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LEGISLATIVE COUNCIL

Tuesday 18 November 2014

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

The President read the Prayers.

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

CENTENARY OF FIRST WORLD WAR

The PRESIDENT: In mid-November 1914, with the troops of the Australian Imperial Force [AIF] still crossing the Indian Ocean, another ship was preparing to set sail for the war, this time from the port of Brisbane. The Australian hospital ship *Kyarra* was taking on board its first contingent of Australian nurses, members of the Australian Army Nursing Service. During the course of the war 2,139 nursing sisters served abroad and a further 423 in Australia. Twenty-one nurses died on active service overseas and a further eight died in Australia. A total of 388 were decorated for their service, including seven who were awarded military medals for courage under fire.

It is impossible to overestimate, but all too easy to ignore or forget, the service of these dedicated Australian women. They were to see horrors for which no traditional nurse training could ever have prepared them and they endured their share of suffering along with the men for whom they provided such exceptional care. It is appropriate that we should recall and honour their service alongside the men in arms. Lest we forget.

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

AUSTRALIAN CHILD CARE WEEK

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

- (1) That this House acknowledges that Australian Child Care Week is an opportunity to acknowledge the integral role early childhood education and care plays in stimulating a lifelong love of learning in Australia's children and the invaluable contribution of the child care sector to the New South Wales community.
- (2) That this House acknowledges the Australian Child Care Week Awards as an important means of acknowledging the exemplary performance of child care services across our country, and highlighting the child care sector's passionate and dedicated educators, community champions, innovators, leaders and mentors.
- (3) That this House congratulates the winners of all eight Australian Child Care Week Awards 2014, particularly the five award winners from New South Wales:
 - (a) Fit Kidz Learning Centre in Putney, winner of two awards: the Community Champion Award for consistent and meaningful engagement with their local community, and the Best Child Care Week Activity Award for an excellent and engaging event during Child Care Week 2014;
 - (b) Castlereagh St Early Learning Centre in the Sydney central business district, winner of the Child-Led Learning Award for excellence in conducting and documenting child-led learning projects;
 - (c) Alphabet Long Day Care College in Macksville, winner of the Support Team Award recognising the exemplary work of their support team; and
 - (d) Midson Road Child Care Centre in Epping, winner of the Inclusion Award for their initiatives embracing a philosophy of inclusion at their service.
- (4) That this House notes the New South Wales Government's initiatives to support early childhood education and care, including:
 - (a) the Transition to School Statement, a new tool designed to support children moving from early childhood education into formal schooling;
 - (b) the New Community Preschool Funding Model, which came into effect in January 2014 putting more money into the sector than ever before and introducing a needs-based funding system so more children in the year before school access early childhood education;

- (c) the Preschool Disability Support Program, which supports the inclusion of children with disabilities in New South Wales community preschools and provides targeted funding for individual children and a new universal disability loading provided to community preschools; and
- (d) the Operational Support Program to help community preschools, particularly those identified as requiring additional assistance with their operations.

NSW HEALTH EXCELLENCE IN NURSING AND MIDWIFERY AWARDS 2014

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

- (1) That this House acknowledges the NSW Health Excellence in Nursing and Midwifery Awards, which recognises some of our State's most skilled and dedicated nurses and midwives and honours them for their outstanding contributions to health care in New South Wales.
- (2) That this House congratulates:
 - (a) the 10 winners of the 2014 Excellence in Nursing and Midwifery Awards who were chosen from more than 150 nominees for their excellence in nursing, midwifery, leadership, education, research, innovation, partnerships with patients, families and carers, and other significant areas; and
 - (b) Catherine Bateman, a Clinical Nurse Consultant from the Southern NSW Local Health District, and New South Wales's first ever Chief Nurse, who was the recipient of the 2014 Judith Meppem Lifetime Achievement Award.
- (3) That this House acknowledges that nurses and midwives play an integral role in delivering high-quality care at our hospitals, in the community and at home, and make an enormous difference to the lives of their patients and their patients' loved ones.
- (4) That this House thanks the State's 48,000 nurses and midwives who are valued by the New South Wales community for their clinical skill and their compassionate and good-natured devotion to their duties in their care of over 5,600 admitted to New South Wales hospitals each day.

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business items Nos 2103 and 2113 outside the Order of Precedence objected to as being taken as formal business.

NEW SOUTH WALES AND AUSTRALIAN CAPITAL TERRITORY GROUP TRAINING AWARDS 2014

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

- (1) That this House notes that the 2014 New South Wales and Australian Capital Territory Group Training Awards were held on 17 October 2014 and presented by Mr Matt Kean, MP, member for Hornsby, and the Hon. Natasha MacLaren-Jones, MLC.
- (2) That this House further notes that the awards recognise outstanding achievement in the vocational education and training sector and reward and honour the achievements of apprentices, trainees, host employers and group training organisations.
- (3) That this House acknowledges that category award winners included:
 - (a) Samantha Tindiglia for the School Based Apprentice/Trainee Award;
 - (b) Zachary Green for the Disability Apprentice/Trainee Award;
 - (c) Nathan Anderson for the Indigenous Apprentice/Trainee Award;
 - (d) Kerryn McInnes for the Woman in a Non-Traditional Traineeship/Apprenticeship Award;
 - (e) Eh Ler Taw for the Special Award for CALD Apprentice of the Year Award;
 - (f) Qplus Production for Large Host of the Year Award;
 - (g) The Gardenmakers for Small Host of the Year Award;
 - (h) Jason Roefor the Trainee of the Year Award; and
 - (i) Kyran Bubb for the Apprentice of the Year Award.

BUSINESS OF THE HOUSE**Formal Business Notices of Motions**

Private Members' Business item No. 2116 outside the Order of Precedence objected to as being taken as formal business.

DRAYTON SOUTH COAL PROJECT**Production of Documents: Order**

The Hon. STEVE WHAN [2.37 p.m.]: I seek leave to amend Private Members' Business item No. 2120 outside the Order of Precedence for today of which I have given notice by omitting "14 days" and inserting instead "21 days".

Leave granted.

Motion by the Hon. STEVE WHAN agreed to:

That under Standing Order 52, there be laid upon the table of the House within 21 days of the date of passing of this resolution the following documents created since 7 October 2014, in the possession, custody or control of the Minister for Planning relating to the Planning Assessment Commission's determination of the Drayton South Coal Project:

- (a) all documents that refer to the Planning Assessment Commission's determination of the Drayton South Coal Project including emails, briefing notes, diary notes, communications with media and external parties, but not including media summary reports; and
- (b) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

PRIVILEGES COMMITTEE**Report**

The Hon. Trevor Khan, as Chair, tabled report No. 73 entitled "Citizens Right of Reply (Professor Richard Henry)", dated November 2014, together with correspondence.

Report ordered to be printed on motion by the Hon. Trevor Khan.

LEGISLATION REVIEW COMMITTEE**Report**

The Hon. Dr Peter Phelps tabled the report entitled "Legislation Review Digest No. 66/55", dated 18 November 2014.

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

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of the Auditor-General's Financial Audit Report entitled "Volume Seven 2014: Focusing on Transport", dated November 2014, received out of session and authorised to be printed this day.

ABORIGINAL LAND CLAIMS**Production of Documents: Return to Order**

The Clerk tabled, pursuant to resolution of the House of 5 November 2014, documents relating to an order for papers with respect to Aboriginal land claims regarding beaches and coastal lands, received on 17 November 2014 from the 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 those of the documents that are claimed to be privileged and should not be tabled or made public. The Clerk advised that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

BYRON CENTRAL HOSPITAL AND MAITLAND HOSPITAL**Production of Documents: Dispute of Claim of Privilege**

The PRESIDENT: I inform the House that on 17 November 2014 the Clerk received from the Hon. Walt Secord written correspondence disputing the validity of a claim of privilege on certain documents lodged with the Clerk on 6 November 2014 relating to Byron Central Hospital and Maitland Hospital. Pursuant to standing orders, the Hon. Keith Mason, AC, QC, being a retired Supreme Court judge, has been appointed as an independent legal arbiter to evaluate and report as to the validity of the claim of privilege. The Clerk has released the disputed documents to Mr Mason for evaluation and report.

PETITIONS**Blue Mountains Septic Pump Out Scheme**

Petition stating that the fee increase for the Blue Mountains Septic Pump Out Scheme was imposed without consultation and that the scheme is needed because it protects the world heritage-listed Blue Mountains National Park, and requesting that current funding arrangements be maintained and that the sewerage connection be extended, received from the **Hon. Helen Westwood**.

Taxi Transport Subsidy Scheme

Petition requesting that the Government double the Taxi Transport Subsidy Scheme maximum cap to \$60, received from **Ms Jan Barham**.

IRREGULAR PETITIONS

Leave granted for the suspension of standing orders to allow the Hon. Walt Secord to present an irregular petition.

Forensic and Analytical Science Service Food Testing Laboratory

Petition opposing the proposed closure of the Forensic and Analytical Science Service Food Testing Laboratory, received from the **Hon. Walt Secord**.

DISTINGUISHED VISITORS

The PRESIDENT: I acknowledge in the President's gallery the presence of Mr Stuart Blair, the brother of our colleague the Hon. Niall Blair, who is visiting today from Moree. Welcome, Stuart. I welcome into the public gallery a delegation from the national, State and regional parliaments of Myanmar, led by U Myint Shwe, visiting the New South Wales Parliament as part of a study tour to Australia. They have been doing a program with us here in Parliament House for the last two days. You are very welcome. I hope you have found the program that our staff prepared for you informative and that you take our very best wishes back to Myanmar. I also welcome to the public gallery Mr Craig Cromelin, Chairperson, and Mr Lesley Turner, Chief Executive Officer, of the New South Wales Aboriginal Land Council. Welcome to Parliament House. I hope you enjoy your visit today.

BUSINESS OF THE HOUSE**Withdrawal of Business**

Business of the House Notice of Motion No. 1 withdrawn by Dr John Kaye, on behalf of Mr David Shoebridge.

**SELECT COMMITTEE ON THE CONDUCT AND PROGRESS OF THE OMBUDSMAN'S INQUIRY
"OPERATION PROSPECT"**

Membership

The PRESIDENT: I inform the House that on 17 November 2014 the Clerk received from the Leader of the Opposition the following nominations for membership of the Select Committee on the Conduct and Progress of the Ombudsman's Inquiry "Operation Prospect":

Opposition members: Mr Searle
Ms Voltz

Pursuant to resolution debate on committee reports proceeded with.

STANDING COMMITTEE ON SOCIAL ISSUES

Report: Strategies to Reduce Alcohol Abuse Among Young People in NSW

Debate resumed from 12 August 2014.

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

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Report: Budget Estimates 2013-2014

Debate resumed from 30 January 2014.

Reverend the Hon. FRED NILE [3.19 p.m.]: I thank the House for the opportunity to speak briefly on the General Purpose Standing Committee No. 1 report No. 39 entitled "Budget Estimates 2013-2014". As members of the committee know, a lot of interesting questions were put to the Treasurer; the Minister for Finance and Services; the Premier, the Minister for Infrastructure, and Minister for Western Sydney; the Minister for the Illawarra; and the Minister for Planning. The committee considered it was important for the Premier to return for a supplementary hearing in relation to our concerns about the Register of Lobbyists, the Lobbyist Code of Conduct and the process of board appointments. Those issues are still being examined by the Government, but I am happy to move that the committee's report be received. I thank all committee members for their assistance.

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

Motion agreed to.

PROCEDURE COMMITTEE

**Report: Deadlines for Government Bills—Regulation of the Consumption of Alcohol by Members During
Sitting Hours—Government Responses to Petitions**

Debate resumed from 4 March 2014.

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

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 3

Report: Removing or Reducing Station Access Fees at Sydney Airport

Debate resumed from 4 March 2014.

The Hon. NATASHA MACLAREN-JONES [3.22 p.m.]: It is with pleasure that I speak on the inquiry conducted by the General Purpose Standing Committee No. 3 and its report entitled "Removing or

reducing station access fees at Sydney Airport". Before I cover the report in detail, I thank the members of the committee for their contributions, including the deputy chair, the Hon. Niall Blair, and fellow committee members Mr Scot Macdonald, Dr Mehreen Faruqi, the Hon. Paul Green, the Hon. Penny Sharpe and the Hon. Mick Veitch. Furthermore, on behalf of the committee members, I thank the committee secretariat Stewart Smith, Samuel Griffith and Angeline Chung who all provided invaluable advice and support during the inquiry. Finally, on behalf of the committee, I thank all those who participated in the inquiry, including those who made submissions and gave evidence at the public hearings.

The committee received 32 submissions, with evidence given by 19 witnesses across two days, and conducted a site visit. The visit included catching the train to the domestic airport station and talking to patrons of the Airport Line and workers at the airport to ascertain their views of the service and fee. The terms of reference for this inquiry refer to the fee charged for travelling to and from domestic and international stations as the "station access fee". However, during the inquiry it came to light that the correct terminology is "station usage fee".

It was clear that inquiry participants had differing views about the station usage fee as each of the options for maintaining, removing, reducing or discounting had positive or negative effects for different groups. The committee did not support the complete removal of the station usage fee. It was estimated this could cost the Government approximately \$600 million gross over 30 years. Therefore, the committee recommended the provision of certain discounts and further measures to improve patronage, thereby providing revenue for the Government, cheaper fares for certain patrons and a reduction in road congestion.

It is worth noting that since the tabling of this report the Government has provided a response to our recommendations. Recommendations 6, 7 and 8 recommend that Transport for NSW investigate the feasibility and publicly report the findings to remove or discount the station usage fee cost. Recommendation 6 continues "for single and return tickets to Domestic and International Airport stations for workers in the Sydney Airport precinct"; recommendation 7 continues "to groups of three or more passengers travelling together"; and recommendation 8 continues "to families travelling together". All three recommendations concluded, "If found feasible, then Transport for NSW should enter into negotiations with Airport Link Company to implement this measure". The Government's response was:

It is not current Government policy to reduce or abolish the station usage fee. The cost of discounting the station usage fee for larger groups travelling to the airport would be subject to negotiations with the Airport Link Company (ALC).

In the response, the committee was advised that on 19 August 2014 the Minister for Transport announced a \$10 million agreement with the Airport Link Company [ALC] to ensure that Opal customers travelling to the domestic or international airport stations more than once a week will benefit from a new weekly Opal cap on the station usage fee. This new cap for regular customers and airport workers was set at \$21 from 1 September 2014. The committee also examined the integration of the Opal card, as some inquiry participants expressed concern that the Opal card will not have the functionality to cope with Airport Line weekly tickets that include a discount on the station usage fee. The committee recommended:

That Transport for NSW ensure that the Opal Card can provide for station usage fee exemptions and/or discounts before it is implemented on the Airport Line.

In the Government's response, we were advised that on 28 March 2014 Opal became active at the two airport stations. Customers can use the Opal card to pay both the train fare and the station usage fee with the convenience of one card. Furthermore, we were advised:

The New South Wales Government has also ensured that under the contract with ALC, the weekly Opal cap for the station usage fee cannot cost more than double the single station usage fee, which was previously not the case. This is now extra protection for customers which previously did not exist.

Sydney Airport is an international gateway and, together with its precinct, is a major contributor to the New South Wales economy. Each day approximately 150,000 people travel to the airport. However, by 2033 the expected number of passengers is expected to double, with an associated increase in employment and economic activity in the area. Our excellent train service connects the airport to the Sydney Trains suburban network via the Airport Line. The Airport Line, originally called the New Southern Railway, was constructed in readiness for the Sydney Olympics in 2000. It was opened on 20 May 2000 and has now been in operation for over 13 years, servicing both the domestic and international terminals.

The airport stations and line were developed as a public-private partnership arrangement between the New South Wales Government and a consortium of private sector investors operating as the Airport Link Company. The terms of the Original Stations Agreement included that the Airport Link Company was to design, construct, finance, lease and then operate and maintain the four stations of Green Square and Mascot, which are suburban stations, and the domestic and international airport stations for 30 years; Sydney Trains was to provide train services to the stations; and revenue generated by the stations' business was to be distributed between the parties. As the stations commenced operation on 20 May 2000, the ownership of the four stations will revert to the New South Wales Government on 20 May 2030.

In 2005 a Restated Stations Agreement was signed following disputes between RailCorp and the Airport Link Company. Although many of the terms of the Original Stations Agreement remained one of the changes, the Restated Stations Agreement allowed the fee to be set solely by the company. This means that the price is not regulated within the contract and, unlike Sydney Trains fares, the station usage fee is not subject to regulation by the Independent Pricing and Regulatory Tribunal. Any government policy or decision to alter the terms of the station usage fee, such as its reduction or removal, would require the Government to enter into commercial negotiations with Airport Link Company.

The committee was advised that when determining the price of the fee, the Airport Link Company primarily looks at the cost structure of the business, especially labour and other operational expenses; the level of debt that must be repaid; and its shareholder obligations. We were advised it costs the company \$20 million per year to operate the stations, which includes staff costs and capital expenditure. For the first 11 years of its operation, Airport Line passengers paid a station usage fee to enter and exit all four Airport Line stations. On 7 March 2011 the then New South Wales Labor Government and the Airport Link Company agreed to remove the user-pays station usage fee from fares charged for travel to and from Green Square and Mascot stations.

To compensate Airport Link Company, the New South Wales Government now pays the company a shadow station usage fee at a fixed-contract rate of approximately \$2.08 per entry and exit of these stations. It has been estimated by the Parliamentary Budget Office that the shadow station fee will cost the Government a total of \$80 million over the remainder of the contract term. After the removal of the fee in February 2011 a single adult fare from Green Square or Mascot to the City was \$5.80. Following the removal of the station usage fee the fare was reduced to \$3.20.

It is worth noting that the 2005 Restated Stations Agreement sets out an arrangement whereby the New South Wales Government receives a share of the revenue generated from the station usage fee after Airport Link Company meets its operating costs. Currently the New South Wales Government receives approximately 50 per cent of revenue and this is expected to rise to 85 per cent by the end of this year. This revenue helps to recover the Government's investment of approximately \$550 million in the design and construction of the publicly funded airport line tunnel and track work. To manage the revenue received by the Government, the committee recommended that a hypothecated transport fund be established with funds targeted towards measures to increase patronage on the airport line that do not involve removing or reducing the station usage fee.

In the Government's response we were advised that under the agreement the transport cluster receives as revenue a proportion of station usage fees, net of specified Airport Link Company costs, and that it retains and uses these revenues to fund train services generally. The committee also identified other possible measures to increase patronage on the airport line, including using new rolling stock on the line, introducing free wi-fi and providing a dedicated space for luggage on trains that service the airport line.

In the Government's response to these recommendations we have been advised that new Waratah trains are now in use on the T2 airport line. Infrastructure on the airport line has been upgraded to meet the requirements of the more modern Waratah trains and Airport line travellers are already benefiting from this improvement. Furthermore, Transport for NSW is willing to consider proposals to improve the customer experience, including the delivery of wi-fi. Several inquiry participants suggested that signage for the airport line needed to be improved at City Circle stations and that information and ticket machines in other languages would assist tourists.

During the inquiry the committee received evidence that Airport Link Company has improved signage, brochures and customer service at the airport terminals and airport line stations. The company stated that more than one million brochures are taken each year. The committee was impressed with the level of signage and customer service offered at the airport line stations during its visit. I commend the report to the House.

Dr MEHREEN FARUQI [3.32 p.m.]: I speak on behalf of The Greens in debate on the report of the inquiry conducted by General Purpose Standing Committee No. 3 into removing or reducing station access fees at Sydney Airport. I thank the committee members for their work on this inquiry. I also thank the committee secretariat. This inquiry was the first one I have participated in since joining the Parliament in June last year and I am very impressed by the dedication and the hard work of the committee staff.

The inquiry investigated the impact of removing or reducing the high station access fees—\$12.30 for a single adult fare—at the privately owned domestic and international airport stations and specifically looked into the effect of this on patronage of the line, funding implications, contract provisions, the impact on Port Botany and congestion on roads around the airport, and the M5. This was a timely investigation because patronage on this line remains at 11 per cent—well below the original target of 25 per cent and well below international comparisons.

Thirty-two submissions were received from individuals, transport experts and organisations including the City of Botany Bay, the City of Sydney, Airport Link Company, the NSW Taxi Council, the Tourism and Transport Forum, Transport for NSW and The Greens NSW. I thank all those who took the time to make informed submissions to this important inquiry. The committee also heard evidence from a wide range of witnesses and the inquiry shed light on the way the fee functions, the interaction between Airport Link Company and Transport for NSW, and the impacts the reduction and removal of the fees will have on patronage.

In an overwhelming majority of submissions people believed that the complete removal of the station access fee would result in increased usage of the airport line and decreased road congestion around the airport. We already have the example of Mascot and Green Square stations on the airport line. When the access fees were completely removed, increase in usage went up by 260 per cent at Green Square and 130 per cent at Mascot. It appears from the journey and barrier-count data that many more people are now commuting from Green Square to the central business district to work and from various locations to Mascot. The Tourism and Transport Forum wrote in its submission:

We believe that removing the station access fee at the international and domestic stations deserves the financial support of the state Government. This issue remains a priority for the tourism industry, and for the business community more generally, which wants to see Sydney Airport access improved and sustainable into the long term.

The Flight Attendants Association of Australia noted that removing the premium for the use of Sydney airport stations for airport workers would significantly reduce airport precinct road congestion, free up car parking space at the airport and in surrounding areas and improve employee safety for the many who walk to the non-surcharge airport stations to save money. The Greens NSW submission highlighted the issues around equity and affordability for workers at Sydney Airport, many of whom are on the basic wage. In addition, matters raised included the underutilisation of the airport line due to high ticket prices, the lack of early and late services for shift workers and that train services at 10 trains per hour are still well below the line's capacity of 20 trains per hour.

The committee made 14 recommendations, including establishing a transport fund into which government revenue from the airport line station usage fee is hypothecated, with funds to be transparently reinvested into the transport system, and investigating the removal and/or discounting of the station access fee, especially for workers in the Sydney Airport precinct. The recommendations went some way towards investigating lessening the financial burden on commuters travelling on the airport line, however, they do not fully address the underutilisation of the airport line, reducing congestion on roads around the airport or removing the burden of the station access fee, which is essentially a government tax on workers, commuters and tourists.

Around \$4 million a month collected from this tax goes back to the Government out of the pocket of low-income workers, such as retail workers, cleaners and hotel workers. What is really disappointing is the Government's response to the very modest recommendations of the committee, but, unfortunately, that response was not unexpected. The Government almost entirely rejected the committee's recommendations that would have at least led to a more equitable outcome than we currently have. By doing this the Government has committed to keeping our roads congested and commuters off our public transport system. The Government was not even willing to scrap the fee for airport workers, which would have at least provided a more equitable outcome than we currently have. Sydney Airport has 800 businesses with 28,000 workers who have to bear the financial burden of this tax.

I note the Government has announced that the Opal cap will be set at \$21 for customers travelling to the domestic or international airport more than once a week. As usual with this Government, this is smoke and mirrors. The inquiry heard that the station access fee for a weekly ticket is already set at \$20. In its answer to questions on notice, Airport Link confirmed that it already offered a weekly gate pass for \$21 to airport workers. Essentially, the cap has not changed at all, despite the fanfare accompanying this Government announcement. But worse, the Government has essentially moved the cost of having the cap from Airport Link to the Government and the public purse through the \$10 million agreement with Airport Link Company.

Also, some people visiting or working at the airport may pay more. Under the previous weekly system, there was a set \$20 station access fee, regardless of which day of the week it was purchased. Under the Opal system, someone working Friday through to Monday would pay more in station access fees because their work week crosses over the Opal week, which resets on a Monday. It is these inconsistencies that are becoming more and more apparent with the wasted opportunities of the Opal card system. The Government's response to the inquiry further confirms its outdated and ill-conceived approach to transport planning in our city. Billions of dollars of public money is being spent on building toll roads and tunnels. The Government has a lack of commitment to integrated public transport and is focusing on privatising this essential infrastructure.

The Hon. Duncan Gay: Absolute rubbish.

Dr MEHREEN FARUQI: The toll roads are rubbish, that is true. The only fair solution is for the Government to buy back the airport line stations, remove the access fees, and allow people to embrace public transport. When Labor was in government it squandered the opportunity to buy back the stations when Airport Link Company went into receivership in 2001. The estimated cost to the Government for removing the access fees is \$600 million, which is mostly revenue foregone as opposed to costs. In 2011, the Parliamentary Budget Office estimated the buyback of the airport line stations and relevant assets to be between \$356 million and \$450 million. These costs can be offset by increases in revenue from patronage and will relieve the Government of the \$80 million it is currently paying to subsidise access fees at Green Square and Mascot stations.

The capacity of roads in and around the airport will be exceeded this year, especially at peak hour. The Government has stated that removing the access fee would not reduce congestion but has provided no evidence to support such a claim. Instead, the committee consistently heard that reducing station access fees would reduce congestion. Increased patronage on the airport line would result from removing the high station access fee and lead to a significant reduction in traffic and congestion, including on the M5. The reduction in M5 traffic would mean that the M5 could provide the appropriate level of service without any modifications, and the WestConnex enabling works, estimated to cost \$282 million, may not be required. Increasing patronage on this line by removing access fees is also, amongst others, part of the public transport package which should be implemented by stopping the WestConnex madness and diverting the funds to buying this private line and stations.

Not only has the Government rejected the option of buying back the stations; it has not reduced the fees. This upper House inquiry heard consistently that the complete removal of the station access fee would yield the greatest economic and public benefit, leading to increased patronage on the airport line, reduced congestion and a lower economic burden on workers using the line. Until the station access fee is scrapped, the airport line will continue to be underutilised and roads around the airport will continue to be congested. However, The Greens will continue to call on the Government to purchase these private stations and abolish the station access fee for the benefit of the people of New South Wales.

The Hon. PENNY SHARPE [3.41 p.m.]: I speak on the General Purpose Standing Committee No. 3 report into removing or reducing the station access fee at Sydney Airport. Initiation of this inquiry was done by Labor as a result of our ongoing concerns about the increased congestion around Sydney Airport and Port Botany. Indeed, no less than three important reports have noted that congestion in this part of Sydney is of the highest priority in addressing issues of infrastructure and the need to build it, and alleviate congestion in the area. The Joint Aviation Study, which was done by the Federal and State governments, stated that one of the best things we could do to alleviate congestion in the short term was to get more people onto the airport line, and a way of doing that obviously would be to reduce the access fee.

The State Infrastructure Report by Infrastructure NSW lays out the case for the need to alleviate congestion around the airport and Port Botany. There has also been a Productivity Commission report that again talked about the need to reduce the access fee to alleviate congestion around the airport. None of that is rocket science; all of that is obvious. In New South Wales we are lucky that we have a direct rail link to our airport. However, the reality is that through its chequered history the station usage fee has acted, and continues to act, as

a disincentive for people to use the line, although I note that patronage is increasing slowly but surely. Essentially, the access fee costs an extra \$12 per trip. We know that it is easier for many people to share a cab to the airport than to use the railway line. We know that the railway line is grossly underutilised from the airport. There is a huge potential here for us to get serious about congestion around the airport through the reduction of the access fee.

The committee made a range of sensible recommendations. I join with the other committee members in thanking the committee secretariat for their, as always, excellent work at getting to the bottom of a range of issues and putting them into this report, which makes a lot of sense and makes our recommendations come to life. I also thank the Hansard staff. However, it is disappointing that the Government has pretty much ignored most of the committee's recommendations. The committee worked well together. We were able to find a great deal of consensus in this report. Unfortunately, as flagged earlier by the Minister for Transport, which is her wont, she was not particularly interested in hearing what we had to say; nor was she particularly interested in changing her mind because, of course, in Gladys' world Gladys knows best.

The Hon. Dr Peter Phelps: It's Sharpe world.

The Hon. PENNY SHARPE: The Minister is prepared to ignore every other expert report, but we will live on. This is straightforward. The best way to alleviate congestion around the airport and increase utilisation of the airport line is to reduce the access fee. We can do that immediately, and it would have a huge impact immediately. Yes, I accept that the Government is making some investments in roads and pinch points around the airport. I would argue strongly that they are only a tiny part of the puzzle and they are at least a decade away. In the meantime, motorists and anyone who lives from the airport through to the Princes Highway will find themselves in increasing gridlock. Indeed, the Joint Aviation Study stated that by 2015 the roads will be in practical gridlock around the airport. Anyone who has tried to get a flight—I know several country members get flights regularly from the airport—

The Hon. Steve Whan: I'm a country member.

The Hon. PENNY SHARPE: If the Hon. Steve Whan does not catch a train, getting his flight in the morning is almost impossible as the roads are already at practical gridlock. Another point relates to workers at the airport. Effectively, we are taxing airport workers for no reason other than where they work. About 28,000 people work at the airport and indirect employment in that area is estimated to be about 280,000 people. That is a huge number of movements when we are trying to address congestion and get access to the airport. We know that if the Government dealt with the access fee for those workers that is where it will get the largest mode shift and where it will genuinely get cars off the road and out of the local streets where they are parked now.

We heard from many businesses around the airport. More than 800 businesses operating at the airport and in the surrounds are struggling with staff. Purely from a tourism focus, the hotels and restaurants around the airport are struggling to get staff. The staff are not highly paid, they work on a casual basis and they do shift work. It is a challenge for those businesses to employ the workers they need to run efficiently and enable us to have a tourism service around the airport. They spoke passionately about that. We also talked to employers who are concerned about the safety of their workers. They told stories of cleaners and hospitality workers who park a long way from work and have to walk through dark streets at night, who have been attacked while getting to work. They then either leave work altogether or the businesses have to fork out a lot of money in taxi fares and so on to look after their staff properly.

It is not fair that the only way people who work at the airport, particularly cleaners and those who work in one of the food courts on a casual basis, can get there is by public transport that costs them an extra \$1,000 a year. Effectively, that is what we are imposing now. The Government could have done a lot more to get serious about dealing with that matter. I make two points about the report. First, there were many good suggestions about tourism, including improving the rolling stock so that people who are getting on the train with all their luggage have space for their bags. That would be useful. The provision of wi-fi should be a no-brainer. Wi-fi is fairly standard on many public transport systems around the world, and we need to provide that for people.

I flag some concerns I have about the way the Government is using the network and the new tracks, and the way it is setting up the timetable and the rail lines for the future. The transport community is concerned the tracks are being set up in such a way that at some point the trains will be pretty much full as they reach the airport, either going from the city or coming in from the south-west. If that is the case, we will have a significant problem with people being able to access the railway line once they get off a plane. I flag that for the House and

the Government to think about. As I said, transport experts raised this issue with me recently and I have yet to see a good explanation from the Minister about her plans to ensure that the line remains available for people getting on and off aeroplanes.

My final comments relate to the Opal card. The issues with Opal and the airport link are not fixed. The Minister continues to say that she has fixed them, we have a cap and it is fantastic. She has made about 50 announcements about Opal. Anyone who has used the Opal card at the airport—I am sure the Hon. Steve Whan has a lot to say about this; recently I used Opal at the airport—knows that basically they cannot access the airport if they have a low Opal balance.

The entire purpose is to make it a seamless transfer for people moving in and through the airport. The Government is basically stopping people from doing that as they cannot use the Opal card because the trip is over the minimum limit. That issue remains unresolved, despite the many glowing announcements by the Minister. This inquiry was an opportunity to do some good policy work on tackling congestion around the port and the airport, which is the area of highest productivity and economic growth in the State. I think it is a lost opportunity; it has fallen on deaf ears in the Government. I hope that we can revisit it when we get serious about using the levers that are available to get more people onto public transport and stop them taking their cars to the airport.

The Hon. PAUL GREEN [3.50 p.m.]: I make a brief contribution to the report on the removal or reduction of station access fees at Sydney Airport. I acknowledge the contributions of members who have spoken to this report. The committee made some relevant recommendations, particularly the recommendation to remove the access fees for full-time airport precinct workers. It is a very good start to deal with some of the pressures on traffic movements but more needs to be done. I acknowledge that people who live about 50 kilometres from the airport pay something like \$17.30 for a one-way ticket and it is cheaper for them to share a ride and park at a parking station near the precinct, which is not the best outcome. It would be wiser to keep their cars off the road by giving them direct pedestrian access to their job, thus allowing more trucks and container movements in the area.

I acknowledge that airport staff contribute significantly to traffic congestion around the airport. It must also be recognised that exorbitant access fees also contribute to the congestion when we consider that in many cases it is financially more viable to drive to the airport than to catch a train. Some people who work at the airport do not make a stack of money and having to pay for car transport on top of their cost of living is a substantial hit to their budget. It would make sense to alleviate that impact by reducing their fares. The local council is very nervous about the future population growth in the area as well as the container movements on the road network, which are projected to be approximately eight million in the Port Botany area. There will also be more than 50 million related freight movements at the port and airport as well as traffic created by tourism growth as people get access to the rest of our beautiful State, if not our nation, at Sydney Airport. The M20 bus route could be better if its route options were more practical and the stops were more strategically placed.

The Hon. Mick Veitch: From my recollection of this committee you asked for a bus direct to the Shoalhaven.

The Hon. PAUL GREEN: I note that the M20 bus route does not go anywhere near the Shoalhaven. An interesting fact that came out of the committee hearings was that one might have to take a train from Wollongong and get out at the stop before the airport and carry one's luggage from the train to the bus to the airport. For our ageing population carrying luggage from three or four transport options is a real burden. It makes sense to get people to the airport by train, which is a great service that needs to be a little better—

The Hon. Melinda Pavey: Cheaper.

