012 – 2013.

As a Peak Body the CTO has worked for many years towards recognition in the Act and the fact that the bill now reads that "A community transport service is also a public passenger service for the purposes of this Act" reassures the sector that the effort has been worthwhile. We also note that the proposed Act indicates "Note. A community transport service that uses buses is also a bus service." This means that for the first time Community Transport which is the enabling transport will operate on a level playing field.

The purpose of this correspondence therefore is to seek your support in passing this bill into law without amendment in recognition of the community of NSW, indeed your community and their needs.

This is an overwhelming endorsement of the consultation process. The community transport sector finally has a Minister with whom it can work constructively. Importantly, this bill acknowledges the public's need and right to have access to community transport. It also means that with community transport coming under this legislative umbrella there is no longer a class distinction between regulated and unregulated public transport modes. Community transport is a public transport mode and should have been regulated and fully supported many years ago. It has taken a responsive Liberal-Nationals Government to make it happen. We have increased funding to this sector by \$12 million over four years, demonstrating a commitment to these valuable services.

All members of this Parliament—indeed, all representatives in all three levels of government—understand the value of this vital transport service, which is run mainly by volunteers. Whether it be for getting to medical appointments or doing shopping for the elderly and those with disabilities, there are many transport-disadvantaged people in our community for one reason or another. With ageing baby-boomers demand will always be on an upward trajectory. Without transport we know how difficult it is to do anything. We are all dependent on reliable methods to get around in our daily lives, no matter what age we are. This ability enables individuals to feel included in their community as their quality of life is enhanced by their feelings of independence and being active. This Government, especially Minister Berejiklian in close cooperation with the Minister for Roads and Freight, the Hon. Duncan Gay, understands serving community needs.

I am passionate about community transport having spent many years facilitating the operation of community transport within the St George area. I know only too well what it is like to devise timetables, recruit and train volunteers and make sure the operations run smoothly and according to best practice. Community transport runs on the smell of an oily rag and services some of the most vulnerable. They are what are called the salt of the earth. In a past life when I was president of the Georges River Community Service based in Mortdale we serviced part of the St George region. It is now known as Mortdale Community Services. I understand and remember only too well how much we relied on the goodness of volunteers, their professionalism and their dedication. I am very honoured to be a life member and I commend all community transport volunteers throughout the State.

There are many more positive aspects of the bill but I believe they have been adequately dealt with by previous speakers in the debate. In conclusion, I believe the bill will remove the narrow focus on transport modes and models of service delivery that has existed in the past. The bill creates the much-needed flexibility required to provide more customer-focused services, allowing the Liberal-Nationals Government to contract for

a mix of services that best meet customer needs and improve service integration. The simplified framework recognises innovations through technology whilst still, importantly, safeguarding the interests of our customers. I commend the bill to the House.

**The Hon. MICK VEITCH** [5.20 p.m.]: I make a brief contribution to debate on the Passenger Transport Bill 2014. As the Hon. Penny Sharpe, who leads for the Opposition on this bill, has said, we will be supporting the bill. My contribution essentially will relate to air transport services and I will speak predominantly about information, which the Hon. Paul Green alluded to, provided to the current inquiry of the Standing Committee on State Development into regional aviation services. That committee is chaired by the Hon. Rick Colless and the Hon. Paul Green, the Hon. Catherine Cusack and I are members of that committee.

When we were in Moree the committee heard about the difficulty in getting a temporary air service into Moree when Brindabella ceased operating. It became evident to me that there had to be a legislative change to make it easier for the government of the day to get an air service into a regional community in order to deliver services in relation to health and the judiciary as well as a passenger service for business and other users. This bill goes a long way towards rectifying what was obviously a problem in the case of Moree. When someone does a good job he or she should be commended, and—I may be pre-empting one of the recommendations of the committee—I commend the Minister for trying to ensure this does not happen again. It is a good and positive move for regional communities that this bill provides that when air services, for whatever reason, fall over, the government of the day can get some sort of temporary measure in place. I note that the bill covers that issue extensively in part 1, which relates to air services, and also in clause 53 on page 20 of the bill, which relates to temporary air route licences.

The issues the committee heard about in Moree, in particular, and in Cobar were quite compelling. Mayor Lillian Brady made very clear to us all the impact on the Cobar community of no longer having an air service—I will not repeat what she said to the members of the committee over a cup of tea. Mayor Humphries in Moree also made it very clear to the committee—maybe not in terms as colourful as those used by Mayor Brady—the significant impact on the Moree community of not having an air service. The State Government has a role in ensuring this does not happen again. This bill goes some way towards fixing the problem and I commend the Minister for it. I am looking forward to completing the report with the other members of the committee. It is a good standing committee and the air services inquiry has been fascinating, to say the least. There are a number of issues that need to be fixed, but air services to regional New South Wales are critical and it is a significant problem that needs addressing immediately. I support the bill.

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [5.24 p.m.], in reply: I thank all members for their contributions to debate on the Passenger Transport Bill 2014. I thank the Opposition shadow Minister, the Hon. Penny Sharpe, for her contribution, particularly in relation to ridesharing, and for her positive attitude. I pay tribute to the Opposition for working with us on something like this. It is always refreshing to the community to see the Government and the Opposition sharing a view. I pay tribute to the Hon. John Ajaka because he told me I should and because it is also true: In a previous life he was the Parliamentary Secretary who started the initial dialogue in this area on behalf of Minister Berejiklian.

I thank the Hon. Marie Ficarra for her positive words on community transport. I also thank the Hon. Paul Green for his positive words on Roads and Maritime Services. It is the people who work in these agencies that make a difference. From day one the two Ministers in the transport sector—Minister Berejiklian and I—have worked on the restructure to make customers the key focus. We could not do that without great staff, and they absolutely pin their ears back to deliver terrific improvements. The Hon. Mick Veitch and the Hon. Paul Green both mentioned regional airlines. I thank them for their comments, which were positive and insightful and summed up the problem in regional New South Wales.

It is a problem I share. As members know, on many occasions I have spoken with passion about regional airlines and how important they are for keeping communities alive but, on the other hand, how important it is that we do not rush in and allow anyone to try to defy gravity and cart people around the State because, as members know, I lost three cousins in the Monarch air crash, which has just passed its twentieth anniversary. It seems like yesterday when that regional plane came down. The positive comments of the Hon. Mick Veitch, who is also a shadow Minister, speak heaps about him as well and we appreciate them.

The comments of Dr Mehreen Faruqi generally in support of the bill were appreciated. Her amendments are troublesome in that we received them late and we have not had a lot of time to work on them.

They are, in large degree, asking for an extra reference to the Independent Pricing and Regulatory Tribunal [IPART] to be inserted into a bill that already has liberal references to IPART. In fact, the maximum fares remain to be decided by IPART. The Minister has not gone to the issue of maximum fares. The IPART recommendation for a maximum fare was above the consumer price index; the Minister came in with a maximum fare that was below the consumer price index. The amendments appear to go too far and the Government will oppose them because in many regards they are adding an unnecessary layer to something that is already covered. Dr Mehreen Faruqi said that she praised the fact that we were getting rid of red tape but, I am sure for all the best reasons, in these amendments she is accidentally putting red tape back into this bill.

We also have a problem seeing a place for ecologically sustainable development [ESD] in a bill that is basically about share revenue and being able to apply the triple bottom line. I am surprised that Parliamentary Counsel drafted an amendment in relation to ESD. Frankly, it is probably outside the leave of the bill. The overview of the bill states:

The objects of the bill are to provide for the following matters:

- (a) the accreditation of operators of public passenger services,
- (b) the authorisation of drivers of businesses, taxis and hire cars used for public passenger services,
- (c) passenger service contracts relating to public passenger services between Transport for NSW and operators of those services,
- (d) licences for the provision of air transport services for regulated air routes,
- (e) the accreditation of operators of taxi networks and taxi booking services,
- (f) licences for taxis and hire cars ...

Members can understand the point I am making. Ecologically sustainable development [ESD] should not be applied to this bill. Earlier I made a throwaway comment about the need to be careful about green tape. Frankly, putting ESD into this would mean meaningless green tape. I thank members for their contributions, and 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**

**The CHAIR (The Hon. Jennifer Gardiner):** If there is no objection, the Committee will deal with the bill as a whole.

**Dr MEHREEN FARUQI [5.33 p.m.]:** I move The Greens amendment No. 1 on sheet C2014-077F:

No. 1 **Contract terms**

Page 16, clause 36 (5), line 17. Insert "(not exceeding 8 years)" after "term".

This amendment relates to contract terms. The old Act mandated contract term limits for passenger service contracts. I will correct the Leader of the House; I said I get nervous when the Government talks about removing red tape. This is one area where red tape is being removed. The new bill does not set any term limits; it is left to individual contractors to set term limits. The Greens amendment will reinstate the old term limit of eight years. Contracts for the operation of public transport services should be subject to periodic review. The Government should not allow open slather for contractors to take hold of public transport services without periodic renegotiation and ongoing scrutiny. This is in the best interests of our community, as well as public transport.

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [5.34 p.m.]: The Government opposes the amendment. The terms of contracts are best dealt with through the contracting process. The best length of contract may vary by service, including for new service

types in the future not yet envisaged. It can depend, for example, on the degree of investment in training and equipment required for that service. Hence, imposing that limit may act as a disadvantage. Therefore, it is undesirable to hardwire it into the statute.

**The Hon. PENNY SHARPE** [5.35 p.m.]: The Opposition does not support the amendment. Eight years is a fairly arbitrary matter. Contracts operating within transport need a degree of flexibility. I agree with the Government about long-term investments around capital. One can see that the Government might want to change that. It is important that these contracts are transparent and able to be examined. Frankly, if we are talking about such issues, a more major issue I would like to address is the way contracting is happening under this Government. In relation to this bill, Labor does not support the amendment.

**Question—That The Greens amendment No. 1 [C2014-077F] be agreed to—put and resolved in the negative.**

**The Greens amendment No. 1 [C2014-077F] negatived.**

**Dr MEHREEN FARUQI** [5.36 p.m.], by leave: I move The Greens amendments Nos 2, 4 and 9 in globo:

**No. 2 Pricing of contracted services**

Page 40, clause 123. Insert after line 22:

- (2) The Minister must refer rail, bus or ferry services provided by the operator of a rail passenger service, bus service or ferry service under a passenger service contract to IPART for determination of the following:
  - (a) appropriate maximum fares for regular rail passenger services, regular bus services or regular ferry services supplied under the contract,
  - (b) a periodic review of fare pricing policies for those services.

**No. 4 Pricing of contracted services**

Page 40, clause 123. Insert before line 36:

- (8) In this section:
 

*regular rail passenger service, regular bus service or regular ferry service* means a service that is conducted according to regular routes and timetables or according to regular routes and at regular intervals.

**No. 9 Pricing of contracted services**

Page 42, clause 125. Insert after line 5:

- (7) A passenger service contract referred to in section 123 (2) is taken to include a term to the effect that the contract holder must not charge a passenger of the service a fare that exceeds the amount of the fare determined for the service under a fares order.
- (8) or in equity as though the term were an essential term to which the parties had by contract agreed.

These amendments relate to the pricing of contracted services. The old Act stated that the Independent Pricing and Regulatory Tribunal [IPART] is to conduct investigations and make reports to the Minister on maximum fares and fare pricing policies for bus service contracts and that IPART is to do the same in relation to ferry services contracts. The new bill does not mandate any IPART involvement; it only depends on the referral of the Minister. The Greens are of the view that there is a difference between "IPART is to" and the "Minister intends to". It changes from mandatory to a question of whether the Minister, at his or her discretion, wants to make a referral.

The Greens amendments would require the Minister to refer these services to IPART for determination of maximum fares and fare pricing policies. In effect, this would go beyond the purview of the old Act in two ways: first, by applying to ferry service contracts and, secondly, by applying to heavy rail and light rail contracts that were not even considered by the old Act and that we know the Government intends to pursue in the future. The main reason for the amendments is that all operators of transport services under passenger service contracts should have their fare systems reviewed by an independent body. That the services are not government-operated makes little difference to commuters who will be paying the fares regardless.

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [5.38 p.m.]: The Government opposes these amendments, as it will oppose The Greens amendments Nos 2 to 4 and 6 to 11. The same principle for our objection applies to both groups of amendments. The existing Acts relating to fares are inconsistent across all modes and, quite frankly, are a mess. There are different provisions for different transport modes in different Acts.

This bill will, for the first time, ensure a more consistent approach to fare regulation across all modes. As is the case now, the Government intends for the Independent Pricing and Regulatory Tribunal [IPART] to continue to determine maximum fares for buses, trains and ferries. The Minister for Transport made that very clear in her second reading speech, as I have done in my reply. It is worth noting that in the past couple of years the Government has only increased fares in line with the consumer price index, and below the maximum recommended by the Independent Pricing and Regulatory Tribunal.

The bill was drafted in consultation with the Independent Pricing and Regulatory Tribunal. Had IPART wanted the changes suggested by Dr Mehreen Faruqi, they would have been included. Currently, maximum rail, bus and ferry fares are determined by IPART under multiple provisions in different Acts. The bill simply consolidates these fare-setting provisions and, as with the Independent Pricing and Regulatory Tribunal Act, the bill allows the Government to make referrals to IPART, giving the tribunal the task to determine or recommend maximum fares.

This process has been in place since 1992, that is, for more than two decades, when the Government Pricing Tribunal Act, as it was originally called, was enacted. This Government intends that the Independent Pricing and Regulatory Tribunal will continue to determine maximum fares for buses, trains and ferries. The bill also gives the Government the flexibility to ask IPART to determine maximum fares for new service types that may emerge in the future, which are not within this bill and would be restricted by these amendments.

The Passenger Transport Bill 2014 shifts away from the proscriptive mode-specific provisions. It is flexible enough to deal with new and emerging services that the Government may contract for, as well as traditional modes like buses, trains and ferries. By futureproofing the bill, we will encourage service innovation, promote better service integration and ensure that the focus is on delivering service outcomes that best meet customer needs. The problem with enshrining mode-specific provisions in legislation is demonstrated by the Passenger Transport Act 1990. There is no scope for the Independent Pricing and Regulatory Tribunal to determine maximum fares for new modes of transport contracted by this Government or a future government. Under this bill, however, the Government can in future refer new government services to IPART for a maximum fare determination.

**The Hon. PENNY SHARPE** [5.43 p.m.]: I have listened carefully to this debate and I tend to agree with the Government in relation to these amendments. The Minister has made it very clear that there is no intention to not refer pricing and fare determinations to the Independent Pricing and Regulatory Tribunal. I am convinced that the specificity as outlined by The Greens in relation to these amendments is unnecessary. We have talked about other matters that I would like to be referred to the Independent Pricing and Regulatory Tribunal, for example, the regulation of the access fee on the airport line. The bill as drafted is robust and will ensure that the Independent Pricing and Regulatory Tribunal will be making those determinations. It provides enough flexibility for the future in relation to the development of public transport. I am comfortable with the bill as drafted.

**Question—That The Greens amendments Nos 2, 4 and 9 [C2014-077F] be agreed to—put and resolved in the negative.**

**The Greens amendments Nos 2, 4 and 9 [C2014-077F] negatived.**

**Dr MEHREEN FARUQI** [5.47 p.m.], by leave: I move The Greens amendments Nos 3, 6, 7, 8, 10 and 11 on sheet C2014-077F, in globo:

**No. 3 Pricing of Government monopoly services**

Page 40, clause 123. Insert after line 35:

- (7) This section does not apply to a service if IPART is required to make a determination about the pricing of that service in the exercise of its powers under the *Independent Pricing and Regulatory Tribunal Act 1992* relating to a Government monopoly service.

**No. 6 Pricing of Government monopoly services**

Page 41, clause 125 (2), line 40. Insert "or under the *Independent Pricing and Regulatory Tribunal Act 1992*" after "this Part".

**No. 7 Pricing of Government monopoly services**

Page 41, clause 125 (2), line 41. Insert "or under the *Independent Pricing and Regulatory Tribunal Act 1992*" after "this Part".

**No. 8 Pricing of Government monopoly services**

Page 41, clause 125 (3), line 42. Insert "or under the *Independent Pricing and Regulatory Tribunal Act 1992*" after "this Part".

**No. 10 Pricing of Government monopoly services**

Page 42, clause 125 (8), line 8. Insert "(other than a service that is a Government monopoly service under the *Independent Pricing and Regulatory Tribunal Act 1992*)" after "public passenger service".

**No. 11 Pricing of Government monopoly services**

Page 85, schedule 4.5, lines 15 and 16. Omit all words on those lines. Insert instead:

Omit the matter relating to Sydney Ferries. Insert instead:

Sydney Ferries (but excluding any services provided by Sydney Ferries under a passenger service contract under the *Passenger Transport Act 2014*)

Sydney Trains

NSW Trains

These amendments refer to the pricing of government monopoly services. As I understand it, this bill attempts to remove RailCorp, State Transit and Sydney Ferries as standing reference agencies within schedule 1 to the Independent Pricing and Regulatory Tribunal Act. The effect is that the Independent Pricing and Regulatory Tribunal, rather than having to compulsorily and mandatorily conduct investigations and make reports to the Minister on fare pricing, will have to be referred by the Minister to set fares.

As I said in relation to the last amendments, I think there is a clear difference between "intending to" and "having to". The amendments of The Greens will retain these agencies, though slightly modifying the reference to Sydney Ferries to acknowledge that currently Sydney Ferries is provided through a passenger service contract. We also acknowledge that RailCorp, as at last year, does not currently operate rail in New South Wales but we do not believe that it should be simply omitted from the Independent Pricing and Regulatory Tribunal Act for that reason because things might change in the future. The amendments of The Greens also insert "Sydney Trains" and "NSW Trains" as the current operating authorities for rail in New South Wales. We seek to retain State Transit so bus fares continue to be compulsorily reviewed by the Independent Pricing and Regulatory Tribunal.

One of the main reasons for The Greens moving these amendments is that transport service fares should be overseen by an independent authority and it should not just be up to the discretion of the Minister to refer or not refer the setting of these fares by an independent authority. Transport for NSW should not have the sole charge of determining its own fares. Moreover, we need to challenge the Government's removal of the assumption that trains, buses and ferries are government-run services, which is essentially what the removal of schedule 1 from the Independent Pricing and Regulatory Tribunal Act does. The Minister could theoretically never refer train fares to the Independent Pricing and Regulatory Tribunal, and that could be one of the unintended consequences. We need to be clear in the drafting of legislation so that there are no grey areas.