The Hon. PAUL GREEN: Cheaper would probably help. I note that most of the 28,000 airport workers are not high income earners and it would be a good outcome for them if this report were accepted by the Government. As the Hon. Penny Sharpe said it was a great opportunity for us to tweak this system to make it better. The committee made common-sense recommendations in relation to the increased infrastructure around the airport and Port Botany and was not adopting an aggressive attitude towards the Government. As noted, we saw this as an opportunity to tweak the system and make it a lot more efficient and effective. In that way many workers would not have to drive and park their cars some distance from the airport but could travel by train and arrive safely at their destination. Many of them work night shift and could safely get onto public transport to return home, rather than having to walk long distances to their car, particularly young women. The Christian

Democratic Party supports the committee's recommendations and hopes that the Government will not be hard-hearted and, after the election, will implement some of the recommendations. I commend the report to the House.

The Hon. MICK VEITCH [3.56 p.m.]: I make a brief contribution to the committee's inquiry into removing or reducing station access fees at Sydney Airport. I extend my appreciation to the committee secretariat, as usual, and to Hansard for preparing the transcripts on which we based our deliberations. This inquiry at times delved into some very dry economic calculations around the additional fees for Sydney Airport. The committee did a lot of work in relation to other issues as well. Members of Parliament from country electorates know that if a couple of us arrive on an aeroplane at Sydney Airport it is cheaper for us to get together and catch a taxi than to individually pay train fares.

The Hon. Dr Peter Phelps: It depends on where you're going.

The Hon. MICK VEITCH: For the benefit of the Hon. Dr Peter Phelps, other members from country electorates were nodding in agreement. Maybe it is a Queanbeyan thing, I do not know. The impact of that fee on people from the country when they come to Sydney to attend medical appointments and do business was raised and should be addressed. The transport of luggage during peak hour for people who are staying overnight in Sydney to then go overseas is also a problem. As the Hon. Paul Green said, the proposals of this committee are not outrageous and could have gone much further but did not. The dissenting statements by the Hon. Penny Sharpe and me show that we thought the committee could have gone much further. The committee's recommendations, if adopted by the Government, will go a long way to improving the use of the Sydney Airport rail stations. I commend this report to the House.

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

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 3

Report: Tourism in Local Communities

Debate resumed from 6 March 2014.

The Hon. NATASHA MACLAREN-JONES [3.59 p.m.]: It is with pleasure that I speak on the inquiry conducted by General Purpose Standing Committee No. 3 and the report entitled "Tourism in Local Communities". Before I cover the report in detail, I thank all members of the committee for their contributions and the secretariat staff for their support. We received 91 submissions and held three public hearings at Parliament House and one hearing at Queanbeyan. We also held two roundtable discussions with stakeholders in Ballina and Dubbo and in preparing the report made 25 recommendations.

Tourism plays a vital role in our State's economy. Evidence we received showed that in 2010-11 the direct value of tourism to the New South Wales economy was \$10.5 billion, representing a 33.3 per cent share of the national level. The direct value of tourism has risen by \$500 million in the last year while domestic tourism contributes 69 per cent and international tourism contributes 31 per cent to the State's direct tourism value. Furthermore, the total number of people directly and indirectly employed in the tourism sector in New South Wales increased in 2010-11 to 279,000, which is the highest annual increase in the last four years. In addition, the Visitor Economy Industry Action Plan states that the visitor expenditure in New South Wales supports over 96,500 people.

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

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

QUESTIONS WITHOUT NOTICE

NATIONAL PARKS ESTATE

The Hon. LUKE FOLEY: My question is directed to the Leader of the Government. Given that three national parks have made it onto the new list of the world's best managed national parks, will the Minister now commit to defending, protecting and building the New South Wales national parks estate?

The Hon. DUNCAN GAY: What I will commit to is what this Government has been doing, that is, actually managing the national parks in a better way. During their time in office all Labor members were doing was a numbers game. It was all about environmental science or political science in the way that they used to spin it. If they got the numbers up they must be doing something right. Getting the numbers up is only part of it. Actually applying national parks to the appropriate places and properly managing and resourcing them are the way to do it. One need only look at their election campaign that is about to take place to see how the Labor Party operates. Of all the people in the world they have chosen someone called Mike Kaiser.

The Hon. Luke Foley: Point of order: Mr President—

The PRESIDENT: Order! The Minister will resume his seat.

The Hon. Luke Foley: My point of order is relevance. I fail to see what connection Mr Kaiser has with New South Wales national parks.

The PRESIDENT: Order! It was a little early to tell exactly what relevance it has, but I am sure the Leader of the Government was going to come to it soon.

The Hon. Steve Whan: Have you kicked out your corrupt members yet?

The Hon. DUNCAN GAY: From the losers lounge I heard "Have you kicked out your corrupt members?" Here is a member of Parliament who lost his position for rorting the electoral system.

The Hon. Luke Foley: Point of order: Mr President—

The PRESIDENT: Order! The Minister will resume his seat.

The Hon. Luke Foley: I press the point of order on relevance. I am not prepared to have the Leader of the Government defame a member of the community with an answer that is not relevant.

The PRESIDENT: Order! The Leader of the Opposition will resume his seat. The Leader of the Government is encouraged not to respond to interjections from Opposition members during his answers. He is encouraged to give relevant answers to the questions asked.

The Hon. DUNCAN GAY: Next they will be having Eric Roozendaal as their ethics adviser and Joe Tripodi doing bonding, team building and loyalty. In answer to the question—

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

The Hon. DUNCAN GAY: There is a difference. We are managing them properly and we are winning awards because we are managing them properly.

GLOBAL INFRASTRUCTURE HUB

The Hon. GREG PEARCE: My question is addressed to the Minister for Roads and Freight, representing the Premier. Will the Minister advise the House of the G20's decision to establish the Global Infrastructure Hub in Sydney?

The Hon. DUNCAN GAY: You would think that would have been the first question Opposition members would be looking for more information on but they are hunkered down in their electoral spin with their new head of an electoral system, with a track record that is certainly enviable.

The Hon. Steve Whan: Point of order: Mr President, the Minister is debating the question he has been asked by his own side in discussing who should have asked it. I ask that you bring him back to the leave of the question.

The PRESIDENT: Order! The member is drawing a longbow.

The Hon. DUNCAN GAY: New South Wales welcomes the decision by the world's leading nations at the G20 to establish a Global Infrastructure Hub in Sydney funded by the Australian Government and the

G20 partners. This is a vote of confidence in Australia's only global city. As soon as the idea was put forward by the world's business leaders, through the G20, our Premier Mike Baird was on the phone saying "Sydney is the choice for its location." Why? Anyone who glances around the Sydney skyline, littered with moving cranes, already knows we are in the midst of an infrastructure boom created by the Baird-Grant Government. It shows we are hungry to be the best and do the best for our citizens, our State and our country.

[*Interruption*]

We know what we are going to name the big boring machine.

The Hon. Walt Secord: Point of order: My point of order goes to relevance. The question was about the United Nations and an international infrastructure fund; it was not about a machine.

The PRESIDENT: Order! The Minister was in order. The member is sailing close to the wind.

The Hon. DUNCAN GAY: We all remember the stalled economy, the broken budget, the declining productivity and the lost confidence that Labor bequeathed the people of New South Wales. No-one wants to return to this pathway of failure. We have restored New South Wales to a path of economic prosperity, through fixing the budget, getting the housing market restarted and delivering the infrastructure needed to build New South Wales' future. The global hub, which is expected to unlock an additional \$2 trillion in global infrastructure capacity to 2030, is recognition of Sydney and New South Wales' reputation as the world's infrastructure capital.

By situating the Global Infrastructure Hub in Sydney the G20 has recognised how much expertise is already located here as we push ahead with gigantic projects such as Barangaroo, the North West Rail Link and, of course, the jewel in the crown, WestConnex. It will set up opportunities for our local infrastructure expertise to be taken to the world, particularly in Asia, creating opportunities to create more skilled jobs in our State and build the capacity of our regional partners, particularly in emerging markets. [*Time expired.*]

The Hon. GREG PEARCE: I ask a supplementary question. Will the Minister elucidate his answer?

The Hon. DUNCAN GAY: I assure the House that if we receive a mandate next March for rebuilding New South Wales there will be a further injection of \$20 billion into our program, delivering visionary, congestion-busting projects such as Sydney Rapid Transit. The Government has the vision, the plan and—most importantly—we have the funding identified. I can hear the bleating from the losers lounge. I recently revisited the speech of the Leader of the Opposition in the other place to the Labor faithful. In that speech he said, "We will build a new motorway on the M4 and on the M5." That was it. No costings, nothing about where the money is coming from or whether there would be tolls.

Members opposite should tell me where the money is coming from and where it is going, because I think it is going through the middle of Newtown. We do not know it is not going through the middle of Newtown. Those opposite should tell us where it is going. Is it going to be underground or above ground? It is all pie-in-the-sky dreaming. Members opposite are dreaming—like something out of *The Castle*. They promise these things but there is no background to it. They should tell us where the M4 is going to go because they sold the motorway. Is it going to be a tunnel? Is it going to be above ground? Is it going through Ashfield Park? We have to ask them that because they are not telling us. They are just sitting there.

The Hon. Lynda Voltz: Point of order: My point of order relates to relevance. The question was in regard to global infrastructure. The Minister is on a rant about where he is not putting infrastructure. I ask that he be brought back to the point of the question.

The PRESIDENT: Order! The Minister's time has expired so the member's point of order is moot.

HOMEBUSH WEST TRAFFIC MANAGEMENT

The Hon. ADAM SEARLE: My question without notice is directed to the Minister for Roads and Freight. Given that in November 2012 the member for Strathfield announced that the Government had allocated \$7.5 million for the design and implementation of proposals to eliminate traffic congestion at the intersection of Centenary Drive and Arthur Street, Homebush West, when will the Government deliver the funding?

The Hon. DUNCAN GAY: The funding is allocated. What the member opposite wants to know is when we are going to deliver the project. We are working on plans. That particular obligation also coincides with what we are currently doing on WestConnex. Part of the planning in that particular area needs to take into consideration on-ramps and off-ramps to WestConnex, particularly in the Homebush precinct.

MR BOB HAWES, HUNTER DEVELOPMENT CORPORATION

Mr DAVID SHOEBRIDGE: My question without notice is directed to the Minister for Fair Trading, representing the Minister for Planning. When will the Government be demanding the resignation of Mr Bob Hawes, the General Manager of the Hunter Development Corporation, given that he has a clear conflict of interest as half owner of a \$60 million development site right next to Wickham Station—exactly where Mr Hawes' Hunter Development Corporation has been proposing that the railway line be cut and replaced with a multi-million dollar transport interchange?

The Hon. MATTHEW MASON-COX: There is a range of allegations in the question. If the member has allegations about anybody, he should take it to the proper authorities. As far as the detail of the question is concerned, of course I will take it on notice for the Minister and come back with a detailed answer.

LARGE RESIDENTIAL CENTRES

Mr SCOT MacDONALD: My question is addressed to the Minister for Disability Services. Will the Minister update the House on what progress has been made in the redevelopment of large residential centres in New South Wales?

The Hon. JOHN AJAKA: I thank the honourable member for his question. The New South Wales Government is committed to rebuilding New South Wales. I am ensuring that we are playing our part in rebuilding the disability sector. It gives me enormous pleasure to report that this year 60 people have moved from government-operated large residential centres into 13 new group homes across New South Wales. In recent weeks this has included seven new group homes that have been built as part of the project to redevelop the Westmead and Rydalmere centres in Western Sydney. The new group homes are at Blacktown, Bonnyrigg Heights, Doonside, Liverpool, Miranda, Westmead and Point Claire on the Central Coast. Before Christmas they will be followed by seven more new homes, mostly in Western Sydney and one at Coniston in Wollongong. These homes are purpose-built, providing residents with improved comfort, privacy, personal space and significantly greater capacity to be involved in the community.

The redevelopment of the Government's large residential centres and the positive impact this has on people's lives makes me immensely proud to be part of a government that is delivering outcomes for people with disability. The new group homes are wonderful buildings. Everyone has their own bedroom and each house has two accessible bathrooms, two spacious living areas, accessible kitchens and well-landscaped grounds. More important than the beautiful homes are the changes the new living arrangements are making to the residents' lives. The stories I am hearing are overwhelming. Recently I received an email from a family member, the night after a client had moved into a new group home operated by a non-government organisation.

The big move has finally happened. I am so thankful that my daughter has been given this opportunity. We all love it. The house is lovely and bright. I love the high ceilings and all the paintings. Everything is just fabulous.

It is hard not to be moved by the story of another deaf-blind resident who kept going back into her bedroom to check that her belongings were as she had left them. She had not previously been able to leave possessions in her room unattended when she lived in a larger unit with almost 20 other people. The feeling of security and safety will sink in and the comfort that will bring to this client will be immense. Some families and carers were concerned about the manner in which their loved ones would be treated by neighbours when they moved into regular neighbourhoods and communities. The families of a group of five people who moved into a new group home built in the suburb of Westmead know they have nothing to worry about. As the residents moved in, they and their family members were greeted by neighbours who gave them housewarming gifts and brought them home-cooked food. This is great for the residents, carers and for the community as a whole. People with disability have the right to live within a community, just as everyone else has.

There have been reports of people whose level of communication has improved and who have experienced significant changes in their need for behavioural support after they moved out of a large residential centre. The family of a woman who moved into the new Point Claire group home on the Central Coast reported that they were delighted and surprised at their daughter's response to the move. Not only had she settled well

into the new group home but they described her as a different girl after they brought her home for a visit this week. They reported that she was communicating more, playing games with them and laughing happily—something that was very important for this family.

The redevelopment of the Westmead and Rydalmere large residential centres is a huge project. At the start some families had reservations and I can understand this as any change can be frightening. It is wonderful to find that the project is giving their loved ones what we all hoped it would—a place to call their own and a happier, more enjoyable life within the community. I thank the families for trusting us and commend the many staff who have worked patiently and with care to support residents and their families through the transition.

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

NATIONAL PARTNERSHIP AGREEMENT ON HOMELESSNESS

Ms JAN BARHAM: My question is addressed to the Minister for Ageing, representing the Minister for Family and Community Services. Given that 4½ months of the 2014-15 financial year have already passed and noting that during budget estimates hearings in August the Secretary of Family and Community Services indicated that the identification of programs to be funded under the National Partnership Agreement on Homelessness has to be soon, when will the allocation of the \$30 million of funding from the Commonwealth's one-year extension to the National Partnership Agreement on Homelessness be finalised and announced?

The Hon. JOHN AJAKA: I thank the honourable member for her question. I will refer it to the Minister and come back with an answer.

ILLAWARRA COAL SEAM GAS

The Hon. PENNY SHARPE: My question without notice is directed to the Minister for the Illawarra. What is the Minister's response to community concerns in the Illawarra about the Government's failure to honour its election promise to ban coal seam gas in the water catchment?

The Hon. JOHN AJAKA: I thank the honourable member for her question. She is well aware that that is not the case. I will refer the relevant facts of the question to the Minister. However, I point out that the New South Wales Government has worked hard to achieve the right balance between community interests and long-term economic benefits for the people of New South Wales. The Government has listened to community concerns and introduced the toughest measures covering coal seam gas production in Australia. I will outline some of those measures. Coal seam gas development has been prohibited in residential zones, future residential growth areas and rural villages, and a buffer has been imposed prohibiting coal seam gas activity within two kilometres of those zones.

The Chief Scientist and Engineer, Professor Mary O'Kane, conducted an independent review of coal seam gas related activities in New South Wales. In her report entitled "On measuring the cumulative impacts of activities which impact ground and surface water in the Sydney Water Catchment", Professor O'Kane found no evidence suggesting that coal seam gas and longwall mining activities should cease at this time. She noted that there are no active coal seam gas exploration or production activities currently occurring within the catchment. The Government will maintain its ban on coal seam gas exploration extraction in special areas of Sydney's water catchment until it fully considers all the recommendations in the report. This ban affects petroleum exploration licences Nos 2, 442 and 444 in the Illawarra region. The Government has also cancelled petroleum exploration licence No. 469 over the Shellharbour and Nowra regions because of the titleholder's failure to comply with the conditions of the licence.

With the announcement of the New South Wales Gas Plan on 13 November 2014, all current applications for petroleum exploration licences in New South Wales will be extinguished. The current freeze on the processing of new petroleum exploration applications will continue until 26 September 2015. The freeze will allow the Office of Coal Seam Gas to complete its comprehensive audit of current petroleum titles and to impose minimum standards against which to assess current titles on renewal. On 19 August 2014, the Government announced a new framework to map, monitor and protect groundwater resources across New South Wales. Starting first in the Gunnedah, Gloucester and Moreton basins, the water monitoring framework has transformed how water data is captured and used to protect the State's water resources.

Further measures this Government has implemented include the appointment of a land and water commissioner to assist landholders and miners to negotiate access arrangements; the introduction of an aquifer

interference policy to assess and to protect water resources across the State; the requirement for companies to prepare an agriculture impact statement for exploration and production activities; the establishment of codes of practice for the coal seam gas industry covering well integrity and fracture stimulation; and banning the use of evaporation ponds and BTEX chemicals. These tough measures will ensure the protection of our vital water and agricultural resources and achieve the right balance between community interests and long-term economic and energy security for the people of New South Wales.

In addition, the New South Wales Gas Plan will provide a clear strategic framework to deliver world's best practice regulation of the gas industry while securing vital gas supplies for the State. I invite members to compare that with what members opposite failed to do. They should compare that with 16 years of doing absolutely nothing and with all the licences members opposite granted without any consideration of scientific research. Despite that, the member had the gall to ask that question.

RENMINBI SETTLEMENT HUB

The Hon. DAVID CLARKE: I direct my question to the Minister for Fair Trading, representing the Treasurer. Will the Minister update the House on the Renminbi Settlement Hub and its significance to the New South Wales economy?

The Hon. MATTHEW MASON-COX: I thank the honourable member for that question because he understands the importance of these types of announcements to the New South Wales economy. The Leader of the Government has just told the House about the announcement this week of the Global Infrastructure Hub in Sydney. What do we follow up with? We follow up with the Renminbi Settlement Hub in New South Wales. This is an important development and I will spend some time explaining it to members opposite. It is another moneybox moment for them and it is another chance for me to educate them so that they understand what a renminbi [RMB] hub will deliver. It is not about Australia's migration zone; it is an important financial announcement for this State.

The Hon. Duncan Gay: I want to find out about the M5 extension down King Street.

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

The Hon. MATTHEW MASON-COX: We usually hear a great deal from members opposite, but they are not sharing at this stage in the electoral cycle. They are keeping their secrets and the Government is being transparent and accountable. Let us talk about another important development for New South Wales. Just yesterday, the Federal Treasurer announced that as a result of an Australia-Chinese agreement Sydney would become an offshore settlement hub for the Chinese currency, the renminbi. That announcement was made at the same time as the announcement of the signing of the Australia-China Free Trade Agreement. The New South Wales Government has been a major driver of both agreements. It is important to congratulate Prime Minister Tony Abbott and the Minister for Trade and Investment, the Hon. Andrew Robb, for their magnificent negotiation of that agreement. It has been a long time coming. Opposition members' Federal colleagues have dreamed for many years of delivering an Australia-Chinese free trade agreement and so many other free trade agreements, but it was left to our Federal colleagues to deliver.

The establishment of Sydney as a RMB settlement hub is a very important development. China is Australia's number one trading partner and this agreement will make it easier for Australian firms to move funds and to do business with China. The announcement of Sydney as a settlement hub for the RMB reflects the growing friendship between New South Wales and China developed over the past three years. Indeed, that effort culminated earlier this year in the Governor of Guangzhou addressing a joint sitting of this Parliament. Securing Sydney as an offshore renminbi settlement hub was the focus of the Premier's discussions with senior Chinese Government leaders in Guangzhou, Shanghai and Beijing in September. We must congratulate the Premier for delivering this important agreement.

The RMB is now the eighth most traded currency in the world. However, only 1 per cent of Australian trade with China is settled in RMB. It is estimated that 30 per cent of total trade with China will be settled in RMB by the end of 2015. This announcement ensures that Australia will be able to take advantage of this major opportunity. As members know, our relationship with China is of enormous and growing benefit to New South Wales. It is built on many foundations, including trade, business relationships, cultural links and a shared history that includes our vibrant Chinese community.

Over the past three years the New South Wales Government has put in the hard work sending a strong message that New South Wales is open for business with China—our largest trading partner and biggest source of international tourists and visitors. It is also a major source of economic growth and prosperity. More than one-third of Australia's trade is with China, and that originates in New South Wales. In fact, two-way trade between New South Wales and China is worth more than \$30 billion a year, which for members opposite represents 60 Rozelle metros.

BROKEN HILL WATER SUPPLY

The Hon. ROBERT BORSAK: I direct my question to the Minister for Roads and Freight, representing the Minister for Western NSW. Is the Government proceeding with plans to drill for groundwater near Menindee Lakes by implementing a project it claims is critical to securing an emergency water supply for Broken Hill when it clearly does not have the support of local residents? What alternative plan does the Government have to ensure that Broken Hill residents do not run out of water in times of drought?

Mr Jeremy Buckingham: Why was John Williams too busy playing golf to turn up?

The Hon. DUNCAN GAY: I thank the honourable member for his question. I question The Greens entering this debate. Frankly, The Greens' work with the Labor Party in taking water out of the system is part of the reason we have a problem. The Hon. Rick Colless is a doctor of dirt—a soil scientist. There are doctors of dirt opposite, but he is a real one because he is an agronomist by training. He always has ideas about how we can overcome this problem.

The Hon. Lynda Voltz: Point of order: Fascinating as the curriculum vitae of the Hon. Rick Colless is, I am pretty sure it is not what the question was about. Mr President, I ask you to bring the Minister back to being relevant to the question asked of him.

The PRESIDENT: Order! The member well knows that past Presidents, including President Primrose, have permitted a certain degree of generality. However, I remind the Minister that the answer must be generally relevant. The Minister has the call.

The Hon. DUNCAN GAY: Securing future water supplies for our regional communities is one of the most important things a government can do. The situation in Menindee is one the New South Wales Government is taking very seriously. The great Minister for Natural Resources, Lands and Water is working extremely closely with the New South Wales Office of Water, Broken Hill City Council and the local community in regard to the future management of the Menindee Lakes. Securing and maintaining a reliable source of water for Broken Hill is one of the Government's highest priorities, and we have wasted no time in investigating what options are available to protect water supply for the local community. While Broken Hill is still a long way from running out of water, the New South Wales Government is not going to run the risk of that occurring. It has committed \$5 million to boost investigations into sourcing alternative sources of water to protect the town's water supply.

The drilling of investigation bores to examine the geology, water quality and quantity of local groundwater supplies is simply one of the options that the New South Wales Government is looking at to secure Broken Hill's water supply in the event the city reaches a point when it is in imminent danger of running out of water. Groundwater will be used to secure the town water supply only as an absolute last resort if the surface water supply runs dry. We are certainly not at that stage yet, and that is why these works are solely to investigate the feasibility of that option and not to start providing town water supply. This solution has only ever been intended to be temporary.

The Government will not apologise for doing whatever it takes to secure Broken Hill's town water supply by taking sensible, proactive and consultative steps. This is just one project we have undertaken to help secure regional water supply. Since coming into office the New South Wales Government has embarked on a once-in-a-generation investment to secure the future of regional communities across the State. The Water Security for Regions program has seen \$365 million committed to regional infrastructure projects that will help drought-proof communities into the future. [*Time expired.*]

NSW FAIR TRADING COMPLAINTS HANDLING

The Hon. LYNDIA VOLTZ: My question is directed to the Minister for Fair Trading. Given that on 5 November the Minister said, "During the past financial year NSW Fair Trading received 6.4 million requests for service", would the Minister advise how many of those requests involved actual assistance and how many complaints were resolved by Fair Trading?

The Hon. MATTHEW MASON-COX: I thank the honourable member for that detailed question. As I have relayed to the House previously, NSW Fair Trading offers services in a range of different areas including complaints, as the member said, a subset of requests for service in a range of areas. NSW Fair Trading receives just over 40,000 complaints which, as I have laboured to explain to those opposite on many occasions, is an area where it has an outstanding record. Fair Trading intervenes on behalf of people with complaints in all manner of areas. Fair Trading has a record of mediation and solving 93 per cent of complaints. That is an extraordinary result for an agency by any measure.

Fair Trading has a customer service focus to remedy complaints brought to its attention—that is the culture of NSW Fair Trading. It is worth congratulating the Commissioner for Fair Trading and his staff on the wonderful job they do in this regard. The Assistant Commissioner for Fair Trading, Andrew Gavrielatos, looks after customer service in the call centre at Parramatta. He and his team do a magnificent job answering an enormous number of complaints that come in by phone and other calls that include requests for information or requests for inspections in a range of areas—including home building and regulatory concerns looked after by NSW Fair Trading.

It is worth elucidating for those opposite that NSW Fair Trading receives requests for service on a range of areas as diverse as home building, funeral directors, residential parks, retirement villages and Australian Consumer Law—in itself a major area, where Fair Trading provides a range of services to consumers and businesses. It is Fair Trading's responsiveness and ability to provide information, including in the subset of complaints as mentioned by the member, or a phone or internet request, that are part of its customer service culture.

Those opposite should take this more seriously because this never happened when Labor was in government. The reality is the Labor Government sat on its hands, blocked its ears and did not take notice of what was happening in the retail sector or, indeed, a range of sectors. It is important that Government listens to consumers and takes steps to ensure that complaints or requests for service are dealt with quickly. In that regard NSW Fair Trading has been doing a magnificent job for the 3½ years this Government has been on the Treasury benches. I look forward to this Government continuing its proud record in this important area.

PRINCES HIGHWAY UPGRADE

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Roads and Freight. Will the Minister advise the House on upgrades to the Princes Highway?

The Hon. DUNCAN GAY: I thank the honourable member for her question. I note that this Government member understands the proper delineation of the highway's name. The name is the Princes Highway, as in the male, not "princess", as a former Labor Treasurer used to call it. That is how much knowledge those opposite had of what happens outside Sydney. Whilst the former Treasurer is advising those opposite on the ethics of the upcoming election, I am sure those opposite will raise this issue.

Today I can reveal to the people and businesses of the Illawarra and South Coast that since March 2011 the New South Wales Liberal-Nationals Government has invested more than \$785 million to upgrade and maintain the Princes Highway. I can reveal that this equates to a 65 per cent increase in funding compared to Labor's spend on the highway in its last four years in office. Even those in other positions in the Labor Party should remember this statistic. Over a four-year period, from 2007-08 to 2010-11, Labor spent \$474 million on upgrading and maintaining the Princes Highway. That is a funding difference of more than \$300 million over four financial years—or, in other words, the New South Wales Liberal-Nationals Government has already outspent Labor by more than \$300 million on the Princes Highway. Let me inform the House of our impressive—indeed, historic—investments and achievements on the Princes Highway since March 2011.

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

The Hon. DUNCAN GAY: In January 2013 we completed a \$35 million upgrade of the highway at Victoria Creek between Narooma Road and Corkhill Drive at Central Tilba.

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

The Hon. DUNCAN GAY: In October 2013 we completed the \$55 million Bega bypass—which was Federal money—which provided an alternative route to take trucks out of the Bega central business district.

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

The Hon. DUNCAN GAY: In March 2013 we completed the \$72 million widening of the highway to four lanes at South Nowra—and how good is that? The community loves that one. In September 2014 we delivered a \$5.1 million north-bound passing lane at Mount Ousley. In July 2012 we started construction on the \$329 million Gerrigong upgrade, with \$76.5 million committed in this year's budget. [*Time expired.*]

HAWKESBURY-NEPEAN MARINE PARK PROTECTION

The Hon. ROBERT BROWN: My question without notice is directed to the Minister for Fair Trading, representing the Minister for the Environment. What discussions or meetings has the Minister or his department had with the Sydney Institute of Marine Science about its director's call for the Hawkesbury-Nepean bioregion, stretching from the Hunter to Wollongong, and including Sydney Harbour, being afforded marine park protection. Will the Minister unequivocally rule out making any such declaration before the March election?

The Hon. MATTHEW MASON-COX: That is a question of substantial detail. It would be wise for me to take it on notice, seek a comprehensive answer from the Minister and deliver it to the member as soon as possible.

HOSPITAL CAR PARK CONTRACTS

The Hon. WALT SECORD: My question without notice is directed to the Minister for Ageing, representing the Minister for Health. Will the Minister guarantee that all probity protocols and guidelines, including the New South Wales Department of Finance and Services business ethics statement, have been followed by New South Wales Health Infrastructure in its handling of the five-year leases of Sutherland, Liverpool, Wollongong, Coffs Harbour and Lismore hospitals car park contracts issued earlier this year?

The Hon. JOHN AJAKA: The question clearly seeks extensive detail. I will take the question to the Minister for Health and come back with an answer.

BLACKTOWN HOSPITAL

The Hon. CHARLIE LYNN: My question is directed to the Minister for Ageing, representing the Minister for Health. Will the Minister update the House on the progress of the Blacktown Hospital upgrade work?

The Hon. JOHN AJAKA: Earlier this month the New South Wales Premier, the Hon. Mike Baird, and the Minister for Health, the Hon. Jillian Skinner, visited Blacktown Hospital to mark a major construction milestone at the largest health infrastructure project in the State. At the event the Premier and the Minister for Health took part in a topping-out ceremony on the roof of the seven-storey Clinical Services building, which is the centrepiece of the \$322 million stage one Blacktown Hospital and Mount Druitt Hospital redevelopment. For those who may be unaware, a topping-out is a European construction tradition which marks completion of the highest point of a structure and celebrates the work of builders and tradespeople.

Also at this important ceremony were local members of Parliament, Andrew Rohan, the member for Smithfield; Tanya Davies, the member for Mulgoa; and Kevin Connolly, the member for Riverstone. To reach the top of the building in one year is a huge achievement and yet another example of how this Government is delivering in the health and infrastructure areas. The milestone was great news for the people of Blacktown and, thanks to this Government's record \$5 billion hospital building program, it is a story being repeated across the State. In Western Sydney and south-western Sydney alone we are delivering on our commitment to rebuild and redevelop hospitals.

Campbelltown Hospital stage one, at a cost of \$134 million, is almost complete. Planning is well advanced for the Westmead Hospital stage one redevelopment, which will cost more than \$400 million. We have started planning on Campbelltown Hospital stage two, Blacktown Hospital stage two and Bankstown Hospital. It all goes to show that the New South Wales Liberal-Nationals Government is delivering in health. Minister Skinner informs me that the staff and patients regularly tell her how excited they are to be finally getting the state-of-the-art hospital they deserve. The Blacktown area is one of Australia's fastest growing communities and the new hospital being built will help the New South Wales Government and all of its hard workers to meet their health care needs now and into the future.

The Blacktown Hospital redevelopment won a coveted award at the recent prestigious NSW Health awards for a "systematic, comprehensive and ongoing program of community and consumer consultation" throughout the project—testament to the reforms of this Government to empower and engage staff and the community to create a better health system. It was noted that, as a direct result of this partnership, a number of innovative and patient-focused improvements have been made involving changes to design, models of care and operational procedures. This is now being used as a model in hospital capital works across the State.

The seven-storey Clinical Services building at Blacktown Hospital will include comprehensive care centres for cancer, cardiac, respiratory medicine and aged care. Every department is within 20 metres of a lift, making navigating simple for patients and visitors. Single patient rooms have unique visitor zones, designed in collaboration with patients and carers, which transform into overnight carer accommodation. Stage two of the Blacktown Hospital redevelopment will prioritise the emergency department and operating theatres, increase the number of inpatient beds, and boost maternity and paediatric services. I am looking forward to informing the House further about the development of this hospital and, most importantly, its opening, which is scheduled for 2016.

WILCANNIA WATER SUPPLY

Mr JEREMY BUCKINGHAM: My question without notice is directed to the Minister for Roads and Freight, representing the Minister for Natural Resources, Lands and Water, and Minister for Western NSW. Is the Government aware that the people of Wilcannia are on water restrictions and are now sourcing their drinking water from untreated bores? Will the Government commit to building a new weir in 2015 downstream of the town of Wilcannia to create a weir pool for the people of Wilcannia and assure their drinking water supplies?

The Hon. DUNCAN GAY: It is 18 November 2014 and we heard it in this House: The Greens want a new dam. For the first time ever he will be drummed out of the wilderness movement and the Nature Conservation Council will take his membership away from him. Finally some sense from the man; we have been waiting years for it to happen. I remember years ago trying to get a weir at Wilcannia for just this reason, but the Labor Party and The Greens stopped us. I am unaware of the situation, but I will refer the question to that great Minister for Lands and Water and get a comprehensive answer. We could almost fill a dam on the dripping hypocrisy that comes from Mr Jeremy Buckingham.

HUME HIGHWAY SPEED LIMIT

The Hon. MICK VEITCH: My question without notice is directed to the Minister for Roads and Freight. What is the Government's response to outgoing NRMA director and former National Farmers Federation president Graham Blight's call on Sunday 16 November for the speed limit on the Hume Highway to be increased to as high as 130 kilometres an hour?

The Hon. DUNCAN GAY: Finally, we have a little bit of sense from Graham Blight. The soon-to-be departed NRMA directors are out there doing their lap of honour this week. When former President Alan Evans talked about the Princes Highway down south he got it completely wrong. I hear that my former colleague made some comments about the Pacific Highway today. I am unaware of what he said—

The Hon. Mick Veitch: They're all having a go.

The Hon. DUNCAN GAY: —but they're all having a go. Some of them are nearly getting it right and some of them are getting it completely wrong. This one in particular is nearly getting it right. In the past I have indicated that I am a supporter of raising the limit to 120 kilometres an hour, provided that certain safety procedures are put in place. We need grade separation at intersections, which can only happen on a dual-lane highway such as the Hume Highway or the Pacific Highway. The great work we are doing on the Princes Highway at present will put it in that category in the future.

Given the quality of the cars being driven on our roads, in particular the safety equipment installed in them, including cruise control and radar operation that enables them to avoid frontal and rear collisions; quality cars with electronic stability control, an anti-lock braking system and many other safety initiatives to stop them from crossing centre lines—we are in a better situation. It certainly is not as much as some of us would have liked in the past; it was not something that a responsible roads Minister could have supported in the past. But going forward, provided that those safety requirements are addressed, I certainly support raising the limit.

I congratulate Graham Blight on his career not only with the NRMA but also with the primary producer organisations he has represented at the national level. He has been an ornament to primary industries and the NRMA.

SMALL BUSINESS RED TAPE REDUCTION

The Hon. TREVOR KHAN: My question is directed to the Minister for Fair Trading. Will the Minister update the House on the New South Wales Government's removal of the regulatory burden on small businesses?

The Hon. MATTHEW MASON-COX: I thank the Hon. Trevor Khan for his question. He is another member who understands the importance of small business in our State. The Hon. John Barilaro is doing an outstanding job as the Minister for Small Business. This is the second time in the past few weeks that I have had the opportunity to address this issue, and I am pleased to give another update on this important development.

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

The Hon. MATTHEW MASON-COX: Unlike members opposite, when we came to government we had a plan, which was called NSW 2021. It is still called NSW 2021 and we are still delivering on that plan. Indeed, the plan made it clear that we had a specific target of reducing red tape for business and the community by 20 per cent by June 2015. That is what we have been working on. We set a target and we have been working to that target.

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

The Hon. MATTHEW MASON-COX: As I have said on several occasions in the House, the Government believes in rolling out the red carpet for small business in this State, not wrapping it in red tape. It is that simple. We have done an enormous amount on that front. Indeed, I am pleased to report that we have introduced more than 230 reforms, resulting in \$638 million in cost savings to businesses and our local communities. In respect of the way members opposite might look at that, it is 1.2 Rozelle metros. I always like to put it in terms that members opposite understand; it is \$638 million or 1.2 Rozelle metros.

The PRESIDENT: Order! I remind the Hon. Penny Sharpe that she is on two calls to order.

The Hon. MATTHEW MASON-COX: That is a terrific dividend for businesses and communities across the State. We have smashed our policy target of one on, two off in respect of new regulation. We have repealed more than 220 legislative instruments and introduced only 47. In that case we have a ratio of one on, five off. That is an enormous boon for businesses and communities across the State. NSW Fair Trading has been contributing to that target. I am pleased to report to the House that that has been an important objective for Fair Trading. One area where we have played a significant role relates to the plumbing and drainage industry. NSW Fair Trading became the single plumbing regulator in New South Wales on 1 July 2012, following the passage of the Plumbing and Drainage Act 2011 and its accompanying regulation. The aim of this reform was to remove confusion in the industry about the source of regulatory power and to make technical standards consistent across the State.

When the reforms commenced the Plumbing Code of Australia became the single technical standard for plumbing work across New South Wales. This replaced a previous tangle of local variations and practices that occurred under the former New South Wales Code of Practice. NSW Fair Trading has made many administrative and operational improvements when it took over these roles. Indeed, this reform represents valuable changes for consumers and the industry and has helped to cut out significant red tape. I also note that we have repealed the Travel Agents Act 1986, thereby removing significant red tape which has been estimated in the millions each year for the travel industry. We have introduced the Mutual Recognition (Automatic Licensed Occupations Recognition) Bill—New South Wales was the first State to do so. I will be pleased to report on further measures in the near future. [*Time expired.*]

WESTCONNEX

Dr MEHREEN FARUQI: My question without notice is addressed to the Minister for Roads and Freight. Given that Premier Baird has admitted that there was no business case for the \$8.3 billion North West Rail Link, will the Minister admit today that there is no business case to justify the \$11.5 billion WestConnex?

The Hon. DUNCAN GAY: If I admitted that I would be telling a lie. I cannot tell a lie to the House. There is a business case. The question is scurrilous.

WESTERN NEW SOUTH WALES DRUG REHABILITATION FACILITIES

The Hon. HELEN WESTWOOD: My question is directed to the Minister for Ageing, representing the Minister for Health. What is the Government's response to community concerns that there is an eight-week wait for treatment for people in Western New South Wales who are addicted to crystal methamphetamine?

The Hon. JOHN AJAKA: I thank the Hon. Helen Westwood for her question. I will refer it to the Minister for Health and come back with an answer.

NORTH COAST COAL SEAM GAS

The Hon. NIALL BLAIR: My question is directed to the Minister for the North Coast. Will the Minister update the House on how the New South Wales Government plans to deliver world's best practice for coal seam gas to the North Coast?

The Hon. DUNCAN GAY: I thank the Hon. Niall Blair for his important question. Once again I am disappointed that the shadow Minister for the North Coast, who is in the Chamber, was not game to ask the question. Over the past 3½ years the Government has cleaned up the mess left by Labor. Our NSW Gas Plan is further evidence of that. It is time to say goodbye to the old and welcome to the new. The new NSW Gas Plan is a policy framework that will take us forward, not back. It is a framework that protects water and the environment and enables industry to develop in the way it should. Labor left nearly 60 per cent of this State blanketed in coal seam gas licences and applications. It could not refuse a licence or an application. At that time the Hon. Walt Secord was part of the decision-making process. He had, and still has, his hands on the lever.

The PRESIDENT: Order! I remind the Hon. Walt Secord that he is on two calls to order.

The Hon. DUNCAN GAY: The Government has a bill and has put forward a solution. Labor may have a position but it has no plan. It cannot meet the gas needs of this State. Labor will not support the 500 heavy industry gas users and the 33,000 businesses and the 1.2 million households that rely on gas. It will fail to keep jobs and support this economy. Labor members can carp on as much as they like but, as we all know, they have the spin but no solution in relation to coal seam gas. The Government has a solution with substance, one that benefits communities and farmers, offers further protection and regulation and accepts what has been put forward in terms of science and community values.

The Government has introduced legislation to revoke petroleum exploration licence applications and has initiated a buy-back proposal for existing licences. It has responded to community concerns about the coal seam gas industry in the Northern Rivers. It has listened to the science and is adopting all the recommendations of the Chief Scientist and Engineer to ensure that coal seam gas exploration occurs where it is safe and appropriate. The Government is handling coal seam gas on its terms, not on Labor's or industry's terms. Where is Labor's plan? It has no plan; it has nothing but spin.

Labor says it wants a gas-free Northern Rivers but has it spoken about the cost to industry, the communities and the State? No, it has not. Has it a policy on how it will meet the State's gas needs? No, it has not. Labor on coal seam gas is like a rat on a wheel—spin, spin and more spin. As to the obligations of its spin, Labor has provided absolutely no detail. Which licences will it remove? How will it remove them? How will it pay for them? What will it do? There is no substance to the spin. This Government has a plan, a policy and legislation that it will put before the Parliament. Labor has absolutely nothing.

I suggest that if members have further questions, they place them on notice.

LAKELANDS PUBLIC SCHOOL ZONE FLASHING LIGHTS

The Hon. DUNCAN GAY: On 14 October 2014 the Hon. Greg Donnelly asked me a question about Lakelands Public School zone flashing lights. I provide the following response:

I am advised:

The tree was trimmed in October 2014.

FORESTRY OPERATIONS AND PROTECTION OF NATIVE SPECIES

The Hon. DUNCAN GAY: On 14 October 2014 Mr David Shoebridge asked me a question about forestry operations and the protection of native species. The Minister for Primary Industries has provided the following response:

Forestry activities are regulated by the Integrated Forestry Operations Approvals, which contain appropriate measures for protecting wildlife across the landscape. There are around 2,000 prescriptions in the Integrated Forestry Operations Approvals.

The protective measures for wildlife habitat applied in State forests were developed by expert panels and have taken into account the specific fauna groups and individual species' habitat needs. Application of these conditions means native wildlife and their habitat are protected during timber harvesting.

There is no evidence the disturbance of a small number of burrow entrances has had any impact on the viability of the wombat population in Glenbog State Forest.

WATER ALLOCATIONS

The Hon. DUNCAN GAY: On 14 October 2014 the Hon. Robert Borsak asked me a question about water allocations. The Minister for Natural Resources, Lands and Water has provided the following response:

The Commonwealth's basin plan is law and was passed by the Commonwealth Parliament in November 2012. The annual priorities for environmental watering published by the Murray-Darling Basin Authority in accordance with the basin plan identify the Gwydir wetlands as a priority for environmental watering in 2014-15.

The New South Wales Government has also long recognised the Gwydir wetlands as an important environmental asset. Priorities for environmental water use in the Gwydir valley are informed by a Gwydir Environmental Water Advisory Group which has local representation from water users and landholders.

Any water delivered to the Gwydir wetlands in this or future years will come from environmental accounts held by the New South Wales Government and Commonwealth Government and will not reduce allocation to irrigators.

The New South Wales Government has always maintained that any additional water required for the environment under the basin plan must be recovered by the Commonwealth through water savings projects or by water licence buybacks and not provided by reducing water allocations to consumptive users.

SURROGACY LAWS

The Hon. DUNCAN GAY: On 14 October 2014 Reverend the Hon. Fred Nile asked me a question about surrogacy laws. The Premier has provided the following response:

In New South Wales, surrogacy arrangements are governed by the Surrogacy Act 2010. The Surrogacy Act prohibits domestic commercial surrogacy arrangements and prohibits New South Wales residents from engaging in commercial surrogacy overseas. It is a criminal offence to enter into a commercial surrogacy arrangement in New South Wales and for New South Wales residents to enter into such an agreement outside the State. The Act is currently being reviewed in accordance with section 60 of the Act. The purpose of the review is to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

NATIONAL PARTNERSHIP AGREEMENT ON HOMELESSNESS

The Hon. JOHN AJAKA: Earlier in question time Ms Jan Barham asked me a question about the National Partnership Agreement on Homelessness. I am informed that the New South Wales Government is delivering smart reform which will better help those who are homeless or at risk of homelessness. I am advised that the Going Home Staying Home reforms will mean more money and better services delivered to the areas of greatest need. It means more money for our regions and suburbs. It means people in need, no matter where they live, will get the right help at the right time. In the past the New South Wales Government has used national partnership funding to test innovative approaches to preventing and addressing homelessness. The lessons learnt have now been built into our reforms. We are continuing to finalise the arrangements for the extension of the funding with the Commonwealth. As soon as these arrangements have been finalised we will update the sector and the Parliament.

HOME CARE SERVICE OF NSW

The Hon. JOHN AJAKA: On 14 October 2014 the Hon. Peter Primrose asked me a question about the Home Care Service of NSW. I provide the following response:

On 22 September 2014, the New South Wales Government announced the transfer of the Home Care Service of NSW [Home Care] to the non-government sector by mid-2015. The New South Wales Government intends to conduct an open and competitive process with a call for expressions of interest by the end of the calendar year 2014.

The Government intends to engage with a broad range of potential future operators in order to identify the most suitable provider to continue to deliver this vital service.

FATHER MITKO MITREV

The Hon. JOHN AJAKA: On 14 October 2014 and 15 October 2014 the Hon. Robert Brown asked me questions about two New South Wales Supreme Court proceedings *His Eminence Petar, the Diocesan Bishop of the Macedonian Orthodox Diocese of Australia and New Zealand v Kotevich* and *Metropolitan Petar v Kotevic*. The Attorney General has provided the following response:

I am advised:

The findings regarding Father Mitrev made by the Honourable Justice Stevenson of the New South Wales Supreme Court have been referred to the Office of the Director of Public Prosecutions to determine whether the matters warrant being referred to the NSW Police Force for a perjury investigation. As a referral has already been made, it is not necessary for me to refer the matter.

BIODIVERSITY LEGISLATION REVIEW

The Hon. MATTHEW MASON-COX: On 14 October 2014 Dr Mehreen Faruqi asked me a question about releasing the draft and final reports from the biodiversity legislation review to the public. The Minister for the Environment has provided the following response:

I am advised as follows:

The Independent Biodiversity Legislation Review Panel is scheduled to provide its final report to the Government in the coming months.

The Government intends to publicly release the report once it has had an opportunity to consider the panel's findings and recommendations.

Questions without notice concluded.

BUSINESS OF THE HOUSE**Suspension of Standing and Sessional Orders: Order of Business**

The Hon. LUKE FOLEY (Leader of the Opposition) [5.05 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. 2116 outside the Order of Precedence, relating to an order for papers regarding the Parramatta Road Urban Renewal Project, be called on forthwith.

This matter is urgent because on the eve of the Government proceeding to a public exhibition of the Parramatta Road Urban Renewal Project, including the Parramatta Road Urban Renewal Strategy and Parramatta Road Land Use and Transport Concept Plan, the Minister for Planning intervened and instructed the agency that had developed this plan, namely UrbanGrowth NSW, to not proceed with that public exhibition. We are now advised that the public exhibition will occur sometime after the March 2015 election. I have talked to members of many persuasions in this House and the majority of them believe it is urgent that we and, through us, members of the public receive the relevant information that the Minister has directly intervened to instruct her agency not to release.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [5.07 p.m.]: The Government opposes urgency. We submit that this matter is not more urgent than the matters on the *Notice Paper* that take precedence.

Question—That the motion be agreed to—put and resolved in the affirmative.

Motion agreed to.

Order of Business

Motion by the Hon. Luke Foley agreed to:

That Private Members' Business item No. 2116 outside the Order of Precedence be called on forthwith.

PARRAMATTA ROAD URBAN RENEWAL PROJECT**Production of Documents: Order**

The Hon. LUKE FOLEY (Leader of the Opposition) [5.08 p.m.]: I move:

That under Standing Order 52, there be laid upon the table of the House within 14 days of the date of passing of this resolution the following documents created since 1 April 2014, in the possession, custody or control of the Minister for Planning and UrbanGrowth NSW relating to the Parramatta Road Urban Renewal Project:

- (a) all documents including but not limited to emails, briefing notes, diary notes and technical studies prepared for the public exhibition of the Parramatta Road Urban Renewal Project including the Parramatta Road Urban Renewal Strategy and Parramatta Road Land Use and Transport Concept Plan;
- (b) all supporting studies undertaken in the preparation of the Parramatta Road Urban Renewal Strategy;
- (c) all documents that refer to the planning for and cancellation of the public exhibition;
- (d) all documents relating to the Memorandum of Understanding between the Minister and the Parramatta Road Councils; and
- (e) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

I will be very brief because the House wishes to deal with many matters this afternoon. The Opposition is concerned that the work of UrbanGrowth NSW concerning the Parramatta Road Urban Renewal Project be released so that local communities from Granville through to Camperdown can have the relevant information about what the Government has planned for them with respect to redevelopment along the Parramatta Road corridor. That information was about to go on public exhibition until there was a direct ministerial intervention to block that public exhibition.

The Government unilaterally decided to lift housing targets along the Parramatta Road corridor from an additional 25,000 dwellings to an additional 50,000 dwellings. The community desires information about the community infrastructure that will accompany that surge in population and dwelling increases, in particular, the plans for parks, playgrounds, new childcare centres and new schools. The residents along the Parramatta Road corridor through 10 local government areas have a great desire for information on the Government's plans for their local communities. As such, this order for papers will allow the Parliament to share with those local communities the Government's plans. I commend the motion to the House.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [5.10 p.m.]: The Government opposes the motion moved by the Leader of the Opposition. This order for the production of documents under Standing Order 52 is a complete waste of time. It further demonstrates that Labor is trying to stifle attempts to improve Parramatta Road for the people of Sydney. For 16 years Labor buried its head in the sand and refused to do anything to support sustainable growth across the metropolitan area, in particular, along Parramatta Road. Now Labor is seeking to divert the resources of hardworking public servants by their having to respond to this frivolous Standing Order 52 motion rather than getting on with the job of delivering urban transformation along Parramatta Road. That is typical of the Labor Party. When Labor was in government, instead of implementing strategic planning policies to foster and support population growth, it did nothing to prepare Sydney for an increasing number of residents.

Do I need remind those opposite of their plan for a growing city? It was to declare that Sydney was too full and that the city could not make room for any further growth. Instead of developing policies that invested in housing and infrastructure, former Premier Carr simply put up the "too full" sign and hoped the population problem would go away. This is typical of the Labor Party—it does nothing for 16 years and then has the hide to complain when the Coalition is getting on with the job of implementing measures to improve the city for its residents. The public display of the draft Parramatta Road Urban Renewal Strategy is being finalised in the broader context of the Metropolitan Strategy for Sydney.

When the display of the strategy goes public it will allow UrbanGrowth NSW to develop a comprehensive program, which will include more detail on transport options, such as improved options for cycling and walking, the \$200 million urban amenity improvement plan and proposals for the reconfiguration of the roadway. UrbanGrowth NSW continues to work closely with its State Government partners, including the Department of Planning and Environment, Transport for NSW, the Roads and Maritime Services, the WestConnex Delivery Authority and other agencies in the preparation of the strategy. Councils are also a critical partner in this important transformational project and nine of the Parramatta Road councils have endorsed a memorandum of understanding with the State Government. This is an important demonstration of support for the project.

A significant amount of work is to be done and we will continue to work with councils in the development of the Integrated Land Use and Transport Plan and the amenity improvement plan. The Parramatta Road Urban Transformation Program is a truly collaborative project. UrbanGrowth NSW is seconding five full-time equivalent staff from councils along the Parramatta Road corridor to join the integrated project team, led by UrbanGrowth NSW. Councils have played an active role to date and will continue to play a critical role in the preparation of the document, which will go on public display next year.

The Government remains committed to urban renewal of the Parramatta Road corridor. It is committed to working collaboratively with councils and communities and will continue to work under the terms of its memorandum of understanding with councils. The New South Wales Government is working to ensure that it achieves the best possible outcomes for the communities along the Parramatta Road corridor. This is a long-term project and there will be significant engagement with communities next year. The Government recognises that local residents know their neighbourhoods best and will be invaluable in identifying the opportunities to deliver great outcomes. This is how good planning is done. This motion is a distraction from the main game.

The Baird Government is working collaboratively with stakeholders to deliver world-class urban transformation outcomes that improve the amenity and liveability of our urban space and deliver housing and jobs growth for current and future generations. If the Chamber were of a mind to pass this motion today, the Government seeks an amendment to the motion by extending the 14 days specified in the motion to 21 days. An additional seven days is requested if this motion is passed as UrbanGrowth NSW is currently involved in a number of significant events. It is not a large agency and recently it has spent a great deal of time complying with other Standing Order 52 requests and on the current inquiry into planning in Newcastle. It is leading the Bays Precinct summit planning, which is of great significance to Sydney's future. Therefore, I move:

That the motion be amended by omitting "14 days" and inserting instead "21 days".

Mr DAVID SHOEBRIDGE [5.15 p.m.]: I indicate The Greens support for this Standing Order 52 production of documents. It is remarkable that the Government 3½, almost 4 years ago was trumpeting public engagement, engaging with communities and transparency. That was its mantra before it was elected, but for the last three years it has been a struggle to get anything on the public record from the Government. One of the things I will be most interested in seeing, if the House supports the motion, will be all documents that refer to the planning for and cancellation of the public exhibition. As I understand it, the project was close to being put on public exhibition and then it was pulled. Why was it pulled? The likely reason is that the Government did not want to scare the horses with the truth before the people of New South Wales go to the polls in March of next year.

This motion is about getting as much information on the public record and in the public domain before the election next year so that the hundreds of thousands of residents who surround either side of the Parramatta Road corridor can see before the election in March next year what this mob has planned for them and learn why the Government is not willing to put on public exhibition the material it has about the Parramatta Road Urban Renewal Program, the Parramatta Road Urban Renewal Strategy and the Parramatta Road Land Use and Transport Concept Plan. The Government should be proactive in presenting these documents rather than oppose the efforts of this House to impose some sort of transparency on the Government. This is the type of thing the Government should do without being told by the House to do it. I commend the motion.

The Hon. LUKE FOLEY (Leader of the Opposition) [5.17 p.m.], in reply: I thank all speakers to the motion. I indicate that I will support the Minister's amendment—that is, that the order be returned 21 days from the date of the passing of the resolution rather than 14 days. I make the point that the Opposition is always open to discussion with Ministers and departmental heads where they seek more time to comply with an order. I am always willing to engage with them about that. I commend the motion to the House.

Question—That the amendment of the Hon. John Ajaka be agreed to—put and resolved in the affirmative.

Amendment of the Hon. John Ajaka agreed to.

Question—That the motion as amended be agreed to—put and resolved in the affirmative.

Motion as amended agreed to.

Pursuant to resolution debate on committee reports proceeded with.

GENERAL PURPOSE STANDING COMMITTEE NO. 3**Report: Tourism in Local Communities****Debate resumed from an earlier hour.**

The Hon. NATASHA MACLAREN-JONES [5.18 p.m.]: As I said earlier, the Visitor Economy Industry Action Plan stated that visitor expenditure in New South Wales supports over 96,500 businesses and accounts for one in every 22 jobs in New South Wales. When the Government was elected in 2011 the tourism sector underwent a significant reform to secure future growth and to ensure that tourism in New South Wales was operating at a world-class standard. In 2011 the New South Wales Government established the Visitor Economy Taskforce to review the tourism sector in New South Wales and to develop a strategy to achieve the target of doubling overnight visitor expenditure. It presented its final report to Government in August 2012.

In December 2012 the Government released the Visitor Economy Industry Action Plan. The action plan is the New South Wales Government's response to the taskforce's report and outlines the whole-of-government commitment to the New South Wales visitor economy. The plan supports the majority of recommendations made by the taskforce. The inquiry gave stakeholders the opportunity to provide feedback on how they were adapting to the reforms, including their experiences with the introduction of destination management plans, the changes to funding for regional tourism organisations and the implementation of the new Regional Visitor Economy Fund.

The New South Wales Government implemented two tourism-related funding programs for regional New South Wales: the Regional Flagship Events Program and the Regional Visitor Economy Fund. Both programs are administered by Destination NSW. The Regional Flagship Events Program is available for events in regional New South Wales that have tourism potential and which may serve as flagships for the region in raising the profile and image of an area and in boosting visitation. The Regional Visitor Economy Fund is the new tourism funding scheme launched by the New South Wales Government in April 2013, valued at \$21.6 million over three years.

The fund is divided into a quarantined funding pool and a contestable pool of funds. The quarantined funds are available to existing regional tourism organisations only. The contestable pool of funds is available to regional tourism organisations, individual businesses and local governments for either marketing or product development. The Regional Visitor Economy Fund provides funding on a matched dollar-for-dollar basis, with a minimum investment of \$50,000. Numerous inquiry participants expressed the view that \$50,000 is a relatively high cost for some stakeholders—it may prove prohibitive and exclude smaller stakeholders from applying for funding.

While the committee believes the destination management planning process encourages a collaborative approach to raising funds, it noted that some stakeholders had difficulties collaborating with other organisations and acknowledged that the \$50,000 threshold may place funding out of reach for many smaller stakeholders. The committee recommended that Destination NSW consider reducing the minimum matched funding threshold. The Government's response was that it was supportive in principle and will consider whether it is possible to reduce the level without compromising the overall goal of doubling visitor overnight stays by 2020.

Some stakeholders found the assessment criteria for contestable funding too strict and thought that it did not take a holistic view when assessing the merits of an application and its potential return on investment. Other concerns included the yearly application process and its impact on investment certainty. The committee believed the destination management planning process aimed to encourage a collaborative approach to raising funds; however, it also noted that the evidence showed that some stakeholders had difficulties. The committee made a number of recommendations, including a review of the Regional Visitor Economy Fund application to simplify the application process and assess the effectiveness of the reforms that included greater access, longer term operational funding and the eligibility and assessment criteria.

The Government's response to the recommendations was supportive of a review, which will be conducted in 2016—although the committee had suggested 2019. The Government indicated it supports in principle of having a simplified process, but it does not support providing funding for periods longer than two years because the provision of longer-term grants does not encourage enterprises to develop self-sustaining funding models, which is the aim of the Visitor Economy Industry Action Plan. The introduction of the destination management planning system in New South Wales was a key recommendation

of the Visitor Economy Taskforce. Developing uniform destination management plans across the State would facilitate local leadership and bring together in partnership industry, the community and all three levels of government.

While destination management plans have been generally well received by stakeholders, some concerns were raised regarding the enormity of the task and the difficulty in achieving a collaborative approach in developing these plans. The committee believed that a destination management plan was a valuable tool to assist communities in identifying their key attractions and facilities in order to establish whether they are a tourist destination or if they have a different visitor market. This enables communities to target future funding and marketing strategies accordingly.

The committee appreciates that the destination management planning system was only introduced in 2013, and that implementing a new system is challenging and can reveal issues that may not be anticipated. The committee recommended a review of the destination management planning system in five years to assess the effectiveness of the reforms. The Government has advised that it will consider all aspects of the fund, including destination management planning. Through Destination NSW it has commissioned an analysis of the 25 destination management plans received since the commencement of the Regional Visitor Economy Fund in 2013.

The review will identify the key attributes, strengths and weaknesses of specific destinations. Destination NSW will use the information for future investment and planning and that information will be shared with relevant stakeholders to assist them with their future planning. A key theme raised throughout the inquiry was the relationship between tourism and infrastructure. This included the impact of increased visitation on tourism and community infrastructure—such as public toilets, sewerage and parks—and the need for adequate transport infrastructure to support increased visitation to New South Wales. The report considers different options available for infrastructure funding, including special rate variations.

The committee believes that special rate variations could be a valuable and effective source of additional income to fund tourism initiatives that can be of mutual benefit to local communities and visitors. The committee recommended that the New South Wales Government provide assistance, where requested by local councils, to examine the possible use of a special rate variation to renew and expand visitor economy infrastructure outside the standard rate cap. The Government is supportive of this recommendation and is implementing a program to provide specific information to councils that wish to apply for special rate variation.

In March 2013, through the Division of Local Government, the Government released the Integrated Planning and Reporting Manual for Local Government in New South Wales. The manual provides information for councils on incorporating tourism into financial planning. In September 2013, the Government released *Guidelines for the Preparation of an Application for a Special Rate Variation to General Income 2014-2015*, which includes simplified guidelines and fact sheets. The committee has been advised in the Government's response that this will be updated again in 2014-15.

The committee acknowledges that many regions have existing tourism assets that are ageing and may no longer meet visitors' expectations. Therefore, in cases where upgrades to existing infrastructure may assist in achieving the State target of doubling overnight expenditure, we recommend that these assets be eligible for funding grants under the Regional Visitor Economy Fund. The Government has indicated that it is supportive of the recommendation. The committee received a range of evidence regarding holiday letting, recreational vehicles, national parks, fossicking and rail trails, about which a number of committee members no doubt will comment further.

Many communities rely on the practice of short-term holiday letting to meet accommodation demands, to provide a source of income for owners and to provide economic support to towns. In many areas, holiday rental is a vital part of the local economy and any restriction on holiday rentals would seriously impact local business. However, the committee noted the fact that holiday letting in some areas has led to issues and disturbances caused by antisocial behaviour, resulting in significant distress for residents. Various suggestions were made throughout the inquiry and the committee noted that a two-year industry self-regulation trial involving the Holiday Rental Code of Conduct is due to conclude at the end of this year with recommendations going to Government.

The committee agreed with stakeholders that improved access to national parks is needed to maximise the visitor potential of national parks in New South Wales, including the development of tourism infrastructure

to facilitate visitor access. The committee recommended that the New South Wales Government investigate further opportunities for tourism development in national parks, including accommodation, camping, mountain bike trails and fossicking. In addition, the committee recommended a review of the feasibility of allowing disused rail corridors in New South Wales to be developed into rail trails. Due to limited time, I have been able to touch on part of the report only and unfortunately have not been able to cover in detail all 25 recommendations. I congratulate the excellent work of our regional communities on developing strategies to grow the visitor economy and I commend the report to the House.

Ms JAN BARHAM [5.28 p.m.]: I speak on the report of the inquiry of General Purpose Standing Committee No. 3 into tourism in local communities. I was a substitute member on this committee, and I acknowledge the hard work of committee members and the committee staff. As we have heard from the chair of the committee in her excellent overview of the report, tourism is an important industry for the New South Wales. The report states that the direct value of tourism to the New South Wales economy is \$10.5 billion, which represent 33.3 per cent of the national total. One in every 22 jobs in New South Wales is in the tourism industry and the total number of people employed in the sector increased to 279,000, which is the highest annual increase in the past four years. Clearly we can make the case for the value of tourism to this State. The inquiry enabled members to talk to people who work in the industry, local community members and council representatives about the impact it has on them and what can be done to improve it.

Members heard that there has been a change in the focus of the regional tourism funding model. Its effectiveness was reviewed in submissions to the committee. I am pleased that the Government has taken on board some of the committee's recommendations and accepted that the current arrangements are not working for regional communities. Those communities raised the issues they confront with matching funding, time frames for resubmitting a funding application, the assessment criteria, and the complexity of applications for relatively small amounts of money. Witnesses raised fantastic points during the committee's hearings and their input forms the basis of the committee's recommendations. The Government has accepted most of the recommendations and it supports the establishment of a review. Obtaining a grant or not, or obtaining matching funding can make or break tourism businesses in rural areas. The same is true if a council cannot obtain funding for infrastructure that is vital for the enhancement and ongoing success of the local tourism industry.

Like the chairperson, I will address some of the less than positive issues facing the tourism industry, in particular its impact on local communities. Some areas face issues with unregulated tourism ventures and recreational vehicles being parked in non-commercial areas, on Crown reserves and so on. These issues impact negatively on local communities. The committee recommended that the Government make publicly available the results of the trial of the holiday rental code of conduct. I understand that the two-year trial has been completed, but the Government has not yet released the report. It has said that the trial was undertaken by an independent holiday industry group and that it had no say in the report's release. That is very disappointing because a number of councils raised concerns about holiday letting.

The committee heard from people in Gosford about the problems they confronted in taking a case of unregulated holiday letting to court. The case involved a property being used as a party house, which often meant there were 20 people or more having bucks parties, twenty-first birthday parties, wedding celebrations and many other events that were unacceptable and that had a negative impact in a residential area. The court found in *Dobrohotoff v Bennic* that unregulated holiday letting was an unlawful practice and unapproved in a 2A residential zone. The committee heard evidence in other places where this was also an issue. People on the North Coast who live next door to party houses are confronting many problems.

The Youth Hostels Association raised a pertinent and oft-mentioned point about the unfair advantage enjoyed by people who use residential properties for tourism purposes. They are competing in a marketplace that includes commercial providers who have bought commercial land, lodged development applications and paid section 94 fees and who pay annual commercial rates. The competition is unfair; there is no level playing field. Some commercial operators are willing to speak out on this important issue and it is regularly raised. The Snowy River Shire Council told the committee how it is dealing with it by providing all visitors with a little book that explains their responsibilities as visitors and that encourages them to be respectful. I will read from the court judgement in *Dobrohotoff v Bennic* because there is a great deal of misunderstanding about the widespread use of domestic properties for tourism purposes. Her Honour Justice Pepper states:

... it could not be fairly said, looking at its use as a whole, a short term holiday accommodation, that, as a matter of fact, the property was being occupied in the same way that a family or other household were in the ordinary way of life would occupy it. A tenancy granted to persons who are residing in a group situation for periods of a week or less for the purpose of bucks nights and hens nights, parties or for the use of escorts or strippers, is, in my opinion, not consistent with the use or occupation by family or household group in the ordinary way of life, and therefore not consistent with the use of the property as that of a dwelling house...

That is the issue, particularly given that the Government is constantly going on about the need to provide more homes. This is an unlawful use and it is removing homes from the accommodation pool that would normally be available to domestic renters. The issues addressed in this inquiry have been thoroughly considered by the committee and people across the State were given the opportunity to express their concerns. The committee held public hearings across the State and it heard very different points of view. The report strongly supports focusing on how best the State Government can assist the tourism industry by being flexible and listening to those involved in small businesses in regional communities about how they can be supported.