**The Hon. PENNY SHARPE** [5.47 p.m.]: Labor remains unconvinced by the arguments of The Greens in relation to this matter. The Independent Pricing and Regulatory Tribunal will continue under this bill to set maximum fares across all modes, as is appropriate. I do not agree with The Greens. I think they have spent too long examining this bill closely and have looked for problems where they do not exist.

**Dr JOHN KAYE** [5.47 p.m.]: I support the amendments moved by Dr Mehreen Faruqi. My reading of section 11 of the Independent Pricing and Regulatory Tribunal Act is that the tribunal is required to conduct

investigations and make reports to the Minister on matters that are specified in schedule 1 to the Independent Pricing and Regulatory Tribunal Act. The bill before the Committee removes public transport providers from schedule 1. Proposed section 125 (2) states:

(2) TfNSW may not determine a fare that exceeds any maximum fare determined by IPART under this Part ...

If the Independent Pricing and Regulatory Tribunal has not determined a maximum fare Transport for NSW is free to set fares at whatever level it sees fit. This legislation removes the requirement that the Independent Pricing and Regulatory Tribunal set maximum fares on a periodic basis. In effect, we are handing over to Transport for NSW the setting of fares, which has all sorts of consequences when a government agency is setting prices for other government undertakings that are not regulated by an independent pricing tribunal.

The Minister correctly referred to the establishment of the Government's Independent Pricing and Regulatory Tribunal [IPART] under the chairmanship of Associate Professor Tom Parry. Indeed, it was established by the previous Coalition Government and was one of the few things that I strongly supported of that Government. It was sensible to have the tribunal make these pricing decisions because there is an inherent conflict of interest when they are made by a government entity, as pricing decisions affect government revenue. This bill, without the amendments by Dr Mehreen Faruqi, will return New South Wales to the days before IPART, prior to 1992, and the days of independent price setting. It is of grave concern that the Government is creating an opportunity for it to set fares for transport agencies without the oversight of IPART and maximum fares being set by that tribunal. I commend the amendments to the Committee.

**Question—That The Greens amendments Nos 3, 6, 7, 8, 10 and 11 [C2014-077F] be agreed to—put.**

**The Committee divided.**

**Ayes, 5**

Mr Buckingham  
Dr Faruqi  
Mr Shoebridge  
*Tellers,*  
Ms Barham  
Dr Kaye

**Noes, 31**

|             |                    |                 |
|-------------|--------------------|-----------------|
| Mr Ajaka    | Mr Khan            | Mr Secord       |
| Mr Blair    | Mr Lynn            | Ms Sharpe       |
| Mr Borsak   | Mr MacDonald       | Mr Veitch       |
| Mr Brown    | Mrs Maclaren-Jones | Ms Voltz        |
| Mr Clarke   | Mrs Mitchell       | Ms Westwood     |
| Ms Cotsis   | Mr Moselmane       | Mr Whan         |
| Mr Donnelly | Reverend Nile      | Mr Wong         |
| Ms Fazio    | Mrs Pavey          |                 |
| Ms Ficarra  | Mr Pearce          | <i>Tellers,</i> |
| Mr Gay      | Mr Primrose        | Mr Colless      |
| Mr Green    | Mr Searle          | Dr Phelps       |

**Question resolved in the negative.**

**The Greens amendments Nos 3, 6, 7, 8, 10 and 11 [C2014-77F] negatived.**

**Dr MEHREEN FARUQI** [5.58 p.m.]: I move The Greens amendment No. 5 on sheet C2014-077F:

No. 5 **Ecologically sustainable development**

Page 41, clause 124 (3). Insert after line 7:

- (d) the need to maintain ecologically sustainable development (within the meaning of section 6 of the *Protection of the Environment Administration Act 1991*) by appropriate pricing policies that take account of all of the feasible options to protect the environment,

Amendment No. 5 is about ecologically sustainable development. The old Act had a provision that required IPART, when determining fares, to consider the need to maintain ecologically sustainable development within the meaning of section 6 of the Protection of the Environment Administration Act 1991 and to apply appropriate pricing policies that take account of all the feasible options to protect the environment.

**The CHAIR (The Hon. Jennifer Gardiner):** Order! There is too much audible conversation in the Chamber. I am having difficulty hearing Dr Mehreen Faruqi. I am sure Hansard is also having difficulty hearing the debate.

**Dr MEHREEN FARUQI:** The bill removes this provision and inserts a provision that asserts the need to increase the proportion of travel undertaken by sustainable modes such as public transport. The Greens amendment No. 5 will reintroduce the reference to ecologically sustainable development [ESD], which goes far beyond simply the need to switch modes and incorporates principles of sustainable development such as intergenerational equity and the need to preserve our biodiversity. Transport planning and fare pricing decisions have to be made with ESD as a central consideration, given the fact that significant greenhouse gas emissions come from transport. Considering that public transport modes are much more ecologically sustainable than cars on the road, ESD would introduce the externalities and a bias towards setting lower fares so more people have access to public transport. ESD should remain a general consideration for IPART determinations within this bill. That is why this amendment is important.

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [6.01 p.m.]: I cannot believe the lack of logic. If we listened to that argument a mean government would put up passenger fares on public transport so it could get more people into cars on the roads. Dear me, The Greens are hard to follow sometimes. The Government opposes the amendment. It is difficult to apply the current provision relating to ecologically sustainable development, which includes objectives such as conserving biodiversity in public transport fare reviews. The bill modernises the factors IPART must take into consideration when reviewing fares while still requiring consideration of the environmental benefits of public transport use. Under the bill the Independent Pricing and Regulatory Tribunal must take into consideration the impact on the use of the public passenger transport network and the need to increase the proportionate travel undertaken by sustainable modes such as public transport. The wording of the bill kills The Greens effort at scaremongering.

**The Hon. PENNY SHARPE** [6.02 p.m.]: Members have had an ongoing discussion in this Chamber over the past 3½ years about ecologically sustainable development [ESD] and where it fits as an incredibly important part of the planning process that this Government has chosen to take out of its planning bills. In relation to this specific amendment, I have to agree with the Government. It is clear what the Government is trying to do in relation to fares and I do not believe there is anything in what IPART would look at or the way in which these matters would be determined that would in any way lead to less public transport use. The goal is more public transport use and it is clear that more public transport use will provide the best environmental outcome. I accept that Dr Mehreen Faruqi is committed to ESD and speaks of it often in the work that she does, but the Opposition will not support this amendment.

**Dr JOHN KAYE** [6.03 p.m.]: I must say I found the last two presentations quite frightening on two bases. First, neither the Opposition nor the Government understands the significant impacts that fare setting can have on sustainability. Secondly, it is frightening because of the excessively narrow construction that they have put on the meaning of "ecologically sustainable development". Transport produces 15 per cent of the State's greenhouse gas emissions and uses one of the most unsustainable fuels available in New South Wales, which is liquid petroleum.

**The Hon. Rick Colless:** What about using gas?

**Dr JOHN KAYE:** The use of gas itself has huge sustainability question marks over it. Private transport and road transport in rural and regional areas has significant impact on the birdlife. There are real reasons for considering sustainability as another head of consideration. Of course sustainability will not be the sole guide but it should be one consideration in the way in which fares are set. To not consider ecological sustainability in the way fares are set is to lose out on a critical objective which is directly impacted by the cost of transport services. I commend the amendment to the Committee. I am deeply concerned by the way in which the previous two speakers failed to understand the centrality of ecologically sustainable development.

**Question—That The Greens amendment No. 5 [C2014-077A] be agreed to—put and resolved in the negative.**

**The Greens amendment No. 5 [C2014-077A] negatived.**

**Title agreed to.**

**Question—That this bill as read be agreed to—put and resolved in the affirmative.**

**Bill as read agreed to.**

**Bill reported from Committee without amendment.**

### **Adoption of Report**

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

That the report be now adopted.

**Report adopted.**

### **Third Reading**

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

That this bill be now read a third time.

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

## **DRUG COURT LEGISLATION AMENDMENT BILL 2014**

### **Second Reading**

**Debate resumed from 9 September 2014.**

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [6.07 p.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

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

**Leave granted.**

The Government is pleased to introduce the Drug Court Legislation Amendment Bill 2014. The bill implements reforms recommended by the statutory review of the legislation governing the compulsory drug treatment correctional centre.

The compulsory drug treatment correctional centre [CDTCC] is the first, and so far the only, correctional centre of its kind in Australia.

Established in 2006, the CDTCC is a correctional centre designed specifically to target long-term drug dependent offenders who have failed past treatment in voluntary drug and alcohol programs in either correctional centres or in the community, or who have never accessed treatment.

The compulsory drug treatment program offered at the CDTCC targets up to 100 recidivist male offenders with long-term drug dependency and an associated life of crime and imprisonment. It is a treatment and rehabilitation program of judicial care, stabilisation, case management, educational and vocational support, and rehabilitation and supervision, intended to manage offender risk and meet offender need.

The statutory objectives of the compulsory drug treatment program include providing drug-related offenders with a comprehensive treatment and rehabilitation program, with judicial supervision. It also provides effective treatment for their drug dependency to eliminate illicit drug use while in the program and reduce the likelihood of relapse on release. Further, the program is intended to promote the reintegration of offenders into the community and to prevent and reduce crime by reducing their need to resort to criminal activity to support their dependency.

Offenders on the compulsory drug treatment program are supervised by the Drug Court of New South Wales. Eligible offenders are referred by sentencing courts to the Drug Court so that it can consider whether to make a compulsory drug treatment order. Before making an order, the Drug Court must refer the offender to its multidisciplinary team for assessment as to the offender's eligibility and suitability for compulsory drug treatment detention. If suitable, a compulsory drug treatment order can be made in

relation to the offender including a structured individual personal plan that will be closely monitored by CDTCC staff and the Drug Court and revised where necessary. The program is divided into five stages, including three custodial stages, and is expected to take approximately 18 months to three years to complete, depending on the offender's individual sentence.

The compulsory drug treatment program and the CDTCC are key components of this Government's ongoing strategy to tackle the problem of illicit drugs in the community and to reduce the level of reoffending. By breaking offenders' addictions and providing them with the skills to successfully reintegrate into the community, the program helps the State's most desperately entrenched criminal addicts take personal responsibility to lead productive, crime- and drug-free lives.

The program has been independently evaluated by the Bureau of Crime Statistics and Research [BOCSAR]. The BOCSAR review made positive findings regarding the CDTCC meeting its aims of effectively treating drug dependency and promoting the reintegration of participants into the community.

The CDTCC and the compulsory drug treatment program are supported by legislation. Section 106Z of the Crimes (Administration of Sentences) Act requires that the program and its legislative provisions be reviewed to determine whether any amendment is required, and for a report on the review to be tabled in Parliament as soon as practicable after its completion.

The statutory review was completed by my department, and tabled in Parliament on 29 October 2013.

The overwhelming response from stakeholders indicated support for the continued operation of the compulsory drug treatment program. The review concluded that the policy objectives of the program and its underpinning legislation remain valid.

The review made 12 recommendations to clarify aspects of the legislation to better achieve the program's policy objectives, and to make the program available to a greater number of eligible and suitable participants. Nine of the recommendations were legislative and the three remaining recommendations relate to administrative aspects of the program. This bill implements the legislative recommendations of the review.

I will now outline the key features of the bill.

Schedule 1 to the bill amends the Drug Court Act 1998. Item [1] amends the definition of eligible convicted offender in section 5A to change the maximum sentence length for which an offender can be referred to the program. The review noted that the CDTCC has been unable to operate at full capacity since its commencement and gave particular consideration to the criteria for entry into the program.

At present, a person will only be eligible for the program if they have been sentenced to full-time imprisonment and the unexpired non-parole period on that sentence is, at the time the Drug Court is determining whether to make a compulsory drug treatment order, no more than three years, and at the time that the sentence was imposed at least 18 months.

Limiting eligibility to those offenders who have three years or less left on their non-parole period has meant that many offenders referred to the program run out of time to complete its three custodial stages prior to becoming eligible for parole. Placing an upper limit for eligibility based on the total sentence, rather than the non-parole period, should help to address this issue. Judge Dive, the senior judge of the Drug Court, advocated for such a reform in his submission to the review.

The review concluded that an upper limit of six years on the unexpired total sentence, determined at the time the sentence was imposed rather than at the time eligibility is being assessed, would be a more appropriate restriction on eligibility. No change is made to the required minimum sentence length.

Requiring the lower and upper limits of the sentence to be considered from the same point, being when the sentence was imposed, will significantly reduce complexity in determining eligibility.

The increase in the maximum sentence is expected to increase the volume of eligible offenders, but will not change the offences that are eligible for the program. People serving sentences for offences of murder, sexual assault, firearms matters and commercial supply of prohibited drugs will remain ineligible as is made clear by the amendment at item [4] of schedule 1.

Item [2] of schedule 1 removes the mandatory requirement that an offender must have been convicted of at least two offences in the last five years to be eligible for the program. When the CDTCC legislation was first introduced in 2004, the requirement was that the offender had to have been convicted of at least three offences in the previous five years. This was amended in 2006 to implement the less stringent requirement for two prior convictions.

The review noted that one of the statutory objects of compulsory drug treatment is to provide rehabilitation for drug dependent persons who repeatedly resort to criminal activity to support that dependency. Recidivist offenders are the intended target of the program.

Examples were, however, provided to the review by the senior judge of the Drug Court indicating that the recidivism criteria has excluded otherwise appropriate and suitable offenders from participating in compulsory drug treatment.

The review concluded that relying on a specific number of convictions in a fixed period to indicate recidivism may not reflect the realities of a drug dependent lifestyle. However, in order to ensure that recidivist offenders remain the target of the program, the recidivism criteria is to be replaced with a mandatory requirement that, when assessing suitability, the Drug Court's multidisciplinary team must consider the offender's history of prior criminal offending related to long-term drug dependency and lifestyle. Item [8] of schedule 1 makes an amendment to section 18E (2) of the Act to implement this. It will allow more flexibility to admit recidivist offenders who may not have had two convictions within the previous five-year period.

Items [3], [5] and [6] of the bill implement a recommendation of the review to provide the State Parole Authority with power to refer offenders whose parole has been revoked on a sentence that was previously the subject of a compulsory drug treatment order, back to the Drug Court to assess whether they should be subject to a new compulsory drug treatment order.

In particular, new section 18BA will impose a requirement on the State Parole Authority, when it revokes parole on a sentence that was previously the subject of a compulsory drug treatment order, to consider whether or not the offender is still an eligible convicted offender and, if so, to refer the offender to the Drug Court to determine whether a compulsory drug treatment order should be made in relation to the balance of parole period. This is essentially the same obligation that section 18B imposes on all sentencing courts when sentencing offenders at first instance.

Item [3] makes a consequential amendment to section 5A to provide that the restrictions it imposes on sentence length, which I have already outlined, will not prevent an offender referred under section 18BA being eligible for the program. These offenders will not need a minimum of 18 months to run on their sentence in order to be eligible, noting that they will previously have completed part of the program and may therefore not need as long to finish it. The upper limit of six years will still apply as the offender will have to have met that criteria before receiving their original compulsory drug treatment order. The other eligibility criteria will also still apply and the offender will have to be assessed again by the multidisciplinary team.

Item [6] amends section 18C of the Act to provide that if an eligible convicted offender is referred to the Drug Court under new section 18BA, the court may make another compulsory drug treatment order in relation to the offender. Significantly, it requires the court to consider the circumstances which led to revocation of the offender's parole and any offences committed by the offender either while they were serving the original sentence in compulsory drug treatment or while on parole. This provides an important safeguard which will allow the court to exclude offenders whose behaviour whilst originally on the program, or whilst out on parole, renders them unsuitable for further participation in it.

Item [4] of schedule 1 makes amendments to the eligibility criteria relating to firearm offences as recommended by the review.

Existing section 5A (2) provides that a person is not an "eligible convicted offender" if they have been convicted at any time of a firearms offence. This means that if an offender is referred for assessment in relation to a matter involving a firearm or has any conviction for an offence involving a firearm, no matter the circumstances or age of the conviction, they will be automatically ineligible for the program. This exclusion reflects the seriousness with which firearms matters are regarded and, along with the other exclusions, operates to prevent potentially dangerous offenders from entering the program.

The review did not recommend any change to allow offenders who are serving a sentence for a firearms matter to enter the program and these offenders will remain excluded from the program pursuant to the remade section 5A (2) (a).

However, the review considered that the application of the firearms restriction to historical convictions is operating too broadly and resulting in otherwise appropriate offenders being excluded from the program. The review noted the matter of *Regina v Paton*, which considered the eligibility of an offender who, as a juvenile, had been sentenced for a firearms offence involving an airgun more than 20 years prior to coming before the Drug Court. The offender had received a \$50 fine for the offence. He had no offences on his adult criminal record that would have excluded him from the program and was otherwise suitable and appropriate to participate in it. But for the fact that no conviction had been recorded in relation to the juvenile matter, the firearm restriction would have excluded the offender from the program automatically.

The review therefore recommended reform of the historical firearms restriction. In proposed section 5A (2) (b) (iii), the bill amends the restriction so that it will render an offender ineligible if they have a prior conviction for any offence involving the violent use of a firearm. This will ensure that offenders who commit dangerous firearms offences are excluded from compulsory drug treatment while providing more flexibility in relation to other types of firearm offenders.

The review recommended introduction of a further safeguard in relation to this change, being a mandatory requirement for the multidisciplinary team to consider an offender's history of committing offences involving weapons or violence when assessing their suitability for the program. It is noted that the extension of the criteria to weapons, not just firearms, will allow the multidisciplinary team to consider a broader range of prior offences rather than just firearms matters. This amendment to section 18E of the Act is implemented by item [7] of the bill.

Item [9] of schedule 1 amends section 18G of the Act to provide that the making of a compulsory drug treatment order operates to suspend any entitlement of the eligible convicted offender to be considered for parole. This is intended to address an anomaly identified by the senior judge of the Drug Court in his submission to the review relating to the treatment of parole for offenders on the program.

Where an offender is sentenced to a total term of three years imprisonment or less with a non-parole period, section 50 of the Crimes (Sentencing Procedure) Act 1999 requires the court to make a parole order. Existing section 18G (b) of the Drug Court Act cancels such a parole order once a compulsory drug treatment order is made.