The Hon. Dr PETER PHELPS [5.38 p.m.]: The hypocrisy of The Greens never ceases to amaze me, and on the issue of tourism I remain amazed. I think I correctly quote Greens member Jan Barham, who said, "tourism is a very important industry for New South Wales" and in noting a previous committee report the Hon. Mehreen Faruqi talked about her concerns about workers operating at the key tourist hub to New South Wales, which is of course Sydney Airport. However, contrast this to official Greens policy, according to an October 2013 press release in which Greens transport spokesperson Senator Lee Rhiannon "renewed her party's call for Sydney Airport to be relocated to redress the health, public safety and environment problems associated with the current location". Senator Rhiannon said:

There is mounting evidence that Sydney Airport should be relocated. This latest report linking serious health risks with aircraft noise highlights why relocation outside the Sydney airshed basin is needed

Let us consider for a moment that The Greens not only want the chief transport hub for tourists coming to New South Wales closed but also they want the proposed site for the new airport at Badgerys Creek closed. Where is the new airport going to be placed? Will it be at Warnervale or Wollongong? Will it be at Katoomba? Maybe it will be at Bathurst or Orange, Narromine, Cobar or Tibooburra? No-one in The Greens mentions where New South Wales chief ingress and egress route for overseas tourists is going to be located. However, they tell you they do not want it where it is.

If workers at Sydney Airport noted the crocodile tears of The Greens member Dr Mehreen Faruqi for poor workers paying extra transport fees, they should also note they would not have jobs if they listened to The Greens' transport policy. If The Greens utopia were to mysteriously and inexplicably find itself thrust upon the good citizens of New South Wales these workers would not have jobs—that is the sort of future The Greens offer. For all their pretences about their concerns for tourism and workers, the fundamental point is that Senator Lee Rhiannon has made it clear that The Greens policy is that Sydney Airport should be closed.

If that happens, how will tourists arrive in New South Wales? Unfortunately you cannot hop on the bullet train at Osaka and make your way to Sydney—there is no link. How will people from China, Europe or the United States get to New South Wales unless there is an air route? Maybe they will all take cruise liners to get here. If so Senator Lee Rhiannon would have to have a long talk with the member for Balmain, who would find a lot more boats turning up at White Bay if the only ingress and egress point for tourists to New South Wales were via cruise ships. The member for Balmain would have to explain this policy of The Greens to his constituents.

Is this serious The Greens policy? It could be possible because, after all, we know that Senator Lee Rhiannon has an affinity with international transport by boat. On 19 January 1970 she was about to embark on a voyage to the United Kingdom on the Russian vessel *Shota Rustaveli*, where she had an appointment to meet Vladimir Alekseev, from the Soviet embassy, in cabin 190 on J deck. Vladimir Alekseev was the KGB Station Chief at the Soviet embassy in Canberra. Perhaps Senator Rhiannon has a nostalgic longing for the good old days when she could meet with KGB station chiefs on cruise liners. The hypocrisy of The Greens allegedly supporting tourism and workers while calling for the closure of Sydney Airport knows no bounds. I commend the report.

Mr SCOT MacDONALD [5.43 p.m.]: This inquiry by General Purpose Standing Committee No. 3 made worthwhile recommendations. We took representations about the impact of penalty rates on hospitality businesses, particularly those in regional New South Wales. Many of those businesses struggle to open on holidays and Sundays due to the penalty rates they are forced to pay, some of which force wages up to \$45 an hour. The Fair Work Commission has reduced penalty rates on Sundays for casual hospitality workers by 25 per cent from 1 July. However, that goes only part of the way to addressing concerns and in future we could look at the inflexibility in labour laws, including penalty rates and conditions. These rates are a barrier to the performance of our hospitality sector, particularly for regional businesses. We were told they had an impact in many areas including in the Snowy, on the North Coast and in inland regions. I believe the Fair Work Commission should turn its mind to this issue. I commend the report.

The Hon. STEVE WHAN [5.45 p.m.]: I was pleased to be a member of this interesting committee, and I thank the hardworking committee staff for their work on the report and in organising the hearings. I note some issues were raised about the current administration of tourism in regional New South Wales. Many regional areas are successful in attracting tourists, while others have issues they need to deal with. Some interesting things were raised, particularly in the contribution by fossickers who talked about access to areas. Issues were raised about the disposal of waste created by self-contained campers and the different policies councils have devised to attract these people to their areas by providing facilities without detracting from the financial viability of caravan parks. Councils need to balance these competing demands, which is difficult.

There were comments from a number of regional tourism bodies about the \$50,000 minimum threshold for grants under the current grants program. We were told this was difficult to achieve, especially by small attractions that have to band together to reach this target. The Government should review this. We also heard comments about conditions and criteria for grants, in particular from the ski industry, which raised performance targets and the need to guarantee rising visitor numbers. We were told continuity of increased visitation was impossible to achieve in a bad year. It would be reasonable for Government to recognise this fact in its conditions. Sometimes grant funds are needed to invest in the local ski industry to attract tourists away from other ski operators, for example those in New Zealand. It is also reasonable to allow for flexibility in putting in place proposed performance measures. The authorities assessing the grants can determine whether the performance measures are reasonable.

One thing I noted is the different levels of planning expertise between regional tourism associations. We spoke to a number of organisations, some of which are doing very well. Others think they are in the wrong regional tourism organisation [RTO] or that the RTO is too big. I think there will never be a perfect solution or model, but some good work is being done by RTOs, as evidenced in a recent presentation by the Inland NSW Tourism organisation in the Waratah Room where we were shown impressive figures for meeting targets for growth in visitor nights.

They are doing some good and very professionally based work there, which others could probably learn from. Some positive work is being done but, again, some other work is probably of variable quality. There is ongoing concern about the non-competitive grants component of the Government's funding, which is quite important for the continuing ability of the RTO to exist. I hope that the Government retains non-contestable grant funds to form the basis of those organisations.

Members will know that I have a personal interest in pursuing the development of rail trails and we heard quite strong evidence about the importance of rail trails for New South Wales. The report contained a good recommendation about rail trails, which I hope will be implemented by the Government, since it rejected the legislation that the Hon. Mick Veitch brought into this place. Rail trails have a huge potential to create economic benefits for areas in New South Wales. It does not mean that every single railway line or every single closed railway line would be converted; it means that communities would be consulted and if they get behind it and the line is viable then it might be able to be converted to a rail trail and, hopefully, the area can get in on the bonanza that many country Victorian towns are experiencing from rail trails.

The report contains a number of positive suggestions and I commend all the members who participated in the inquiry. It was a very positive process and it came up with some pretty good recommendations overall. I thank all those involved in the report, particularly the secretariat.

The Hon. LYNDIA VOLTZ [5.51 p.m.]: I thank the committee staff and in particular I thank members of the community and the tourism industry who gave evidence to the General Purpose Standing Committee No. 3 inquiry into tourism in local communities. Many people travelled a long way and put together quite significant presentations. The Hon. Steve Whan spoke about the professionalism of the work of Inland NSW Tourism and how good that organisation is, particularly for small organisations. However, it is a case of horses for courses with these organisations. I note that Central NSW Tourism had the view that Inland NSW Tourism was not the right place for them and, given the success that Central NSW Tourism has had in developing products around its region—the Elvis Festival in Parkes, all the attractions at Forbes, the ute sculptures and its connection with Dubbo—it is clear that there is a lot of diversity in the tourism industry.

Setting growth targets has been raised. Of course, the tourism industry is cyclical. Domestic tourism relies a lot on the strength of the Australian dollar: If the Australian dollar is low there is better domestic tourism; if the Australian dollar is high people will travel overseas to places such as Bali and New Zealand. It is difficult for these organisations to reach growth targets under those conditions. Concern was also raised about

one-year grant processes. We hear it across the board, not only in tourism but in all sorts of community organisations: having to apply every year for funding is a very difficult process. The Government should consider two-year or three-year tourism grant processes that will provide some stability and enable people to take a longer-term view about developing a tourism product, because a tourism product cannot be developed over one year. Most of the marketing products for tourism tend to fund festivals for a three-year period to allow that growth within the sector.

Another issue of significant concern is that visitor information centres are now being charged commercial rates for what is essentially a community service to promote the growth of industry within their sectors. Although the centres provide some services and quite often have little shops in them, the reality is that the centres are often quite expensive for councils to run. However, they keep the community going and have a flow-on effect. The committee quite rightly pointed out that the Government should review the lease rental rates it is charging visitor information centres. Again, this is something that is happening across government where community sectors are being asked to pay commercial rates.

While the Government should get the greatest return it can for the New South Wales taxpayer it also should build into its model the reality that it is providing a benefit to the community in terms of jobs growth or community services, and that that should be factored into how it charges rents. There is no point in charging a rent that is so high it drives out a community sector that provides services and is the backbone of the local tourism industry. There has to be a multiplier effect for the region.

Australia is a large country and there is nowhere quite like it for people to travel. Inland towns and tourism regions rely on grey nomads to keep them going. The Government should have a strategy about how it deals with recreational vehicles [RVs], particularly waste dumps and the use of resources. The committee heard some very good recommendations from some of the community groups. One suggestion was having time limits at rest stops for RVs—maybe a 12-hour or an 18-hour limit so that they are not camping at the site; it is just a rest stopover where people can get a few hours sleep. Given that RVs are travelling on long highways, maybe Roads and Maritime Services should consider building waste dumps and water facilities so that local governments are not carrying the burden of grey nomads travelling up and down the coast, and caravan parks do not become a waste disposal point but are used as a nice place for people to stay without that added burden.

It was a very useful committee, particularly in highlighting the problem concerning holiday letting. There seemed to be diversity amongst councils in regard to development applications and their enforcement in holiday lettings. Some councils were of the view that they could not enforce regulations for holiday letting—certainly that was the view of Byron Shire Council. Gosford City Council was considering using a development application process and the Snowy River Shire Council was considering using a process that would enforce the number of beds allowed for holiday lettings.

Some councils were doing a good job and some councils were finding it difficult. Having clarity in the regulation of councils' powers will make holiday letting much clearer because while in some towns there are social behaviour issues around holiday letting, it is undoubtedly what many small towns up and down the coast rely on. A regulation that may improve conditions in a town like Byron may have a huge detrimental effect on many South Coast and other regional towns. Councils should be able to set and enforce regulations and development application processes themselves, which some councils are doing; others perhaps need to look at a way of doing it better.

The Hon. PAUL GREEN [5.59 p.m.]: I concur with the statements of members who have spoken in this take-note debate on the report of General Purpose Standing Committee No. 3 following its inquiry into tourism in local communities. It was a very thorough report. We went north, south, east and west and got some great feedback from tourism stakeholders right across New South Wales. We thank them because, Madam Deputy-President, you and I know, being former mayors of our areas, that many tourism stakeholders pay for their time to go places, to have input and to put reports together to try to get a better benefit for their local area. Dubbo Zoo was one of the highlights of the committee's inquiry. I encourage people to go back there.

The Hon. Robert Borsak: That's why you went on that committee.

The Hon. PAUL GREEN: Except for you guys. You cannot go there.

The Hon. Robert Borsak: Are you acknowledging that interjection?

The Hon. PAUL GREEN: No, I have seen an earlier picture.

The Hon. Robert Borsak: I'd have a 404 in there.

The Hon. PAUL GREEN: I have not put on the record who I was speaking to at the time. But turning to the report, I concur with the initial public comments by the Hon. Natasha Maclaren-Jones, who was the chair of the inquiry, who said it:

... important to recognise the importance that tourism plays in our state's economy, which accounts for approximately \$28.7 billion to the NSW economy. One in every 21 jobs in New South Wales is in the tourism industry.

She further said:

It is vital that the industry is operating as effectively as possible and getting the support it needs to continue to foster and grow tourism throughout the state. The Committee is keen to find out what impact tourism has on local communities across NSW, particularly in terms of local infrastructure such as parking, parks, information centres, as well as other essential amenities.

She concluded:

We need to understand this in order to ensure that tourism in New South Wales is operating at a world class standard.

That is a good comment. The community, not only at local grassroots, expects high standards of their local area and their local council and services, including roads, libraries and the pools. Expectations continue to grow. That is even more so when tourists travel across the globe to look at our beautiful natural landscapes and all we have to offer across New South Wales. They expect a high standard of experience, and rightly so. That is the sort of world-class standard we are talking about. The inquiry helped us to better understand these sentiments. As the report stated, tourism makes a significant contribution to the New South Wales economy. NSW Tourism Research Australia released a report showing that the State is performing strongly in key economic indicators for visitor expenditure and jobs growth in the tourism sector.

Indeed, the Tourism Satellite Accounts prepared by Tourism Research Australia show that in 2010-11 the direct value of tourism to the New South Wales economy was \$10.5 billion, representing a 33.3 per cent share of the national level. The direct value of tourism has risen by \$500 million in the latest year. Domestic tourism contributed 69 per cent and international tourism contributed 31 per cent to the State's direct tourism value. Good management of this industry is vital for the wellbeing of the New South Wales economy. Again, on a similar theme, a vibrant tourism industry is vital for maintaining healthy levels of employment. The report states that the number of people employed in the tourism sector in New South Wales increased in 2010-11 to 279,000, which is the highest annual increase in the past four years. That is almost one-third of one million jobs.

I note that a common general viewpoint among stakeholders during the inquiry was that tourism is an avenue of potential advantage and opportunity for local communities. It is a way of diversifying and growing the economy, and can provide social opportunities that benefit the host community. In many regional areas tourism is an important factor in the future viability of a community. That is even more so in local communities in regional and rural areas. People in rural and regional areas cannot subdivide their land, their mortgage is sunk, they have little opportunity to get out and many of them are land locked for different local environment plans and other rules. So many of these people have had to come up with a product they can onsell. Tourism has done that in regional areas, which has been fantastic for New South Wales. Many rural townships would be ghost towns if they were not innovative in coming up with a tourism product.

I note that several inquiry participants expressed the view that tourism and visitation can benefit local communities both through the social opportunities they provide, and through access to goods and services. Moreover, several inquiry participants expressed the view that tourism and visitation contribute to building community pride through offering opportunities for communities to showcase various cultural, community and heritage attributes, as well as providing important opportunities for social exchange with visitors and within communities themselves. The Australian Regional Tourism Network expressed the view that tourism fosters a "sense of community pride" and that well-presented towns and well-maintained facilities benefit the local community and help visitors feel welcome. In talking about local communities, I refer to recommendation 22. People in the public gallery may be interested in this recommendation, which states:

That the NSW Government ensure that the Aboriginal Tourism Action Plan 2013-2016 specifically addresses skills issues which prevent broader take up and marketing of Indigenous tourism products.

In our communities we have wonderful culture, much of which is Indigenous or Aboriginal culture. On the South Coast my best Aboriginal culture tourist experience was dolphin watch cruises, which basically told the story of how Aboriginals lived off the water in Jervis Bay. It was a fantastic world-class effort. I have travelled across the world and seen a few Indigenous cultural shows in my time—the Shaolin Temple in China puts on an incredible show. As was said in the inquiry, the only problem is that it is difficult to increase pedestrian numbers to ensure that the tourist product can survive day in and day out. That is where these opportunities have challenges. Our Aboriginal story is fantastic. It is worthwhile telling the story because of its culture and history. However, somehow we must build up tourist numbers in these areas to support these people telling their story and ensure that telling the story of the Aboriginal history of our nation is a viable business. Recommendation 12 states:

That the NSW Government investigate implementing an appeals process for the National Parks and Wildlife Service to address difficulties with inter agency of stakeholder outcomes.

Recommendation 17 states:

That the NSW Government investigate further opportunities for tourism development in national parks including accommodation, camping, mountain bike trails and fossicking.

I understand that Yellowstone National Park in the United States is a tremendous tourist experience. Certainly in New South Wales some national parks in the Shoalhaven get high visitor numbers. Indeed, I think Budderoo National Park received a Qantas award. Once again, that is driven by Aboriginal people, the Wodi Wodi people of the Yuin nation. There are many opportunities in New South Wales. In conclusion, money for tourism is like seed for crops: if one does not sow seeds one does not get a harvest. We encourage the Government to sow in areas of tourism across New South Wales if it wants to meet the targets it has set for 2020. I commend the report to the House.

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

Motion agreed to.

JOINT STANDING COMMITTEE ON ROAD SAFETY

Report: Report on Non-registered Motorised Vehicles

Debate resumed from 18 March 2014.

The Hon. RICK COLLESS [6.09 p.m.]: I speak to the report of the Staysafe committee on non-registered motor vehicles, which has been on the *Notice Paper* for a while. The design and capacity of the road system to cater for a diverse range of vehicles is being tested with additional demand for access by new categories of vehicles, which add to the already congested space on the roads and road-related areas, particularly in metropolitan urban areas. This committee's inquiry responded to the emergence of non-registered motor vehicles such as mobility scooters, segways, electric bicycles, quad bikes, motorised scooters and skateboards, which appear on public roads and footpaths, and examined their impact on road safety.

I will not go through all the 20 recommendations in the report because of the limited time available to me. Members have access to the report. It is apparent that the overall demand for these alternative modes of transport has reached a critical stage. It is incumbent on policy makers and road safety practitioners to address the issues raised as part of the committee's investigations. A positive response to the committee's recommendations will ensure that the road system continues to adapt to the range of emerging new vehicles and that required monitoring and compliance process are established to track their movements and ensure public safety. I am pleased to speak to the report. I thank my fellow committee members for their work over the past 3½ years. I also compliment and thank the committee secretariat for their contributions and assistance. I commend the report to the House.

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

Motion agreed to.

SELECT COMMITTEE ON GREYHOUND RACING IN NEW SOUTH WALES**Report: Greyhound Racing in New South Wales: First Report**

Debate resumed from 6 May 2014.

The Hon. ROBERT BORSAK [6.12 p.m.]: I am pleased to speak to the report of the Select Committee on Greyhound Racing in New South Wales. The committee was established on 27 August 2013 by the Legislative Council to inquire into and report on various issues relating to greyhound racing in New South Wales, in particular, its economic viability, financial performance, regulation, capability and performance of Greyhound Racing NSW, the Integrity Auditor Drug Administration, animal welfare, and other related matters. I was encouraged to push on with this inquiry by a diligent, dogged and great group of greyhound lovers in the Greyhound Action Group, or GAG as they call themselves. In particular, I single out for special commendation Dennis Carl, Bob Whitelaw, Michael Eberand, Tony Gannon and many others too numerous to mention. Without their dedication to the cause of saving the greyhound industry and its culture in New South Wales, I believe it was destined to fail. They were an important catalyst in the creation of the inquiry and I believe the ultimate restructuring of the industry, which will see it again, nationally competitive, growing and healthy.

As is the case at this time of the year, we are pressed for time. Although I have much to say about this important issue, I will limit my contribution to a few points that I feel deserve most attention. Before I do, I thank my committee colleagues Dr John Kaye, the Hon. Marie Ficarra, the Hon. Trevor Khan, the Hon. Natasha Maclaren-Jones, the Hon. Lynda Voltz and the Hon. Steve Whan. I particularly thank the entire committee secretariat for their assistance throughout the inquiry and for their professionalism in the preparation of the report. This was not an easy inquiry for them because there were so many competing interests involved. Last, but not least, I thank all stakeholders who provided submissions to the inquiry, all those who gave evidence during the public hearings and all those who participated in the public forums.

The committee found that without proper restructuring and equitable financial arrangements, this industry would have absolutely no future. This is sad because the greyhound racing industry in New South Wales has a proud history and was once considered the premier greyhound racing State in the country. While a number of proposals were put forward by industry to improve the economic viability and long-term sustainability of the industry, the committee felt that there was a need for further analysis about the long-term economic impact of these proposals. For this reason, the committee sought financial modelling on various scenarios before making recommendations to the Government, which formed the committee's second report, which was tabled in June.

The committee made 18 recommendations, most of which the Government has accepted or has accepted in principle. I welcome the Minister's cooperation and efforts to properly examine the situation regarding greyhound racing in this State and to see the benefits, particularly to country areas, in having the industry returned to a sustainable basis. I would like to think that by the time Parliament resumes next year all the recommendations that the Government has accepted or accepted in principle will be in place and the greyhound industry will be well on the way to returning to economic sustainability. I commend the report to the House.

Dr JOHN KAYE [6.16 p.m.]: I address the report of the Select Committee on Greyhound Racing in New South Wales entitled "Greyhound Racing in New South Wales: First Report". I thank the secretariat, the chair and other members of the committee for conducting what was a difficult, engaged and interesting, if at times completely heart-rending, inquiry. This report came about from a motion I moved in the House because The Greens believed the time had come to re-evaluate the treatment of animals used in the racing industries in general and, in particular, the greyhound industry. We recognise from the outset that a large number of owners, trainers and participants in the industry take great care of their animals, look after them and treat them as if they are their own children. The Greens recognise that dogs lucky enough to be born into households where they are looked after in that fashion do very well, and we raise no objections to those at all.

However, the reality from the submissions and the evidence presented to the committee is that a large number of animals end up in appalling conditions. From the admissions of Greyhound Racing NSW, at least 3,000 dogs each year are killed before they reach their natural age of death because of massive overbreeding in the industry. This industry has failed time and again to get control of breeding more animals than are needed for the racetrack. This industry has failed to deal with the simple processes of genetics and has opted for large numbers of breeding events, rather than trying to reduce the number of breeding events and increase the rate of animals suitable for racing.

Combined with the massive overbreeding there are ridiculously low rehoming rates. We received evidence that only 50 animals each year were rehomed by industry programs such as Greyhounds as Pets. There are other non-industry programs that do their very best, against huge resource constraints and against problem animals that have been treated poorly, have not been socialised appropriately and are therefore difficult and expensive to rehome. We saw evidence of extremely poor treatment in the rearing and training of animals—for example, the use of anti-barking muzzles, isolation and poor socialisation. The committee received evidence about the export of greyhounds to Macau where there are no animal welfare laws in place to protect those animals once they arrive. In fact, many animals have very short, brutal and nasty lives once they get to Macau.

This inquiry attracted enormous community engagement. The committee received more than 2,500 submissions, the vast majority of which were from people who were deeply concerned about the treatment of dogs. GREY2K, the animal welfare organisation, received a petition with more than 6,000 signatures demanding urgent action to stop the exploitation of the use of dogs in New South Wales greyhound racing. GREY2K sent that petition to the Premier in September.

The most important question arising from the inquiry is: Why do we have an industry in which the regulator is simultaneously at war with many of the operators in the industry and at the same time has failed to resolve animal welfare issues? It comes back to one key feature of this industry: it is a self-regulatory model in which the regulator and the body responsible for the commercial development of the industry are in one organisation—Greyhound Racing NSW. There is a massive conflict of interest between the functions of regulating the industry, operating the stewards, setting the rules, making sure those rules are obeyed and enforced on the one hand and being the developer of the industry, the commercial promoter, on the other hand.

One of the phenomena reported to us repeatedly was a situation in which people who spoke out against the commercial organisation of the industry ended up with the stewards cracking down on them for allegations that were largely unfounded. It appears strongly that elements within Greyhound Racing NSW used the regulatory function to defend their commercial activities. Even if it was not, the board of Greyhound Racing NSW has a split identity. On the one hand, it is the judge, jury, police force and law-maker and, on the other hand, it is responsible for making sure that the industry is economically viable. Putting those two functions together for any group of people in any industry is impossible if there is any desire to get an outcome that works for the industry and maintains high levels of integrity.

We argued strongly throughout the inquiry and in our dissenting report that those two functions should be split: There should be a regulatory body responsible for animal welfare, for ensuring the integrity of the industry and responsible for drug testing; and a separate body that has commercial responsibility for the operation of the tracks and for the industry. Separating those two bodies will remove the conflict of interest and remove the situation in which stewards can be exploited to enforce the commercial interests of the organisation or to protect the ruling group within the commercial body from criticism. It is time for the New South Wales Government to listen to the urgent need to remove the conflict of interest.

It was extremely disappointing to see the Government's response to this inquiry, which ignored those concerns entirely and largely went on with a business-as-usual model. The potential integrity reforms flagged by the Baird Government will fail to address inherent conflicts of interest created by the single body being both regulator and promoter. What will emerge is a body that still has little accountability and virtually no transparency. Greyhound Racing NSW will continue to operate well outside basic expectations of animal welfare, integrity and fairness to participants in the industry. Giving the Independent Commission Against Corruption power to investigate all racing bodies in New South Wales will help expose and reduce corruption, but given the size of the problem it is little more than a bandaid on a gaping wound. Neither the committee nor the Minister was prepared to tackle the problem head-on by separating the commercial and regulatory functions within the racing industry.

The Government also rejected a recommendation to investigate overbreeding and has signalled that it will continue to allow Greyhound Racing NSW to self-manage ongoing welfare reforms. One good finding of the committee was that we needed to address overbreeding. It is an indication of the power that the animal racing codes in New South Wales have over both major political parties that the Government failed to respond to that and rejected it. Of the thousands of greyhounds bred each year in New South Wales, few indeed make it to the track. The remainder are killed or abandoned, with only a tiny percentage being lucky enough to make it into a home. By the industry's own admissions, 3,000 dogs are killed each year because they are too slow or can no longer race due to an injury or illness.

Even the committee recognised that something is wrong with an industry that breeds so many dogs that end up being killed or dumped. By rejecting the key recommendation to investigate overbreeding the Baird-Stoner Government, as it then was, condemned dogs in the industry to a brutal cycle of abandonment and high-kill rates. Asking Greyhound Racing NSW to tinker with minor welfare reforms may make the Minister feel better about the issue, but it will do little to stop the routine killing and mistreatment of dogs. Both the committee and the Government have failed at a fundamental level to read changing community expectations of animal welfare and outcomes for animals. Allowing thousands of dogs to be killed and many more to be mistreated in the name of sport has no place in a modern State like New South Wales.

There are other recommendations that both the committee and the Government ignored, including increasing legal protections for greyhounds, such as legislated standards for breeding, rearing and education practices, lifetime tracking, increasing transparency by mandating the collection of data on the number of greyhounds whelped, killed and injured each year, and prohibiting the live export of greyhounds for racing or breeding purposes. [*Time expired.*]

The Hon. LYNDIA VOLTZ [6.26 p.m.]: I am a member of the Select Committee on Greyhound Racing in New South Wales. I should declare to the House that I hold an attendant's certificate in the greyhound racing industry and that I have been around greyhounds all my life. Dr John Kaye stated twice within his speech that the greyhound industry admitted there were 3,000 deaths per year in the greyhound industry. That is not what the greyhound industry said during the inquiry. Dr John Kaye put it to the greyhound industry that there were 3,000 deaths per year and the greyhound racing industry said, "Well, it is more complicated than that", but to him that translates as the greyhound racing industry admitting there were 3,000 deaths. It is outrageous that Dr John Kaye consistently repeats that figure.

The death of any animal is unfortunate—any animal that is not wanted is put down. Every year 250,000 dogs and cats around Australia are euthanased. The RSPCA puts down 20,000 dogs and nearly 40,000 cats. We have to look at the industry across the board. Overbreeding was raised during the greyhound inquiry—and the industry is looking at that issue—and the committee made recommendations. I note that Victoria has legislation to deal with the greyhound industry and how to regulate pets. Greyhounds are very expensive dogs and are overwhelmingly well looked after. That is not to say that we will not find—as we would anywhere in the world—someone who is doing something wrong. Greyhounds are well looked after, much better than the dogs I see in my street that are hardly ever taken for walks or let outside the house, and are not fed or treated properly.

There is a real issue about the way some animals are treated. However, having dealt with greyhounds for my entire life, I have not seen mistreatment of greyhounds in the industry, even in some of the places that have been highlighted as being horrendous. A greyhound is weighed before and after being taken to a farm. It is important to check the paws of greyhounds. Greyhound owners know how the greyhounds have been treated when they are taken somewhere; they keep a very close eye on how the greyhounds are treated. I would like to correct the statement that greyhounds are poorly socialised animals and need a lot of training. For a start, I have never come across a greyhound that is not a couch potato nor one that has been vicious. We have owned dozens of dogs and I cannot recall—

The Hon. Duncan Gay: What's the name of your greyhound?

The Hon. LYNDIA VOLTZ: One was called Ten Bob because that was all it was worth, but that is another issue. They are placid and beautiful dogs, and they make the best pets. I urge anyone interested in having a pet—a good pet for kids—to get a greyhound. I have a beagle and I can say that a greyhound is less work than a beagle.

The Hon. Dr Peter Phelps: A lot quieter too.

The Hon. LYNDIA VOLTZ: Yes, a lot quieter too. I got my beagle from the RSPCA. Those who want a greyhound for a pet should visit the greyhound rescue people. Those who want a pet dog should go to the RSPCA because those dogs need—

The Hon. Charlie Lynn: If you want to make it in politics get yourself a dog.

The Hon. LYNDIA VOLTZ: I acknowledge the Hon. Charlie Lynn but only because he is leaving and he wants people to sign his tribute book. Go and sign his tribute book. I encourage members to support the good

work done by those organisations. Too many animals are being mistreated in this country. While things can always be done better, it is not helpful to single out the greyhound industry where animals are generally well cared for.

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

BUSINESS OF THE HOUSE

Postponement of Business

Committee Reports Orders of the Day Nos 8 to 33 postponed on motion by the Hon. John Ajaka and set down as orders of the day for a future day.

[Deputy-President (Ms Jan Barham) left the chair at 6.31 p.m. The House resumed at 8.00 p.m.]

CRIME COMMISSION LEGISLATION AMENDMENT BILL 2014

Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [8.00 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 Crime Commission Legislation Amendment Bill 2014. The New South Wales Crime Commission's powers to conduct compulsory examinations are an essential tool in combating serious and organised crime.

A series of cases in the High Court concerning hearings held by the Australian Crime Commission and the New South Wales Crime Commission have thrown doubt over the use of compulsory examination powers.

This has led to uncertainty among investigators on how investigations may now be undertaken and consequent disruption to major criminal investigations.

There is also uncertainty among prosecutors as to the use of compulsory examination material in legal proceedings.

In *X7 v Australian Crime Commission and Anor*, a 2013 case, the High Court held that the Australian Crime Commission could not hold compulsory examinations of persons if they had already been charged with offences, and those offences were the subject of the examination because this would prejudice the person's right to a fair trial.

In *Lee v The Queen*, a 2014 case, the High Court held in similar circumstances that the publication of a transcript of a New South Wales Crime Commission hearing to a member of the Office of the Director of Prosecutions who was involved in the prosecution of the commission's witness was prejudicial to the person's fair trial.

The High Court's comments in *Lee* suggested that, "persons involved in the prosecution" might in other circumstances include police and other investigators.

This throws into doubt current practices which allow police officers to attend examinations and or access hearing transcripts and, in doing so, undermines the utility of the New South Wales Crime Commission.

The High Court has recognised, in both the *X7* and *Lee* judgments, that it is within the power of the legislature to create laws that depart from the fundamental principles of our accusatorial system of justice.

Both judgments held that for legislation to overcome fundamental principles, its intention must be "expressed clearly or in words of necessary intentment".

However, legislation risks being constitutionally invalid if it attempts to overcome fundamental principles by fettering the impartiality or discretion of the court.

This bill proposes amending the Crime Commission Act 2012 (the Act) to incorporate those clear "words of necessary intentment" and restore confidence in the lawful and appropriate exercise of the commission's functions.

The amendments aim to protect the use of the commission's compulsory examination powers and the admissibility of evidence obtained in or derived from these commission hearings and to protect criminal prosecutions from challenge solely on the basis that a person has been questioned by the commission.

Situations where the commission compulsorily examines a person charged with an offence are infrequent, but when they do arise they often involve homicide investigations or persons who are part of an organised criminal group, but not the principal, and it is necessary to establish the identity of other offenders and the circumstances surrounding the offence.

There is thus a significant public interest in the New South Wales Crime Commission retaining full use of its powers of compulsory examination post charge.

The bill also contains amendments to the Crime Commission Act 2012 concerning the powers of the commission in relation to joint task forces and other minor amendments.

No legislation is immune from challenge and these amendments cannot guarantee that all criminal prosecutions where the Crime Commission has been involved will be immune from challenge.

However, legislative amendments are required as soon as possible to address ongoing uncertainty among investigators and subsequent reluctance to use the commission's powers.

I note that the outcome of cases currently before the courts, and the approach adopted by other jurisdictions in future may necessitate further legislative amendment in this area.

Provisions of the bill

Where an accused person is to be questioned by the Crime Commission after they have been charged with an offence in relation to the subject matter of that charge, the amendments set out in schedules 1 and 3 to the bill propose four key changes:

- First, the leave of the Supreme Court is required before the compulsory examination can take place. The court can grant leave if it is satisfied that any prejudicial effect to the accused's trial is outweighed by the public interest in using the commission's powers to fully investigate the matters that are the subject of the relevant reference to the Crime Commission. This also requires the commission to give notice to the person that leave has been granted prior to questioning.
- Second, the evidence given will be subject to both use and derivative use immunity. However, it may still be admissible in relation to an offence against the Act or for lying to the commission, and may be admissible against other persons.
- Third, the evidence given must be quarantined from any person who is a member of an investigative agency, including for example, the police, who is involved in the investigation of the accused in relation to the offence. This is achieved by constraints on who may attend the hearing and on subsequent disclosure of the evidence given at the hearing.
- Finally, the prosecution can in most cases only access the evidence if a further court order is made that it is in the public interest to release it to them.

Operationally, this will require the investigating agency to establish a separate clean team of investigators. This clean team will not have access to the Crime Commission evidence and will not be involved in the broader Crime Commission investigation. They will be responsible for the ongoing prosecution of the accused.

Chinese walls will have to be put in place to ensure the clean team is not tainted by access to the evidence of the accused given to the commission about the subject matter of the offence.

Disclosure of compelled evidence

The commission's functions include the provision of evidence to the Director of Public Prosecutions and other agencies, reinvestigation of police inquiries referred to the commission by the management committee, and to work together with law enforcement agencies of the Commonwealth, New South Wales or another State or Territory.

Part of the assistance the commission provides, and the evidence it gathers, involves the conduct of compulsory hearings and dissemination of evidence and information obtained therein.

To ensure the commission can continue to fully discharge its functions, it must be able to disclose records of commission hearings where a witness is not the subject of a current charge and in limited specified circumstances where the witness is the subject of a current charge.

Similarly, police and investigative agencies must be able to make use of evidence obtained as a result of that disclosure to gather further evidence.

The Act already provides for records of a commission hearing to be made available to the person who was examined or their legal practitioner. The bill provides that the court will also be able to order disclosure of a record of a commission hearing to a prosecutor.

The bill prohibits the disclosure of compelled evidence given by an accused person about the subject of the charge to a member of an investigative agency or prosecutor who is involved in the investigation or prosecution of the offence concerned.

Notwithstanding this prohibition, the commission may order disclosure to an investigative agency or to a prosecutor, where the commission considers disclosure is desirable in the interests of justice and the commission restricts use of the evidence so that it is only used to investigate or prosecute:

- an offence against the Act or for lying to the commission,
- an offence other than the offence with which the accused had been charged prior to being examined, or
- a person other than the accused.

Whenever the commission makes an order to disclose a record of a hearing, it may also make orders restricting the use or further disclosure of the evidence or record.

Applications to stay proceedings

Proposed new section 45C is intended to reduce the likelihood of a successful application for a stay of proceedings being made as a result of the commission's compulsory examination or disclosure of compulsorily obtained material to, for example, the police or Director of Public Prosecutions [DPP].

It applies whether or not the witness was the subject of a current charge.

This provision sets out matters that the court must consider when considering a stay application. It requires the court to assess whether these matters have led or are likely to lead to unfair consequences for a person's trial.

The matters listed include, for example, the questions asked and answers given during the hearing, whether the person was charged before the hearing, and the extent to which a prosecutor has had access to compulsorily obtained material.

The provision also sets out matters that are not capable of giving rise to a presumption of the kind of fundamental defect in criminal proceedings that would be a ground on which a court may stay criminal proceedings.

These matters include, for example, the mere fact that a transcript was provided to an investigative agency or to a prosecutor; or the mere fact that evidence was derived as a result of the dissemination of a transcript.

Appeals against past convictions

The bill creates an exception to part 7 of the Crimes (Appeal and Review) Act 2001, which confers a statutory right to have a conviction and/or sentence reviewed in certain circumstances.

The proposed amendments provide that the Supreme Court is not to consider an application under part 7 for a review of a conviction or sentence that is based solely on consequences said to have flowed from the fact that an applicant was compulsorily examined by the Crime Commission, or evidence obtained from, or as a result of, that compulsory examination.

I now turn to schedule 2, which includes matters that do not arise from the X7 and Lee cases.

Schedule 2 contains miscellaneous amendments to the Act, including amendments to provide clarity regarding the New South Wales Crime Commission's powers to work in cooperation with external persons or bodies, including joint task forces.

The 2012 remake of the Crime Commission Act formally recognised that it is a function of the commission to work in cooperation with joint task forces, including with agencies from the Commonwealth and other States and Territories.

However, the way the legislation is constructed did not provide clarity regarding the Crime Commission's powers when it is working cooperatively in a task force or similar arrangement with interstate agencies.

Joint task forces involving the Commonwealth and other jurisdictions are essential to investigate the most serious crime and criminal groups.

Organised crime gangs do not stop their activities at State borders.

It is essential that the New South Wales Crime Commission be able to use its formal powers—notably compulsory hearings—when working on joint investigations.

The bill establishes a new type of referral specific to the commission's function relating to joint operations, whereby the management committee of the commission can refer for investigation matters relating to these operations. These are referred to as "joint task matters" in the bill.

The existing safeguards and thresholds for referring a matter for investigation will apply to joint task matter referrals. Notably the investigation will have to relate to a relevant criminal activity, serious crime concern or criminal activities of a criminal group which is the conduct that can form the basis of an existing referral.

Alternatively, if the investigation involves cross-border or Commonwealth matters, there will have to be some nexus to New South Wales in the conduct being investigated and the matters must be of comparable seriousness to matters that can ordinarily be referred for investigation.

For example, the activities of New South Wales residents who are believed to be planning offences under Commonwealth counterterrorism laws could be the subject of such a referral.

The management committee will only be able to make a joint task matter referral if it is satisfied that the commission's powers are necessary to fully investigate the matter, that it is in the public interest to do so, and that the matters are sufficiently serious or prevalent to warrant the investigation.

I can advise the House that this amendment is supported by both the New South Wales Police Commissioner and the Australian Federal Police Commissioner, who is also chair of the board of the Australian Crime Commission. Both are members of the management committee of the New South Wales Crime Commission.

Miscellaneous amendments

Overseas disseminations

The 2012 remake of the Act altered the wording of the provision allowing the Crime Commission to disseminate information and intelligence to other bodies, making it unclear whether such information can be disseminated to bodies in other countries.

Schedule 2 [1] will make clear that the commission can make such overseas disseminations if the management committee's guidelines approve it. This is consistent with the practice under the previous New South Wales Crime Commission Act.

Search Warrants

The 2012 Act also made an amendment to the provisions that apply when the commission is seeking a search warrant.

Under the previous provisions an application for a warrant could only be made where the commission reasonably suspected that there was a relevant thing on the premises and had a reasonable belief that if a summons were issued for the thing it might be concealed, lost mutilated or destroyed.

The amendments reduced this to a one-stage reasonable belief test that did not incorporate the second limb relating to the issue of a summons. These amendments were intended to simplify matters; but in practice they have proven to be less useful than the earlier two-tier formulation.

The Crime Commission considers that the two-tier test is more appropriate and supports reinstating that test. The bill therefore restores the two-tier formulation.

Supreme Court review

Section 33 of the Act provides for a right of review to the Supreme Court where a person claims they are entitled to resist production and questioning obligations under sections 28 and 30 of the Act.

As presently drafted, the provision does not extend this right of review to hearings under section 24 of the Act. The amendments will ensure that a Supreme Court review can be sought if a person refuses to be sworn in or refuses to answer questions or produce documents at such a hearing.

This will ensure that the review safeguard applies more broadly to people subject of the commission's questioning regime. Proposed new section 35 (2) in the bill will ensure that the existing safeguards regarding commencing a prosecution where a person has sought a review to the Supreme Court are extended to the broader review category.

Financial disclosures

As part of the Patten report implementation, the 2012 Act introduced strict obligations on commission staff concerning disclosure of their financial circumstances.

This is an important integrity measure and it is not intended to remove it.

However, an unintended effect is that contractors and consultants engaged by the commission even when briefly employed and/or engaged in non-sensitive work are subject to the stringent financial disclosure requirements.

Schedule 2 [13] confers discretion on the commissioner to waive the financial disclosure requirement for some consultants or class of consultants.

Whether such a waiver is granted will obviously depend on the nature of the work being engaged in. If the work is related to the law enforcement functions of the commission then it is expected that the requirements would generally not be waived.

Annual Report obligation

The Act currently requires the commission to include recommendations for legislative change in its annual report.

The bill sensibly makes this a permissive provision rather than a mandatory requirement.

I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [8.01 p.m.]: I lead for the Opposition in debate on the Crime Commission Legislation Amendment Bill 2014. The Opposition does not oppose the legislation. Before I turn to the legislation itself, I thank the Crime Commissioner, Mr Peter Hastings, QC, and his office for providing briefings to the Opposition. I also thank the office of the Minister for Police and Emergency Services for facilitating those discussions. I found it very useful to hear about the genesis and purpose of this legislation from the officer most directly concerned with the matter and the reasons it was required. I also thank the Government for deferring debate on this legislation from last week to this week to enable the Opposition to consider it more properly.

While without in any way gainsaying the bona fides of the people who have introduced the legislation, members understand that we are dealing with weighty matters of great moment, that is, not only law

enforcement but also law enforcement through an agency charged with extraordinary powers. It is therefore right and proper that the Parliament deliberate properly on the legislation before the House. This bill addresses issues raised in two separate High Court cases that occurred this year and last year: *X7 v Australian Crime Commission* last year and *Lee v The Queen* this year. Both involved the Australian Crime Commission. However, as I understand it, they dealt with parts of the legislation of that body that were borrowed from the New South Wales legislation.

Clearly there is the real issue of those authorities having a direct impact on the operation of the New South Wales Crime Commission. The issues related to the compulsory examination of persons about an offence for which they have been charged. This bill provides for the referral for investigation and oversight by the New South Wales Crime Commission of matters arising from work done in cooperation with a person or authority of the Commonwealth, the State or another State or Territory; makes amendments relating to the procedures of the commission, including in relation to search warrants, hearings and annual reports; and addresses savings and transitional matters. In short, as I understand the legislation, it reduces to writing and regulates explicitly for the first time matters that have been part and parcel of the Crime Commission's operation and which are dealt with more generally through its other powers enumerated in the legislation.

In the case of *X7 v Australian Crime Commission*, the High Court held that the Australian Crime Commission could not hold compulsory examinations of persons if they had already been charged with offences and those offences were the subject of the examination. This was held to be the case because it could or would prejudice the person's right to a fair trial and have an impact on the adversarial system of criminal justice. In *Lee v The Queen*, the High Court held in similar circumstances that the publication of a transcript of a New South Wales Crime Commission hearing to a member of the Office of the Director of Public Prosecutions who was involved in the prosecution of the commission's witness was also prejudicial to the person's fair trial.

The High Court's comments in *Lee* suggested that persons involved in the prosecution might in other circumstances include police and other investigators. This has thrown into doubt what were said to be practices current in the Crime Commission that allowed police officers to attend examinations and/or access hearings and transcripts. If that were the case, it would certainly undermine the utility of some of the Crime Commission's operations. Of course, in each of those cases the High Court recognised that it is within the power of Parliament to create laws that depart from what are considered to be key principles of our system of justice so long as the legislation does so clearly and, if not explicitly, certainly expressed with sufficient clarity or, to use the words often invoked in cases, using clear words of necessary intendment.

This bill amends the 2012 legislation to incorporate those words of "necessary intendment" and to restore confidence that the operation of the Crime Commission is both lawful and appropriate in its fulfilment or the carrying out of its functions. In particular, it is designed to protect the commission's compulsory examination powers. The bill also contains amendments to the Crime Commission Act in reference to the powers of the commission in relation to joint task forces. However, importantly, the legislation not only makes explicit provision for the examination of persons who may also be subject to criminal charges but it also provides certain protections or certain safeguards.

I will not deal with them in any great detail but they provide, first, that the leave of the Supreme Court of this State will be required before a compulsory examination can take place. The court may grant leave if it is satisfied that any prejudicial effect on the accused's trial is outweighed by the public interest in using the commission's powers to investigate fully the matters that are the subject of the reference to the commission. Secondly, the evidence that is given in this situation will be subject to both use and derivative use immunity. It may still be admissible in relation to an offence against the Act or for lying to the commission, and may be admissible against other persons.

The Opposition understands that in saying it will be subject to both use and derivative use of immunity that means it may be used in cross-examination but also may be given to other relevant agencies for their proper purposes, as long as they are, of course, proper purposes. I understand that in at least one of these High Court authorities there was some reflection on whether material was provided properly. These provisions are directed at ensuring that that is the case.

Thirdly—and this is a very important aspect of the legislation—the evidence given must be quarantined from any person who is a member of the investigative agency, such as police who are already involved in an investigation of the accused in relation to the offence. It is the case that police involved in the investigation of

the accused generally cannot have access to this material. This is achieved by placing constraints on who may attend the hearing and also on the subsequent disclosure of evidence given at the hearing. Those are very important safeguards.

Finally, the prosecution can, in most cases, only access the evidence if a further court order is made and it is in the public interest to release it to them. I note that the Minister in the other place said—and I am assuming it is also in the second reading speech incorporated here—that operationally this will require, just as a matter of practicality, the investigating agency to establish a separate "clean" team of investigators who will not have access to the commission's evidence and will not be involved in the broader commission investigation. This is clearly referable to that third projection to which I have already made reference.

The bill will prohibit the disclosure of compelled evidence given by an accused person about the subject of the charge to a member of an investigative agency or prosecutor involved in the prosecution of the offence. It is meant to be used only to investigate or prosecute an offence against the Act or for lying to the commission. This is important and necessary. The other amendments contained in the legislation relate to the power for a court to be able to order disclosure of a record of a commission hearing to a prosecutor in order to reduce the likelihood of a successful application for a stay of proceedings being made as a result of the commission's compulsory examination, and to prohibit the disclosure of compelled evidence, as I mentioned earlier.

The legislation will allow for the Supreme Court to be able not to consider an application under part 7 of the Crimes (Appeal and Review) Act 2001. The bill, at one level, is an effort to ensure that future cases brought before the Supreme Court, or indeed the High Court, will not be able to successfully challenge the operation of the New South Wales Crime Commission where it invokes or uses this extraordinary step of compulsory examination of a person charged with a criminal offence. However, as I indicated at the outset, it is also important to reflect that this is a mode of operation that has been used by the Crime Commission since its inception, pursuant to its more general powers. This will now be not only codified and regulated but also subject to important oversights, not only by the Supreme Court but also by providing for the referral for investigation by the New South Wales Crime Commission's Management Committee of matters arising from work done jointly with other State, Territory or national bodies. This is an important safeguard as well. With those comments, the Opposition does not oppose this legislation.

Mr DAVID SHOEBRIDGE [8.12 p.m.]: I speak on behalf of The Greens on the Crime Commission Legislation Amendment Bill 2014. We do not support the bill. The bill proposes to make amendments to the Crime Commission Act to ensure that the commission's powers of compulsory examination are maintained following two High Court judgements.

DEPUTY-PRESIDENT (The Hon. Trevor Khan): Order! There is too much audible conversation in the Chamber.

Mr DAVID SHOEBRIDGE: Those two High Court judgements raised significant questions about the extent of the New South Wales Crime Commission's compulsory questioning powers, particularly as they relate to persons who are the subject of subsisting criminal charges. Indeed, the bill proposes new provisions that relate to persons who have been charged and who are then subsequently questioned by the New South Wales Crime Commission. Where a person is questioned by the Crime Commission about an offence after they have been charged with that offence the bill proposes a number of measures.

First, the Supreme Court must give leave before the compulsory examination can take place, and leave is granted only after consideration of any potential prejudicial effect on the trial. Secondly, certain limitations are said to apply for the admissibility of the evidence obtained in a compulsory examination. Thirdly, evidence thus obtained is proposed to be quarantined from members of the police or investigative agencies who are involved in the primary investigation. Fourthly, the prosecution is provided with access to this information only if a court order is made and the court considers that it is in the public interest to release it.

The bill expands the current power to share certain information from the hearings with police and investigative agencies so as to allow a court to order disclosure of a record of a commission hearing to a prosecutor. Schedule 1 [2] defines a person as being the subject of a "current charge" if they have been charged and it has not been withdrawn, the proceedings for an offence or appeal are pending or otherwise not concluded, or the time for making an appeal has not expired or the court has not made an order granting a permanent stay.

Schedule 1 [4] provides in relation to persons present at hearings that the witness is to be informed that it is proposed the person will be present and is given an opportunity to comment on this. The witnesses' comments are not determinative about whether the person can be present.

Schedule 1 [5] inserts new section 21A, which specifies that directions for a person to be present at a hearing must only happen when their presence is considered reasonably necessary to assist the commission to exercise its functions properly. It also specifies that members of investigative agencies involved in the investigation of the person in relation to the offence cannot be allowed to be present in any part of the hearing where the person is being questioned. Schedule 1 [6] inserts a new division 6A, which provides that a person the subject of a current charge for an offence can only be questioned regarding the subject matter of the offence with the leave of the Supreme Court. It also provides that evidence obtained following such leave cannot be used in civil or criminal proceedings against the person but is not inadmissible against other persons.

The commission is to apply for leave to the Supreme Court via an affidavit by an officer of the commission stating that the officer believes the questioning is in the public interest and that they suspect the questioning is necessary to fully investigate the matter and the grounds on which this suspicion is based. Leave can then be granted by the Supreme Court if it believes any prejudicial effect is outweighed by the public interest. If the leave is granted, the person must be notified of this and their right to apply for a review. I ask the Parliamentary Secretary in his speech in reply to confirm what I understand to be the circumstances in which that leave is sought—that it will be an ex parte hearing simply with the legal representatives from the Crime Commission present persuading the judge in closed session, and that there will be no contradictor in the ordinary course of events in that application. That is as I understand how that application will proceed.

Schedule 1 [7] inserts new section 39A regarding derivative evidence, which says that evidence obtained through questioning at a hearing is admissible despite other grounds on which it might otherwise be classified as inadmissible. But this does not apply to those questioned who are subject to a current charge unless the evidence could have been obtained without the testimony of the person. How exactly that is proposed to work in practice is unclear. Indeed, it appears to provide substantial room for political and evidentiary manoeuvre by the prosecution who can assert, upon finding such testimony, that it could have been obtained in a manner that does not taint it with the questioning that was obtained by leave.

Schedule 1, items [9] and [10] provides that the commission may give evidence to a court if the court certifies that to do so is in the interests of justice. The court can make this evidence available to the prosecutor if it determines this is in the interests of justice. Schedule 1 [12] inserts new sections 45A to 45C regarding disclosure of evidence of the accused about the offence with which the accused is charged. This specifies that where the witness objects to providing evidence the commission must not allow it to be disclosed to an investigative agency or the prosecutor involved in the prosecution unless the commission considers this is in the interests of justice or if the use is restricted to charges for misleading the New South Wales Crime Commission.

Despite the general prohibition against disclosure, it appears that the commission may direct that evidence be disclosed to the Office of the Director of Public Prosecutions New South Wales in relation to a request regarding indemnity from prosecution or an undertaking by the Attorney General in relation to the evidence. As I understand it, that would be given under section 33 of the Criminal Procedure Act. Disclosure by a person in contravention of orders made by the commission restricting disclosure of evidence incurs a maximum penalty of 100 penalty units or two years imprisonment or both.

New section 45C excludes a number of grounds as not sufficient grounds for a stay, including that evidence has come from a hearing or for the dissemination of a record of a hearing. The court is required to consider a number of matters in order to determine if they have led or could lead to unfair consequences for a person's trial. Clarifications are inserted under new section 45C (3) that specified matters do not give rise to a presumption of a fundamental defect in criminal proceedings, including that the person was subject of a current charge and examined by the commission on the subject matter of the offence as well as other details of provision of transcripts and other materials.

Schedule 2 makes amendments to the Crime Commission Act regarding working with authorities in other jurisdictions, including the Australian Crime Commission. Schedule 2 [1] allows the commission to share information with bodies of other countries. It is not clear what protections are put in place in regard to the sharing of information. Schedule 2 [2] creates a new ground for a warrant to be issued, being that relevant materials will be on a premises at the time or within a month, and if a summons was issued these things might be concealed or destroyed.

This is one of the few provisions in this bill that The Greens think is in order. Schedule 2, items [6] and [8] create a function of the management committee that allows it to refer matters to the commission regarding joint task forces with other agencies. Schedule 2 [13] allows an exemption for disclosure of financial information for people engaged by the commission as consultants. I understand this is required as a practical measure. It is another of the few provisions in this bill that The Greens do not have difficulty with. Schedule 2 [14] removes a requirement that annual reports include:

- "(c) any recommendations for changes in the laws of the State, or for administrative action, that, as a result of the exercise of its functions, the Commission considers should be made,"

Schedule 2 [15] inserts that any report may include recommendations for changes to be made. It is a mystery to me why the Government has thrown in this provision at the end of the bill. One would think if a secret crime agency proposes recommendations to change the laws of the State, at a minimum such recommendations should be made public in the annual report as a compulsory measure, as currently exists in the law. The Minister did not make it clear in his second reading speech or in the speech incorporated by the Parliamentary Secretary why the Government is allowing discretion for a secret crime agency to decide whether to include its advocacy to the Government to change the laws.

In a summary second reading speech, the Minister for Police and Emergency Services said that these bills were required to respond to the two High Court decisions of *X7 v Australian Crime Commission*, a decision of 26 June 2013, and *Do Young (AKA Jason) Lee v The Queen* and *Seong Won Lee v The Queen*, a decision of 21 May 2014. Those decisions taken together assert the primacy of the common law principle that an individual cannot be compelled to damn themselves out of their own testimony. In the X7 decision of 2013 there were circumstances where in 2010 the plaintiff had been arrested and subsequently charged with three indictable Commonwealth offences in relation to alleged conspiracies to import and traffic a commercial quantity of a controlled drug and to deal with money that was the proceeds of crime. Whilst in custody the plaintiff was served with a summons, issued pursuant to the Australian Crime Commission Act 2002, which required him to answer questions before an examiner for the purposes of a special investigation by the Australian Crime Commission.

At the examination the plaintiff was asked and answered questions under compulsory examination about the subject matter of the offences with which he had been charged. Following an adjournment of the examination, the plaintiff refused to answer further questions about that subject matter. The plaintiff was told that he would be charged with the offence of failing to answer a question that he was required by the examiner to answer. That was a statutory offence under the Australian Crime Commission Act. The plaintiff applied to the High Court for an injunction to prevent the Australian Crime Commission, by its officers and examiners, from examining him in relation to the subject matter of the charged offences. The High Court provided a summary of its decision on 26 June 2013:

A majority of the High Court held that the examination provisions of the Act did not permit an examiner of the ACC to require a person charged with, but not yet tried for, an indictable Commonwealth offence to answer questions about the subject matter of the charged offence. The Court held that if the examination provisions of the Act were interpreted to permit compulsory examination in such circumstances, the provisions would effect a fundamental alteration to the accusatorial and adversarial process of criminal justice. Such an alteration could only be effected by express statutory language or by necessary implication. The Court held that examination provisions of the Act did not, expressly or impliedly, effect such an alteration. Having so held, the majority of the Court did not need to consider the plaintiff's constitutional arguments and granted the plaintiff the relief he sought.

That decision was relied upon by the plaintiff in the two matters of Lee and the Queen that were decided in May 2014. In those cases the appellants, a father and son, had been the subject of an investigation by the New South Wales Crime Commission. As part of that investigation, and pursuant to powers given by the New South Wales Crime Commission Act, the appellants were summoned by the commission to give evidence before it. Section 13 (9) of the Act required the commission to make a direction prohibiting the publication of evidence given before it where publication might prejudice the fair trial of a person who may be charged with an offence.

The appellant in the first matter, Jason Lee, gave evidence on two occasions. He was subsequently charged with various drug and firearms offences. The appellant in the second matter, Seong Won Lee, gave evidence on one occasion. At that time, he had been charged with firearms offences and a charge relating to a drug offence was imminent. The transcripts of the appellants' evidence given before the commission were unlawfully published to members of the NSW Police Force and to officers of the Director of Public Prosecutions before the appellants' joint trial. On 16 March 2011 the appellants were convicted of various drug and firearms offences.

The appellants appealed their convictions on the basis that there had been a miscarriage of justice and they relied upon the High Court's determination in the matter of X7. They were granted special leave and appealed to the High Court. I note that the summary of the High Court's statement of 21 May 2014 is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the court's reasons, but it is a useful summary. It states:

The High Court held that the purpose of s 13(9) of the NSWCC Act was to protect the fair trial of a person who may be charged with offences. That purpose supports the fundamental principle of the common law referred to in *X7 v Australian Crime Commission* (2013) 248 CLR 92; [2013] HCA 29, that the prosecution is to prove the guilt of an accused person. That purpose was not met in the present case, with the consequence that the appellants' trial differed in a fundamental respect from that which our criminal justice system seeks to provide and amounted to a miscarriage of justice within the meaning of s 6(1) of the Criminal Appeal Act. The High Court quashed the appellants' convictions and ordered that a new trial be held.

Rather than accept that there are necessary and reasonable limitations founded on centuries of our common law tradition and based upon perhaps the world's most robust criminal justice system, and rather than accept that there are necessary boundaries to the compulsory powers of crime agencies, this Government has spent the past six months cooking up a way around it—finding a way to compel a defendant charged with matters to compulsorily answer questions and incriminate themselves. This Government then seeks to put in place provisions purported to constrain that power by having ex parte applications heard by a single judge in the Supreme Court, with nobody to contradict the Australian Crime Commission's evidence, to test the affidavit evidence or to ensure that evidence that may lead against the conclusion that the defendant should be questioned is brought before the court.

This provides for what can only be described as a paper-thin and wholly inadequate protection for defendants in our criminal justice system. Nobody supports drug dealers and organised criminals or giving any class of defendant any kind of special rights, but this is a fundamental provision of our criminal justice system. Everybody in our criminal justice system, regardless of the nature of the charge they are facing, is entitled to the presumption of innocence until proven guilty and the centuries-long protection that it is for the State to prove the case beyond reasonable doubt. The criminal justice system should not rely upon oppressive powers of the State to require the defendant to incriminate himself or herself out of their own mouth, yet that is exactly what this bill proposes to do. It is not for the State to rely upon oppressive powers to require the defendant to incriminate himself or herself out of their own mouth, yet that is exactly what the bill proposes to do.

It is a paper-thin protection to suggest that the public interest or the defendant's interest will be protected in an ex parte closed court hearing with no contradictor before the court. We know that our common law judges have no particular expertise in making the kind of inquisitorial investigation that is required to test the Crime Commission's evidence in ex parte hearings. It is wrong to suggest that it is a protection that allows this Government to ignore two centuries of extraordinarily well-developed criminal justice principles in the dying hours of a dying Parliament, with almost nobody watching.

The Hon. Dr Peter Phelps: We're watching you all the time.

Mr DAVID SHOEBRIDGE: With nobody of any worth watching. It goes to show how little regard the Coalition has for civil liberties and the fundamental principles of our criminal justice system. It also goes to show how little regard Labor had for civil liberties and those fundamental principles when it was in government and introduced the original provisions that the Government now seeks to resurrect. I am not surprised that mine will probably be the only speech given in Parliament to raise those concerns. I would have thought it is our job, as elected representatives of Parliament, to stand up for the fundamental traditions that have held us in enormously good stead, guarded the liberty of citizens and protected them from the gross overreach of the security apparatus of the State for centuries. I think this will probably be the only speech in which those concerns are raised because in New South Wales politics the police and crime agencies get what they want with no questions asked. That is what the bill does once again.

Reverend the Hon. FRED NILE [8.32 p.m.]: The Christian Democratic Party is pleased to support the Crime Commission Legislation Amendment Bill 2014. The bill will amend the Crime Commission Act 2012 to clarify the position and powers of the New South Wales Crime Commission following recent High Court decisions that have cast some doubt over the use of evidence obtained through compulsory examinations. The bill will also provide for the management committee to approve the Crime Commission using its hearing powers in connection with criminal matters being investigated as part of a joint task force with agencies from other jurisdictions, most commonly the Commonwealth. The criminal matters must involve New South Wales in

some way—for example, a suspect is a resident or temporary resident of New South Wales—and must be of sufficient seriousness to warrant the use of the commission's powers. The bill will also make other amendments relating to the procedures of the commission, including in relation to search warrants, hearings, disclosure information and annual reports. Finally, it will provide for savings and transitional matters consequent on the enactment of the proposed Act.

The Christian Democratic Party strongly supported the need for the New South Wales Crime Commission and the New South Wales Independent Commission Against Corruption, and campaigned for those two bodies to be formed. The Independent Commission Against Corruption was necessary to seek out corruption in the public sector and the Crime Commission was needed to deal with organised crime. I would rather we err on the side of the Crime Commission carrying out its duties rather than doing something to undermine its powers and operation, which could directly or indirectly assist organised crime. Organised crime has become very sophisticated and effective at combatting crime commissions in Australia and overseas. The Crime Commission needs all the power it can get and it needs to know it has the confidence of this Parliament in carrying out its duties. We are pleased to support the bill.

The Hon. DAVID CLARKE (Parliamentary Secretary) [8.34 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank the Hon. Adam Searle, Mr David Shoebridge and Reverend the Hon. Fred Nile for their contributions to debate on the Crime Commission Legislation Amendment Bill 2014. Regarding the specific question Mr David Shoebridge asked, the application to the Supreme Court is held *ex parte* without the witness present but the witness is notified if the court has granted leave before they are questioned. The witness has a right of review of the court's approval. They are entitled to apply for financial support from the Attorney General for that review. The application must be held *ex parte* because to do otherwise would reveal to the witness details of the investigation that are to be covered in the hearing. Compulsory evidence obtained from accused persons cannot be used against the person in relation to the offence with which they were already charged and neither can derivative evidence.

The bill ensures the ongoing viability of the New South Wales Crime Commission, one of Australia's most successful crime-fighting bodies. A person should not be able to have a prosecution for a serious crime thrown out of court simply because they were examined by the Crime Commission or because a transcript of a commission hearing was provided to an investigator or prosecutor. The bill ensures that there must have been some fundamental defect in the person's trial before the trial can be stayed, a retrial ordered or a review of a conviction can take place. The bill ensures that other agencies can continue to work with the commission with confidence. Further, the bill ensures that the commission can make full use of its powers when working in joint task force arrangements, including the use of compulsory hearings. The commission should be able to make use of the powers this Parliament has provided to it, and the bill will ensure that it can.

The bill strikes the right balance: It clarifies and consolidates the commission's powers while ensuring that appropriate safeguards are in place. The bill in no way lessens the oversight of the Crime Commission, which is extensive, with the Inspector of the New South Wales Crime Commission, the Police Integrity Commission and parliamentary joint committee all having the power to review the commission's actions. 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.

BUSINESS OF THE HOUSE**Postponement of Business**

Government Business Orders of the Day Nos 2 to 10 postponed on motion by the Hon. Melinda Pavey and set down as orders of the day for a later hour.

HEALTH PRACTITIONER REGULATION LEGISLATION AMENDMENT BILL 2014**Second Reading**

The Hon. MELINDA PAVEY (Parliamentary Secretary) [8.38 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 Health Practitioner Regulation Legislation Amendment Bill 2014 proposes amendments to make improvements to the New South Wales health practitioner regulatory processes in three respects: to enable greater oversight of impaired practitioners; to ensure those practitioners who are deregistered following disciplinary proceedings are not able to circumvent the regulatory process and re-register themselves or practice in other health services without adequate oversight. The bill will also improve the transparency of the complaints process by strengthening mechanisms for patients and complainants to obtain information about the outcome of their complaints.

The current regulatory framework

New South Wales has a robust legislative regime for managing complaints and overseeing the capacity and performance of registered health practitioners. The strength of the current legislation is largely due to a process of ongoing reform and improvement over more than 30 years, through a number of royal commissions and special commissions of inquiry and independent reviews established by government. Each set of reforms introduced over the years has focused on improving safe practice of clinicians and protecting of the public.

Until 2010 the regulation of health professionals—both accreditation and registration and management of complaints—was conducted at the State level. In 2010 the National Regulation and Accreditation Scheme [NRAS] came into effect through the Health Practitioner Regulation National Law. This law was initially passed in Queensland and then adopted by each State Parliament, sometimes with variations. The NRAS established National Health Practitioner Boards and the Australian Health Practitioners Agency to operate the system across Australia.

New South Wales joined the NRAS as a "co-regulatory" jurisdiction. While it adopted the accreditation and registration parts of the national law, it did not adopt the national law provisions for complaints and performance. The New South Wales Parliament instead varied the national law it adopted by adding a new part 8, which sets out the New South Wales Regulatory Provisions that apply to complaints and performance in New South Wales. The current bill involves amending those New South Wales specific provisions in part 8.

The New South Wales Regulatory Provisions retain New South Wales Health Practitioner Councils and New South Wales complaints programs and processes. New South Wales also retained the Health Care Complaints Act and the Health Care Complaints Commission.

The proposed amendments

The bill proposes a new section 176BA, which will impose a positive obligation on New South Wales Health Practitioner Councils to notify the employer of both conditions imposed on a health practitioner's registration after a disciplinary or complaints process and conditions imposed through an impaired registrants process.

Impaired practitioners are recognised in the Act as requiring additional assistance and oversight to ensure that where they continue to practice it is with support and supervision to ensure the safety of the public is protected.

Health programs managed by New South Wales Health Practitioner Councils provide supervision and support to practitioners who are identified as having impaired performance as a result of anything from physical infirmity or mental illness to drug and alcohol abuse. They may come to the attention of the program via self-notification, reporting by colleague of a concern about a possible impairment or where issues raised about their practice are not sufficiently serious to warrant formal investigation but have the potential to place them at risk.

Once referred to the program any action necessary to protect the public is determined. This most commonly involves the imposition of conditions on the registrant's registration but can include suspension for a period of time. Conditions may include urine drug testing, generally for at least 18 months, regular reviews and assessments. When the practitioner fails to comply with conditions or when other concerns about conduct are raised the practitioner can be referred into the complaints process.

The details of conditions placed on a practitioner's registration are generally available publicly on the National Health Practitioner Registers, on the Australian Health Practitioner Registration Authority website. The details of health conditions are, however, not generally available. For these the national registers simply state the registrant is subject to "Health Conditions", without providing detail as to the nature of the conditions. This was designed to ensure some protection for the practitioner of the release of sensitive information to the public.

The councils currently do not have an express statutory power to inform employers of health practitioners of the conditions imposed on the practitioner. However, where the conditions arise from a disciplinary process they are effectively publicly available, so the councils will provide information to a known employer from the register. For health conditions, however, the publicly available information is limited and so employers will not necessarily receive the detail of any health conditions imposed.