However, where a sentence exceeds three years, and a non-parole period is set, the sentencing court does not make an order under section 50. Instead, pursuant to section 137 of the Crimes (Administration of Sentences) Act, the parole authority has to consider parole at least 60 days prior to the offender's parole eligibility date being the expiration of their non-parole period. There is no provision in the Drug Court legislation suspending or cancelling that requirement. Offenders on the compulsory drug treatment program are therefore being treated inconsistently with regard to parole, depending on the length of their sentence. The existence of a parole eligibility date for offenders serving sentences greater than three years may impact on how an offender perceives their compulsory drug treatment program particularly if, as is often the case, parole is refused by the Drug Court to allow the offender to continue on the program.

The review considered that it was appropriate to align the parole consideration requirements in relation to all offenders subject to a compulsory drug treatment order. Item [9] of schedule 1 implements this reform.

Item [10] of schedule 1 removes the word "administrative" from section 29 (2) (a) of the Act to make clear that the functions that can be exercised by the Drug Court registrar are not solely administrative functions. This reform is consistent with similar provisions conferring functions on registrars in other courts.

Items [11] and [12] of schedule 1 contain savings and transitional provisions. It is noted that the reforms to the definition of "eligible convicted offender" in section 5A will only apply to offenders sentenced after its commencement. The reforms relating to consideration of parole under section 18G will apply to compulsory drug treatment orders made after the bill's commencement.

Schedule 2 makes amendments to the Crimes (Administration of Sentences) Act 1999 consistent with the recommendations of the review. Items [1] and [2] of schedule 2 make amendments which will allow the director of the CDTCC to regress an offender to an earlier stage of the program if satisfied that the offender has failed to comply in a serious respect with one of their program conditions. In many instances, regression between stages is an obvious and necessary response to a breach of the program. Yet, under the existing provisions, a regression decision can only be made by the Drug Court. This means that a great deal of administrative effort is required for the director to prepare reports and for the Drug Court to consider those reports.

Under proposed section 106MA, the director will be able to direct that the offender regress to a lower stage of the program for a specified period. The provision incorporates safeguards recommended by the review. Regression directions will not exceed three months. Further, when the director makes a regression order, he or she will have to notify the Drug Court within seven days of the direction. The offender will be able to apply within 14 days to the Drug Court for a review of the direction. On such a review the Drug Court, if satisfied of the failure on the balance of probabilities, will be able to confirm or set aside the direction, or vary its terms. These reforms ensure that the director of the CDTCC can respond quickly to a breach of the program's conditions while maintaining appropriate Drug Court oversight of the director's decision.

Item [1] of schedule 2 makes a consequential amendment removing the requirement for the Commissioner of Corrective Services to advise the Drug Court of a sanction issued under section 106I if the sanction constitutes a decision to regress the offender under new section 106MA. As I have noted, there will be a requirement to notify the Drug Court of a regression decision under section 106MA in any event.

Item [3] of schedule 2 makes an amendment to section 106Q, which governs revocation of compulsory drug treatment orders. The amendment will clarify that the Drug Court can revoke an offender's order if, on the advice of the director of the CDTCC, it is of the opinion that the offender is unlikely to make further progress on their program. Submissions to the review noted that the current specified grounds for revocation in section 106Q may be too narrow. Particular concern was expressed about the ground of failing to comply with the program, which requires that the failure be serious in nature and that the Drug Court be satisfied that the offender is unlikely to make further progress. Some concern was expressed that the limited scope of this ground for revocation may lead offenders to think that they need to deliberately breach a condition to effect termination.

Whilst section 106Q does presently allow revocation for "any other reason the Drug Court sees fit", the review noted that this ground may be interpreted narrowly, given the specific and targeted nature of the other grounds for revocation. On that basis, the review supported providing an explicit discretionary ground for the Drug Court to revoke the offender's program where there are limited prospects of the offender making further progress.

Items [4] and [5] of schedule 2 make minor amendments to section 106W of the Act to clarify that a court which imposes a sentence on an offender that is to be served concurrently or partly concurrently with a sentence which is the subject of a compulsory drug treatment order, is required to refer that sentence to the Drug Court so that the Drug Court can consider whether or not to make a compulsory drug treatment order in relation to that sentence. This obligation will apply to sentences imposed both before and after the making of the compulsory drug treatment order, where some portion of the sentence will be served concurrently with the sentence which is the subject of the order.

Both the Senior Judge of the Drug Court and the former Director of Public Prosecutions raised concerns about the operation of this provision in their submissions to the review. In particular, it was noted that the provision currently only allows a sentence to be referred if it is imposed after an offender receives their compulsory drug treatment order. This creates difficulties where a sentence is imposed prior to the offender's referral to the program or where a sentence is imposed while the offender's suitability for the program is being assessed, but prior to a compulsory drug treatment order being made. The review recommended amendments to make clear that sentences imposed prior to referral to the Drug Court can also be referred and the amendment will achieve this goal.

Item [6] of schedule 2 amends section 137 to allow the State Parole Authority to consider an offender's parole less than 60 days before their parole eligibility date where the Drug Court has revoked their compulsory drug treatment order. This is a complementary amendment to the parole reforms I have already noted. Section 137 presently requires that parole be considered at least 60 days before the eligibility date, however, pursuant to proposed section 18G (d), the requirement to consider parole will be suspended while a compulsory drug treatment order is in place. This would prevent an offender whose compulsory drug treatment order is revoked within 60 days of their parole eligibility date from having parole considered until after the eligibility date. The reforms to section 137 will ensure this can occur.

Schedule 2.2 makes an amendment to the Crimes (Administration of Sentences) Regulation 2008 to provide that where the Drug Court has revoked a compulsory drug treatment order this can constitute circumstances of manifest injustice for the purposes of section 137B of the Act. Section 137B allows for parole to be considered at any time after an offender's parole eligibility date has passed if circumstances of manifest injustice exist. This amendment ensures that if an offender's entitlement to parole is suspended by the making of a compulsory drug treatment order, and the order is subsequently revoked after the offender's parole eligibility date has passed, parole can still be considered for the offender. If this amendment were not made, offenders would need to wait at least 12 months from their parole eligibility date before parole could be considered.

This Government considers the compulsory drug treatment program to be a valuable tool in the battle to break long-term drug dependency that leads to recidivist offending. By not simply addressing addiction issues, but by arming offenders with skills to reintegrate successfully into the community, the program is a holistic sentencing option that is future-oriented and aims to achieve long-term and lasting benefits for offenders, the community, and the State of New South Wales.

However, as noted by the review there are areas in which the program could be improved. I am confident that the provisions contained in the bill will not only improve the processes of the CDTCC, but will allow a greater number of eligible offenders to enter the program and to benefit from its tried and tested processes.

I commend the bill to the House.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [6.08 p.m.]: I lead for the Opposition in debate on the Drug Court Legislation Amendment Bill 2014. We do not oppose the bill. The object of the bill is to amend the Drug Court Act 1998 and the Crimes (Administration of Sentences) Act 1999. The intent of these amendments is to implement legislative recommendations of a review that was carried out of the Compulsory Drug Treatment Correctional Centre [CDTCC] and the compulsory drug treatment program [CDTP]. The bill largely implements the nine legislative recommendations made by the review. The review recorded unanimous support for the CDTP operating at the CDTCC. The CDTCC has operated within Parklea Correctional Centre since its inception. Its participants are supervised by the Drug Court whose chief judge is Judge Roger Dive.

In his second reading speech, then Attorney General the Hon. Greg Smith said that the program and centre were key components of the Government's ongoing strategy to tackle the use of illicit drugs and reoffending. The Opposition embraces those notions because they are Labor initiatives. Indeed, given the Attorney General's and the Government's enthusiasm for the centre and the program, it is surprising that it has taken as long as it has for these amendments to be introduced in the other place—which happened in March this year—and in this place. It is good to see the Government rushing into this. The Opposition notes the dilatory approach and the disinterest the Government has shown in this bill. It was second read on 26 March 2014 and was then debated on 18 June in the other place.

**The Hon. Trevor Khan:** You are supporting this, aren't you?

**The Hon. ADAM SEARLE:** Indeed, we are. However, we wonder about the Government's commitment to this legislation and the policy underpinning it. As the review makes clear, a compulsory drug treatment program was first proposed by the Labor Government in 2003. It was a more comprehensive version of a proposal coming from the Drug Summit of 1999. The centre was established at a capital cost of \$3.5 million. Corrective Services NSW is responsible for the management, security and rehabilitation services at the centre. The justice and forensic mental health network has responsibility for the health and care of participants. The primary legislation commenced on 21 July 2006 and the centre opened on 23 August 2006.

The review giving rise to this bill was carried out pursuant to section 106Z of the Crimes (Administration of Sentences) Act by Corrective Services NSW. It was completed in May 2013 and tabled in October. More than 12 months after the review was completed the Parliament is finally debating the amendments arising from it. The review received 20 submissions and I note submissions from His Honour Judge Dive, Senior Judge of the Drug Court of New South Wales; Dr Astrid Birgden, Director of the Compulsory Drug Treatment Correctional Centre; and Nicholas Cowdery, the former Director of Public Prosecutions.

There seemed to me to be two broad issues around the program and the review. The first is the compulsory nature of the program. In practical terms, the majority of those making submissions did not see this as a live issue. The review summarises Judge Dive's view that it is a non-issue. Dr Birgden suggested an amendment based on section 7A (2) (e) of the Drug Court Act providing participants with a choice between receiving a compulsory drug treatment order [CDTO], and it thereafter being compulsory. Corrective Services NSW in this review did not propose that, and Dr Birgden points out that the compulsory nature of the treatment is balanced by the incentive of accelerated release. We make no criticism of the review's recommendations on this point. We simply note the debate and the issue.

The second broad issue is utilisation of the program and the centre. As at July 2010, 247 referrals had been made and 43 per cent of offenders were found ineligible or unsuitable. In four years the centre had never been at 100 per cent capacity. Further utilisation of the program and centre through sensible alteration of the relevant criteria would thus seem to be entirely appropriate. That is particularly so because of the overwhelmingly favourable assessment of the program, including in the view of the Bureau of Crime Statistics and Research [BOCSAR]. Accordingly, a number of amendments are made to the definition of "eligible offenders" in section 5A of the principal Act. Currently, to be eligible a participant's unexpired non-parole period must be at least 18 months at the time the sentence was imposed and no more than three years at the time the Drug Court makes a CDTO. The three-year period is increased here to six years.

The current requirement for an eligible convicted offender to have been convicted of two offences is removed, which also seems sensible. Instead, the assessment of the offender will consider the offender's history of committing offences and associated lifestyle. Currently, a person is not eligible if he or she has been convicted at any time of an offence involving the use of a firearm. This is to be replaced by a requirement that

persons are not eligible if the offence for which they have been convicted involved the use of a firearm or they have been convicted at any time of any offence involving the violent use of a weapon. This entirely sensible proposition was supported in the review and in the Attorney's second reading speech by reference to circumstances in the case of Paton, where if the offender had been an adult and had an earlier conviction recorded, that person would have been ineligible for the scheme. Examples justifying the position also emerge from the review. Page 51 of the review states:

Judge Dive also advised the review of an applicant who was convicted and fined for trespassing and shooting a rifle at a tree stump and some ducks in a pond in 1990, and is thereby ineligible. By contrast, offenders who have committed armed robberies whilst armed with weapons other than firearms (eg knives, syringes, baseball bats etc) have been found eligible.

Mrs Kay Valder, Official Visitor to the CDTCC as well as an Official Visitor to Parklea Correctional Centre, in a letter to the review subsequent to her submission, advised the review of a long-term offender who " ... had spent much of the past 18 years coming in and out of prison due to his drug addiction, (who) had never worked and had no skills to support himself whenever he was released, so he reverted to crime. The offender is now 39 years old and ... when he was aged 18 he was charged with using a firearm shooting at tin cans off a log. This offence has caused him to be denied acceptance as a participant in the program." Mrs Valder points to the unintended and unfortunate consequences of a rigid interpretation of S5A (2) (c).

In light of that evidence, the case for this amendment becomes quite powerful. However, I note that there is a divergence between the amendment contained in this bill and recommendation 10 in the review. I ask the Government to explain why this bill departs from the recommendation in the review conducted by his department. In particular, I would like to know whether new section 5A (2) (b) (iii) is redundant in light of new section 18E (2) (c1). I would like an explanation of what appears to be a discrepancy in the drafting.

Changes also are made in connection with the State Parole Authority, which involves a less restrictive definition of eligibility. An eligible convicted offender includes a person whose parole order has been revoked if he or she can be referred to the Drug Court by the State Parole Authority. The authority must refer someone to the Drug Court if their parole has been revoked in respect of a sentence that previously has been the subject of a CDTO that has expired. The Drug Court can determine whether to impose a new CDTO. The amendments also extend to the impact of a CDTO to include suspension of an eligible convicted offender to be considered for parole.

Section 29 of the Drug Court Act is amended to make the functions of the registrar similar to those exercised by other registrars and not restricted to administrative functions. This arose from concerns raised by Judge Dive and was canvassed in the review. There are also amendments to the Crimes (Administration of Sentences) Act. The director of the CDTCC is given power to direct an offender to regress one stage. A CDTO may be revoked if the court thinks the offender is not likely to make further progress. Provision is made for reference to the Drug Court if an offender is sentenced to a new term of imprisonment. The State Parole Authority may consider an offender's case less than 60 days before the offender's parole eligibility date where the Drug Court has revoked the relevant CDTO. This flows from the other changes to parole.

The Crimes (Administration of Sentences) Regulation is amended in relation to circumstances constituting manifest injustice. The alternative would be that offenders would have to wait 12 months for their parole eligibility date before parole can be considered. Recommendations 8, 11 and 12 of the review were non-legislative and thus self-evidently not part of this bill. We seek advice from the Government as to its response to the non-legislative recommendations of the review, and particularly in respect of any developments since June.

The Drug Court must be regarded as an undoubted success. That is very clear from the plethora of BOCSAR reviews that have been carried out on it. Late last year the shadow Attorney General had the opportunity to observe several hours of the court in operation and to discuss its operations with the various professionals involved. This has confirmed the Opposition's favourable view of the effectiveness and efficiency of the court. The problem-solving model of the Drug Court is rare in Australian judicial structures, but in this instance it has all pluses and very few minuses. The only real issue is about the court's expansion. Both the Government and the Opposition promised to establish a second metropolitan Drug Court prior to the 2011 election.

In substance, however, the present Government has not done that. It has merely put up the facade of a second metropolitan Drug Court at the Downing Centre. Referrals to the Sydney Drug Court can be made only for people who live in the City of Sydney local government area. We think it is really a Clayton's court dealing with only a small number of referrals and a small catchment of potential clients. If the Government believed in its rhetoric about the Drug Court it would fund the Sydney Drug Court properly and would expand it to cover a

proper catchment area. We note that there are already calls for it to be expanded to Tamworth and Dubbo. Above all, in our view, it should be expanded to Wollongong. We note that as at May 2013 there had been 501 referrals to the Parramatta Drug Court and 320 referrals to the court sitting at Toronto.

The sitting at the Downing Centre is based only on people living in the City of Sydney local government area and is not extended to the inner western and eastern suburbs, despite the Government's media releases at the time it was commenced. The number of participants is restricted to 40, which is entirely inadequate for the Drug Court sitting at the Downing Centre. As we say, this is an indication that this is not a serious attempt to replicate the Drug Court. The Opposition notes calls from the Law Society of New South Wales, the Public Defenders, the Shopfront Youth Legal Centre, the NSW Bar Association and the Children's Court for the expansion—that is, the real and significant expansion—of the Drug Court program, especially the one at the Sydney Drug Court. Having said that, as the Drug Court is undoubtedly successful as it exists the Opposition has great pleasure in supporting this legislation to enhance it.

**Mr DAVID SHOEBRIDGE** [6.21 p.m.]: On behalf of the Greens I speak in debate on the Drug Court Legislation Amendment Bill 2014. The objects of the bill are set in the rather unhelpful explanatory note to be:

- (a) To amend the *Drug Court Act 1998* and the *Crimes (Administration of Sentences) Act 1999* to give effect to certain recommendations made by the Minister for Justice in the review entitled *Review of the Compulsory Drug Treatment Program and the Drug Treatment Correctional Centre* pursuant to the *Crimes (Administration of Sentences) Act 1999* (May 2013) (the *Review*), and
- (b) To make a related amendment to the *Crimes (Administration of Sentences) Regulation 2008*.

I might say that this explanatory memorandum is a classic case of an explanatory memorandum that fails to explain and is designed to obfuscate. I note that in large part explanatory memoranda have increasingly become less helpful to me, when I am trying to understand a bill before I embark on reading its provisions. I am quite certain that they would be less useful to courts and other practitioners seeking to understand the intent behind legislation in circumstances of ambiguity. I hope this is a matter the Government will take on board and make explanatory notes serve their purpose to explain the bill and the legislation before the House.

The substance of this bill is that the changes are a result of a statutory review of the scheme, which strongly supported the Drug Court program and made a series of recommendations to assist it in achieving its objectives. Schedule 1 to the bill expands the definition of "eligible convicted offender" under the Drug Court Act to raise the amount of unexpired total sentence required for an inmate to be considered for the program from not more than three years to not more than six years. This will allow more people to be referred to the program to complete its stages before being eligible for parole. Those serving sentences for trafficking, murder, sexual assault and firearms matters are not eligible for the program. This maintains the present position.

Schedule 1 [2] removes the requirement for offenders to have been convicted of at least two offences in the past five years to be eligible. The intention here is still to target recidivist offenders, but reflect that a specific number of offences does not necessarily do this. Instead the assessment team will be required to consider the offender's history of offending as well as his or her history of committing offences involving weapons or violence. Schedule 1 [3], [5] and [6] require the State Parole Authority to consider referring offenders whose parole has been revoked, and who have committed a relevant offence, to be sent to the Drug Court for consideration of a compulsory drug treatment order.

Schedule 1 [4] changes the eligible offences from excluding someone convicted of "any offence involving the use of a firearm" to "the offence for which the person has been convicted involved the use of a firearm", or if the person has been at any time convicted of any offence involving the violent use of a firearm. As The Greens understand the bill, the intention is to mean that long distant non-violent offences in which firearms were involved would not necessarily exclude a person from eligibility in the program. That seems a sensible refinement of the program. Schedule 1 [9] amends the Act to make it clear that the making of a compulsory drug treatment order suspends the person's entitlement to be considered for parole. This is not a substantive change from the current position under this program.

Schedule 2 [1] and [2] create a power for the Director of the Compulsory Drug Treatment Correctional Centre to direct offenders to regress to an earlier stage of the program if they have failed to comply in a serious respect with one of their individual program conditions. Such directions cannot exceed three months and the Drug Court must be notified. The offender has 14 days to appeal such an order. That kind of administrative

power in the hands of the director is a sensible way to deal with a default by participants in a program and effectively to give them a second chance to complete a stage of the program but not to provide an overly large burden on those participants who have been sent on the program as a result of a court order.

The background to this legislation explains in part the rather limited nature of this bill. The Compulsory Drug Treatment Correctional Centre at Parklea caters for up to 70 male inmates. It was created following the 2004 legislation, which should be broadly supported by all political parties, although I note that at the time there was some controversy in relation to it. On any view of it, experience in the 10 years since has shown it to be a step forward for the justice system dealing with drug offenders in the New South Wales criminal justice system.

**The Hon. Trevor Khan:** Caution is always appropriate.

**Mr DAVID SHOEBRIDGE:** I note the interjection, but if we take the view that utter caution is the only way we can proceed in dealing with long-running and, in many ways unresolvable issues, such as drug addiction and drug offences and we are not willing to try brave and often contentious ways of resolving longstanding social issues we will not move forward. The 2004 legislation was a brave step forward and required courageous moves from Parliament. It required a brave Attorney General to put it forward and not a dope, such as the Government Whip.

Under the scheme, eligible offenders are referred by the sentencing courts to the Drug Court. This court can then impose a "compulsory drug treatment order" subject to the results of assessment of the offender's suitability for such an order. Once the order is made, an individual personal plan is developed for the person, with monitoring by the Compulsory Drug Treatment Correctional Centre and the Drug Court. Stage one of the program is six to nine months of counselling and group work in closed detention. Stage two is similar to work release with community and group meetings and is classified as semi-open detention. Stage three is akin to home detention where participants live and work in the community.

There have been a significant number of personal success stories arising from the Drug Court program. I note, in particular, a positive story that I reviewed from a 2008 edition of *User's News*, which is available on a link from the [nuaa.org.au](http://nuaa.org.au) website. The 2010 Bureau of Crime Statistics and Research [BOCSAR] review of the program reported positive results on a number of indicators, including improved mental and physical health. The review also found:

Although the program was coercive, the vast majority of participants felt that their participation in the CDTP was voluntary. Participants made positive comments about the program and consistently expressed their desire to be in the program regardless of what stage they were in.

As I said earlier, The Greens support this bill, which makes some minor amendments to the operation of the Compulsory Drug Treatment Correctional Centre in New South Wales. We do this, however, noting our strong support for rehabilitation and evidence-based crime prevention strategies over incarceration in the first place. While programs like this are useful in the context of the current correctional system, there are many other changes that could and should be made to divert people with substance abuse problems from our criminal justice system in the first place.

To this end, the expansion of harm minimisation strategies—as endorsed by medical professionals—must urgently be considered in New South Wales. A health-based approach to drugs in New South Wales would be cheaper, more effective and more humane and, if properly applied, would make New South Wales a safer and less crime-ridden place. As indicated by then Greens member of the Legislative Council Lee Rhiannon in the debate on the original bill, the preferred approach of The Greens NSW is to increase funding of treatment and rehabilitation programs and support for programs such as outpatient counselling and safe injecting rooms. I note that making permanent the safe injecting room was one of the achievements of this Parliament. It is a great pity that although we have made permanent one safe injecting room we have not yet seen sufficient courage in the Government to allow that clearly successful safe injecting room to be a model that is applied in other parts of the State where it is needed, where it will save lives, where it will reduce crime and where it will improve neighbourhood amenity.

However, in the context of the current approach to drugs and incarceration, this program and the Drug Court system can play a useful role. The Bureau of Crime Statistics and Research review of this program provides some compelling support for its continued operation and expansion. Although we note our concerns regarding mandatory programs such as this—I believe there were concerns with the program noted from the outset—the evidence is that this program appears to work cooperatively with inmates and relevant specialists.

We also recognise the concerns those within the scheme have raised about being limited to so-called "box visits" for their first six months of the program. The compulsory blanket enforcement of this on those going through the program seems unnecessary and undesirable and may even present an impediment to their recovery. It is unfortunate that there was not some reconsideration of that in this bill.

Programs like this can provide appropriate support and incentives to those in our criminal justice system and as such they are an important way of assisting in their rehabilitation and reintegration into society. We note, however, our continued concerns that as this facility operates within the Parklea Correctional Facility it will still continue to be very much a Corrective Services-delivered facility. It is almost inevitable, given the major parties combined commitment to an unwinnable "war on drugs", that we will see, at best, this kind of incremental reform. Police, courts, lawyers and jails will never be a genuinely effective way of dealing with addiction and drugs in our community.

There is, of course, a place for the criminal justice system to deal with the commercial dealing of dangerous drugs in our society, but if we think that we can win a war on drugs through police, courts and jails, we are collectively kidding ourselves. Within a broken system, the expanded use of drug courts is a small ray of hope for a more rational policy from New South Wales in relation to drugs. This bill is a positive step forward. We hope that the Parliament will build on it and we hope that a future government will build on it. For those reasons we support the bill.

**The Hon. DAVID CLARKE** (Parliamentary Secretary) [6.33 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank members for their contributions to debate on the Drug Court Legislation Amendment Bill 2014. This bill amends the Drug Court Act 1998 and the Crimes Administration of Sentences Act 1999 to give effect to the recommendations made by the statutory review of the Compulsory Drug Treatment Program and its enabling legislation. The amendments made by the bill will enhance the program's effectiveness in meeting its policy objectives, notably to provide effective treatment for persons with drug dependency and to promote their reintegration into the community and thereby reduce criminal activity. I commend the bill to the House.

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

**Motion agreed to.**

**Bill read a second time.**

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

### **Third Reading**

**Motion by the Hon. David Clarke, on behalf of the Hon. 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.**

## **PROTECTION OF THE ENVIRONMENT LEGISLATION AMENDMENT BILL 2014**

### **BAIL AMENDMENT BILL 2014**

**Bills received from the Legislative Assembly.**

**Leave granted for procedural matters to be dealt with on one motion without formality.**

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

That these bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second readings of the bills stand as orders of the day for a later hour of the sitting.

**Bills read a first time and ordered to be printed.**

**Second readings set down as orders of the day for a later hour.**

*[The Deputy-President (The Hon. Natasha Maclaren-Jones) left the chair at 6.35 p.m. The House resumed at 8.00 p.m.]*

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

**Government Business Order of the Day No. 10 postponed on motion by the Hon. Duncan Gay and set down as an order of the day for a later hour.**

**WATER MANAGEMENT AMENDMENT BILL 2014****Second Reading**

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [8.02 p.m.]: I move:

That this bill be now read a second time.

The Water Management Amendment Bill 2014 is an important comprehensive package of amendments to the Water Management Act 2000 designed to ease the regulatory burden on water users and help the Government meet challenges in managing the State's water resources that have arisen in recent years. The bill builds on the Government's commitment to achieve genuine sustainability in the water sector by amending the Water Management Act 2000 to facilitate issuing floodplain harvesting licences to increase business certainty for landholders who extract water from flood events; provide security for holders of supplementary water licences and floodplain harvesting licences through enhanced compensation rights; allow landholders increased flexibility to take advantage of their harvestable rights, especially with respect to urban stormwater harvesting; streamline the way that supplementary water is made available to users; clarify the scope of controlled allocation orders and further develop water markets through a new dealing to allow water allocations to be traded for a term of up to 10 years.

The bill will streamline licensing and trading processes so that water users' dealings with government are simpler, easier to understand and more efficient; reduce red tape by allowing water sharing plans to be consolidated; optimise the setting of storage reserves in dams to ensure equitable, economically efficient sharing of water between higher security licences and general security licences; improve offence provisions; and make miscellaneous refinements relating to the conversion of entitlements under the Water Act 1912 to the Water Management Act water licences. The bill will facilitate profitable and sustainable water access and use, improved client service and stakeholder engagement and a continuous improvement in knowledge for evidence-based water management decisions. All of that requires support from a robust regulatory framework. The bill introduces necessary improvements to the legislative framework for water in New South Wales that will help us deliver these outcomes.

I will now provide a brief overview of each significant element of the bill. I turn first to the amendments concerning overland flow water and floodplain harvesting. These amendments clarify that water flowing over the ground, called overland flow, which is not within a watercourse such as a stream or river, is part of the State's water rights and included within the definition of "water source". By defining overland flow water, we have ensured that consistent terminology is used across the legislative framework. It is important to have clear and consistent terminology for overland flow water to facilitate the licensing of floodplain harvesting. This terminology will also help the New South Wales Office of Water to manage urban stormwater harvesting in a way that allows proponents of urban stormwater harvesting projects to make full use of their harvestable rights.

The second set of amendments relates to compensation rights for supplementary water licences in regulated rivers and floodplain harvesting licences. Currently, supplementary licences are an anomaly among major commercial licence categories. Unlike holders of most commercial licences, supplementary water licence holders have no compensation rights if their allocations are reduced because of a change in a water sharing plan. The bill eliminates this anomaly by extending the compensation rights available under the Act to holders of supplementary water licences in regulated rivers and making the tenure of the licences perpetual. Similarly, the bill extends existing compensation rights to holders of floodplain harvesting licences. However, the amendments relating to compensation rights do not extend to supplementary water licences in groundwater sources as these are slowly being phased out as part of a process to reduce total entitlements.

This bill also introduces amendments that streamline the way that supplementary water is made available to users. Instead of using ministerial orders and announcements, access to supplementary water will be

able to be provided more quickly by just using announcements. The third set of amendments introduces needed flexibility to the Act's provisions on harvestable rights. The bill will allow for the making of harvestable rights orders to set rules about using a single dam or multiple dams to store both harvestable rights water and licensed water. These amendments will ease the current unnecessary regulatory requirements that prevent landholders from storing harvestable rights water and licensed water in large capacity dams.

The harvestable rights amendments will also enable other types of works to be used to capture harvestable rights water, recognising the growing interest in urban stormwater harvesting where dams are not commonly used to capture water. As I have already said, the bill also includes amendments to facilitate the issuing of floodplain harvesting licences. Currently under the Act, licences can only be issued for a zero volume, for certain specific purposes, or through a controlled allocation. None of these mechanisms truly suits floodplain harvesting. These amendments will allow regulations to be developed that will prescribe the circumstances in which existing floodplain harvesting activities will give rise to a licence and the terms and conditions of such licences, including their water share component. The regulations will provide a clear framework within which licensing of this important water harvesting activity can proceed.

The fourth set of amendments clarifies that a controlled allocation order may set a minimum price for licences and defines the coverage of the order to be part of a water source. Setting a minimum price in a controlled allocation is a way of ensuring that water is allocated only in circumstances where the economic benefit to New South Wales justifies issuing new licences. Defining a controlled allocation order to cover part of a water source allows the order to be tailored more precisely to match water availability to demand.

The fifth set of amendments creates a new dealing to enable a licence holder to trade their water allocation over several seasons in one step. Under the proposed dealing, licence holders can transfer their water allocations for up to 10 years. During that time the shares under the licence still remain with the seller. This will make water that is currently underutilised more easily tradeable. In keeping with this Government's ongoing commitment to reducing red tape, the bill also proposes a number of amendments to streamline licensing and trading processes.

These will simplify processes for licence holders and applicants and reduce the costs associated with the administration of licences by allowing an applicant for a licence or approval to amend or withdraw their application at any time before it is determined, allowing a trade or other dealing to be approved and registered with Land and Property Information in a single step instead of separate steps as is now required, and allowing licences and approvals to take effect immediately instead of after the appeal period. Other streamlining provisions will reduce unnecessary red tape by clarifying when conditions can be imposed on licences and will provide greater flexibility to issue combined approvals. Again, these amendments recognise the concerns of licence holders who have told us that they would prefer more responsive, administratively flexible and streamlined processes for issuing and trading licences.

New provisions will also enable the Minister to refuse the surrender of a water access licence in certain circumstances. This sensible amendment will allow the Minister to ensure that licensees must continue to hold a licence for all of the water they take. To ensure that no person is disadvantaged by the new streamlining provisions, care has been taken to ensure that they will not reduce the appeal rights of applicants or other interested persons. New rights of appeal have also been created to support the new provisions, where appropriate.

An additional set of amendments aimed at reducing red tape relates to consolidation of water sharing plans. When the first water sharing plans were made in 2004, some of those plans covered very small portions of catchments, often imposing elaborate prescriptive rules. Experience with water planning has shown that we can obtain better triple bottom line outcomes by planning on a catchment-wide scale with simple, consistent, enforceable rules. These amendments allow those 2004 plans to be consolidated with more recent catchment-wide plans that were developed with the benefit of experience.

The final set of amendments relates to the sharing of water between high security and general security licences in regulated rivers. Regulated river water sharing plans currently require water to be set aside within a dam to ensure full or near full water allocations so high security licences can be maintained if there is a repeat of the worst drought on record. This water sharing rule was developed prior to the recent millennium drought.

When the millennium drought is taken into account, implementing this current water sharing plan rule would result in significant quantities of water being taken out of production and held in reserve in case an

equally severe drought occurs again. Computer modelling indicates that the existing rule could reduce general security licence allocations by 8 per cent, on average, and up to 20 per cent in some years. The amendments proposed in this bill allow for the worst drought that occurred prior to the commencement of each of the current water sharing plans to continue to be used to determine the size of the storage reserve. This will have the effect of maintaining the water shares between the environment, high security licences and general security licences as agreed when the water sharing plans were first developed.

In most years general security licences will benefit from these changes. The remainder of the amendments in this bill are directed at ensuring that water licensing allocation and use is carried out in a best practice modern regulatory environment. For this reason, the bill includes a package of new and refined offence provisions. Two metering offences have been changed to remove unnecessary requirements, making all metering offences in the Act consistent. New offences relating to bore drilling have been created to support a new framework for licensing bore drillers. This new framework will replace the drillers licensing provisions in the Water Act 1912.

New offence provisions relating to the taking of water make it an offence for a licence holder to take more than the combined total of water in all water allocation accounts held by the person. The proposed amendments will reduce costly and lengthy investigations which need to disaggregate water taken under the different licences. The bill will also replace uncommenced amendments in the Water Management Amendment Act 2008 to address more scenarios linked to the nomination of water supply works and water tagging zones. A new offence is introduced ensuring that the Minister is informed of works nominated on an interstate equivalent access licence.

The bill also includes important provisions to clarify the processes by which certain Water Act 1912 licences were converted to licences under the Water Management Act. One of these rules relates to situations where a person held a stock and domestic licence under the Water Act which has converted to a Water Management Act licence. This amendment ensures the validity of all such licences in cases where a domestic and stock right also applies. A second rule relating to conversion of licences from the Water Act 1912 allows for reconciliation and validation of water accounts where it was not possible to read meters precisely at the moment of conversion and thus account balances were determined after conversion. The amendments confirm existing practices and will not add to or subtract from the existing account balance of any licence holder. In order that the provisions of this bill can be implemented in an orderly fashion, the bill includes savings and transitional provisions to ensure that existing orders and instruments remain valid where appropriate and the amendment provisions apply to existing licences and instruments as appropriate.

Peak stakeholder groups have been briefed on all of the amendments and have indicated their support. Many of the amendments included in this bill are initiatives proposed by water users themselves. The bill exemplifies this Government's willingness to fix real-world problems faced by industry and communities throughout New South Wales. The bill makes improvements in every significant aspect of water management, from planning processes to licensing and trade through to compliance. Although the bill touches on highly complex and technical matters, at its core are simple, consistent principles that inform this Government's approach to water. These amendments promote triple bottom line outcomes, reduce red tape and the regulatory burden on water users, promote open markets and free trade in water so that our water resources can bring the greatest benefit to all residents of New South Wales, and provide the regulatory clarity and stability that is so important to continued investment and growth for water-dependent businesses. I commend the bill to the House.

**The Hon. STEVE WHAN** [8.22 p.m.]: I speak on the Water Management Amendment Bill 2014. The one thing that can be said about water in New South Wales is that reform has been a constant for at least the last 15 years. From the time I first came into the other place during the water sharing plan process, followed shortly thereafter by the Howard Government's Murray-Darling Basin process, which was continued by the former Labor Government and now the current Coalition Government, up until now, we have seen what appears to be almost constant reform and change. In most cases the change has been important in an attempt to create a long-term sustainable structure for the management of our water resources in rural New South Wales that would ensure security of supply for our farmers and producers, as much as is possible in this land of drought and flooding rains, as well as the protection of the environment.

The bill essentially continues this lengthy reform of water management in New South Wales. Along the way we have seen a move to tradeable water entitlements, which fundamentally changed the way water had been regarded as a property right over the past 20 years or so. In some sense, this bill adds to that process by providing certainty and in some areas extending the ability to trade water. The Minister in his second reading

speech outlined the objects of the bill. The bill provides a framework for issuing floodplain harvesting licences, establishing compensation rights for supplementary licences that take water from a regulated river, streamlining licensing and approval processes, creating a new dealing for licence holders called a term water allocation transfer, providing water sharing plans for deregulated rivers to be administered on the basis of drought information held by the department at the beginning of those plans, excluding the millennium drought, clarifying other parts of the Act, and enhancing offence provisions.

I shall focus on a number of points but I shall not deal in any great detail with those parts of the Act that clarify existing practices or offences, which the Opposition supports. A key part of the bill is the defining of overland water and therefore floodplain harvesting rights. In some parts of the State the ability of farmers to harvest water from flood events has been an important part of agricultural production for a long time. I saw that in action when I was emergency services Minister and attended a number of floods in northern New South Wales. I saw storage facilities where farmers could access existing entitlements to harvest floodwaters. I want to be clear that with the definition of "overland flow water" in the bill, which includes floodwater, rainfall runoff and urban stormwater, we are not creating the ability for someone to take more floodwater, nor is the Government, as I understand it, proposing in any way to make legal a structure that is presently illegal.