The amendments proposed recognise that to ensure the safety of patients employers of health practitioners need to be aware of the detail of health conditions to assist them in the oversight or supervision of the practitioner. Under the changes, councils will be required to notify a nominated recipient of the employer—or accreditor in the private sector—when health conditions are imposed on an impaired practitioner, when changes are made to those conditions and where the practitioner has breached the conditions.

However, the Government is mindful that some of the information relating to health conditions is sensitive and personal information to the practitioner, including possibly that the practitioner has a mental illness. Therefore the amendments incorporate strong protections, including an offence, to ensure the nominated recipient of the information can only use and disclose that information for the supervision or oversight of the practitioner or ensuring the safety of patients.

In addition, in order to underline the seriousness with which we consider that compliance with health conditions imposed on a practitioner should be viewed the bill proposes a new section 150FA, which provides for a New South Wales Health Practitioner Council to designate specific impairment conditions to be "Critical Impairment Conditions". A breach of a "Critical Impairment Condition" would result in automatic referral to the Health Care Complaints Commission for investigation. While a critical compliance order could attach to any condition it is likely to focus on those relating to drug and/or alcohol testing.

The Government is proposing to improve the transparency of the complaints process by strengthening mechanisms for patients and complainants to obtain information about the outcome of complaints, including where matters have been referred to a council from the Health Care Complaints Commission. The proposed amendment at section 145BA of the national law requires councils to provide a notice to a complainant of an outcome of a complaint. The council may include such information in the notice of the outcome as it considers appropriate but must not disclose confidential information unless it considers that the public interest in disclosing the information outweighs the public interest in protecting the confidentiality of the information and the privacy of any person to whom it relates.

The bill also includes two provisions to deal with recent interpretations of the law which have, to a degree, undermined its effectiveness and provide grounds on which a health practitioner who has faced disciplinary proceedings may seek to avoid the intent of the national law.

The proposed amendment to section 149C of the Act will close a loophole whereby registered health practitioners are voluntarily de-registering themselves in anticipation of a finding of the tribunal that they will have their registration suspended or cancelled. Where this happens the deregistered person could avoid a prohibition order being placed on them by a tribunal preventing them from providing any "health service".

Under a prohibition order, in addition to no longer being able to practice in his or her profession the person cannot provide health services outside the scope of the health profession in which he or she was formerly registered such as in another profession or service for which no registration is required. An example of where a prohibition order could be used would be to prohibit a deregistered medical practitioner or psychologist who has convictions for sexual offences against clients setting themselves up to practice under titles such as psychotherapist or counsellor. As the law currently stands, if they remove themselves from the register prior to a finding a prohibition order is not available.

On occasion the tribunal has stated that a prohibition order would have been considered if that option was available to it.

The amendment will ensure that where a person poses a substantial risk to the health of members of the public the tribunal can prohibit or restrict their provision of a health service by way of a prohibition order.

The Government has proposed amendments to the national law in light of a recent Court of Appeal decision to ensure that any practitioner who is subject to a disqualification period or has had their registration cancelled must apply to the tribunal for a reinstatement order before being able to directly seek re-registration from a national board.

Although the national board can conduct an investigation into an applicant for registration, an investigation of the practitioner is not automatic. As such, there are concerns that the process of applying for registration is not as robust as applying for a reinstatement order and that public safety may be jeopardised.

Further, this was the original intent and application of the legislation. It is only as a result of the Court of Appeal case of *Do* in September of this year that the requirement for a reinstatement order was confined to situations where a practitioner wishes to re-register during a "disqualification period". The purpose of the legislation was that this process would apply even after such disqualification periods expire. This amendment will commence on assent and transitional provisions are included in the bill to capture those practitioners who have already been had their registration cancelled or disqualified.

Finally, the bill proposes amendments to the Health Services Act to permit public health organisations to share and exchange certain information about health practitioners with private health facilities if the public health organisation reasonably considers the practitioner is practising at the facility that they are sharing information with and that the disclosure is necessary because it

raises serious concerns about the safety of patients. The information which can be disclosed is information about the variation, suspension or termination of a practitioner's clinical privileges where that practitioner is a former employee or contractor the public health organisation.

An equivalent amendment is also made to the Private Health Facilities Act to permit private health facilities to share and exchange information with other private health facilities or a public health organisation if the same requirements are met.

The Ministry of Health has consulted widely on the content of this bill, including discussions with the Health Care Complaints Commission and the Health Practitioner Councils Authority, which provides administrative and policy support to all the New South Wales professional councils and operates the impairment programs on their behalf. These agencies are all supportive of the changes. There has also been consultation with the Australian Medical Association (NSW), the Nurses and Midwives Association, the Australian Salaried Medical Officers Federation, the Health Services Union and the Private Hospitals Association.

The Government considers the current drafting provides a good balance between ensuring the safety of patients and the transparency of the complaints process without unduly overriding the rights of practitioners to a degree of privacy to deal with sensitive personal issues.

I commend the bill to the House.

The Hon. WALT SECORD [8.39 p.m.]: As the shadow Minister for Health, I lead for Labor in debate on the Health Practitioner Regulation Legislation Amendment Bill 2014. Labor will not be opposing the bill. As a guiding principle, if the Government presents a bill to respond to a problem in the community we will play a constructive role and will support the legislative measures. As I said on 21 October on ABC Radio:

When the Government proposes things which are common sense and protect patients Labor will support them, and this is a case of that.

This bill is one such measure and I acknowledge the Minister's comments in reply in the Legislative Assembly recognising my support for the legislation. Before I go into the details of the bill, I draw the attention of the House to the case of disgraced Dr Suresh Nair in Western Sydney, who is currently in prison. The case highlights and summarises the need for these legislative reforms. This will give some context for the bill and will highlight the need for some of the bill's measures.

Back as far as 2004, the NSW Medical Board, now known as the Medical Council of New South Wales, knew that Nair had a severe cocaine addiction, but it allowed him to continue operating as a neurosurgeon at the Nepean hospitals. He operated on patients until November 2009, when he was arrested. Before his practising certificate was finally revoked he had provided two lethal doses of cocaine that killed two female sex workers in his home. In 2011 he was sentenced to five years and three months in jail for manslaughter and two counts of supplying cocaine.

Disappointingly, Nair was able to move from Nepean public hospital after twice coming to the attention of medical authorities. He had failed urine drug tests in his place of work but was able to switch to Nepean Private Hospital. Sadly, he has left behind a long list of victims and injured patients from his bungled and drug-hazed operations. Many of them were angry and frustrated by the lack of information and any course of redress. I am advised that in New South Wales between 2011 and 2013 at least 25 people from various medical fields, including chiropractic, dental, medical, pharmacy, physiotherapy and psychology, were deregistered. In 2012-13 the Health Care Complaints Commission investigated 85 disciplinary cases. In 2011-12 there were 131 complaints referred to the commission.

The Health Practitioner Regulation Legislation Amendment Bill 2014 seeks to address incidents such as occurred in the case of Dr Suresh Nair by making minor amendments to and modifying the Health Practitioner Regulation (Adoption of National Law) Act 2009 in relation to its application to New South Wales. It also makes related amendments to the Health Services Act 1997 and the Private Health Facilities Act 2007. For the benefit of members, I will briefly refer to the categories of health professionals or practitioners and health professional councils covered by the amendments. Under section 5 of the Health Practitioner Regulation National Law Act 2009, a "health profession" is defined to mean and include a recognised specialty in the following professions: Aboriginal and Torres Strait Islander health practice; Chinese medicine; chiropractic; dental, including the profession of a dentist, dental therapist, dental hygienist, dental prosthodontist and oral health therapist; medical; medical radiation practice; nursing and midwifery; occupational therapy; optometry; osteopathy; pharmacy; physiotherapy; podiatry; and psychology.

As per division 2 of the Health Practitioner Regulation National Law Act 2009, each health profession has an equivalent health practitioner council. The amendments in schedule 1 [1] to the bill improve the

transparency of the complaints process by strengthening mechanisms for patients and complainants to obtain information about the outcome of their complaints. As the health Minister said in her second reading speech, the bill proposes amendments in three respects. First, it enables greater oversight of impaired practitioners. Secondly, it ensures that those practitioners who are deregistered following disciplinary proceedings are not able to circumvent the regulatory process and re-register themselves or practice in other health services without adequate or proper oversight. In short, it closes a loophole whereby a medical practitioner can voluntarily deregister to avoid a tribunal cancelling their registration. Thirdly, it will improve the transparency of the complaints process by strengthening the mechanisms for patients and complainants to obtain information about the outcome of their complaints.

This new section will impose an obligation on New South Wales health practitioner councils to provide a complainant with information about the outcome of a complaint, but they must not disclose the confidential information of the complaint unless there is an overriding public interest, including where matters are referred to a council from the Health Care Complaints Commission. Other parts of the bill also impose an obligation on New South Wales health practitioner councils to notify the employer of conditions imposed on a health practitioner's registration after a disciplinary or complaints process. These conditions are imposed through an impaired registrants process.

Impaired practitioners are those who require additional assistance and oversight to ensure the protection of the public, such as those with a mental illness or addiction. The details of conditions placed on a practitioner's registration are usually publicly available on the national health practitioners register. But the details of the health conditions are not usually available. Furthermore, currently there is no express statutory power requiring the health councils to inform an employer of the conditions imposed on a practitioner. That is why, under these changes, health councils will be required to notify the employer when conditions are imposed on an impaired practitioner. This will help them supervise the practitioner and ensure the safety of patients across the community.

The legislation will allow a New South Wales health practitioner council to designate "critical impairment conditions", a breach of which could result in automatic referral to the Health Care Complaints Commission for investigation. Such critical impairment conditions would likely involve alcohol or drug abuse. Amendments to the Health Services Act 1997 and the Private Health Facilities Act 2007 will permit health organisations to share and exchange certain information about health practitioners. This is if the public health organisation reasonably considers that the practitioner is working at a facility that they are sharing the information with and the disclosure is necessary because of concerns about patient safety. A two-step test has been established to enable the sharing of such information if the public health organisation reasonably believes that the health practitioner practises at the private health facility; and if the public health organisation reasonably considers that the disclosure of such information to the licensee is necessary because it would raise serious concerns about the safety of patients.

There is a limitation on what appointment information can be disclosed. This includes details on whether a health practitioner currently practises or has practised at a hospital or health institution of a public health organisation, and if the appointment information related to the variation, suspension or termination by the public health organisation of clinical privileges of the health practitioner. The pretext to the exchange of information is that the ministry is aware of some recent matters, such as in the case of Nair, involving circumstances where a public hospital has withdrawn privileges or has suspended a medical practitioner where there have been concerns about patient safety and where a public hospital was aware that the medical practitioner had a corresponding appointment at a private hospital where the doctor may have been continuing to practise. On those occasions, the public hospital considered it appropriate to advise the private hospital of its decision to withdraw privileges or to suspend the practitioner to allow the private hospital to decide whether to act on that advice. However, the amendments make it clear that the hospitals can share that information without exposing the organisation or individual to liability.

In another area of the bill, the closing of a loophole where practitioners were voluntarily deregistering themselves in anticipation of a tribunal suspending or cancelling their registration is a welcome measure. Previously, this meant a potentially deregistered person could avoid a prohibition order from the relevant tribunal that prevents them from providing any "health service". However, under the loophole, a deregistered person would be able to provide health services where no registration is required. For example, previously a psychologist who voluntarily deregistered himself or herself could resume work by providing "counselling" or "psychotherapy" services. This legislation therefore allows for a prohibition order. As well as not being able to practise in their own profession, the medical practitioner would not be able to provide health services in another

profession where no registration is required. The legislation also allows for the NSW Civil and Administrative Tribunal [NCAT] to make a prohibition order in respect of a person who is no longer registered. The NCAT can prevent a deregistered clinician from hanging up a new shingle in a related profession. These are all welcome measures.

Finally, the health Minister has stated that the Ministry of Health has consulted widely on the contents of the bill, including with the Health Care Complaints Commission and the Health Professional Councils Authority. She said that they were very supportive. Furthermore, the Minister said she had consulted with the Australian Medical Association (NSW), the NSW Nurses and Midwives Association, the Australian Salaried Medical Officers Association (NSW), the Health Services Union [HSU] and the Australian Private Hospitals Association. She said they were supportive too. However, this is not entirely accurate. The Health Services Union has expressed some concerns. Furthermore, it has asked that I place on record a concern expressed by the Health Services Union, New South Wales/Australian Capital Territory branch, in regard to mandatory reporting in schedule 1 [6].

That schedule requires the council for a health profession "to notify the employer and accreditors of a registered health practitioner of the imposition of conditions, or the alteration or removal of conditions, on the practitioner's registration concerning the health, conduct or performance of the practitioner." It also permits a council to notify subsequent employers or accreditors of the practitioner. If the information is disclosed in a certain manner to an employer or accreditor about the registered health practitioner's impairment, the employer or accreditor will be under a duty to ensure that the nominated or agreed information recipient discloses or uses information about the impairment only for the purpose, first, of the supervision or oversight of the practitioner in the course of the practitioner's work; or, secondly, of ensuring the safety of patients at premises used by the practitioner in the course of the practitioner's work. A failure to comply with this duty will be an offence. The senior industrial officer of the HSU also wrote:

Given the diversity of practitioners covered by this legislation the application of this aspect of the amendments has some potential to be misapplied and facilitate an unnecessarily widespread knowledge of less endangering impairment.

Furthermore, the HSU pointed to concerns of a sole health practitioner in a specialist occupation in a rural and regional area with mild depression or mild anxiety being inadvertently identified because they have had to be identified. The HSU also wrote:

Although the HSU has raised concerns regarding this, the Ministry cites the penalty applicable to employers for not properly applying this section of the Act as sufficient deterrent to this happening.

That claim has some basis; however, we remain not sufficiently reassured.

While I have ensured the HSU's concerns have been noted in this Chamber, I tend to agree with the Minister for Health that the current bill strikes a balance between the protection of the safety of patients and aiming to provide information to them, if they wish to pursue a complaint. I do not think it unduly overrides the rights of medical practitioners' privacy in regard to sensitive personal information. That said, all public health organisations owe a primary duty of care to ensure patient safety. The exchange of information provisions and changes to health professional councils providing information are designed to assist employers to discharge their primary obligation to patients. We expect that the information would be acted upon in a timely manner when appropriate. The Opposition will monitor the provisions when they are in place to ensure that they are enabling the exchange of information in the manner anticipated. If it is appropriate to make the information exchange provisions mandatory at a later point, we would consider including provisions within the standards that private health licensees are required to meet.

Finally, this bill represents an appropriate and balanced response to addressing a real and serious issue of patient safety. Accordingly, the Opposition supports the bill. The bill will close existing loopholes whereby health practitioners have been able to avoid formal deregulation for breach of their registration conditions. More transparency for patients is welcomed by the Labor Opposition. I commend the bill to the House and thank the House for its attention.

Reverend the Hon. FRED NILE [8.52 p.m.]: On behalf of the Christian Democratic Party, I am pleased to support the Health Practitioner Regulation Legislation Amendment Bill 2014, which will make minor amendments to the Health Practitioner Regulation (Adoption of National Law) Act 2009, the Health Services Act 1997 and the Private Health Facilities Act 2007. The bill has been introduced largely as a result of serious oversights that occurred in regard to the infamous Dr Suresh Nair. Members who have good memories will

know that I have raised concerns regarding that person twice in this House. My questions related to why he was still practising when he had been involved in the death in his flat of two women, who we assume were prostitutes, from overdoses of cocaine. It is a tragedy that he was allowed to continue practising in New South Wales.

It is admitted by the Department of Health that there were serious omissions in the handling of Dr Nair's employment. His clinical privileges were revoked from the Nepean public hospital after his colleagues raised the alarm regarding his confused judgement and bizarre surgical decisions. Shortly afterwards, the police attended the Nepean public hospital and informed them about Dr Nair's cocaine links and the deaths of two escorts who, as I have already mentioned, were probably prostitutes. Their deaths occurred in his home due to cocaine overdose. Amazingly, the hospital did not forward any information to the then Medical Board and he continued working. In 2009 the Nepean public hospital sent a letter to the Nepean Private Hospital, confirming it had barred Dr Nair due to "serious concerns" about his ability to practise. However, the private hospital claims that it never received that letter.

Dr Nair continued to work at the private hospital. By the time he was arrested in November 2009, he had been operating in both the Nepean public hospital and the Nepean Private Hospital. Thankfully, he was sentenced to five years and three months jail for manslaughter and two counts of supplying cocaine. However, amazingly, in 2013 his prison term was reduced on appeal. In August this year he was deported to Malaysia. It is vital that all the various sections of the healthcare sector, including public and private hospitals, cooperate with each other, exchange information and ensure that the information is received by the other party instead of simply sending the letter and never checking on whether it was received. The Christian Democratic Party is pleased to support the bill. Hopefully, a similar situation will not recur in New South Wales.

Dr JOHN KAYE [8.56 p.m.]: On behalf of The Greens I state at the outset that the Health Practitioner Regulation Legislation Amendment Bill 2014 seeks to strike a delicate balance between, on the one hand, the rights of a health practitioner—their employment rights, industrial rights and rights to privacy—and the safety of the community on the other hand. It is important to find that balance. From one perspective, this legislation has overstepped the mark but from other perspectives, I think this bill has got it sort of right. I appreciate it is a difficult task to achieve that balance. Reverend the Hon. Fred Nile referred to the case of Mr Suresh Nair, the doctor who was clearly addicted to cocaine and who used cocaine recreationally, but whose use of cocaine appears to have adversely influenced his capacities as a surgeon at the Nepean public hospital.

The Nepean public hospital sent a letter to the neighbouring Nepean Private Hospital in 2009 to warn the private hospital's management that by allowing Suresh Nair to practise it was potentially "exposing patients to risks about which they were not aware". Nonetheless, two months earlier the Nepean public hospital failed to inform the New South Wales Medical Board, which is now referred to as the Medical Council, that it received a formal visit from the police concerning the death of a sex worker in St Vincent's Hospital after drug overdoses at Mr Nair's home, and his links to cocaine. It strikes me that in that particular case there was a breakdown in communication that I am not convinced this particular bill addresses.

The Hon. Melinda Pavey: We are. We are convinced.

Dr JOHN KAYE: I accept the Parliamentary Secretary's interjection. As I stated earlier, this legislation is about balance. There is a degree of subjectivity about where one strikes that balance. We have debated this legislation long and hard. There is one feature of this legislation about which The Greens have concerns. We think it is probably not necessary and probably creates substantial concerns about the rights of health practitioners. The legislation creates greater oversight of healthcare practitioners when practitioners have had a history of registration conditions, suspensions or revocations. New section 176BA in schedule 1 to the bill will insert a positive obligation on New South Wales health practitioners' councils to notify employers of conditions imposed on health practitioners' registration, either through the disciplinary or complaints process or the impaired registrants' processes. That seems to be reasonable. It seems to be right that the health practitioner is notified by the relevant practitioner council of impairment conditions that have been imposed.

New section 150FA allows a council to designate a specific impairment condition as a critical impairment condition that in breach would automatically result in referral to the Health Care Complaints Commission [HCCC]. Again, that seems to be an appropriate way of dealing, for example, with the drug and alcohol conditions. New section 133C allows a public health organisation to share or exchange information about a health practitioner with a private health facility and as a consequential amendment allows private facilities to share the same information.

The Greens have concerns at this point. Should the bill get to the Committee stage, we will propose that that section be omitted on the grounds that it breaches the privacy and employment rights of an individual. If there is a problem with an individual it should be dealt with up-front through a report to the HCCC and impairment conditions imposed. However, section 133C effectively allows matters that may or may not be directly relevant to be referred to another employer. We will deal with that in greater detail when we get to the Committee stage.

The legislation also ensures that registered practitioners are not able to subvert the system and re-register in a different health service without appropriate oversight. That makes perfect sense. It will close a loophole that currently allows a practitioner who may be facing an adverse finding against them to deregister themselves voluntarily so as to avoid a prohibition order. That is simply wrong, and it is good that that loophole is being closed. It also provides that the process of reinstating a registration become as robust a process as that for applying for original registration. That seems to be right in that it allows for a robust process to ensure that people cannot creep back in after they have had conditions imposed on them or they have been deregistered.

Finally, it improves the transparency around the complaints process. New section 145BA requires councils to notify complainants of complaint outcomes that have been referred to them by the Health Care Complaints Commission. That is totally appropriate. It is only fair. Indeed, it is a basic natural justice right. The impaired practitioners program is run by health practitioner councils to provide supervision and support for health practitioners who have been identified as having an impairment—physical, mental, drug induced or otherwise. Health practitioners using the program can be self-referred or they can be identified by colleagues. The program can involve but is not limited to additional supervision, drug testing, psychological support and, if necessary, suspension.

Currently, when health conditions are imposed on an impaired practitioner the information given about the illness or condition is usually limited. Under the changes, the council will be required to notify a nominated recipient of the employer about the condition in much greater detail. As I said, this legislation attempts to strike a balance between the privacy rights of health practitioners on the one hand and the safety of patients on the other hand. We think the Government has done a relatively good job in striking that balance, except for the issues surrounding the reporting from one health service to another, the sharing and exchanging of information about health practitioners. We will seek to delete that from the legislation if the bill gets to the Committee stage.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [9.03 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank members for their contributions and support for the Health Practitioner Regulation Legislation Amendment Bill 2014. In response to the Hon. Walt Secord, I make the point that the Health Services Union was consulted during the drafting of the amendments, and guidelines will be provided as to how the nominated recipient of the employer is nominated and receives that information. I acknowledge the worthy and significant contributions by Reverend the Hon. Fred Nile and Dr John Kaye. I note that Dr John Kaye has amendments. I tried to reach out to him and give him a guarantee that we have consulted widely, and this is the right way forward.

The bill proposes amendments to improve the New South Wales health practitioner regulatory processes in three aspects: to enable greater oversight of impaired practitioners—from the contributions to the debate tonight I think we are all as one on that—to ensure that those practitioners who are deregistered following disciplinary proceedings are not able to circumvent the regulatory process and re-register or practise in other health services without adequate oversight, and to improve the transparency of the complaints process by strengthening mechanisms for patients and complainants to obtain information about the outcome of their complaints.

I note that the Hon. Walt Secord has indicated in media comments that the Opposition will be supporting the bill, and I thank him for that. The Ministry for Health has consulted widely on the contents of the bill. The Government is confident that the final bill as drafted strikes a good balance between ensuring the safety of patients and the transparency of the complaints process without unduly overriding the rights of practitioners to a degree of privacy to deal with sensitive personal issues. 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

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): If there is no objection, I will deal with the bill as a whole.

Dr JOHN KAYE [9.07 p.m.]: I move The Greens amendment No. 1 on sheet C2014-144:

No. 1 **Sharing or exchange of information about health practitioner appointments**

Pages 7 and 8, schedule 2. [Vote "No" to the Question that the schedule as read stand part of the bill].

Effectively, this amendment removes the clause relating to the sharing and exchanging of information about health practitioner appointments. Let me make it absolutely clear that this amendment does nothing to stop the flow of information between the health practitioner councils, the Australian Health Practitioners Regulatory Authority, the Health Care Complaints Commission [HCCC] or the Nursing and Midwifery Council [NMC]. It simply stops the transfer of information between one health provider and another health provider about a particular individual. We are concerned that the information that is envisaged to be transferred by the provisions, which we are seeking to remove from the bill, largely relate to investigations that have been conducted not by the Health Care Complaints Commission, which would be thorough and procedurally fair, but by the facility itself. There is no guarantee that those investigations will be as rigorous, fair and accurate as investigations conducted by the HCCC or by health practitioner councils.

We are concerned that information—which may not be of particularly high quality, may have been tainted by specific personality issues and may not necessarily refer directly to the capacities of that particular health practitioner to discharge their duties as a health practitioner—will be transferred from one facility to another and will taint the capacity of a health practitioner to obtain or maintain a job at a new facility, even when the practitioner has not done the wrong thing.

The Health Care Complaints Commission, health practitioners councils and the Australian Health Practitioner Regulation Authority all have extremely high standards. Rigorous and thorough investigations conducted by the HCCC or by the NMC are highly reliable. Those bodies conduct a process that is fair, thorough and comprehensive. The transfer of that information is accurate and can be relied on. That strikes the balance between patient safety and the rights of the employee. However, transferring information that was developed in an in-house investigation conducted by people who may have a particular personal set against the health practitioner, and who may not have anything like the same level of rigour with which the HCCC and the NMC conduct their investigations is, to our thinking, deeply unfair. It leaves health practitioners who are seeking to leave one facility and go to another exposed to the risk of vexatious and vindictive investigations that bear no relationship whatsoever to their capacity to operate as a quality healthcare individual.

We do not, in putting this particular provision into the bill, charge the Government with any degree of malice, or with any degree of incompetence, or with any degree of action outside that which it should be doing. However, as I said in the second reading debate, these are matters of balance, and we think the transfer of this particular kind of information has tipped the balance in the wrong direction. We ask the Government to join us in deleting these provisions. The rest of the legislation is supported by The Greens and should go through. We would not do anything to undermine the rest of the legislation. But this amendment seems to us to be unnecessary, given that if a health practitioner is impaired it will be dealt with through the formal process. It seems to us to encourage the spreading of rumour, the spreading of reputation damage that is unwarranted. For those reasons, we commend the amendment.

The Hon. WALT SECORD [9.12 p.m.]: In relation to the proposed Greens amendment to the Health Practitioners Legislation Amendment Bill 2014, Labor will be supporting the amendment. I will be brief. Dr John Kaye's amendment is simple. It seeks to omit new sections 133C and 58A from the legislation. I understand Dr John Kaye's motivation and his rationale. I also understand the concerns expressed by the various unions and bodies, such as the Nurses and Midwives' Association and the Health Services Union. The Greens believe new sections 133C and 58A breach privacy and employment rights of the individual. I understand and note those concerns. For those reasons, we will be supporting the amendments.

The Hon. MELINDA PAVEY (Parliamentary Secretary) [9.13 p.m.]: I genuinely thank Dr John Kaye for his contribution, and I understand and respect that he is trying to bring to the bill a balance that he believes is necessary. I would argue that the Government has the balance right in this bill, and that the way we are going is appropriate. The information that can be disclosed is information about the variation, suspension or termination

of a practitioner's clinical privileges where the practitioner is a former employee or contractor of the public health organisation. An equivalent amendment is also made to the Private Health Facilities Act to permit private health facilities to share and exchange information with other private health facilities or a public health organisation if the same requirements are met.

Following consultation with relevant health practitioner representative groups, the tests for the exchange of information were amended to ensure that information would only be exchanged if the disclosure was necessary because it raised serious concerns about the safety of patients. This amendment was made to afford practitioners some protection to ensure information is only exchanged in limited circumstances and focuses on high-risk issues, not vexatious matters that the member quite rightly mentioned. It is not vexatious matters that are at risk here; at risk are the high-risk matters that the amendment covers.

The ministry is aware of some recent matters, including that of Dr Nair, involving circumstances where a public hospital has withdrawn privileges or suspended a medical practitioner where there have been concerns about patient safety. The public hospitals were aware that the medical practitioner had a corresponding appointment at the private hospital where the doctor may have been continuing to practise. On those occasions, the public hospital considered it appropriate to advise the private hospital of its decision to withdraw privileges or suspend the practitioner to allow the private hospital to decide whether to act on that advice.

However, on some occasions there has been some hesitancy as to whether this information could be shared. The provisions make it clear that the hospital can share that information without exposing the organisation to liability. As it is to ensure a prompt notification of potentially serious issues, it is important that the consequences of, and restraints on, exchanging information is clear. I give an example of circumstances where the powers may be used: a doctor held appointments at co-located public and private hospitals; the public hospital had suspended the doctor's privileges in light of serious concerns about the doctor; the public hospital was aware the doctor was continuing to work at the co-located private hospital, and accordingly advised the private hospital of the action it had taken.

A further example of circumstances where the powers may be used is where a doctor held appointments at a public hospital and private hospitals; concerns were raised at the public hospital about the doctor's management of patients, including in relation to transfer of patients from the public hospital to the private hospitals; following a risk assessment the doctor was suspended by the public hospital; given the nature of the concerns around management of patients involving public and private health services it was considered appropriate to advise the private hospitals of the action taken by the public hospital.

The amendments proposed by the bill clarify that in limited circumstances, such as these, where a public or private health organisation reasonably believes a practitioner practises at a public or private facility and reasonably considers that the disclosure of information is necessary because it raises serious concerns about the safety of patients, that health organisation may share and exchange information about a practitioner in good faith without exposing the organisation or individual to liability.

It is not an issue of notifying regulators to take appropriate action. It is correct that this is addressed by provisions already within the Health Practitioner Regulation National Law to require the mandatory reporting by employers if a practitioner in their employment has behaved in a way that constitutes notifiable conduct. These mandatory notifications will be investigated by the HCCC as a complaint about the practitioner. The amendments are directed at ensuring operators of hospitals, whether public or private, have prompt access to information about potentially serious risks that practitioners may pose to their patients in order to allow the operators to address those risks.

The sharing of information can be done in a timely manner, without the need for referral to the HCCC, where serious concerns about the safety of patients are raised. There may be instances where it is considered that the information should be shared with a degree of urgency. If the information is not shared in good faith—and this is the most important point—then the practitioner would retain rights to challenge the exchange of information. It is for those very good reasons that the Government does not support the amendments put by The Greens. We believe the right balance has been struck. We genuinely hear Dr John Kaye's concerns, but we believe we have the right balance.

Question—That schedule 2 be agreed to—put and resolved in the affirmative.

Schedule 2 agreed to.

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. Melinda Pavey, on behalf of the Hon. John Ajaka, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Melinda Pavey, 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.

CRIMINAL PROCEDURE AMENDMENT (DOMESTIC VIOLENCE COMPLAINANTS) BILL 2014

Second Reading

The Hon. NIALL BLAIR (Parliamentary Secretary) [9.20 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 Minister's second reading speech incorporated in *Hansard*.

Leave granted.

The Government is pleased to introduce the Criminal Procedure Amendment (Domestic Violence Complainants) Bill 2014.

The bill amends the Criminal Procedure Act 1986 to enable domestic violence complainants to give their evidence in chief by way of a prior recorded video or audio statement, in criminal proceedings for a domestic violence offence.

The bill implements a key reform identified by this Government's Domestic Violence Justice Strategy 2013-2017 aimed at improving the criminal justice system's response to domestic and family violence. It demonstrates the high priority we place on the safety of victims of domestic violence and holding perpetrators accountable for their offending.

The present bill also complements ongoing reforms progressed by this Government aimed at empowering victims of domestic violence.

The power dynamic that typifies domestic violence does not stop at the court room door. There is a risk of re-traumatisation of victims. They must attend court and give oral evidence, from memory, and usually in front of the perpetrator, about a traumatic incident. They may face pressure from a perpetrator to stop cooperating with the prosecution. This can result in victims who are reluctant to come to court or who change their evidence once in the witness box. Some may choose not to report an incident to police: The Bureau of Crime Statistics and Research estimates only half of domestic assaults are reported to police.

New measures for giving evidence using available technology are needed to reduce the trauma faced by victims when in court. These reforms provide such measures by introducing a new Part into the Criminal Procedure Act 1986 to apply to the evidence of domestic violence complainants.

The key element of the new Part is removing the hearsay rule of evidence as it applies to domestic violence complainants in criminal proceedings. Recorded interviews of complainants taken by police at or shortly after a domestic violence incident will be able to be played in court as all, or part of, their evidence in chief. In committal proceedings, the recording will stand as the complainant's evidence instead of a written statement.

The bill contains a number of necessary safeguards of complainants' privacy in light of the intensely personal or graphic nature of recorded material. These include a prohibition on a defendant possessing a copy of the recording, and a prohibition on copying or publishing the recording.

Importantly, the rights of defendants to procedural fairness in a criminal proceeding are also protected. A complainant will still be required to attend court and give evidence on oath, and be available for cross examination and re-examination. Defendants will be provided with notice of the evidence against them prior to any hearing. Recorded evidence will not be able to be admitted into evidence unless the defendant has been given a reasonable opportunity to listen to and view the recording.

The reforms strike an appropriate balance between supporting the domestic violence complainant's participation in the criminal justice process, while ensuring the defendant maintains the right to a fair trial.

I now turn to the main detail of the bill.

Schedule 1, item [1] to the bill defines a domestic violence complainant by reference to the existing definition of "domestic violence offence" in the Crimes (Domestic and Personal Violence) Act 2007. That is, certain personal violence offences committed in the context of domestic violence.

Schedule 1, items [3], [9], [20]-[22] and [24] make consequential amendments. Schedule 1, items [4]-[8] amend the Act's provisions concerning committal proceedings for indictable matters.

Proposed section 76A enables the recorded statement of a domestic violence complainant to be used in committal proceedings instead of a written statement. All relevant provisions that apply to written statements will apply to the complainant's recorded statement as if the recorded statement was a written statement. In short, where a brief of evidence would have included a written statement, it will include a recording and the same procedural and evidentiary rules apply, except for the specific provisions in this bill. This includes, for example, provisions relating to inadmissibility, admissibility as if it were oral evidence, death of a witness, notices of rights, attendance of the witness and later use of written statements.