It is my understanding that a structure that is currently a block dam or is currently illegal remains illegal under the bill; the bill does not provide any new right in that respect. On that basis the Opposition believes it is reasonable to clarify the definition of "overland flow water" and the capacity to harvest floodwaters. It is important to do that. One of the key reforms over the past decade has been to enhance the Government's ability to manage our water resources properly by regulating exactly how much and who can use the water. I regard this as part of that process. If the definitions are not set out appropriately in the legislation and the amount that a person is entitled to extract is not defined, then we cannot enforce the legislation to ensure that our resources are managed properly over time and that we meet our environmental obligations. From my interpretation, and the interpretation that the Minister's adviser has been kind enough to discuss with me, that seems entirely reasonable.

The Minister in his second reading speech stated that the provision of the definition would enhance the ability of councils to undertake works that would harvest urban stormwater. We have seen a very successful example of such a project in Orange, funded by the last Government, one that has enhanced that town's water security over time. A positive step would be to enable other areas to do the same. Members would all know that people in regional and rural New South Wales drink recycled water somewhere along the line.

**The Hon. Rick Colless:** All water is recycled.

**The Hon. STEVE WHAN:** That is right, yes, that is, water that does not come from the sky, directly from rain.

**The Hon. Dr Peter Phelps:** That is recycled—transpiration and evaporation.

**The Hon. STEVE WHAN:** I note the interjections that all water is recycled. The point I was trying to make is that some people get a little bit upset about the prospect of recycled water. I often think that perhaps they should live in an inland river area and realise that it is not, in fact, anything new. The other aspect of this bill I wanted to clarify is the definition and how it applies to rainwater tanks and rainwater off the roof.

**The Hon. Dr Peter Phelps:** That guy again.

**The Hon. STEVE WHAN:** I think everyone received an email from him. It is clear that the water that runs off our roofs and into our tanks—I wish more would run into mine because they are empty—is not included in the definition of "overland flow water". It is only if it flows onto the ground or into stormwater drains that it is overland flow water. The ability to harvest rainwater from one's roof is not changed by anything in this bill. The Opposition is comfortable with those aspects of the floodplain works. They are consistent with the floodplain harvesting policy released in May 2013 following upon reforms on floodplain works undertaken by the former Government. A great deal of work has been done. I understand from the Minister's second reading speech and the bill that there is still work to do regarding the regulations and guidelines that will accompany this bill. The Opposition will take a strong interest in that.

The bill introduces compensation rights for supplementary water access licences enabling holders of regulated river supplementary water access licences to obtain compensation for certain water allocation

reductions. Obviously, supplementary water access licences are only available to be used in fairly limited circumstances and environmental flows and obligations come before those rights. The supplementary rights that are in existence will enable a framework which will allow those rights to be traded rather than provide circumstances where, one might expect, compensation is paid for these rights.

**Mr Jeremy Buckingham:** Wrong again.

**The Hon. STEVE WHAN:** I note the interjection by The Greens, "Wrong again." It is possible that the member is wrong in this case.

**Mr Jeremy Buckingham:** Just read the briefing note.

**The Hon. STEVE WHAN:** I read the speech by The Greens in the other place and there were aspects of that speech which I felt were wrong and took an alarmist view. It did not reflect the reality of this bill. The extension of rights to supplementary water access licences would be a concern if it was to provide compensation for an inability to access those licences, but by its definition a supplementary access licence is only available to be used in strictly defined circumstances. We are obviously not going to see extensive compensation available for that.

I will not deal in detail with aspects of the bill that deal with streamlining the processes. There are a number of changes in the bill concerning the licence holder's ability to transfer entitlements and amendments to water sharing plans, which the Minister referred to. It will need to be reviewed in a few years to ensure that it is operating in the way the Government intended. The Opposition has no issue with enhancing the offence provisions that were noted by the Minister in the second reading speech and in the bill. The Minister in the other place in his second reading speech suggested that this bill was a major achievement. I see it as a continuation of work undertaken over time and that we still have some way to go. There are aspects of water management in New South Wales which still cause concern.

In particular, I am concerned about the current method for the pricing of water, which is decided by the Australian Competition and Consumer Commission [ACCC], the Government's submissions to the ACCC on pricing and the massive increases in price in particular valleys where there are a small number of users. That is a legitimate cause for concern. Unfortunately, some of those water users are not getting any assurances from the Government over those issues. The increase in price in the Peel Valley during the time that this Government has been in office has been the biggest ever seen. It is presently \$40 per megalitre. If it continues to an unsubsidised level, the price will have moved from \$22 per megalitre to \$70 per megalitre. It is by far the most expensive water in the State. It is disappointing that people in the area are unable to get assurances from the Government about the level of ongoing subsidy to alleviate the increase in pricing. The previous Government started the cost recovery process in valleys.

**Mr Scot MacDonald:** Point of order: The member has moved away from the leave of the bill.

**The Hon. STEVE WHAN:** To the point of order: The long title of the Water Management Amendment Bill 2014 allows some latitude to talk about water management practices in New South Wales.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! There is no point of order.

**The Hon. STEVE WHAN:** I will not focus for long on this issue. People are expressing legitimate concerns that prior to the election the Government made strong comments about this issue but has not commented since the election. It is a legitimate concern for valleys with a small number of users, such as the Peel and Bega valleys. They are paying a large fixed cost as part of the cost recovery principles. When I questioned the previous water Minister about the submissions to the ACCC, she essentially threw her hands up in the air and said, "It is nothing to do with me." It is not good enough for the Government to say that the Government's submissions to the ACCC have nothing to do with the Minister or The Nationals. The Nationals have previously said they are willing to represent those people paying the charges.

We are seeing a continuing period of change in water management in New South Wales. The previous Government implemented water sharing plans, and I acknowledge the amendments to those plans. The Minister commented that with the benefit of hindsight and experience those plans should be modified. They involve a complex process. The previous Government implemented the process of capping artesian bores in an effort to conserve water in the Great Artesian Basin and the capping of piping is continuing

under this Government. It has been hampered by this Government's decision to be miserly with drought assistance for water saving infrastructure. At a national level the Murray-Darling Basin Plan has been implemented.

Before the election one would have thought that The Nationals and the Liberals in New South Wales were diametrically opposed to the position taken by Labor. However, when they were elected they took virtually the same position that the Labor Government had taken. We probably could have had that issue resolved earlier had the Government been more proactive in locking in the 2,750 gigalitre target. Indeed, we might also have avoided having to provide the sop to South Australia, which was the next part. That is my opinion.

The work involved in the Murray-Darling Basin Plan is an important part of this State's consideration of water management. Obviously, continuing the process of ensuring we regulate the use of water from all sources in New South Wales is a critical part of knowing that we can deliver the environmental flows that our rivers are entitled to as part of the Murray-Darling project and the sustainable diversion limits. It is critical that we understand and can control the amount of water being used so that we can ensure we deliver for the environment.

Unfortunately, we know that this Government substantially cut the funding provided to the Murray-Darling Basin Authority. That money was spent on salt interceptors and regulators along the river. We heard in the estimates committee hearings that the Government did that because it was not confident that the money was being used efficiently or appropriately. That budget cut has been applied for two years. Minister Hodgkinson cut the funding massively and there was a slight increase in the last budget. However, it is still substantially less than the funding previously provided to the authority for that work on the river.

This is a very complex area and it is managed by two levels of government. All of these issues are integrated and it is important that we understand that we are dealing not only with a standalone bill but also with years of work done by both the New South Wales Government and the Federal Government. The Labor Party will support the bill. However, it will take a very strong interest in the work still to be done, particularly in relation to floodplain harvesting and its regulation.

**Mr JEREMY BUCKINGHAM** [8.42 p.m.]: I lead for The Greens on the Water Management Amendment Bill 2014, which the Greens do not support. Before I deal with the issues that guide our deliberations and cause us to vote against this legislation, I will inform the House of some of the history of water management in New South Wales. I was elected to the Orange City Council in 2004. It was a great day for Orange and for me. I have always taken an interest in natural resource management. I was doing a degree in land management at Sydney university at the time and I was involved in the council's Stormwater Management Committee. Orange was facing the first of two major water crises. I was also working as a stonemason and our property was adjacent to the East Orange stormwater channel. That channel caused significant flooding in Blackmans Swamp Creek for many decades, the worst flood being in 1946.

Orange would intermittently get 20 millimetres of rain and the causeway would deliver thousands of megalitres of water to the city and into the lower reaches of Blackmans Swamp. It occurred to me that the city should be harvesting that water and I led a campaign to encourage the council to do so. There were many naysayers, most of them boneheads from The Nationals who could not see the sense in harvesting the water falling on the city. They said it would be full of contaminants and pollutants. After six years and the worst drought in recorded history, we built the stormwater harvesting system. It was the first in the world and it has now been copied by people in the Middle East and elsewhere. It delivers one-third of the city's drinking water and it is being expanded. It is improving biodiversity and we are managing stormwater properly.

As is always the case with the management of the Murray-Darling Basin system, we take two steps forward—or take a quantum leap forward in the case of the stormwater harvesting system—and then take five or six steps backwards. This legislation represents a step backwards. It was very disappointing to hear the contributions of Labor members in the lower House and the Hon. Steve Whan in this House. Clearly they have not read the bill; they have simply read the Government's briefing and accepted that this bill is good and necessary. They have been sold a pig in a poke.

This bill will probably be passed tonight. However, we will revisit this legislation next time we experience a major drought. Many members opposite would not have been to north-west New South Wales recently and would not know that it is experiencing a serious drought. The people who rely on water are suffering, and particularly those with high security water access licences. This bill undermines their capacity. It

undermines the orchardists, the miners, the farmers and the townspeople who must have water. It will precipitate a water crisis much sooner than would happen otherwise. Government members have not thought about this. Kevin Humphries is simply browning down natural resource management in New South Wales. Of course, that is not surprising.

This is a shocking bill that has the potential to impact significantly on the environmental health of rivers and wetlands in New South Wales, and particularly in the Murray-Darling Basin. It will create ongoing and potentially costly liabilities for this State. The Minister in the other place did not mention the cost of those liabilities and the new compensation scheme to which this State is now exposed. The bill will provide a framework for issuing floodplain harvesting licences as a property right. It establishes compensation rights for those licences and existing supplementary water licences. It streamlines licensing and approval processes and creates a new deal for licence holders called a "term water allocation transfer". The bill will also provide for inland water sharing plans to be administered on the basis of drought information held by the department at the beginning of those plans in 2004 to exclude drought periods after that time. Members opposite are pretending that the millennium drought did not happen. They do not believe that climate change has happened or that the last 3½ years happened.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! It is disorderly at all times for members to interject.

**Mr JEREMY BUCKINGHAM:** The legislation changes all the State's water-sharing plans, so that decisions about high security water retention are based on historical flow information held by the department when this plan commenced, rather than flow information held by the New South Wales Office of Water—not the most recent data, not the most recent science. High security water licence holders are guaranteed 98 per cent availability of their water allocation over time—that is what they want and why they buy expensive licences. It is appropriate to have this category of licence, as it means that orchardists such as citrus growers in the Riverina, who rely on irrigation to keep their trees alive, have certainty about the future availability of water.

A citrus grower cannot choose not to plant a crop in a dry year or even a prolonged drought. They must keep their trees alive in the difficult times to reap the rewards in other years and for this they must have water. In order to guarantee this availability the Office of Water is to keep three to four years worth of water in our dams to ensure that there is enough water to meet high-security needs in the worst periods of inflows. To accurately predict this it is clear that decisions need to be based on the most up-to-date and comprehensive dataset. The Minister for Natural Resources, Lands and Water agreed with this point in budget estimates when he said:

What you do not want to do when your communities are relying on water storage and releases is have data that is not current, relevant or updated.

But instead of basing the decision on how much water should be kept in our dams on the most up-to-date data available, this bill means that the decision will now be based on data available when the plan commenced in 2004. This means that the data from the millennium drought and future data will not be considered, despite the fact that climate change will see more frequent and more intense droughts and despite the fact that a large proportion of New South Wales is still in drought. This is especially concerning as the second half of the twentieth century was unusually wet. It is also in direct contravention of the National Water Initiative, which commits States to using the best available information when making allocation decisions. It was telling that in budget estimates the Minister for Natural Resources, Lands and Water, Kevin Humphries, refused to say whether he believed in anthropogenic climate change but he did at least acknowledge that:

I think what you are seeing in the country, certainly out our way, is more intensification of weather patterns.

He has, however, completely ignored this intensification. Why? He revealed why in his second reading speech when he said:

When the millennium drought is taken into account, implementing this current water sharing plan rule would result in significant quantities of water being taken out of production and held in reserve in case an equally severe drought occurs. Modelling indicates that the existing rule could reduce general security licence allocations by 8 per cent, on average, and up to 20 per cent in some years.

Let us just pretend it did not happen. The Government is essentially saying that it is concerned if it meets the 98 per cent guarantee that high security water licence holders are due then general security licence holders may

miss out, so the Government is going to change the data to ensure they do not. The Government is also saying that based on the 100 years of climate data pre-2004, we have a perfect understanding of what future climate will be. This is clearly wrong.

This will be a major issue in the Murrumbidgee, where high security licences are about 20 per cent of entitlements. What we are essentially seeing here is a massive transfer of water rights from citrus, viticulture and other Riverina orchardists to croppers. But this issue goes further. It is not only the orchardists who will miss out on this new anti-science regime. This "heads in the sand" approach has the potential to significantly impact on the environmental health of rivers and wetlands in New South Wales, particularly in the Murray-Darling Basin, and could even impact on water availability to our towns. If we insist on releasing too much water from our dams based on dodgy data then we can expect to get caught out as drier climatic periods grip the State.

I wish to address the idea that removal of the millennium drought and future conditions from the decisions process will have net economic benefits as less water will be held in storage and more will be available for economic use by general security licence holders. This argument falls down when we consider that water trades between \$20 and \$60 per megalitre in normal years and that the price rose to more than \$1,000 per megalitre in drought years. This indicates that droughts would need to be about 20 years apart to make economic sense, a very bold prediction.

Unfortunately, the Minister confirmed at estimates that the Government has not done any economic modelling on the impact of removing the millennium drought from modelling for high security licence requirements, so a thorough assessment is not available. Another issue is that compensation is payable under the Act when water is taken from high security and given to general security. It is not outside the realms of possibility that a licence holder could take the Government to court and seek compensation, which will cost taxpayers, but Minister Humphries also confirmed in estimates that the Government has not even considered that applications for compensation from high security licence holders may be made based on this change.

I turn to the compensation being provided for supplementary water licence holders. I was concerned to hear the contribution of the Hon. Steve Whan, who said his position would probably change if supplementary water licence holders could be given compensation. I direct the honourable member to schedule 1, item [6], which inserts new section 87AA, "Compensation payable in certain circumstances for reductions in water allocations arising after initial period that management plan is in force". It states:

Insert after section 87AA (1) (f):

... ..

(f3) regulated river supplementary water access licences,

The Hon. Steve Whan should have bothered to call the Nature Conservation Council or the Inland Rivers Network or anyone who gives a damn about the health of New South Wales rivers, because some of these supplementary entitlements are enormous. We are exposing the State to a liability. I wonder how many members of The Nationals have these titles and are pleased to think they can take these to the bank or be compensated for them.

There is good reason why the current law does not permit compensation for supplementary licences and it was clear from the outset that they would not get compensation. The point of supplementary licences is to make economic use of excess water availability, and it was upon this basis that these licences were granted. They were not granted as a guarantee of availability. The idea has always been that over time, if conditions got significantly drier or environmental allocations were insufficient, they would be phased out.

The farce of this approach is exposed when we consider that under the proposed arrangements supplementary licence applications can continue to be reduced, even to the point of no allocation. Why is a licence entitlement that could be equal to zero being made compensable? With this change the Government is choosing to lock future governments into compensating these licence holders if they need to change the plan due to significantly drier conditions. This is the reason that The Greens cannot agree to this change and oppose the bill.

Finally, I turn to the issue of creating flood licences and allowing them to be compensable, a significant change in this bill. Again, I direct the Hon. Steve Whan to the bill and suggest that Labor should have another look at it. New section 57A states:

**57A Special provisions relating to floodplain harvesting access licences**

- (1) The regulations make provision for or with respect to the conversion of actual or proposed floodplain water usage by landholders into any of the following categories or subcategories of floodplain harvesting access licences (***replacement floodplain harvesting access licences***) ...

The key words are "with respect to the conversion of actual or proposed floodplain water usage" into an access licence that is compensable. That also means that illegal works will be retrospectively licensed. Currently licence holders do not have a private access right to flood-flow water, which has always been considered opportunistic water. But this bill creates a new category of floodplain harvesting licence to provide these rights. It also allows the conversion of existing floodplain usage into these licences and allows them to be compensable. This means that an entirely new liability for compensation has been created for the State. I wish the Government good luck in working out how to compensate holders of new access licences when there is a flood and when there is not a flood.

It is very concerning that the Minister could not guarantee in estimates that diversion banks and other flood works created illegally after the 1994 cap on works will not suddenly become legal and compensable. His very words were, "these works are not illegal; they will be licensed." It is clear that there are illegal works in western New South Wales and it is clear that this Government is adopting an abysmal principle of retrospectively validating those works. Who for? Who has the ear of Minister Humphries? A couple of mates at the Moree pub say, "We would really like to sort this out, Kev."

**The Hon. Duncan Gay:** Point of order: That is an absolutely disgraceful slur on a Minister in another place: likening his policy development to listening to a couple of mates in a pub in Moree. I ask you to instruct the member that if he is going to behave in this way he should do it by way of substantive motion, or perhaps he should drink water.

**DEPUTY-PRESIDENT (The Hon. Paul Green):** Order! The Minister is well versed in the procedures and protocols of the House and he is absolutely correct. If Mr Jeremy Buckingham wishes to cast aspersions on a member of the other House he should do so by way of substantive motion. Mr Jeremy Buckingham will address members of the other House by their correct title. The member should be mindful that his behaviour is unparliamentary.

**Mr JEREMY BUCKINGHAM:** The Hon. Kevin Humphries has developed this policy, who knows how or with whom. His very words were, "These works are not illegal; they will be licensed." That is, they are not illegal because the Government is bringing in legislation to make them retrospectively legal. This could have significant ramifications for downstream users. Not only will it reward landholders who have undertaken illegal or inefficient works but it is also likely to limit future opportunities to restore river flows and to restore floodplain health. It is also contrary to the floodplain harvesting policy, which outlines the process for assessing floodplain works before giving a retrospective approval.