Proposed section 79A requires recorded statements to contain the age of the complainant and an endorsement of the truth of the representation, as if it were a written statement. Police will obtain this information verbally from the complainant at the start of the recording and it can be in the form of questions and answers. Where the complainant requires a translator, the translation can either be recorded on the video, at the time the statement is taken, or alternatively, a written translation can accompany the recording.

Items [6] and [11] of schedule 1 are the offence provisions for the giving of false evidence by way of recording in committal and summary hearings. The penalties proposed mirror those already applying to written statements. Proposed sections 114, 142, 185, 247E and 2470 make further consequential procedural amendments. They clarify that any requirements to give a copy of the recording to the accused is subject to the special rules in this bill applying to the provision of recordings.

Schedule 1, item [10] provides for briefs of evidence in summary proceedings for domestic violence offences. The bill provides that such briefs may include the recorded statement of the complainant, instead of a written statement. Again, for the purposes of summary procedure, the recorded statement will be treated the same way as a written statement.

Items [12] to [16] of schedule 1 deal with the use of recorded statements in matters determined in the accused's absence. A court will be required to consider any recorded statement given to it by the prosecutor before determining the matter in the absence of an accused. Where a court requires the provision of additional evidence in the form of a recorded statement, the statement will not be admissible unless certain service and notice requirements have been complied with [proposed section 200 (2) (c)].

Schedule 1, item [19] provides for a new part 4B to be inserted into the Act which will govern the use of recorded statements in all criminal proceedings for domestic violence offences.

Proposed section 289D defines a recorded statement as a recording made by a police officer of the statement of the complainant, taken with the complainant's informed consent, as soon as practicable after the commission of the offence. The complainant must understand why the statement is being recorded and that it will be used in court at a later date. This consent must be obtained at the time of the recording. Requiring the recording to be made as soon as practicable after the commission of the offence reflects the broad range of circumstances in which these offences are committed. The complainant may not always be able to give their statement immediately at the scene. They may need to attend a hospital as a result of the incident. In some cases, police may consider it is more practicable to take the statement at the station, away from the defendant and any children.

The new part 4A will operate alongside existing special provisions of the Act that apply to prescribed sexual assault proceedings and vulnerable witnesses. Part 5 of the Act will apply to provide additional protections for a domestic violence complainant who is also a sexual assault complainant, such as an entitlement to give evidence from a remote witness facility or in camera. Where, however, a domestic violence complainant is also a vulnerable person within the meaning of the Act [a child or cognitively impaired person], then the vulnerable witness provisions of Part 6 of the Act will apply, instead of the provisions in this bill.

The new part 4A will also operate in conjunction with the Evidence Act 1995 except where specific exception is made. For example, a complainant will still need to attend court and give evidence on oath and evidence that the Court considers to be irrelevant or unfairly prejudicial to the accused may not be admissible. A complainant who gives evidence in the form of a recorded statement must be available to be cross-examined and re-examined.

The key exception in this bill to the Evidence Act 1995 is that domestic violence complainants will now be entitled to adopt, as their evidence in chief, their recorded statement. Proposed section 289I makes clear that in allowing the recorded statement to be admitted as the complainant's evidence in chief, the hearsay rule and the opinion rule contained in the Evidence Act 1995 will no longer apply. Admissibility is, however, subject to compliance with the specific requirements for access and service set out in proposed division 3 of part 4A.

The recording will not be tendered as part of the prosecution's case; rather, it will be treated just as a witness's oral evidence. The existing common law principles concerning the discretion of the court and the procedure to be followed where evidence is given in chief by way of a recording, as set out in *R v NZ* (2005) 63 NSWLR 628 and other relevant authorities, are not affected by the

new provisions. That is, the court will maintain discretion as to how the court and/or jury [if there is one] may be reminded of the evidence contained in the recording, and the procedures and safeguards around playing the recording multiple times in court, or in jury deliberations.

Proposed section 289G details how a decision will be made as to whether evidence will be given by playing the recording, or orally. Where a complainant indicates a preference to give evidence orally, their wishes must be taken into account, but will not determine, whether the video is played in court. This decision will rest with the prosecutor. The prosecutor must, however, take into account any evidence of intimidation of the complainant by the accused, and the objects of the Crimes (Domestic and Personal Violence) Act 2007. As such, the bill recognises that the complainant's wishes may not always be freely given, but may be influenced by a controlling defendant. Where a complainant disavows a statement made in the recording, the usual provisions of the Evidence Act 1995 concerning unfavourable witnesses will continue to apply.

Section 289H allows the recorded statement given in evidence in proceedings for an offence, to be given in the same form in concurrent proceedings, or those arising from the same conduct, for an apprehended violence order under the Crimes (Domestic and Personal Violence) Act 2007. This ensures that where the application for the apprehended violence order arises from the same set of circumstances or offending, and even where the criminal offence is dismissed, the complainant can still rely on the recorded statement in the civil proceedings. This is a common sense way of ensuring the efficient disposal of ADVO proceedings and avoids requiring a complainant who has given recorded evidence in one set of proceedings, from giving oral evidence in another related proceeding.

Proposed section 289J requires a judge, in cases heard before a jury, to warn that no adverse inference to the accused should be drawn, and that the complainant's statement should not be given any greater or lesser weight, because the evidence is given in the form of the recorded statement, rather than orally in court.

Division 3 of the new part 4A sets out the special service and access requirements for recorded statements. These are important measures balancing procedural fairness for defendants and the need to protect the complainants' safety and privacy. This is of particular concern where defendants are unrepresented: There IS an increased risk of dissemination of recorded statements as a tactic to embarrass or intimidate the complainant, a risk heightened by the ease of uploading recorded material to the internet. Developments in technology require an appropriate response to ensure domestic violence complainants are not re-traumatised because of a process which is intended to support them in the criminal justice process.

Proposed section 289L provides that where a defendant is represented, a copy of the video recording must be served on their legal representative. Where a defendant is unrepresented, service of the audio copy only is required. To balance this limitation, the prosecution must, as far as is reasonably practicable, provide the defendant with an opportunity to view the video statement before the court hearing. This may occur at a police station immediately following charge either during an interview or alone, or on nominated days after being charged. As a last resort, recordings will be shown to an unrepresented accused on a day on which their matter is listed in court [proposed section 289M (4)].

Section 289O (3) expressly empowers the court to adjourn a case for up to two weeks to enable a defendant to view or listen to the recording, if they have not had a reasonable opportunity to do so prior to the hearing.

Section 289M (5) makes it clear that evidence of the behaviour or response of the defendant when viewing the recorded statement may not be used in proceedings, except where the viewing took place as part of the police interview in relation to the alleged domestic violence offence, or where the proceedings relate to the behaviour of the accused. For example, where an accused's response to the video recording leads to a charge of assault on a nearby police officer, then evidence of that response could be admissible in support of the assault charge.

As further protection for a defendant viewing the video during a police interview, the time taken to play the recording will count towards the maximum prescribed investigation period under section 115 of the Law Enforcement (Powers and Responsibilities) Act 2002.

Similar to existing provisions for sensitive evidence, proposed section 289O enables the court to require the recorded statement to be returned to the prosecutor once criminal proceedings have finished, while section 289P provides that, with limited exceptions, it will be an offence to copy or publish, or give a copy of the recording to any other person. This offence provision makes it clear that no-one can give a copy to, or cause a copy of the recording to be made by, the accused person. This obligation and prohibition applies equally to a third party who has been given a copy of the recording for the purpose of criminal proceedings, for example, an interpreter or other expert witness. The offence will carry a maximum penalty of two years imprisonment or a fine of \$11,000 or both.

Although the court will otherwise retain its discretion to manage the conduct of proceedings, these specific reforms provide a significant new means of supporting a domestic violence complainant in giving evidence in criminal proceedings for a domestic violence offence by way of a previously recorded statement.

I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [9.21 p.m.]: I lead for the Opposition in debate on the Criminal Procedure Amendment (Domestic Violence Complainants) Bill 2014. The Opposition does not oppose the bill. The object of the bill is to amend the Criminal Procedure Act 1986. The main amendment is to enable the use of police recorded video interviews with complainants in proceedings for domestic violence offences instead of written statements or oral evidence.

Some of the commentary surrounding the Government's announcement of this proposal suggested that it would remove altogether the need for domestic violence victims to give evidence in court. Of course, that is

wrong—although in many ways it will remove the need to give oral evidence in chief and will replace the need to prepare a written statement in committal proceedings. That is a significant development, although it does not go as far as has been suggested by some of the Government's media. The proposals likewise certainly do not go as far as the Labor Opposition's commitment to establish a specialist court and are nowhere near as fundamental a reform as that project. Nonetheless, despite those shortcomings and oversells, the Opposition does not oppose the bill.

The offences to which this bill applies are those referred to as "domestic violence offences" within the meaning of the Crimes (Domestic and Personal Violence) Act 2007. The main aspects of the bill applying to these offences are that recorded statements and interviews made by the police, with the complainant's informed consent, and carried out as soon as practicable after the commission of the offence will be able to be played in court instead of oral evidence. In committal hearings a recording can be served instead of a written statement. The hearsay and opinion rules of evidence are removed as they apply to such complaints.

However, the complainant will still be available for cross-examination and re-examination, and a complainant may still give evidence orally. Whether or not they give evidence in chief, that decision will rest with the prosecutor and not with the complainant. If that is an attempt to subvert the position of a complainant who for good, or more likely bad, reasons wants to recant their testimony, it is unlikely to be wholly effective given that they will be present and subject to cross-examination. However, it is the complainant's decision in the first place whether to agree to a recording. The Opposition believes that is a very important aspect of the legislation and will ensure that that first and important step is one for the complainant.

A defendant is prohibited from possessing a copy of the video recording. Because the recording may be made almost immediately after the incident concerned, there may be the risk in some cases of defendants using videos in a demeaning way. That, in turn, has led to special provisions that apply to adjournments and to unrepresented defendants in particular viewing videos. Such recorded evidence can be relied upon in concurrent proceedings for an apprehended violence order even if criminal proceedings are dismissed. Of course, some present rules are not altered. The rules about irrelevant or unfairly prejudicial evidence and admissibility remain. Likewise, rules about how recorded evidence is used in trials remain. These rules are most conveniently set out in *R v NZ* [2005] NSWCCA 278. The headnote of that decision in relation to the replaying of a videotape states:

... as a general rule, the preferred procedure to be followed where the evidence in chief of a witness has been given by the playing of a videotape is:

- (a) The videotape evidence of a Crown witness should not become an exhibit and, therefore, should not be sent with the exhibits to the jury on retirement;
- (b) Any transcript given to the jury under s 15A should be recovered from the jury after evidence of the witness has been completed;
- (c) It is for the discretion of the trial judge how a jury request to be reminded of the evidence in chief of the witness should be addressed;
- (d) It would be inappropriate for the judge to question the jury as to the purpose for which they wish to have the tape replayed;
- (e) If the tape is to be replayed or the transcript of the tape provided to the jury, the judge should caution the jury about their approach to that evidence when the tape is being replayed to them or the transcript of the tape returned to them in terms to the effect that "because they are hearing the evidence in chief of the complainant repeated a second time and well after all the other evidence, they should guard against the risk of giving it disproportionate weight simply for that reason and should bear well in mind that other evidence in the case";
- (f) The judge should consider whether the jury should be reminded of any other evidence, for example the cross-examination of the witness at the time that the tape is replayed or sent to the jury room, if that step is considered to be appropriate.

That usefully sets out the existing rules, which as was made clear in the second reading speech, will continue to be in effect. Whilst advocates for the victims of domestic violence have broadly welcomed the changes in this bill, some cautionary notes have been sounded. One obvious point is that in the heat of the moment victims might say things that they later regret and that are presented as inconsistencies and lead to victims being challenged. That comment has been made by some women's advocates. However, there is a general view that the most immediate evidence is likely to be the most accurate. I think if full details are remembered or stated only in calmer subsequent circumstances that is something that probably can be explained to and accepted by the court. While I understand the comment, the provisions in the bill make sense.

There are two broad justifications for this legislation. The first is to make it easier for victims of domestic violence to withstand the trauma of court proceedings. The second, which is at least as important as the first, is that it hopes to lead to more victims coming forward and fewer victims wanting to drop proceedings once they have been commenced. As we know, proceedings of this nature remain very traumatic for victims. Even where entirely justified, it is sometimes difficult for them to proceed. That is not to suggest that all such complaints are valid, but it is to recognise the very real difficulties of complainants, even today, being able to come forward and present their complaints.

The rate of reporting of domestic violence incidents is still dramatically less than the rate of incidents occurring and the dropout rate or the discontinuous rate is unacceptably high. For these reasons, while the bill is nowhere as fundamental a reform as we would propose, the Opposition does not oppose the legislation. I will conclude by noting that the New South Wales Bar Association, of which I am a member, has presented a recommendation that there be a safeguard to the legislation and that there be an amendment. I will not canvass it now, but I believe an amendment will be moved during the Committee stage based on the concerns of the Bar Association. If that is the case, I will address the matter at that point. The Opposition is certainly sympathetic to those concerns and it may well support such an amendment if it is moved.

Mr DAVID SHOEBRIDGE [9.28 p.m.]: On behalf of The Greens I indicate that we will not be opposing the Criminal Procedure Amendment (Domestic Violence Complainants) Bill 2014. I foreshadow that we will be moving some amendments during the Committee stage that address some of the concerns, particularly those that have been raised by the New South Wales Bar Association. All members of this Chamber want to do all they can to ensure that when domestic violence occurs it is subject to the full weight of the law. We want to do everything we can to allow women, in particular, who have been subjected to domestic violence to gain some justice in the criminal justice system. We want them to do so without being subjected to the most harrowing aspects of reliving it in full detail and potentially seeking to withdraw their evidence when confronted with the reality of giving evidence. Prosecutions for domestic violence will fail for that reason.

New South Wales has experienced a bit of a sorry history in the past couple of years with a number of women, who originally gave written statements and for one reason or another refused to adopt them in the court proceedings, finding themselves—I have to say grossly inappropriately—the subject of criminal proceedings for allegedly either misleading the police or the court. Particularly in western New South Wales a number of Aboriginal women were the subject of such totally inappropriate prosecutions. Eventually, this led to a change in policy in how the New South Wales police instigate such proceedings against women. That policy has not been included in any statutory protection. Just last week when meeting with representatives from the Aboriginal Legal Service in Collarenebri I heard that, notwithstanding the policy, in the past few months Aboriginal women have been the subject of those further prosecutions. I will be chasing up that matter in the coming weeks and months first to gather evidence and then to test the Government's response.

Effectively, this bill proposes to have women, who are subjected to domestic violence to which police have attended and seen evidence of that domestic violence, give their statement immediately by way of videorecording by police, which is then later tendered in court proceedings. Of course, the substantial concerns were the impact of that procedure on individual women and the potentially unknown consequences given the almost inevitably highly emotional and deeply disturbing circumstances in which women—for the most part—will give their evidence to a police officer for recording by video at the very moment or soon after being subject to violence and intimidation with all the emotional turmoil that must follow. So far as possible in our discussions with the Government we have been looking to make sure protections are in place so that when women give their statements they will not find themselves subject to criminal prosecutions because they may have exaggerated and put emotional layers on their evidence.

They may have inadvertently disclosed their own potential criminal conduct because they are giving that evidence in those extremely heightened and emotionally disturbing circumstances in contrast with the current system whereby women give their evidence by way of written statement normally in a police station hours or days later and often with the benefit of a lawyer's assistance. The two contrasting schemes clearly show how those concerns have arisen, but we fully accept the real, genuine and compelling benefits of having a woman's evidence captured on video and delivered to a judge or jury to assist in securing prosecutions and putting violent offenders—mainly men—behind bars, where they deserve to be. It is genuinely difficult. The bill makes it possible for police to record statements by victims of domestic violence at the scene of offences, or shortly after, and provides that those statements can be used in proceedings instead of written statements or oral evidence.

Much of the work of the bill is done in schedule 1 [4], which inserts a new section 76A into the Criminal Procedure Act to specify the rules for recordings of interviews with domestic violence complainants, and effectively allows recorded statements to stand in for a written statement for the prosecution. If a recorded statement is to be relied upon, the prosecution must notify the accused and they must have a reasonable opportunity to view or listen to the recording in advance of the hearing. Schedule 1 [5] proposes the new section 79A, "Form and requirements for recorded statements". I will not detail them all, but the new section provides that the statements can be in the form of questions and answers, and must include some minimum details, including the complainant's age and a statement on the truth of the representation.

Schedule 1, items [6] and [11] insert penalties for representations in recorded statements admitted into evidence that are false. Item [6] relates to a statement used in committal proceedings and item [11] to statements given in evidence in criminal proceedings. In both cases, if the offence is dealt with summarily, the penalty is a maximum of 20 units or imprisonment for 12 months, or both; but if dealt with on indictment, the penalties are severe indeed: 50 penalty units or five years imprisonment, or both. Schedule 1 [7] specifies that the accused is entitled to a copy of any recorded statement played at the proceedings. Item [8] includes that the prosecution must provide notice of any reported statement that it intends to adduce at the trial.

Schedule 1 [10] inserts a new section 185A, "Recordings of interviews with domestic violence complainants", and provides that a brief of evidence can include a recorded statement instead of a written statement from the complainant. Schedule 1 [19] inserts new part 4B into the Act, "Giving of evidence by domestic violence complainants", and defines a "recorded statement" as one that occurs with the informed consent of the complainant. I pause to note that that informed consent is, of course, central to the bill but again is obtained in circumstances of that highly emotional and volatile nature. Ensuring that the consent is genuinely informed in those circumstances will be a genuine challenge in the proceedings. A "recorded statement" is defined as one that occurs with the informed consent of the complainant and when the questioning occurs as soon as practicable after the commission of the alleged offence.

Complainants whose evidence is given this way must still be available for cross-examination and re-examination, and the evidence in chief given as a recording does not stop them from giving evidence in any other matter. In other words, they can adopt the video statement and then can give further oral evidence in the witness box. Under new section 289G the decision of whether evidence is given by recording is determined by the prosecutor and is to be guided by the wishes of the complainant, any evidence of intimidation by the accused and the objects of the Crimes (Domestic and Personal Violence) Act 2007. New section 289H allows the recording to be used in any concurrent apprehended violence order [AVO] proceedings. New section 289A exempts these recordings from the hearsay rule and the opinion rule that would otherwise prohibit their admission or use. The Greens have circulated some amendments that deal with that, and I will speak to that in the Committee stage. New section 289J provides for a jury warning in that they must not draw an adverse inference of the accused because evidence is given in the form of a recorded statement.

New section 289L provides that if the accused is legally represented the prosecutor must cause a copy of the recorded statement to be served on the accused's lawyer. New section 289M provides that if the person is not represented, the prosecutor is required to furnish them with an audio copy of the statement and an opportunity, if it is reasonably practicable, for the person to view the video at a police station either when they are being questioned at a date requested by the accused or on a date specified in a notice given by the prosecutor. The reaction of the accused to viewing such materials is not to be adduced in proceedings unless it happens when the person is being questioned regarding a domestic violence offence or the proceedings relating to that behaviour. In other words, the prosecution cannot show the person the video at the police station and then watch for their reaction and give evidence about that reaction. Of course, that would defeat the purpose of allowing the accused to view the evidence against them in the police station.

New section 289P provides that the improper copying or dissemination of recorded statements is an offence carrying a maximum penalty of 100 penalty units or two years imprisonment, or both. New section 289Q creates a power for a court to adjourn proceedings for up to two weeks if it is necessary to provide the accused person a reasonable opportunity to view or listen to the recording. New section 289S creates some fairly broad regulation-making powers regarding regulating the giving of informed consent and service of or access to recorded statements.

I said at the outset that The Greens had a number of significant preliminary concerns about the bill. I am grateful for the representations made by the Women's Legal Service, which devoted significant time to engaging with the issue and trying to make sure that in this rush to do the right thing by women victims of

domestic violence we do not inadvertently overstep the mark and prejudice them. The Women's Legal Service has asked a number of questions. I will not place all of them on record now but some of them include whether a video recording will likely focus on physical injuries and damage to property.

The service fears that this may shift the focus away from common assault, which includes fear and psychological harm, and it asks what steps will be taken to ensure that is not the case. One can understand the concern of the Women's Legal Service. If the visual evidence of a video recording is going to be so important, it may well lead to an understanding of the very real fear and intimidation that a domestic violence victim may suffer and a prioritising of concerns about physical injuries, which can be recorded on the video. The service asks:

When will the video begin and end? Referrals to services should not be included in the video recording – interaction with Sexual Assault Communications Privilege and disclosure of such locations may have implications with respect to future stalking and harassment.

This is one of a number of concerns raised by the Women's Legal Service about the practicalities of how the police recording will operate; in what circumstances it will start and what kind of training and policies will be in place to ensure there is a clear end to the recording so that the women can then be referred off and get that essential support that is every bit as important as the criminal prosecution that may be proceeding. One significant issue that the service raised is:

How will the issue of editing of video recording footage for evidence-in-chief be addressed in jury trial settings (where part of the evidence is edited out because it is inadmissible)?

The practicality of how that editing will occur is a matter of significant concern. I had the benefit of a briefing with staff from the office of the Attorney General. They indicated that, although there is no specific statutory provision that identifies that a video statement will be edited by a complainant or any procedures about how that editing will occur, the intention is that there will be policies and procedures in place that will effectively see complainants viewing the footage on something like an iPad and indicating the parts that they adopt and the parts they do not adopt. It will be edited effectively to cut out the parts they do not adopt and have the edited final product there. The question then asked is: Will the accused have access to the unedited version in order to test the complainant's version and potentially undermine the credibility of the complainant because the complainant may have made some overblown, emotional statements that could be used to undermine the complainant's credibility.

One would think that accused persons should have access to the unedited version in order, on one view, to enable them to meet the case against them. However, given that the recording is happening in the circumstances that I identified earlier and the complainant may make a very emotional response, which even if it was edited out could still be available to the accused in order to cross-examine and undermine the credibility of the complainant, how will the editing and access the accused has to the material operate in practice? That is something about which I would appreciate a response from the Parliamentary Secretary in reply. The Women's Legal Service also states:

Currently when giving evidence, victims are able to refresh their memory by reading their statement. Will there be a transcript of the video recording to help refresh a victim's memory rather than having to review the video recording which may be traumatic and potentially used in a strategic manner to upset the victim in cross-examination? If there is a transcript and part of the video recording is a woman showing what happened, how will this be described?

How will the transcript describe what happens in the video? The potential re-traumatisation of women when they have to review the video of exactly what happened on the night is a real concern. It is a vexed situation for the Government, which I fully accept. One wants to be able to ensure that the best evidence is presented. The best evidence inevitably will be quite traumatising for women who have been subjected to violence and who are reliving that violence when viewing the video. However, protections are in place to ensure that it is minimised as far as possible. Whilst I have put those concerns on record—and I note that my colleague Dr Mehreen Faruqi will also put on record concerns that she has had raised with her as The Greens member and spokesperson for women's issues—on balance The Greens comfortably support the bill. I look forward to discussion in Committee on the amendments we have foreshadowed as proposed by the New South Wales Bar Association.

Reverend the Hon. FRED NILE [9.46 p.m.]: On behalf of the Christian Democratic Party I speak in support of the Criminal Procedure Amendment (Domestic Violence Complainants) Bill 2014. This bill will amend the Criminal Procedure Act 1986 to allow domestic violence complainants to give their evidence in chief by way of a video-recorded statement in proceedings for domestic violence offences. Police are increasingly

equipped with video cameras used to record evidence in support of domestic violence prosecutions. However, recordings of complainants' statements at or soon after a domestic violence incident are hearsay and cannot generally be admitted as evidence in court. Instead, complainants are required to give oral evidence, usually in front of the perpetrator.

These reforms aim to reduce the trauma experienced by complainants in the criminal justice process, increasing both their participation in that process and, most importantly, conviction rates for domestic violence offending. In his second reading speech the Attorney General, the Hon. Brad Hazzard, spelt out the origins of the bill and why it is so important. He stated:

The power dynamic that typifies domestic violence does not stop at the courtroom door. There is a risk of re-traumatisation of victims. They must attend court and give oral evidence from memory, and usually in front of the perpetrator, about a traumatic incident. They may face pressure from a perpetrator to stop cooperating with the prosecution. This can result in victims being reluctant to come to court or changing their evidence once in the witness box. Some may choose to not report an incident to police. The Bureau of Crime Statistics and Research estimates that only half of domestic assaults are reported to police. New measures for giving evidence using available technology are needed to reduce the trauma faced by victims when in court. These reforms provide such measures by introducing a new part into the Criminal Procedure Act 1986 to apply to the evidence of domestic violence complainants.

We support 100 per cent those comments by the Attorney General. We know from our own knowledge and from talking to people affected by domestic violence and other forms of violence about pressures not to report the attack, the rape, et cetera. It is an important issue because unless the offence is reported the perpetrator is free to continue to attack other victims. This bill will give victims the confidence to proceed with their complaints knowing that the evidence can be used in court through video recordings.

The prosecutor will make a decision as to whether the recording is played in place of oral evidence and must take into account the wishes of the complainant and any evidence of intimidation of the complainant by the accused under the objects of the Crimes (Domestic and Personal Violence) Act 2007. Safeguards for privacy of the complainant are provided in the bill. Accused persons are not entitled to a copy of the video recording. An unrepresented accused person will be served only with an audio copy of the statement. The lawyer of a represented accused will be served with a video recording. With limited exceptions, it will be an offence to copy or publish the recorded statement.

The rights of the accused are maintained under provisions requiring access to be provided by the prosecution to an unrepresented accused to view the video recording prior to a hearing. Police observations of the accused during such viewing will not be admissible evidence. Also, in protecting the rights of the accused, representations contained in recorded statements where the accused has not been given a reasonable opportunity to listen to and/or view the recording will be prohibited as evidence. There is an adequate balance that should always be in favour of the victim. The Christian Democratic Party is pleased to support the bill.

Dr MEHREEN FARUQI [9.52 p.m.]: As The Greens NSW spokesperson for the status of women, I speak in debate on the Criminal Procedure Amendment (Domestic Violence Complainants) Bill 2014, which amends the Criminal Procedure Act 1986. I speak in support of what my colleague Mr David Shoebridge said about the bill and his analysis of it. Domestic violence is a widespread problem in New South Wales and one of the most common types of violence experienced by women.

The New South Wales Bureau of Crime Statistics and Research estimates that around 1.8 million Australians have been victims of domestic violence and that nearly one-quarter of all assaults are related to domestic violence. The dangers posed to victims of domestic violence are real and severe. Eighty-one per cent of female homicide victims are killed by their partners. The frequency of this violence is growing. The recent "Women in NSW 2014" report stated that there has been a 2 per cent increase in domestic violence incidents in the past four years. We are failing victims of domestic violence and it is crucial that we take action to increase their safety and endeavour to prevent future incidents.

In New South Wales, on average, 78 domestic violence related assaults are reported every day. However, this number is likely to be a poor reflection of the reality of domestic violence because more than half the cases go unreported. Two common reasons for not reporting domestic violence are bad or disappointing experiences with police when reporting previous incidents or that the police are unwilling to do anything. In addition, domestic violence crimes have a lower conviction rate than other crimes. In this respect, government efforts to address these issues are commendable because domestic violence crimes can be complex and challenging to resolve.

The bill specifically aims to amend the Act's provisions concerning committal proceedings for domestic violence matters and to enable recorded statements of domestic violence complainants instead of written statements to be used in proceedings. I understand that the recordings will carry the same procedural and evidentiary rules as written statements. The recording of testimony at the time of an incident or shortly after will allow many victims to have flexibility when giving testimony in court. The recorded statements will act as primary testimony thus making the court process easier and less intimidating for some victims. Further, the provisions that allow victims of sexual assault to give evidence from a remote witness facility or to use video are commendable.

However, I have some concerns about the bill. With any changes of this nature it is important to ensure that in the push for a conviction the action does not result in collateral damage to the victim. We must be careful not to further disempower victims of domestic violence crimes and to ensure that they have the right to make decisions in all aspects of their lives, including the testimony they choose to give in court. The option for the victim to be able to edit footage before a trial is a positive step. However, I have concerns that under this bill the control over which version of the video footage is used in court will ultimately fall to the judgement of the prosecutor, even against the wishes of the victim. I understand that this provision has been included to address situations where victims may be coerced by their perpetrators to alter their statements, but of equal importance is the need to foster an environment where victims are supported, not discouraged, to seek the help of police or utilise the court system.

Statements given under traumatic circumstances may not be the most accurate version of events. In highly charged and physically traumatic situations, victims may not recall all the relevant detail or may make mistakes. If they feel the statement does not accurately reflect the circumstances, the option to give oral testimony in court must also be made available. The Victims of Crime Assistance League has raised a concern that victims may self-incriminate in traumatic circumstances and video may be used to discredit them in court. A recent report from the University of Sydney has highlighted the growing problem of police making applications for the protection of the perpetrator against the victim. I am concerned that footage captured by police that is played in court against the wishes of victims may be used to incriminate them. In the heat of the moment, without the legal advice to which they are entitled, victims may detail how they defended themselves and may then be prosecuted for it.

I note that schedule 1, items [6] and [11] insert penalties for representations in recorded statements that are false. In both cases, if the offence is dealt with summarily, the penalty is a maximum of 20 penalty units or imprisonment for 12 months, or both, or if dealt with on indictment, it is 50 penalty units or five years imprisonment, or both. There is a risk of unintended consequences resulting in the prosecution of women who are in fact the victims. Of course, when statements are malicious and completely without basis, they should be dealt with as such. As we all know, domestic violence is complicated and needs to be treated with sensitivity.

The Greens support everyone's right to safety, both psychological and physical, and we support additional resourcing and training that will enable police to respond effectively to domestic and family violence. However, according to the Bureau of Crime Statistics and Research report entitled "Reporting Violence to Police: A survey of victims attending domestic violence services", the primary reason given by those who did not report to police is that police do not understand or they are not proactive in handling domestic violence. It is vital when police are given additional powers to record statements of victims in traumatic circumstances that police and the judiciary are educated about the nature of domestic violence. Without an increased knowledge of the complexities of domestic violence police may fail to provide the appropriate services to victims who in turn will be less likely to report violence.

Finally, although the measures provided in the bill are important, they must be combined with the protection of and services for those experiencing domestic violence. These are the kinds of services that are being slashed by the New South Wales Government, specifically women-only refuges. Although some funding has been reinstated to refuges, women in rural areas and Western Sydney have lost out, despite the high rates of domestic violence in these areas. This harsh policy that takes away vital shelters and services for women and children in need must be overturned if we are to take seriously the issue of domestic violence.

The many women who are afraid to prosecute or to face perpetrators who are quickly released or not charged at all are vulnerable. We should not have to fight for basic protections. Domestic violence is a complex issue, requiring a nuanced multipronged approach. Although the bill takes some steps in the right direction, all care must be taken to ensure that the push for the conviction of a violent perpetrator does not result in collateral damage to the victim. The Greens support the bill. My colleague Mr David Shoebridge will introduce some amendments at the Committee stage.

The Hon. HELEN WESTWOOD [10.00 p.m.]: I speak to the Criminal Procedure Amendment (Domestic Violence Complainants) Bill 2014. Other members have spoken in detail about the objects of the bill and I will not repeat those comments. The focus of my contribution will be on what is left to be done if we are to truly address the crime of violence against women in its many forms: domestic violence, sexual violence and psychological violence. Regrettably, in our community the number of crimes of violence against women continues to increase. As we approach the 16 Days of Activism Against Gender Violence, a woman was murdered yesterday allegedly at the hands of her husband in the front garden of her home in a Western Sydney suburb.

Domestic violence has an horrendous impact on both women and their children. Not only does it take the lives of far too many women in this country but it also damages many women and children. It inhibits a woman's ability to earn an income, hold down a job and live a happy and healthy life, and children are impacted in exactly the same way. As a society we have to triple our efforts if we are going to put a stop to the horrendous levels of violence against women in our community. I commend the Government for its attempts in this regard but it has not gone far enough. There is a lot more to do. Anyone who thinks this issue can be addressed without additional resources is kidding themselves. It is unrealistic; we need additional resources. This bill is a good step in the right direction.

I have heard the criticisms of the New South Wales Bar Association but it is not best suited to giving advice on this issue. We should be listening to the victims as to what made the experience so much more traumatic for them. It is only from their experiences that we will learn about the changes that need to be made to our laws. During the inquiry into domestic violence trends and issues in New South Wales, the committee heard from victims and those who advocate for and support victims. When police initially arrive at the incident and there is every opportunity to collect vital evidence sometimes they make mistakes. This is a difficult area. We must focus on training for our police officers.

I am not being critical of police. Some of my closest family members are police officers and I know the difficult job they do. But if our police officers are to respond appropriately at the time when these women are most traumatised then they need ongoing training. They must be sensitive and professional in their dealings with these women and the evidence they put before the court should ensure that the perpetrators are brought to justice. Pleasingly, in recent times police at the highest level across Australia have joined together in addressing domestic violence. It was reported in the media that a number of police commissioners have identified "vulgar and violent attitudes towards women" as a key cultural cause of unacceptably high rates of family violence. They have said that it will not stop until men's attitudes change. Following a meeting of all the police commissioners, Ken Lay, Victoria's chief commissioner, said:

I place family violence in a wider culture where vulgar and violent attitudes to women are common ... These attitudes show that we perceive women differently than men and by differently I mean we perceive them as less valuable. In order to stop a problem we have to tackle the cause.