Under the bill, floodplain harvesting licence holders will be eligible for compensation if their flood flow water allocations are reduced, despite the fact that there is no clear basis for how to measure interests and values. How are they going to measure these licences? How are they going to measure these floods? Yet they are creating a title, an entitlement, a licence that is compensable under the Act. That is foolish and outrageous. Members might not like to hear it, but this is a retrograde step in water management in New South Wales. It does not put this State in a good position as we face a drying climate and as we deal with the challenges of the Murray-Darling Basin. In the long history of mismanagement of the Murray-Darling Basin in New South Wales it is two steps forward and three steps back, and this is the three steps back—creating massive new entitlements in New South Wales for supplementary licences and floodplain licences with no idea how much water will be harvested and no idea how much it will cost the State if those licence holders seek compensation.

This is a disastrous move and The Greens utterly oppose it. We totally oppose the assertion by the Minister that this is a triple bottom line approach. This is not a triple bottom line approach; this is purely a browning down of water management in New South Wales by a Minister who has no idea about ecological sustainability in New South Wales. [*Time expired.*]

**DEPUTY-PRESIDENT (The Hon. Paul Green):** I welcome to the public gallery school captains from across the Ku-ring-gai electorate, guests of the Hon. Barry O'Farrell. Mrs O'Farrell is also in the gallery. I hope you have enjoyed this debate, but I am sure you have been told some very interesting tales by the member for Ku-ring-gai.

**Mr SCOT MacDONALD** [9.03 p.m.]: I support the Water Management Amendment Bill 2014. I would like to clarify something for Mr Jeremy Buckingham. I am not sure what he had in his water but he

spent probably half of his contribution saying that if some of the structures were illegal they would continue to be illegal. I draw his attention to page 25 of the bill, and I will quote it because it could assist the member, if that is possible:

However, nothing in this clause permits the capturing and storage of water in, or the taking and use of water from, an existing dam in accordance with substituted sections 53 and 54 if the dam was not lawfully constructed and continues to be unlawful.

I am sure the Minister was going to clear that up for Mr Jeremy Buckingham, who probably just wasted 20 minutes of our lives, which we will never get back. Having said that, I will now make three points. I think this is a terrific bill; it is part of an incremental reform of water, which is incredibly difficult. Andrew Gregson, who was the former executive officer of the NSW Irrigators Council, said that he left the council to go and work in the tobacco industry because it was quieter and less complicated. Water is very difficult—I defy anybody to proclaim that they are an expert on all aspects of it—and one of the more difficult parts is the overland water flow.

This bill is a bold attempt to begin regulating, which has been called for for many years. This Government has finally undertaken the process. It will take some time before the metering and the measurement are done because it is incredibly difficult: we are talking about small depths of water travelling over large distances in the western areas of our State and it does not take much of a diversion to become a capture of water—it takes only one or two inches from the blade behind a tractor to divert a lot of water. In spite of the challenges, the Minister is addressing the issue of the overland flow of water.

Secondly, I thank the adviser to the Minister who assisted me with the issue of water allocation transfers. It is incredibly important that we have as many instruments as possible in which to trade water, which is what the National Water Initiative back in 1994 and everything that followed required of us: we market water, water becomes a property right and it goes to the highest value. It gives certainty to investment and we see productivity and efficiency as well as the environmental flows that will maintain our natural resources. This bill is a good step. It enables people to lease up to 10 years. I think we will see more short-term trading of water in instruments like this. We have annual trades, but now we are moving into this domain of leases. Water allocation transfer is the next step and I think we will see more reform in relation to this in the future.

If that enables people to maintain their water unit along the part of the network that they may not wish to farm or irrigate, they will be able to lease it to someone who does want to and that person will get a value from that water allocation. I refer to some of the potential stranded assets we were looking at, particularly in places such as the Murrumbidgee. People needed money and sometimes they were distressed and would try to sell their water unit or their entitlement. There will now be more capacity to retain the water unit or the entitlement and lease it to someone else who has the capacity, the will and the technology to make the best value of it.

I expressed some concern about whether the banks could take security over the water allocation transfer. I am assured that that is certainly the intention and that it will be encouraged by the Government. As I said, down the track we may look at further reforms to ensure that we have good, flexible instruments that are able to be traded simply and quickly with the regulations described by the Minister. Those instruments will become a commodity, their value will increase, and farmers will prosper.

I think The Greens misunderstand water allocations and some of the related challenges. A licence is only ever a licence; it is no more than a maximum entitlement, hence the word "entitlement". Every year we have an allocation and that is a function of many things. It is a function of seasons, carryover, demand and dam capacity. Increasingly we have an issue that I do not think was foreseen clearly. Currently the Commonwealth water holder holds 2,184 gigalitres. That takes up dam capacity, making it difficult to store irrigation capacity. That policy challenge is still being worked through. I remind members that during the millennium drought, which was mentioned before, high security irrigators gave away 5 per cent for no compensation. Basically, they were bullied into it by the Labor Government of the day. General security licence holders gave away more than 5 per cent.

We must remember that the irrigators who were doing it tough at that time—I think it was the middle of the last decade—gave away 5 per cent for no compensation; and that 5 per cent still comes off their annual allocation. The NSW Office of Water has the difficult task for reconfiguring water allocations between stock and domestic, environment, and high security licence holders and general security licence holders. High security licence holders lost 5 per cent but I think, from memory, that general security licence holders lost more. I hope we revisit that matter in the future. The bill is good legislation. As with any water management bill, it is a

continuation of reforms. For many years governments have walked around reforms, particularly reforms relating to overland flood water, which has bedevilled everybody. This Government is addressing that. I commend the bill to the House.

**DEPUTY-PRESIDENT (The Hon. Trevor Khan):** Before I call the next speaker I welcome into the gallery the daughter of Mr David Shoebridge, Jessica, who is celebrating her tenth birthday today.

**Reverend the Hon. FRED NILE** [9.12 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Water Management Amendment Bill 2014. This is extensive, detailed legislation, and I congratulate the Government on the amount of work that has been done in bringing this comprehensive bill before the Parliament. Basically, there is no more important issue than water, other than the air we breathe. It is important for the Government to have legislation that deals with a streamlined, transparent and efficient water management framework, as this bill does. The Water Management Amendment Bill 2014 provides clarity to what are known as the State's water rights, which define the waters that are within the State's power to regulate.

The bill will assist in the licensing of floodplain harvesting and the development of stormwater harvesting by making important clarifications to the State's water rights. Often there has been extensive debate about the amount of stormwater that comes from rain, storms, and simply runs through the drains and into the ocean. At least it does some good in the ocean, but it is not used in any way to meet the State's water needs. It is important that there be clear regulations, for example, to secure the rights of property owners to harvest the rainwater falling on rooftops. This significant clarification to the State's water rights is to introduce the term "overland flow water". This ensures that certain types of water, which lack clarity, are explicitly included within the State's water rights in the definition of "water source".

These types of water include floodwater, rainfall runoff and urban stormwater. This in turn provides a secure foundation for the NSW Office of Water to issue floodplain harvesting licences providing water users who harvest water from floodplains with a secure, perpetual, tradeable entitlement, with compensation rights. These amendments will also clarify the rules that apply to stormwater harvesting projects. Stormwater harvesting projects can provide local councils with alternative or supplementary water supplies to use for such purposes as watering parks, sports fields and golf courses. Obviously, the water is not of sufficient quality to be used for drinking but it can be used, as I said, for watering parks, sports fields, golf courses and so on. That can reduce demand for our drinking water and assist with controlling pollution from stormwater runoff.

Following these amendments to the Water Management Act 2000 the NSW Office of Water will develop a stormwater harvesting policy that facilitates stormwater harvesting projects while ensuring that appropriate sharing arrangements are in place between stormwater harvesting projects and other water users. I am pleased that the Government is committed to working closely with local councils and the broader industry while developing this policy. Obviously, local councils have an important role to play and they must be closely involved with these decisions and policies. Finally, the bill clarifies that water collected from a rooftop in a rainwater tank is not within the State's water rights. Our party is pleased that the legislation clarifies that as rainwater tanks provide an important and cost-effective way to supplement mains water for both rural and urban property owners.

If owners thought that the rainwater would somehow not belong to them and could be confiscated by the State or the State could require payment for that water, obviously they would not install rainwater tanks. We want to make it as simple as possible through this legislation and through other means to provide an efficient way to encourage people to install rainwater tanks on not only farms but also suburban residential properties. To ensure that there is no general impediment to rainwater tanks, the general regulation for the Water Management Act 2000 includes an exemption for water collected from rooftops from the licensing requirements of the Act. Again, I congratulate the Government on its foresight in including this provision in the legislation.

However, at this stage the exemption is not currently recognised in the Water Management Act. That is why it is important that this bill explicitly excludes water collected from rooftops from the State's water rights. That provides clarity and surety about the legal entitlements of property owners. The State's water rights are the foundation of all the Government's water management and regulation. By improving and streamlining these important provisions, the bill will ensure smooth implementation of the issuing of floodplain harvesting licences and the facilitation of stormwater harvesting projects. This is good legislation with foresight for the needs of the State, and we are pleased to support it.

**The Hon. PAUL GREEN** [9.20 p.m.]: I will make a brief contribution to debate on the Water Management Amendment Bill 2014. The Shoalhaven has a great water utility, probably one of the best across

Australia. The Water Management Act 2000, the principal Act, is the primary legislative authority for managing water resources in New South Wales. It does this by establishing provisions relating to water management planning, rules for the granting of licences to take water and approvals to construct and use various water management works, and rules that govern the trade of water licences and enforcement mechanisms. The Christian Democratic Party notes that the Act includes some unnecessary and overly formal provisions, and lacks provisions to provide business certainty to some water users who rely on supplementary licences and floodplain harvesting.

The bill's key amendments will provide a framework for issuing floodplain harvesting licences; establish compensation rights for supplementary licences that take water from a regulated river; streamline licensing and approval processes; create a new dealing for licence holders called a "term water allocation transfer"; provide for water sharing plans for regulated rivers to be administered on the basis of drought information held by the department at the beginning of those plans so as to exclude drought periods after that time such as the millennium drought; clarify parts of the principal Act to better reflect existing practices and enhance offence provisions relating to the take of water and bore driller licences.

The bill also advances the Government's policy priorities in water management by providing businesses with certainty for supplementary licence holders and water users who rely on floodplain harvesting, facilitating increased trade in water and reducing red tape. I have served on the Standing Committee on State Development that looked at different water issues across the plains. We should capitalise when areas get a lot of rain and use the water wisely to harvest opportunities. I am in no doubt that lasering the paddocks out on the plains was the best way to continue to use water wisely through different levels of the cotton fields. The management and use of water is very important.

I note that some years ago legislation prohibited people from having rainwater tanks because of health department standards. I have been told that a short distance from town in the Shoalhaven people were allowed to have a tank but if they lived on the other side of a fence it was illegal and they could have received an infringement notice. People were not allowed to drink water from the tanks under the health department's standards. It is ironic that we have come full circle and are now encouraging people to have tanks through initiatives such as BASIX, which also includes recycling water and making use of stormwater that currently runs into our creeks and rivers. That water is never used whereas we could probably use it several times over. When in Israel the Hon. Rick Colless saw how plants are grown in the desert through very smart water management. We need that type of innovation in the west of this State to ensure that every last drop of water is used and that there is a multiplier factor to ensure that we not only get good use out of the water but that it returns a triple bottom line result. The Christian Democratic Party commends the bill to the House and thanks the Government for introducing it.

**The Hon. TREVOR KHAN** [9.24 p.m.]: I will make a brief contribution in support of the Water Management Bill 2014. The Hon. Steve Whan was quite right when he commented on the evolving nature of water legislation in New South Wales. Certainly less than 15 years ago I was involved in a number of disputes that I think at that stage were dealt with under the old Water Act. The disputes arose in part because that legislation was just so profoundly out of date. Although high security water licences were being issued they did not appear in the Water Act at that time as a definable licence. The control of water in New South Wales relied quite heavily, in a sense, upon bureaucratic fiat without any legislative basis for it.

The issue that consistently arose in the geographic area where I practised, which was in the north-west of the State, often related to overland flows of water, particularly around Lake Goran, about which I am sure a number of members of this House would be well aware. Disputes occurred between individual landowners in those areas with regard to the diversion of surface or overland flows which was, quite frankly, a source of very considerable wealth for various lawyers in the area. One of the disappointing facts was the lack of scientific rigour available to determine the significance of those interferences with overland flows. I simply make those observations to point out that a more effective legislative basis, as well as a more rigorous scientific basis for control of these issues is fundamentally important not only for the whole of the State but also in controlling the relationships between property owners, particularly those involved in the farming industry.

My further point also relates to what was said by the Hon. Steve Whan regarding the expense of water in some valleys. We well remember during the period of the last Government the expense of water in some valleys became a particularly hot issue. Indeed, the former member for Tamworth adopted what was, frankly, a quite unhelpful approach in promoting the concept of postage stamp water pricing across the State. The former member's approach was not only unhelpful legislatively for a whole number of reasons but also in a sense

poisoned the well in some valleys in so far as people's understanding the nature of how we had to control the pricing of water was concerned. Regrettably the approach taken by the former member continued to make discussions in valleys such as the Peel Valley difficult to undertake to achieve some resolution. The Hon. Steve Whan was quite right when he said there is a real issue with regards to the price of water in that valley. That has been taken up particularly by the current member for Tamworth, Kevin Anderson, who has sought to adopt an intelligent and practical way of overcoming those water pricing issues.

Mr Anderson has diligently pursued that issue for the past 3½ years. I have little doubt that his intelligent and practical approach to resolve those issues will see a productive outcome for the people of the Peel Valley. His approach is in stark contrast with the approach taken by the former member.

**Mr Jeremy Buckingham:** What is that approach he has taken?

**The Hon. TREVOR KHAN:** I have no doubt his approach will produce fruit. I hear the cackle from the other side of the Chamber. It is quite unhelpful because, quite frankly, Mr Jeremy Buckingham takes that approach to all these matters. He is simply a bomb chucker, and adds nothing productive to anything that happens in rural and regional New South Wales. He is a disgrace to rural New South Wales and a disgrace in this Chamber.

**Mr Jeremy Buckingham:** Point of order: The member clearly called me a disgrace. That is unparliamentary and I ask him to withdraw.

**The Hon. Dr Peter Phelps:** To the point of order: While it might be a reflection, it is clearly not unparliamentary. It is certainly not within the list of words and phrases contained in the rulings of Presidents so the point of order should not be allowed on that basis.

**DEPUTY-PRESIDENT (Ms Jan Barham):** Order! It would be helpful to the conduct of the House if members did not interject and if they refrained from name calling or ridicule. While I accept that Mr Jeremy Buckingham may have taken offence, I do not believe that it was disorderly to use that phrase. I remind members that interjections are disorderly at all times.

**The Hon. DUNCAN GAY** (Minister for Roads and Freight, and Vice-President of the Executive Council) [9.31 p.m.]: I thank all members for their contributions to the debate. All members, with the exception of Mr Jeremy Buckingham, supported the bill and those contributions were good; I do not need to comment on them. Frankly there was not much substance to the contribution of Mr Jeremy Buckingham. Although the bill touches on highly complex and technical matters, at its core are simple, consistent principles that inform this Government's approach to water. These amendments promote triple bottom line outcomes, reduce red tape and the regulatory burden on water users, promote open markets and free trade in water so that our water resources can bring the greatest benefit to all residents of New South Wales and provide the regulatory clarity and stability that is so important to continued investment and growth for water-dependent businesses. I commend the bill to the House.

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

**The House divided.**

**Ayes, 30**

|               |                    |                 |
|---------------|--------------------|-----------------|
| Mr Ajaka      | Mr Green           | Mr Searle       |
| Mr Blair      | Mr Lynn            | Mr Secord       |
| Mr Borsak     | Mr MacDonald       | Ms Voltz        |
| Mr Brown      | Mrs Maclaren-Jones | Ms Westwood     |
| Mr Clarke     | Mr Mason-Cox       | Mr Whan         |
| Ms Cusack     | Mrs Mitchell       | Mr Wong         |
| Mr Donnelly   | Mr Moselmane       |                 |
| Ms Fazio      | Reverend Nile      |                 |
| Ms Ficarra    | Mrs Pavey          | <i>Tellers,</i> |
| Miss Gardiner | Mr Pearce          | Mr Colless      |
| Mr Gay        | Mr Primrose        | 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.**

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

**Third Reading**

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

That this bill be now read a third time.

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

**CHILD PROTECTION (OFFENDERS REGISTRATION) AMENDMENT (STATUTORY REVIEW)  
BILL 2014**

**Second Reading**

**The Hon. JOHN AJAKA** (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [9.42 p.m.]: I move:

That this bill be now read a second time.

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

**Leave granted.**

The Child Protection (Offenders Registration) Amendment (Statutory Review) Bill 2014 implements the findings of the statutory review of the Child Protection (Offenders Registration) Act 2000.

The amendments contained in this bill will improve the operation of the Act, and will strengthen monitoring of child sex offenders living in the community.

The Act provides the framework for the registration and reporting requirements of certain offenders who have committed sexual and other serious offences against children. These offenders are known as registrable persons.

The Act aims to protect children from serious physical and psychological harm caused by physical and sexual assault through the monitoring of these registrable persons in the community.

Section 26 of the Act requires the Minister for Police and Emergency Services to review the Act to determine whether its policy objectives remain valid and whether its terms remain valid for securing these objectives.

A discussion paper was circulated to relevant stakeholders in 2013, who were invited to make submissions that could assist with the statutory review of the Act.

Submissions were received from across Government, as well as non-government agencies, such as the Homicide Victims Support Group, Law Society of NSW, Legal Aid New South Wales and Shopfront Youth Legal Centre.

I wish to thank all of them for their contributions.

The review found the policy objectives of the Act remain valid and that its terms remain appropriate for securing those objectives.

Child protection registration offences are listed in two classes. Class 1 offences are the most serious and include child murder and sexual intercourse with a child, while class 2 offences include child prostitution and child abuse material offences.

Registrable persons are required to report particular personal details to police while they are living in the community. This includes their name, date of birth, where they live, what car they drive and details of any children who generally reside in the same household with them.

Their details are recorded on the New South Wales Child Protection Register, a database held by the NSW Police Force.

Depending on the severity of their offences, the time frame for reporting can vary from four to five years for young offenders to life for adult repeat offenders.

Now to the details of the bill. The Child Protection (Offenders Registration) Amendment (Statutory Review) Bill 2014 will amend the Act with the following provisions.

The new objects of the Act are to:

- (a) protect children from serious harm (including physical and psychological harm caused by physical or sexual assault), and
- (b) ensure the early detection of offences by recidivist child sex offenders, and
- (c) monitor persons who are registrable persons, and
- (d) ensure that registrable persons comply with this Act.

The definition of class 2 registrable offence is being expanded to include:

- manslaughter of a child, except as a result of a motor vehicle accident
- wounding or causing grievous bodily harm with intent to a child under 10 years of age (when the offender is not a child), and
- child abduction (when the person committing the offence has never had parental responsibility for the child).

Inclusion of these offences will ensure that offenders who continue to pose significant risks to children are not omitted from ongoing monitoring.

Under section 3E of the Act, the time frame in which applications may be made by police for a child protection registration order will be extended from 21 to 60 days.

Section 3E of the Act enables a registration order to be made after the conclusion of criminal proceedings for an offence which is not registrable.

This is on application by the police and can only be made if the court is satisfied that the person poses a risk to the life or sexual safety of a child.

Police will now have sufficient time for the application for a registration order to be made, should it be warranted.

The bill amends section 3F to allow for the retrospective application of the new offences. It provides that police may apply for a registration order for a person who was sentenced in the past for the additional class 2 registrable offences, unless they were a child at the time.

This will strengthen current arrangements, where police may only apply for a registration order for someone who was sentenced for a class 2 offence before 2001.

Police will assess the current behaviour of such persons in conjunction with the previous offences.

The court will determine if those offenders who have committed these offences in the past pose a current risk to children; and may then order they comply with reporting obligations.

The bill provides that section 3H of the Act will be amended to include the following criteria for the court to take into account when determining whether to make a registration order:

- the seriousness of each registrable offence committed by the person,
- the age of the person at the time each of those offences was committed,
- the age of each victim of each of those offences at the time that the offence was committed,
- the seriousness of any other offences committed by the person,
- the impact on the person if the order being sought is made, compared with the likelihood that the person may commit a registrable offence, and
- any other matter the court considers to be relevant.

The bill proposes a number of changes related to forensic patients. In general terms, forensic patients have either been found not guilty by reason of mental illness of committing a crime, or found to be unfit to stand trial.

Under section 3 the definitions of sentence will be clarified in relation to the Mental Health (Forensic Provisions) Act 1990. Currently the term "sentence" only refers to an order of detention under sections 27 or 39.

The Act will be amended to provide that an order under section 24 of the Mental Health (Forensic Provisions) Act, which causes a person to be kept in custody for a specified term, is included in the term "sentence". Consequently these people will fall within the definition of a registrable person under the Child Protection (Offenders Registration) Act.

Turning to section 6, the review accepted submissions that legislative reform should clarify when notifications should be made and when reporting obligations should commence for forensic patients.

Section 6 of the Act provides that when a registrable person ceases to be in custody or under supervision, the supervising authority must give written notice of that fact to the Commissioner of Police. The person must also be given written notice of their reporting obligations and the consequences of failing to comply.

During the course of their treatment, a forensic patient can be granted many different types of leave.

To ensure that the various notices only apply in appropriate circumstances, the Act will be amended to:

- require the Ministry of Health to notify the Commissioner of Police under section 6 on each occasion that a forensic patient is subject to an order that allows the person to be absent from a mental health facility, correctional centre or other place on a regular and unsupervised basis, and
- clarify that notice to the person of their reporting obligations is not required to be given in those circumstances.

These changes will mean police will know when registrable persons, who are also forensic patients, are in the community unsupervised. However, the person will not be subject to formal reporting requirements until released into the community.

Provisions have been included for regulations to determine what constitutes absences on a regular and unsupervised basis, as well as the manner and form of written notice regarding such leave.

Moving on to section 9, the review considered the definition of "contact" based on submissions and recommendations of the Victorian Law Reform Commission's Sex Offenders Registration: Final Report.

The bill amends section 9 of the Act to clarify contact with a child that must be reported includes both the modes and circumstances in which the contact occurs. However it will exclude any "one off" contact the offender may have with a child, such as when the registrable person is on public transport.

As a result the definition of "regular unsupervised contact" at section 9 (2) (c) of the Act is repealed.

The bill will also amend section 9 to clarify the personal information that a registrable person must provide to police. Currently this information includes such matters as details on vehicles the person generally drives and their phone number.

The review accepted these requirements could be strengthened so that a registrable person could not attempt to avoid their obligations.

This information will now also include:

- the full details of any hire car used by the person for short periods, and
- the details of any mobile phone or landline numbers used, or intended to be used, by the person not just their own number.

Additional personal information will be included under a new section 9 (1A) to clarify the circumstances involving contact with a child by the registrable person.

A registrable person must report contact with a child if that person is:

- supervising or caring for the child, or
- visiting or staying at a household where the child is present, or
- exchanging contact details with the child, (including providing the person's contact details to the child) or
- attempting to befriend the child.

A further amendment gives the courts discretion to modify reporting requirements to address the needs of a young offender, where the court is satisfied there is not increased risk to children.

This amendment to section 9 provides that:

- the sentencing court, or
- a court imposing a registration order, or

- a Local or Children's Court on application by the police may take into consideration the circumstances of a young registrable person. The court may then modify contact reporting obligations to assist with the educational or other needs of that young person.

These young offenders need not provide all information regarding contact with peers in, for example, a classroom. This will specifically assist young registrable persons to remain at school without having to report all classmates' details.

If a young registrable person later changes schools or leaves school, the police can apply to the court to modify the reporting requirements.

The review accepted that a young registrable person should be given a chance to get an education without obligations that are overly onerous. This is balanced with protecting the children with whom they have more than incidental contact.

I will now speak to corresponding registrable persons or those registrable persons from other jurisdictions. A number of provisions relating to corresponding registrable persons are currently woven throughout the Act and these will be placed into a single division.

This will simplify the Act's administration and ensure the full suite of requirements is clearly identifiable.

Division 3 of the Act includes a number of sections where the current time frames for reporting vary depending on the situation. The varying timeframes were raised by stakeholders in the review as complex.

To address this, the bill will amend Division 3 of the Act to provide that a registrable person must report any changes to their relevant personal information to police within seven days of that change occurring.

Some time frames remain as currently provided in the Act including sections 11 (1) (a), 11A (3) and 11F:

- the provision of names of children in the registrable person's household must be reported within 24 hours
- the intention to travel outside New South Wales for more than 14 days where circumstances arise making it impracticable to make the report seven days before the person leaves, must be reported within 24 hours prior; and
- the intention to change the place where the registrable person generally resides must be reported within 14 days.

Section 15 of the Act will be amended to address concerns that registrable persons may currently be able to breach their reporting requirements by failing to make either an initial or annual report, without serious repercussions.

New subsections will provide for extensions to the reporting periods, now to be known as "countable periods".

This is consistent with current provisions which suspend reporting obligations when a registrable person is in custody. Currently the length of the reporting period is extended by the time during which the reporting obligations are suspended.

Police will be required to inform registrable persons of the consequences of failing to comply with their reporting obligations, in terms of the potential extension of those reporting obligations, at the time of the initial and annual reports.

The bill amends section 19E to increase the maximum penalties for unauthorised changes of name by a registrable person—without reasonable excuse—to five years imprisonment or \$55,000, or both.

This will provide consistency with penalties which apply elsewhere in the Act for failing to comply with reporting obligations or furnishing false or misleading information without reasonable excuse.

Section 19BA facilitates the multi-agency monitoring and risk management of high-risk registrable persons who have been referred to an interagency Child Protection Watch Team for case management.

These agencies are allowed to collect and use personal information about a registrable person, and disclose that information to other scheduled agencies if authorised by a senior officer of the agencies concerned.

Schedule 1 is being amended to include current titles of, or the specific appropriate part of, the relevant departments.

Schedule 2 provides for savings, transitional and other provisions.

In the main, these amendments comprise matters of a machinery nature to provide consistency with other Acts.

Those clauses which relate to reporting obligations, in particular clause 5; will mean that current registrable persons will need to comply with the new amendments regardless of when their reporting obligations first commenced.

This bill is the result of effective consultation and thorough review. It takes into consideration the national approaches to offender registration and is consistent with or superior to, that of other jurisdictions.

This bill strikes the balance between maximising compliance with obligations under the Act and ensuring sophisticated and effective monitoring.

I commend the bill to the House.

**The Hon. STEVE WHAN** [9.43 p.m.]: The Opposition supports the Child Protection (Offenders Registration) Amendment (Statutory Review) Bill 2014. The objects of the bill include:

- (b) expanding the classes of registrable offences to include manslaughter of a child, wounding or grievous bodily harm of a child less than 10 years of age and abduction of a child,
- (c) increasing the time in which child protection registration orders can be made,
- (d) specifying matters that a court must take into account before making such an order,
- (e) requiring the Commissioner of Police to be notified when a registrable person who is a forensic patient is given regular unsupervised leave from detention,
- (f) updating the relevant personal information that must be reported by a registrable person,
- (g) clarifying the types of contact with children that a registrable person must report,
- (h) standardising the period in which reports must be made,
- (i) extending reporting obligations if a registrable person fails to comply with the obligations,
- (j) increasing the penalty and providing a defence in respect of offences relating to attempting to change a registrable person's name without the approval of the Commissioner of Police,
- (k) updating the list of scheduled agencies to account for changes to the government sector,
- (l) collating provisions that deal exclusively with corresponding registrable persons,
- (m) making other minor statute law revision amendments,
- (n) including savings and transitional provisions consequential on the proposed amendments.

In speaking to this bill in the other place Labor's shadow Minister for Police outlined some of the history of the bill. He outlined in particular the Child Protection Offenders Registration Act 2000 and the role that it played prior to this bill. He stated that it was right to review the regime from time to time and acknowledged that this bill was about reviewing the provisions in place through the previous legislation. The shadow Minister, Mr Michael Daley, described the classes of offences in the Child Protection Offenders Registration Act 2000. Class 1 offences include the murder of a child and sexual intercourse with a child. Class 2 offences include acts of indecency, kidnapping of a child, filming a child for indecent purposes, grooming offences and possession of child pornography.

This bill will add to these offences. Initially a registrable person was required to give information to the police that included all their names, their date of birth, principal address, details of employment, details of their motor vehicles, details of their registrable offences, details of any community organisations or clubs that had child participation or membership where they had certain involvement, the names, identities and ages of children with whom they ordinarily reside or had unsupervised contact, and details of distinguishing marks such as tattoos.

The Act required them to report absences interstate that exceeded 14 days. They had to provide the police with details of telephone services, internet service providers, the types of internet connections, email addresses, internet user names, instant messaging user names, chat room user names and any other names or identities used or intended to be used on the internet. DNA profiles, fingerprints and photographs were also to be recorded on the register. The shadow Minister noted that a person who was on the register always had to have the approval of the Commissioner of Police to change his or her name and that had been in place in the original Act.

The bill proposes changes including insertion of objects in the Act. The first is to protect children from serious harm, including physical and psychological harm caused by physical or sexual assault, to ensure the early detection of offences by recidivist child sex offenders, to monitor persons who are registrable persons, and to ensure that registrable persons comply with this Act. Labor has no issue with any of those propositions. The second change is to expand the classes of registrable offences to include manslaughter of a child, except as a result of a motor vehicle accident, which will make it consistent with the Child Protection (Working with Children) Act 2012, wounding or grievous bodily harm of a child under 10 years of age, which will not apply when the person committing the offence is a child, and the abduction of a child when the person committing the offence has never had parental responsibility for the child.

The Minister stated in his second reading speech that inclusion of these offences would ensure that the offenders who may continue to pose significant risk to children are not omitted from ongoing monitoring and that an offender who is originally charged with the murder of a child, a registrable offence, but is ultimately found guilty of the lesser offence of manslaughter will now be captured by the reporting obligations of the child protection register.

The third change extends the time in which child protection registration orders can be made by police from 21 to 60 days after the conclusion of the criminal proceedings. The fourth change specifies matters that a court must take into account before making an order, such as the seriousness of each offence, the age of the perpetrator, the age of each victim, the seriousness of other offences committed, and the impact upon the person compared with the likelihood that the person may commit a registrable offence. The bill therefore gives the court the discretion, based on the circumstances of the crime, to make decisions itself. The fifth change requires the Commissioner of Police to be notified when a registrable person who is a forensic patient is given regular unsupervised leave from detention. The Opposition strongly supports that proposition.

The sixth change updates the personal information that must be reported by a registrable person, such as the name and date of birth of each child who lives in the same household as the registered person and details of children with whom they have unsupervised contact. Change seven clarifies the types of contact with children that a registrable person must report. The eighth change standardises the period in which reports must be made. Change nine extends reporting obligations if a registrable person fails to comply with the obligations. Change 10 increases the penalty and provides a defence in respect of offences relating to attempting to change a registrable person's name without the approval of the Commissioner of Police. The new penalty is now five years imprisonment or \$55,000, or both. Change 11 updates the list of scheduled agencies to account for changes to the government sector, and change 12 collates provisions that deal exclusively with corresponding registrable persons.

As the shadow Minister pointed out in the other place, the child protection regime in New South Wales is a Labor initiative, and we are proud of that. That initiative had the support of both sides of the House when it was introduced and has ever since, and that is as it should be. The regime is strict but it is a very reasonable way to monitor the most serious child sex offenders in New South Wales. It is appropriate to review the provisions of this legislation and the Child Protection (Offenders Registration) Act 2000. We must ensure that they are updated and continue to meet the needs of the New South Wales community. We all agree that this area requires constant, careful scrutiny. Going through some of the offences makes us feel that we can never do enough to protect young people.

The Opposition supports this bill. However, as we have for the past few years, we will continue to express our concerns about resourcing of critical child protection agencies. During the 2013 estimates committee hearings the Labor Party expressed its considerable concern about the under-resourcing of the NSW Police Force Child Abuse Squad and the fact that it was then well below its establishment. We want to ensure that joint investigation response teams and the Child Abuse Squad are properly resourced and, very importantly, that the Department of Community Services has the people it needs to investigate and to take action to protect vulnerable children in our community. Those things cannot be ignored.

Provisions designed to ensure that the law protects children from people who might abuse them are important. However, resourcing of enforcement and investigations is also critical. The Opposition has expressed extreme concern about resourcing of agencies, such as the Department of Community Services and the Child Abuse Squad, many times since this Government was elected. It is our job and everybody expects us to continue to pressure the Government to ensure that those resources are provided where they are needed.

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

#### **ADJOURNMENT**

**The Hon. JOHN AJAKA** (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [9.54 p.m.]: I move:

That this House do now adjourn.

## KAMIRA ALCOHOL AND OTHER DRUG TREATMENT SERVICES

**The Hon. GREG DONNELLY** [9.54 p.m.]: Kamira Alcohol and Other Drug Treatment Services, best known simply as Kamira, is located in my duty electorate of Wyong. Kamira was established in 1982 in response to the growing need for a residential alcohol and other drug treatment centre for women with children from across New South Wales. It currently provides services for women with or without children. The organisation is accredited with the Australian Council on Healthcare Standards. It is a non-government, not-for-profit registered charity. Kamira has a governance committee and provides both residential and outreach services. It believes that everybody has the ability to recover, everybody has the right to access quality treatment and that building strong relationships, particularly with family, is the foundation to long-lasting recovery. Kamira offers drug and alcohol treatment based on the approach that each individual is unique and takes a multi-factor approach to understanding and treating drug and alcohol dependency. It believes that each individual has the ability to learn new and constructive responses to life experiences.

Staff utilise a range of evidence-based techniques as recommended by the NSW Health Drug and Alcohol Psychosocial Interventions Professional Practice Guidelines 2008. The program is staffed by allied health workers with tertiary qualifications and appropriate professional experience. The residential program is offered to alcohol- and/or drug-dependent women with or without children across New South Wales. It can accommodate up to 19 women and six children. The program has five stages: four residential stages that extend across a period of six to nine months and an aftercare stage once the resident has left Kamira. Each stage builds upon the previous stage and incorporates new responsibilities and challenges. Movement through the stages of the program is based on the residents' capacity to progress from restricted leave to support leave, unsupported leave and then weekend leave.

It is a highly structured comprehensive program incorporating therapeutic groups and individual counselling conducted by tertiary trained and experienced staff who deal with childcare and parent effectiveness training, healthy dietary plans, yoga and relaxation training, gardening, camping and other extracurricular activities. The program requires clients to be alcohol, drug and smoke free. Kamira is staffed 24 hours a day. The centre's rules and expectations address the attitudes and behaviour expected of residents. They teach residents how to control impulses, delay gratification, handle frustration and manage emotions. Adherence to rules provides individual residents with an opportunity to develop honesty, confidence, self-esteem, responsibility to self and responsibility to others while preserving an atmosphere of safety, mutual respect and orderly living within the community as a whole.

For the 2012-13 reporting period 108 assessments were conducted for the residential program. It was reported that 28 women were admitted and nine left within the first two weeks of the program. The average age of the participants was 36 years and 46 per cent identified alcohol as their primary drug of concern. Cannabis, amphetamines and heroin were also identified as drugs of concern by a number of the women in the program. I had the privilege in March of visiting Kamira and meeting with the director, Catherine Hewett, and some of the staff. I was taken through the programs offered and given an outline of a number of successful examples of participants who had made significant progress in coming to terms with their addiction and who had commenced on the road to recovering from their challenges.

Kamira is an outstanding organisation that has a track record that speaks for itself. Its programs are not easy to get into and the expectations placed on participants are high. However, what is done to help those suffering from addiction is done with great respect for the individual, care, courage and the belief that no matter how bad things get life can get better. Unfortunately—perhaps tragically is more appropriate—this wonderful purpose-built facility on the Central Coast is being greatly under-utilised. When I toured it I saw room after room with nothing other than a bed frame and mattress turned on its side.

I have drawn the attention of the House to Kamira in good faith. I seek to do nothing other than urge the State Government to sit down with the exceptional people responsible for operating Kamira without delay to work out a plan that will place it on a solid, stable financial footing for the future. Operating on short-term arrangements and preventing Kamira from fully utilising its facility must come to an end. There is a great demand on the Central Coast and across the State for the service provided by Kamira. I respectfully ask the Premier, the Treasurer, the Minister for Health, the Minister for Family and Community Services and the Minister for Mental Health to take a further look at Kamira. It needs and deserves assistance and it can make a major difference to the lives of some of the most vulnerable women in this State.

### SOUTHERN CROSS UNIVERSITY

**Dr JOHN KAYE** [9.59 p.m.]: New South Wales's 10 universities are all struggling as a result of the policies of both Labor and Coalition governments, but there is now strong evidence that the management of one institution, Southern Cross University, has made matters much worse. Reckless investment decisions and a cavalier attitude to the dignity and welfare of staff have driven Southern Cross University to crisis point. Morale has reached an all-time low, job cuts threaten the viability of the university and questions now surround the competency and integrity of management.

The Abbott Government's budget savaged public universities, with higher fees that could reach \$100,000, sweeping cuts and the threat of private, for-profit institutions gaining the same access to government funding as public universities. All this comes on top of the previous Labor Government's threatened cuts of \$2.3 billion. While these attacks have had serious implications for all universities, some have been cleverer and some have worked harder to protect students and staff. It appears that the management of Southern Cross University [SCU] has been neither clever nor prudent in handling these challenges and the staff are now being forced to pay the price, in both research time and, in some cases, their jobs.

The Auditor-General's 2014 report singled out SCU as having the weakest financial sustainability indicators in the State, with two years of negative operating margins. While every regional university faces substantial challenges, both the University of New England and Charles Sturt University have avoided the consequences now facing SCU. It is not hard to see why this is happening. Despite the warnings that universities faced tough times, SCU management embarked on two seriously questionable investment decisions. In 2013, SCU opened the second phase of its \$50 million Gold Coast campus. This can only be seen as a high-risk investment in an already crowded tertiary education market.

**The Hon. Catherine Cusack:** Point of order: The member is making outrageous smears against the administration of Southern Cross University without a shred of evidence.

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

**Dr JOHN KAYE:** It is a long way from the university's core business of regional education, exposing the institution's financial viability to a new and apparently unmanaged set of threats. For a university the size of Southern Cross, \$50 million is a substantial investment that should have only been undertaken after extremely careful consideration of the downside risk. There is no evidence that this was done in a way that respected the failure consequences for staff and the community.

Secondly, the university moved into engineering education. While the economy of rural New South Wales will no doubt need more qualified engineers, even the most casual examination would have exposed the volatility of the demand for places. While the development of the new Science and Engineering precinct building was in part covered by regional priorities funding, cost over-run risks and risks associated with unrealised demand remain with the university. The lavish spending on capital works on the Gold Coast campus and the \$50 million, 10-storey Building B create the strong perception that the management is much more interested in new structures than in staff.

Already 50 staff have lost their jobs and another 50 are now at risk. All academic staff are facing a 10 per cent increase in their teaching hours which, as Vice Chancellor Peter Lee admits, will eat into research and other scholarly activity. It is thus extraordinary that management is prepared to insult staff who shun this weekend's procession through the town of Lismore with snide references to "bad backs". The Mayor of Lismore, Jenny Dowall, estimated that the loss of 50 jobs in the education sector will result in a \$12.55 million hit to the municipality's economy and a decline of 91 jobs in Lismore city and 124 across the State.

Management is steadfastly refusing to provide answers to questions about debt, project funding, staff engagement and, significantly, the Vice Chancellor's performance bonuses, forcing the staff and their union into a protracted government information public access [GIPA] process. The 2013 annual report shows that Vice Chancellor Professor Lee's package was worth more than \$632,000 and that the university council deemed that he "met all performance objectives". However, there is no information on what these were and how they were measured. Staff facing job losses and an attack on their right to undertake scholarly activities are rightly outraged by the secrecy with which Professor Lee has surrounded his management and personal rewards. Lee denied staff and the community the right to present a petition to council, even moving—

**The Hon. Catherine Cusack:** Point of order: This is an unendurable, baseless smear.

**Dr JOHN KAYE:** Then don't endure it. Get out and let me finish it.

**The Hon. Catherine Cusack:** It is an outrage that the member is using the Parliament in this way.

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

**Dr JOHN KAYE:** Lee denied staff and the community the right to present a petition to council, even moving a scheduled meeting off campus to avoid a community assembly arranged for this Friday. His tight control of information reaching the body to which he is ultimately accountable raises serious questions. Management stands accused of incompetence in handling its finances and of a cavalier and immoral disrespect for the university's employees and the community. I urge Professor Lee and his team to be open with the community, abandon moves for more redundancies and attacks on conditions and to work for genuine alternatives that secure the future of this critical educational institution.

**The Hon. Catherine Cusack:** Time has expired.

**Dr JOHN KAYE:** You are appalling taking points of order, which you knew were frivolous, during an adjournment speech.

**The DEPUTY-PRESIDENT (The Hon. Jennifer Gardiner):** Order! The member's time has expired. Dr John Kaye will resume his seat.

#### **DEATH OF RETAINED FIREFIGHTER DANIEL "HOWIE" HOWARD**

**The Hon. NIALL BLAIR** [10.04 p.m.]: Tonight it is with sadness that I pay tribute to Retained Firefighter Daniel "Howie" Howard. On Sunday 17 August 2014 Daniel, along with his colleagues at 256 Station Cobar, responded to a fire call at a Cobar landmark, the New Occidental Hotel. Just an hour into the firefighting operation tragedy struck. Firefighters and members of the public who had amassed to watch the spectacle reported hearing a loud explosion and the front wall and awning of the hotel collapsed, burying Daniel and a colleague.

It is believed that Daniel suffered a cardiac arrest. He was rushed to Dubbo hospital by ambulance where he was pronounced deceased. Daniel Howard was 37 years old—the same age as I am. He had been a retained firefighter at the Cobar station for five years—coincidentally the same length of time that I was a retained firefighter. He leaves behind his de facto partner, Jenna Batistich, and her young son, along with his parents, Genevieve and Jeff, sisters Heidi and Natasha, and all of his mates at Fire and Rescue NSW Station 256 Cobar. On 27 August Daniel was laid to rest. His funeral was attended by the Minister for Police and Emergency Services, the Hon. Stuart Ayres, and Fire and Rescue NSW Commissioner Greg Mullins. I would like to share with the House part of Commissioner Mullins' eulogy for Daniel:

Every day firefighters put their lives on the line to protect others. They do this when they fight fires, when they deal with dangerous chemical spills, and when they rescue people from car accidents and burning or collapsed buildings. Firefighters face danger so that they can save the lives of others. That's why the community holds them in such high esteem, and why people often call them heroes. Today, sadly, we are all here to say farewell to one of those heroes: Retained Firefighter Daniel Howard. As he had done countless times before, he jumped into his car when he was alerted and dropped everything to respond to a call for help. He rang Jenna to ask her to meet him at the fire with his gear, then together with his fellow firefighters immediately started evacuating people away from danger. He and his mates from 256 Station Cobar were heeding the call to protect life, property, and the environment, a calling they had all dedicated themselves to. Whilst it isn't something that firefighters talk openly about, it is always in the back of their minds that what they do is inherently dangerous, and there is a tacit understanding that each callout could be their last. After all, firefighters run into situations that everyone else runs away from. And so it was on Sunday the 17th of August 2014 Daniel and his mates from 256, as always, were prepared to do whatever needed to be done to save others. It takes very special people to do something like that, and clearly, Daniel Howard was a very special person.

I did not know Daniel personally, but as a former firefighter I was moved by his loss. The days following this tragedy I watched as the wider firefighting community also expressed its grief through social media. One contributor summed up everyone's feelings on the loss of a firefighter when they said, "We don't lose many—but when we do, it bloody hurts." To Daniel's family and his partner, Jenna, to all of his colleagues at Station 256 Cobar and all the firefighters in Fire and Rescue NSW, to the other emergency service personnel who responded to this incident and assisted Daniel and to all of the Cobar community I offer my condolences. Retained Firefighter Daniel Howard, may you rest in peace.

## DOMESTIC VIOLENCE

**The Hon. HELEN WESTWOOD** [10.08 p.m.]: Last week an ambitious national program to end domestic violence was launched by the Foundation to Prevent Violence Against Women and Their Children. It is called the Our Watch program and is the largest of its kind in Australia. It is a 20-year strategy focusing on the prevention of domestic violence. Chief Executive Paul Linossier said the program "was aspirational but achievable". I welcome this national campaign and urge the New South Wales Government to sign on in support.

Domestic violence and abuse do not discriminate. They occur within all age ranges, ethnic backgrounds and economic levels. People from all walks of life can be affected by family and domestic violence, including all types of relationships, such as current and past intimate relationships, co-habiting carers and guardians and other family members including stepfamilies, and those who fall within Indigenous or culturally recognised family groups, irrespective of gender and sexuality.

The bottom line is that abusive behaviour is never acceptable, whether it is coming from a man, a woman, a teenager or an older adult. Everyone deserves to feel valued, respected and safe. Findings in a national survey on community attitudes to violence against women show an alarming acceptance of aggression. Only half of the people surveyed said hitting a partner is very serious; 13 per cent of respondents said women often say no when they mean yes; and one in five said domestic violence can be excused if the perpetrator regrets it. These responses are alarming.

Figures from the NSW Bureau of Crime Statistics and Research show domestic violence reports are at a 15-year high despite a decline in all other major offences. One in every three women has experienced a physical attack. Assaults in New South Wales have increased by 2 per cent over the past five years. It is a sad fact that one woman is killed almost every week by a current or former partner in Australia. On the ABC 7.30 program on 21 April this year, Fiona McCormack, Chief Executive Officer of Domestic Violence Victoria, said:

If women and children were being abused and murdered by strangers at the rate at which they're being abused and murdered by men in their family, there'd be taskforces, there'd be funding, there'd be political will. But as it is, it's largely being met by political ambivalence.

It is appalling that as a society we believe that violence towards women is acceptable. I also find it reprehensible that sexism and sexist remarks and attitudes are again becoming the norm. It is well acknowledged that there is a link between racism and race-related violence or homophobia and homophobic-related violence. It is about time that as a society we drew attention to the connection that exists between sexist attitudes and violence against women.

Recently a number of outrageous sexist remarks have been made in the public domain by high-profile men. These statements need to be challenged by us all and we should voice our collective outrage. The statements have been made by men in powerful and influential positions and cannot and must not be tolerated. I cite the Melbourne magistrate who sentenced sports agent Ricky Nixon to 200 hours of community service for assaulting his girlfriend, and the Tasmanian judge who told a court that a 33-year-old rapist had been "gentle" with the 17-year-old girl he sexually assaulted and gave the man a six-month suspended jail sentence. This is not acceptable. Nor is it acceptable for a member of Parliament when he does not get his way to say about a female colleague that he will "tear her a new orifice" and then to go further and publicly state that she had "never had a real man". These statements are insulting and humiliating. Make no mistake, this is abuse. It needs to be named for what it is. I cite a definition of "abuse" on a New South Wales domestic violence website:

An abuser will do everything he or she can to make you feel bad about yourself or defective in some way ... Insults, name-calling, shaming, and public put-downs are all weapons of abuse designed to erode your self-esteem and make you feel powerless.

Where are the voices of our men saying enough is enough, that this is not okay? High-profile men in positions of power have a social responsibility for what they say and how they say it. We need the men in our communities to stand up and say it is not acceptable. Sexist, abusive behaviour is well and truly out of step with our society; it only perpetuates sexism and, in fact, it actively promotes violence against women.

## PEOPLE WITH DISABILITY AND SEXUAL SUPPORT SERVICES

**Ms JAN BARHAM** [10.13 p.m.]: Freedom of expression, the right to engage in sex and have relationships are human rights that many people take for granted. Unfortunately, if a person has any form of

disability these rights are often denied by prejudicial views or a paternalistic attitude by authorities charged with the responsibility of caring for people with a disability. Common stereotypes still prevail in society that deny people's sexuality, such as the belief that people with a disability are asexual or have no need for sexual expression and are to be protected from their own sexuality. There are many barriers that people face in wishing to engage in sexual activity. If the disability is significant, with a lack of physical function coupled with communication challenges, it becomes almost impossible to pursue one's desires without requiring assistance to facilitate interaction with a sexual partner.

The documentary *Scarlet Road* highlighted the role played by Touching Base, a charitable organisation which was formed in 2000. As its website states, it developed out of the need to assist people with disability and sex workers to connect with each other, focusing on access, discrimination, human rights and legal issues, and the attitudinal barriers that these two marginalised communities can face. Earlier this year I attended a fundraising luncheon for Touching Base to welcome new patrons to the organisation, which includes well-known public advocates Michael Kirby and Eva Cox.

At the event a new Australian short film by siblings Lloyd and Spencer Harvey called *The Gift* was screened. It has been screened at many international film festivals and has won significant awards. In the film, Charlie, a young adult with cerebral palsy who lives at home with his family, for his birthday asks to lose his virginity. The film takes a refreshing look at the issues faced by the family when they engage the services of a sex worker as a "gift" to Charlie. Article 21 of the United Nations Convention on the Rights of Persons with Disabilities speaks about the right to freedom of expression. Article 23, which relates to respect for the family and the home, states:

State Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others.

However, the Civil Society Report to the United Nations Committee on the Rights of Persons with Disabilities, published in 2012, showed that we as a society are often failing to respect these rights. The report stated:

Many people with disability experience discrimination and neglect in relation to their rights to sexual expression, choice of relationships, having a family and parenting support—all of which are taken for granted by most other Australians. Many of those who rely on disability supports experience paternalistic and moralistic attitudes from support staff and service providers and their needs for assistance in developing and maintaining relationships and friendships and their decisions to enter into marriage or partnerships receive little or no support at a policy or service delivery level.

The report lists concerns such as few programs for people with a disability about sexuality and intimate relationships; a failure by policymakers to take into account the opinions of people with disability in relation to their sexuality; a lack of sex education means that people are not informed about safe sex or positive relationships; inadequate access to health care; and a failure to provide information and education on sexual health for women with a disability. One of the recommendations of the report states:

That Australia resources sexuality, relationship and human rights training and information for people with disability, including providing support for agencies that provide access to sexual services, including in residential facilities.

An article published by *The Conversation* in March 2013 by Matthew Yau, head of occupational therapy at James Cook University and a practising sexual therapist, called for the National Disability Scheme [NDIS] to cover the services of sex workers for participants. He stated:

I often see couples with a disabled partner struggling to resume sex and intimacy without professional guidance. Some struggle with body image; while others are unsure of their sexual capabilities. By not having access to a sexual outlet, I see clients losing their self confidence, sexual self-esteem, temper control and certainty about their sexual identity.

His view is that the NDIS could cover two types of sexual services—professional sex therapy and sexual services—to assist people with a disability with sexual expression and fulfilment. Similarly, before the transition to a national framework takes place in New South Wales, disability support packages could include the option to cover sexual services for those wishing to pursue them. It is for those reasons that policy guidelines for the provision of disability supports that recognise the right to sexual expression should be developed.

## PATRICK CORPORATION

**The Hon. GREG PEARCE** [10.18 p.m.]: I recently had the opportunity to inspect the Patrick Container Terminal in the Port of Brisbane. It is a world-leading example of an internationally competitive Australian facility—leading in productivity, safety and sustainability through innovation and technology. Since

being founded in Sydney in 1919 as a steamship company by Captain James Patrick—who I am told was a member of this Chamber—Patrick, now part of the Asciano group, has been a leading stevedoring company. The Port of Brisbane is the first automated port in Australia, joining major international facilities and ports such as Rotterdam and Hamburg amongst the few automated ports in the world.

Following planning that commenced in 1996, the automated facility at the Port of Brisbane opened in 2005, and it did so without industrial disruption. The Port of Brisbane Autostrad terminal was awarded the Lloyd's Best Port or Terminal of the Year in 2010. The terminal uses straddle carriers, based on Australian technology and manufactured in Europe, to lift increasingly complex containers. It integrates those through cranes that lift the containers onto ships. That has meant that the port, an Australian business, has continued to be competitive with other international companies that are otherwise operating on Australian ports. The automated carriers work through triangulated horizontal waves which allow precise movement at up to 30 kilometres an hour and within two centimetres of the programmed route.

The technology developed by Patrick, with support from the University of Sydney's Australian Centre of Field Robotics, led at the time by Professor Hugh Durrant-Whyte, who was the Professor of Mechatronic Engineering, has allowed Patrick to compete with major international stevedores. I note in passing that Professor Durrant-Whyte became the director of NICTA, one of Australia's leading ICT research and development organisations. Patrick increased productivity, lowered the costs of operations and improved safety by reducing safety incidents by 90 per cent within a few years of introduction. It improves environmental outcomes, including savings on electricity, and provides opportunities for integration in the logistic chain and modern career opportunities for employees, including a scheme for young women trainees in the operations of the organisation.

Most importantly, next year Patrick will automate its part of Port Botany—the port that was recently subject to a long-term lease, on favourable terms, by this Government. This will be a world leading change to the port. It will ensure that Patrick continues to be competitive and productive. The \$400 million investment in Port Botany by Patrick confirms the good sense of this Government in its asset realisation and asset reuse program of getting out of businesses that governments should not own and providing the funds that come into government coffers and into our restart fund to produce further infrastructure and the sorts of services that governments should be providing. That is what can be done when innovative companies such as Patrick make the investment and when governments get out the way of business in this country.

### **NATIONAL BOER WAR MEMORIAL**

**The Hon. AMANDA FAZIO** [10.23 p.m.]: As many members will know, the Boer War was fought in South Africa between 1899 and 1902. It is estimated, because the records are very poor, that close to 16,000 individuals fought in the Boer War as part of official Australian contingents. A major campaign is being conducted by the National Boer War Memorial Association to raise funds to establish a Boer War memorial in Canberra. The association has been allocated the space but it is still raising funds. Its campaign is to raise enough money to complete the National Boer War Memorial by 31 May 2017. I call on the New South Wales Government and all other State and Territory governments to donate to this cause. We have memorials for every other war in which Australians participated, and I believe it is incumbent on us to recognise the contribution made by Australian soldiers in the Boer war.

*[Time for debate expired.]*

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

**Motion agreed to.**

**The House adjourned at 10.24 p.m. until Thursday 11 September 2014 at 9.30 a.m.**

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