I commend Chief Commissioner Lay for those comments. The Government is trying to improve the opportunities to bring perpetrators of violence against women to justice as well as to achieve just outcomes for victims. But that is only one area and so much more needs to be done. I refer again to the issue of police training and the attitude of men in our society. Most of our police officers are men, which is another issue that needs to be addressed. During the inquiry the committee heard evidence of police arriving at incidents of domestic violence and charging women who were acting in self-defence.

Much of the evidence given by professionals suggested that it was a lack of awareness about the power dynamic of domestic violence. That comes back to police training. Police need to be adequately trained to assess these situations and to collect all the necessary and available evidence at the time. The recording of a complainant's account of the incident at the time is a good step but this measure will have to be reviewed in 12 months or so to ascertain whether it is making a difference. Importantly, we need to speak to the victims of domestic violence to gain a better understanding of their experiences.

I turn now to the attitude of society. Phil Rothfield spoke recently out about an incident of domestic violence perpetrated by a rugby league player. The National Rugby League's [NRL] response was to ban him from interviews on the matter. The NRL allowed that player to continue playing after he had pleaded guilty to assaulting a woman. It is astounding that in 2014 it is still acceptable to punish those who speak out about violence against women. The White Ribbon campaign works to prevent male violence against women. In fact, the principle behind it is that men never condone such violence by silence; they should speak out.

The NRL banned Phil Rothfield because he spoke against violence against a woman perpetrated by an NRL player. The NRL players are promoted as role models for young men in our society. What message are we sending to young men when the NRL says it is okay for its players to beat up a woman and then play football as if nothing had happened? And if anyone dares to criticise they will be silenced. There is something seriously wrong with the NRL's attitude and its actions deserve to be roundly criticised. Such attitudes contribute to violence against women and until those attitudes stop and others stand up and speak out this violence will continue at its current level.

This week a story was reported in the media about the abuse of a woman at the hands of her boyfriend that was so shocking that it took her six years to talk about it. Her boyfriend burned the skin off both her arms with a hair straightener and ate it while saying "Mmmm". It is beyond belief that men can perpetrate that sort of violence against women, but it happens. When the NRL condones violence against women by allowing a perpetrator to play at the highest level of the game in this country and to be a role model for young men, it is sending the wrong message to young men and young women in our community. Attitudes must change. We must also change the power dynamic between men and women in our society if we are to stop violence against women.

I thank the Government for allowing this legislation to be debated before Parliament rises. It is important that this bill be passed now. I urge the Government to continue along this reform path. I also urge it to put more resources into programs designed to stop violence against women. We need more resources to address this issue. Police officers, who must respond to domestic violence incidents, need more training. That is no criticism of police officers; they do an outstanding job. However, the job is tough and they need continuous training. They also need to hear from victims of violence if they are to understand how they can best support them, if they are to ensure that both women and children get the justice they deserve, and if we are to stop violence against women.

The Hon. SOPHIE COTSIS [10.11 p.m.]: I note that the Opposition does not oppose the Criminal Procedure Amendment (Domestic Violence Complainants) Bill 2014. The Hon. Helen Westwood is very passionate about this issue and she understands it. She was a member of the Standing Committee on Social Issues when it inquired into domestic violence trends and issues in New South Wales in 2011. The committee made a number of recommendations and the Government provided a response. However, it has been slow in delivering what it promised.

The Government said it would look at a whole-of-government approach to dealing with domestic violence, particularly violence directed at women. As my colleague the Hon. Helen Westwood said, we need funding to address this issue and the Government must prioritise public policies dealing with domestic violence. As I said, the Opposition does not oppose this bill, which has as a primary objective allowing police to use recorded video interviews of complainants in proceedings dealing with domestic violence offences instead of written statements or oral evidence.

The Hon. Trevor Khan: Some of the legislation was introduced before the report was completed.

The Hon. SOPHIE COTSIS: I am happy to provide a critique of what this Government has not done and the facilities it has closed.

The Hon. Trevor Khan: How dare you say that.

The Hon. Catherine Cusack: Ignore him, Sophie. Keep going.

The Hon. SOPHIE COTSIS: I will. As the Hon. Helen Westwood and other members have said, one woman dies every week in this State as a result of domestic violence. That is appalling. It means that 52 women die each year as a result of domestic violence. A terrible tragedy occurred in the past couple of days in south-west Sydney. White Ribbon Day, which will be observed next week, is a call to men to stand up against violence. We are asking our partners, husbands, brothers and male friends to say no to violence against women. This morning I attended the third annual White Ribbon breakfast organised by the Finance Sector Union and Westpac. My colleague the Hon. Mick Veitch also attended the breakfast along with a couple of hundred union members and other Westpac staff. It is heartening and very important to see the corporate sector raising the issue of domestic violence and the need for men to stand up against it. We must change attitudes and behaviour.

We must teach our children to respect each other from a very early age; we should start when they are in kindergarten or preschool and primary school. As a mother of two young children—a boy and a girl—I am

very conscious that they must understand the importance of respecting one another. We must spread that message; we must change attitudes. We must ensure that children respect each other from a young age—young males must respect young females and vice versa. The Hon. Helen Westwood referred to footballers and other famous people. Just because they are famous and are in the limelight does not mean they have a licence to step outside society's boundaries. They are role models and they must stand up and say no to violence against women.

I hope that the important amendments in this bill will reduce the distress experienced by victims of domestic violence when they seek redress through the courts. Unfortunately, it does not come anywhere near providing the fundamental reforms that the Opposition believes are necessary, including the establishment of a specialist domestic violence court. The statistics about the incidence of domestic violence are stark. Last year more than 28,000 domestic violence incidents were recorded, and they were overwhelmingly perpetrated against women. Women in New South Wales are more than twice as likely as men to experience domestic violence. Domestic violence costs the New South Wales economy \$4.5 billion a year and addressing it requires a comprehensive whole-of-government approach. This bill contains amendments that should assist victims to access justice. The offences to which it applies are those referred to as domestic violence offences within the meaning of the Crimes (Domestic and Personal Violence) Act 2007.

The bill provides that recorded statements and interviews made by the police with a complainant, with the complainant's informed consent and carried out as soon as practicable after the commission of the offence, will be able to be played in court instead of the complainant being required to give oral evidence. The complainant will still be available for cross-examination and re-examination and may give evidence orally. That is very important and I commend the Government for including that provision. I heard what the Hon. David Shoebridge said about this issue, but when I have spoken to victims' groups or to victims themselves, they have told me that one of their frustrations is that they must continually repeat their story and it is very distressing.

Under this legislation, a defendant will be prohibited from possessing any video recording of the complainant. That is an important protection for the complainant, because as the recording may be made almost immediately after an incident has occurred there is a risk that the defendant will use it in a demeaning way. The rules of evidence regarding irrelevant or unfairly prejudicial evidence and admissibility will still apply. This bill should make it easier and less stressful for victims of domestic violence to withstand the trauma of court proceedings. Further, the bill will hopefully lead to more victims coming forward and, even more importantly, fewer victims wanting to drop proceedings. This is really important. I would like to see the figures in the next year. Domestic violence is still an under-reported crime. One of the factors that lead to domestic violence being under-reported is the hesitancy of victims to come forward. They doubt that they will receive justice from the justice system. While we believe that more action must be taken than just what is in this bill, we nevertheless support it. We thank the Government for what it is doing, but note that we all need to do more.

The Hon. PAUL GREEN [10.21 p.m.]: My colleague Reverend the Hon. Fred Nile has already spoken in debate on the Criminal Procedure Amendment (Domestic Violence Complainants) Bill 2014 so my contribution will be brief. I will reflect on the bill because, like many other men in this House, it is a passion of mine to stand up and declare that there is no excuse for domestic violence. I note the contribution of the Hon. Helen Westwood and her comments about culture change. There does need to be a culture change, and it needs to start at a grassroots level. It is certainly my experience that hurt people hurt people. Unless we deal with the kids who have been hurt by their parents, they will become the parents who hurt their kids. Sadly, it is an intergenerational problem. We must stop it at the grassroots by addressing some of the issues at that very basic level to prevent our kids from becoming hurt people. That might go some way towards stopping domestic violence.

The Hon. Sophie Cotsis talked about domestic violence being an under-reported crime. We dealt with that issue when speaking about the adoption laws introduced by the Hon. Pru Goward, the former Minister for Family and Community Services. Women were being effectively penalised after they had been beaten up in that their kids were taken from them because they were deemed to be living in an unsafe place. So the women copped it twice: They not only got beaten up by their partner but also lost their kids because they were living in an unsafe environment. If we can get those women out of their unsafe environments then the kids can remain with them. We must not punish those women twice.

There is no doubt that some good work is being done in this area. The Hon. Sophie Cotsis mentioned the more than 28,000 cases recorded last year and the \$4.5 billion that domestic violence costs the New South Wales economy. It is a no-brainer that much work remains to be done in this area, and I am constantly amazed

that we are not taking the necessary steps. Action must be taken on alcohol abuse. Alcohol abuse changes people who would not normally be violent. They turn into monsters after becoming intoxicated or coming under the influence of addictive drugs. They are not normally like that. Sadly, the by-product of some of those behaviours is domestic violence.

I will conclude by telling a story from my local area. There is a domestic violence hotspot in my region, with about 500 cases reported when I was mayor. Alcohol was an influential factor. When a big liquor outlet—Dan Murphy's—applied to build a store smack-bang in the middle of east Nowra the police, the council and the local wraparound services all said no. It was not the best place for that development; it is a hotspot. However, the development is now underway and some cement walls have been built. My children have noticed this. We were talking about the development and they asked, "What is that?" We told them it was Dan Murphy's. Even our kids had the foresight to say, "Why would you put that there, Dad?" I said, "Well, we tried to fight it."

Who allowed that development smack-bang in the middle of that hotspot of social vulnerability? It was the Land and Environment Court of New South Wales. The court overruled the council and the police, who indicated that this was not the best place to locate the development. But the court overruled the wraparound services and the development went ahead. I could not believe it; it is ridiculous. A corporation might hand out some money for services for victims of domestic violence, but rather than mopping up the mess after it is made it would have been prudent not to put the development there in the first place.

If we are serious about dealing with domestic violence we must have preventative initiatives. Prevention is better than cure. We will shortly be discussing mental health and the Mental Health Amendment (Statutory Review) Bill 2014. We have heard of terrible cases where a person suffering from mental health issues has wiped out their entire family because that person did not know how to deal with those issues; they simply took it out on their family members. After news items on television about depression, suicide and so on there is often the announcement, "If you have a problem with depression or suicidal thoughts then please ring this number." Why do similar announcements not follow news stories about domestic violence? It could say, "Hey, if you have an issue with this or are struggling in this area then please call this number and do something to help yourself and your family and change the situation." Why do we not see a list of helpline numbers?

We need to find solutions to this problem. At the end of the day, there is no better solution than holding to account those people who commit offences. There is no excuse for domestic violence. We need to make the perpetrators accountable and, if the evidence helps us to do that, then so be it. We must ensure that we protect women.

The Hon. NIALL BLAIR (Parliamentary Secretary) [10.26 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank all honourable members who contributed to debate on the Criminal Procedure Amendment (Domestic Violence Complainants) Bill 2014—the Hon. Adam Searle, Mr David Shoebridge, Reverend the Hon. Fred Nile, Dr Mehreen Faruqi, the Hon. Helen Westwood, the Hon. Sophie Cotsis and the Hon. Paul Green. I will start by addressing some of the issues raised by Mr Shoebridge on behalf of the Women's Legal Services NSW. I am advised that those issues and others have been raised directly with the Attorney-General's office and he has provided a direct response to them. However, I will address some issues so they are on the record tonight before we move into the Committee stage.

First, as to the adequate recognition of psychological harm, the video recording is intended to capture the complainant's statement as well as their demeanour immediately after the domestic violence incident. This is likely to be a more accurate reflection of any psychological harm that the complainant has experienced than could otherwise be conveyed in evidence given many months after the offence, when the complainant may be subject to intervening pressure from the defendant to withdraw or deviate from his or her statement. The reforms are intended to support the domestic violence complainant and encourage them to participate in the criminal justice process. Having the video evidence of their statement and demeanour taken at the scene of, or soon after, the incident to back up their story will help complainants to find the strength to stand up to their attacker and support their participation in the court process.

On the issue of police training, the NSW Police Force will develop a comprehensive training package to ensure that police officers are trained properly in using the cameras, conducting structured interviews in compliance with the rules of evidence, and managing the service requirements for represented and unrepresented defendants. This education and training package will be rolled out gradually following commencement of the reforms. On that note—and this goes to some of the issues raised by the Hon. Helen

Westwood—I know that the police take domestic violence very seriously and are doing outstanding work in this area. I attended the New South Wales Rotary Police Officer of the Year Awards two weeks ago with the Minister for Police and Emergency Services. The runner-up for Police Officer of the Year was a domestic violence liaison officer. We heard about the types of harrowing cases that those officers work with, and I have every confidence that the training provided to police in this area will be second to none.

Mr David Shoebridge also raised the issue of editing video footage. As currently occurs with written statements, the recording will be edited prior to its being played in the courtroom. Witnesses will not be provided with transcripts of the video recording. However, prosecutors and informants will continue to be encouraged to conference victims with the aid of the recordings prior to a defendant hearing. If matters are lengthy and complex the police will always have the option of giving an audio copy to the victim.

I turn to the concerns raised by Dr Mehreen Faruqi. The first concern is how the evidence of vulnerable persons is captured. The provisions recognise the role of the complainant in deciding how their evidence is to be given. Their wishes must be taken into account, but will not determine whether the video is played in court. This decision will rest with the prosecutor or the Director of Public Prosecutions in indictable matters. In making this decision the prosecutor will take into account any evidence of intimidation of the complainant by the accused and the objects of the Crimes (Domestic and Personal Violence) Act 2007. The bill recognises that the wishes as expressed by the complainant may not always be their own and may be influenced by the very coercive behaviour that has led to the criminal proceedings. It is appropriate that a prosecutor with this knowledge takes it into account when deciding on what evidence is used.

The reforms do not increase the risk of the domestic violence complainant being charged with giving false evidence. The bill applies the same offence provision as currently applies to written statements. That issue will be addressed further in Committee. The bill requires recorded statements to contain the age of the complainant and an endorsement of the truth of the representation, as if it were a written statement. Police will obtain this information verbally from the complainant at the start of the recording. Statements will be taken with the informed consent of the complainant. It will be an offence if the recorded statement given as evidence in proceedings contains a matter that is false. The penalties proposed mirror those that already apply to written statements.

The reforms are intended to support the domestic violence complainant and encourage them to participate in the criminal justice process. Having the video evidence of their statement and demeanour taken at, or soon after, the scene of the incident to back up their story will help complainants find the strength to stand up to their attacker and support their participation in the court process. Dr Mehreen Faruqi raised concerns about whether the evidence could be exaggerated. I note that in some cases police may consider it is more practical to take a statement at the station, away from the defendant and any children. This flexibility ensures that police can take a statement when the complainant is properly able to give a statement. It is intended that this provision and the training of police officers will address the issue raised by Dr Mehreen Faruqi.

The bill amends the Criminal Procedure Act 1986 to enable domestic violence complainants to give their evidence in chief by way of a prior recorded video or audio statement in criminal proceedings for a domestic violence offence. This implements a key reform identified by the NSW Domestic Violence Justice Strategy 2013-2017. This strategy is aimed at improving the criminal justice system's response to domestic and family violence. This bill demonstrates the high priority we place on holding perpetrators accountable for their offending and on empowering victims of domestic violence in the criminal justice process.

Throughout the debate members have made reference to the Standing Committee on Social Issues inquiry into domestic violence issues and trends in New South Wales. I am proud to have chaired that committee and that inquiry. I am even more proud to be part of a Government that is responding to some of the recommendations of that inquiry by introducing another piece of legislation that will go a long way to ensuring that victims of domestic violence are supported not only in the way the police address domestic violence but also in the justice system. I commend the Attorney General and Ministers for the whole-of-government response to domestic violence. 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

TEMPORARY CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole.

Mr DAVID SHOEBRIDGE [10.35 p.m.]: I move The Greens amendment No. 1 on sheet C2014-166:

No. 1 **Admissibility of recorded evidence**

Page 8, schedule 1 [19], proposed section 289I (1), lines 2 and 3. Omit "and the opinion rule (within the meaning of the *Evidence Act 1995*) do". Insert instead "(within the meaning of the *Evidence Act 1995*) does".

I indicate that I will not be moving The Greens amendment No. 2 on the same sheet. Amendment No. 1 provides that the recorded statements can be admissible notwithstanding the hearsay rule, but it will not provide that the recorded statements are admissible notwithstanding the opinion rule. I note that this amendment is presented after representation from the New South Wales Bar Association, which noted that new section 289I (1) is readily supportable to the extent that it proposes that recorded statements be admissible notwithstanding the hearsay rule. It will be necessary to create an exemption for the hearsay rule in order to permit the recorded evidence of the previous representation to be admitted, so absent that exemption for the hearsay rule you could not permit the recorded statement.

For reasons I stated earlier, The Greens acknowledge that there is a very powerful argument to admit the statement in that form and the Bar Association also recognises that. The association has stated there are sound policy reasons to create a hearsay exception in relation to the evidence. I accept and adopt the association's concerns that there is no justification whatsoever for creating a special exception to the opinion rule that would otherwise apply by dint of section 76 of the Evidence Act. The opinion rule set out in section 76 of the Evidence Act applies to both civil and criminal proceedings. It excludes evidence of the person's opinion as distinct from evidence of fact. Opinion can be admitted where the opinion has a sound and accepted professional basis, and which is adopted by peers and supported in fact. However, lay opinion is not ordinarily admissible in either civil or criminal proceedings.

An example would be if a complainant gave opinion evidence that the accused suffered from a particular mental illness, which with the exception proposed under new section 289I would be admissible. Unless the complainant was a psychiatrist or a psychologist with accepted grounding and training one cannot see how that opinion evidence would assist. It ought to be excluded under the basic rules of evidence; however, under new section 289I it would be admissible.

The Hon. Dr Peter Phelps: But contestable, surely.

Mr DAVID SHOEBRIDGE: There are sensible provisions within the Evidence Act 1995 that allow for the admission of lay opinion evidence in narrowly confined circumstances. Section 78 of the Evidence Act provides:

The opinion rule does not apply to evidence of an opinion expressed by a person if:

- (a) the opinion is based on what the person saw, heard or otherwise perceived about a matter or event; and
- (b) evidence of the opinion is necessary to obtain an adequate account or understanding of the person's perception of the matter or event.

In other words, lay evidence that the accused appeared very angry and aggressive and it played out in certain ways is an opinion but it would be admissible under section 78 because it would be necessary to obtain an adequate account or understanding of the person's perception of a matter or event. That is because the complainant's response in those circumstances would be informed by their opinion that the person was behaving with extraordinary aggression. There is no policy justification for extending the exemption on opinion evidence beyond that which is contained in section 78. The Bar Association said in the summary paragraph of its representation:

There is no policy justification for creating a special exception to the opinion rule for opinions expressed by a complainant in relation to domestic violence. Of course, such opinions may fall within the scope of such a provision as s 78 (and, in such circumstances, the opinions *would* be admissible) but, if they do not, they should not be admissible. The evidence admitted pursuant to this provision should be limited to evidence of facts, not opinion unless the opinion is otherwise admissible.

I heard the earlier interjection from the Government Whip that opinions would be contestable. They may well be, but if the opinion is not founded on the basis of any well-accepted academic or practical learning nor any rational basis it should not be before the courts to infect the fact-finding mission of the judge or jury. It would be of no assistance to anybody to put the accused to the burden of getting expert opinion to debunk the opinions put by the complainant when those opinions are not well founded and would not otherwise be admissible. I note that exclusion provisions in other parts of the Evidence Act mean that judges could be called upon in certain circumstances to exclude the opinion evidence. That is a second-rate response that could be obviated by the Government adopting—as I can tell the Parliamentary Secretary is just about to do—The Greens amendment No. 1.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [10.43 p.m.]: The Opposition supports The Greens amendment No 1. We also accept the need to abrogate the hearsay rule to ensure that the evidence can be admitted in the form provided for in the bill but we do not accept the need to abrogate the opinion rule as the bill currently provides. No justification for that has been forthcoming. I suspect it may have been an infelicity in the drafting and a slight case of overreach. In that case we should correct it and limit the provision to the policy justification the Government advanced—that is, the need to simply make sure that evidence in recorded form is able to be admitted.

The problem with abrogating the opinion rule is that it would permit into evidence assertions not necessarily of fact but of conclusions that are not otherwise soundly based in factual assertions. That would be unhelpful to the court, may well complicate matters and would do no justice to the cause of victims of domestic violence. For those reasons we support the amendment. We also note and support the withdrawal of The Greens amendment No. 2. A host of provisions in legislation already provide penalties for the giving of false evidence, not the least of which is the one contained on page 4 of the bill that provides for not only the same penalties as The Greens amendment but also higher penalties on indictment. We congratulate The Greens for that withdrawal and support amendment No. 1.

The Hon. NIALL BLAIR (Parliamentary Secretary) [10.45 p.m.]: The Government does not support The Greens amendment No. 1. The bill introduces a new part 4A into the Criminal Procedure Act 1986 that is tailored specifically to the unique context of domestic violence offending; however, the provisions have been modelled in part on the vulnerable persons provisions that we know work well to allow children or cognitively impaired persons to give evidence-in-chief by previously recorded video statements.

New section 289I replaces existing section 306V of the vulnerable persons provisions in part 6 of the Criminal Procedure Act 1986 and maintains consistency with the exceptions to the Evidence Act 1995 for recorded statements. It is understood that the exception has not been subject to debate or judicial consideration in the context of the vulnerable persons provisions. The reforms do not affect the court's general discretion under the Evidence Act 1995 to refuse to admit or to limit the use of evidence in appropriate circumstances. The reforms will be monitored to ensure they meet the intended policy objectives. For those reasons we do not support The Greens amendment.

Mr DAVID SHOEBRIDGE [10.47 p.m.]: I listened closely to the Parliamentary Secretary's contribution. He did not put forward a single reason to suggest why the exception to the opinion rule is sensible. He did not give one illustrative example or one practical reason. All he said was that the provision is a cut and paste of another provision that has not yet been tested. That is not a rational reason for putting it forward.

The Hon. Adam Searle: It is not very compelling.

Mr DAVID SHOEBRIDGE: It is far from compelling. Indeed, simply saying that judges will sort it out because judges can use the discretion contained in sections 135, 136 or 137 to exclude the evidence is kicking the problem down the corridor to an already overburdened judiciary. That is a poor response from the Government in what has otherwise been a considered response to the issues raised in the bill.

Question—That The Greens amendment No. 1 [C2014-166] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2014-166] 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. Niall Blair, on behalf of the Hon. John Ajaka, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Niall Blair, 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.

MENTAL HEALTH AMENDMENT (STATUTORY REVIEW) BILL 2014

Second Reading

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [10.51 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.

I am pleased to introduce the Mental Health Amendment (Statutory Review) Bill 2014 on behalf of the New South Wales Liberals and Nationals Government. The purpose of this bill is to amend some sections of the Mental Health Act 2007 to reflect contemporary language, improve operational clarity and oversight arrangements, and align with best practice in mental health.

The Government has undertaken an extensive roots and branches review of the legislation, along with extensive consultation. Eight community consultation forums took place across New South Wales. Over 500 people attended these forums and 95 written submissions were received, including from consumers, families and carers, health professionals, service providers, carer networks, emergency services, academics and government agencies.

The review and consultation were undertaken to ensure that the Act is fit for purpose and offers adequate protections to the rights of those with mental illness in New South Wales, whilst also providing adequate protection to such persons and the community from potential serious harms caused by mental illness.

The outcome of the review was that the policy objectives of the Act remain largely valid and provide an appropriate legislative framework for the mental health system going forward.

Broadly, the view expressed during the consultation process was that the structure of the Act is robust, and on balance the content of the Act is supported.

However, this Government has heard, and acknowledges, the community's clear desire for change, in line with world's best practice and our mental health reform agenda.

The community has stated that there needs to be increased acknowledgement of recovery-focused treatment as a key object of the Act, greater access to emergency mental health care, particularly in rural and regional areas, and improved assistance to consumers and carers to navigate the mental health system.

We have listened.

The bill acknowledges recovery in the treatment of mental illness, and provides that consumers of mental health services actively participate in treatment decisions and have their views and preferences respected as much as possible.

These changes align with current national and international trends toward a more consumer-led approach to mental health treatment.

It is vitally important that an individual with a mental illness is involved in their treatment decisions. This bill proposes to amend section 68 of the Act to add an additional principle of care and treatment, which clarifies that every reasonably practicable effort should be made to obtain the individual's consent to treatment and recovery plans.

Further, the principles of care and treatment will now expressly provide that the capacity of individuals to consent should be monitored. There are unfortunate circumstances where a person with a mental illness does not have capacity to consent to the principles of care and treatment. This Act provides that in these situations, the individual should be supported to understand their treatment and recovery plans.

New South Wales will maintain the concepts of "risk of serious harm" and "no other appropriate care of a less restrictive kind being reasonably available" as the thresholds for involuntary treatment in the Act.

However, in recognition of the importance of individual-led treatment, the bill provides that every effort should be made to obtain the consent of individuals who have capacity, and those who can be supported, when developing treatment plans and recovery plans for their care, and have their wishes considered by clinicians when their treatment plans are being developed.

We have heard feedback from carers that they often feel ignored and frustrated when trying to navigate the mental health system and ensure that their loved ones receive the support and care they need.

We have listened.

Carers and families play a vital role in monitoring, treating and supporting those with a mental illness. This bill recognises the importance of carers and families in these roles and strengthens the provisions relating to their role within the Act.

The aim of the changes is to enable greater carer involvement in treatment decision-making and provide better dissemination of information.

This includes being entitled to provide input to clinical decisions about their loved ones.

Further, the bill clarifies that the current rights of primary carers regarding access to information will apply when a consumer is on a community treatment order.

The primary carer provisions in the Act at section 71 will be amended, including replacement of the term "primary carer" with the term "designated carer" to reflect the fact that this position does not always provide a primary care role for the individual.

Consumers will now be able to nominate up to two designated carers and specify their access to information. This reflects the common occurrence that people with a mental illness often have more than one carer providing them with support.

In addition, the bill identifies a new type of carer at section 72A: the "principal care provider", who is the person primarily responsible for providing care to the individual.

The principal care provider will be entitled to receive information, such as admission and discharge advice, important for their role in supporting the individual experiencing mental illness.

This extends the principles of the Act that require carers to remain informed. Authorised medical officers will be responsible for making reasonable attempts to identify the principal care provider.

All persons in New South Wales have a right to seek mental health treatment; however, the decision to admit a person for treatment is a clinical judgement made at the time of presentation.

During the review some stakeholders raised concerns that, on occasion, there are poor outcomes for persons who are taken to declared mental health facilities and who are not involuntarily admitted, or who are discharged into the community.

The specific concern raised was that the views of others, such as carers, family, and police and ambulance officers, are not always adequately taken into account by the assessing medical practitioners when making decisions regarding involuntary treatment under the Act.

The bill addresses these concerns and the amendment at section 72B strengthens mental health assessment processes by requiring clinicians, when determining whether a person should be detained in a mental health facility, to seek and consider the views of consumers, carers, family members, treating community psychiatrist or general practitioner and emergency service providers, where it is reasonably practicable to do so.

This amendment ensures that, where reasonably practicable, a decision regarding involuntary treatment under the Act is made using a combination of the clinical expertise of the assessing medical practitioner and information provided by those listed above who play a role in caring, treating and monitoring the individual suffering from mental illness.

The bill proposes a new requirement at section 9 of the Act for voluntary patients who have been in a mental health facility for more than 12 months to have a Mental Health Review Tribunal hearing.

This hearing will review the case and determine whether the person has the capacity to consent to stay as a voluntary patient, and whether the patient is likely to benefit from further care or treatment as a voluntary patient.

It is vitally important that all patients, whether voluntary or involuntary, know their rights. Under the current legislation, all involuntary patients are to be provided with a statement of rights.

Under the proposed new section 74A all voluntary patients will also be provided with a statement of rights that articulates their rights regarding the provision of treatment, access to information and advocacy, and appeal mechanisms.

We have heard feedback about the issues faced by emergency services personnel at the coalface when trying to ensure that those requiring mental health care receive the treatment they require.

We have listened.

The bill clarifies functions and increases access to timely assessment and emergency mental health care, particularly in rural and regional New South Wales.

Under proposed new provisions at section 19A and section 27A of the Act, more clinicians will be empowered to undertake assessments under the Act including medical practitioners from another facility or local health district, and accredited persons.

Accredited persons are experienced and specially trained and appointed health practitioners who may be nurses, psychologists or social workers who supplement the numbers of doctors in emergency departments and community settings.

The issue of accredited persons undertaking Form 1 assessments—for the continued detention and examination at a declared mental health facility—was raised repeatedly during consultations as a possible solution to address access equity problems, particularly in regional and rural areas.

Another way we are increasing access to timely assessment and emergency mental health care is by increasing the numbers of declared mental health facilities and the use of video-link technology to facilitate assessments under the Act and prevent unnecessary long-distance transports.

Under section 27A of the Act, where authorised medical officers who are not psychiatrists are making decisions via audiovisual link, or accredited persons are making decisions, for example determining whether a person is mentally ill or mentally disordered, they must consult with a psychiatrist if it is reasonably practicable to do so.

This will ensure appropriate governance arrangements and clinical supervision of practitioners occurs when mental health assessments are undertaken under the new provisions of the Act.

The New South Wales Government is working to ensure prompt action to increase the number of declared mental health facilities across New South Wales, particularly in rural and regional New South Wales.

This will ensure those who face mental ill-health and their carers do not have to travel as far to access mental health treatment. I would like to thank the NSW Police Force and NSW Ambulance for working with the Ministry of Health to identify priority sites for inclusion as declared mental health facilities.

One of the most heartbreaking elements of mental illness is its effect on young people in our society.

The bill strengthens provisions with regard to young people being treated under the Act.

This includes requiring that all young people—those who are 16 years and under—must be represented by a lawyer when they are subject to a Mental Health Review Tribunal hearing.

If legal representation is not available a hearing may proceed at the discretion of the Mental Health Review Tribunal where it is deemed to be in the person's interest to proceed.

This may include, but not be limited to, where the tribunal would be discharging the young person at the hearing and waiting for legal representation would unduly delay the release of that young person.

The bill also provides that when electroconvulsive therapy is proposed for any person under 16 years of age, an assessment by a psychiatrist with child and adolescent expertise must be provided.

It is important to note that electroconvulsive therapy for people under 16 years of age is used very rarely, but when it is, we want to ensure that a psychiatrist with expertise with young people undertakes an assessment of the patient.

Further, the bill requires the Mental Health Review Tribunal to conduct a hearing that considers the appropriateness of the treatment for a young person, even if the young person has provided informed consent for the treatment.

It is important to note that whilst the Mental Health Act may be an appropriate mechanism to effectively deal with a number of issues in mental health, in many cases such issues can be more appropriately dealt with through policy or regulations, both of which offer more flexibility and capacity for amendment than legislation.

In addition, legislation is often not the most appropriate mechanism for promoting best practice and clinical standards.

As a result, some issues raised during the review are being addressed through policy mechanisms and policy is also being used to support the amendments made to the Act.

An example of one such issue where it was determined that legislative changes were not required is the current ban on psychosurgery within the Act.

Extensive consultation found broad support for retaining the current prohibition on psychosurgery within the Act and for retaining the current process whereby regulatory exemption to the ban may occur for certain procedures and conditions.

Should evidence emerge in the future that supports the efficacy of any psychosurgery procedure in the treatment of mental illnesses or mental disorders, regulatory exemption and supporting policy can be considered.

This Government is committed to reforming the mental health sector and aligning it with world's best practice. We are committed to future-proofing the system by building the capacity of the workforce, strengthening clinical and legal oversight and governance of decisions made under the Act. We will increase access to timely assessment in more locations and provide an opportunity for the people experiencing mental illness to drive their own health care and outcomes.

I commend the bill to the House.

The Hon. MICK VEITCH [10.52 p.m.]: I lead for the Opposition on the Mental Health Amendment (Statutory Review) Bill 2014. I advise the House that as the clock on this term of government is ticking away I shall be brief. Most of what needs to be said in my contribution has already been put on the record in the other place by the shadow Minister for Mental Health, Barbara Perry, who made a rather eloquent contribution. The Opposition will not be opposing the bill but we will move an amendment to the bill in the Committee stage. I would like to place on my record my thanks to the Minister.

The Hon. Matthew Mason-Cox: Place on your record?

The Hon. MICK VEITCH: Place on the record my thanks to the Minister. One would think that the mimmer over there would know how to keep his mouth shut when I am speaking.

DEPUTY-PRESIDENT (The Hon. Trevor Khan): Order! I ask the member to address his comments through the Chair rather than get distracted by interjections. Things will move along much more quickly if he does so.

The Hon. MICK VEITCH: That is wise counsel. I might take a bit longer with my contribution now. I place on the record my thanks to the Minister. It would appear that other Ministers in the Cabinet are not keen for me to place that appreciation on the record, which is a shame. The shadow Minister asked the Minister a number of questions about this bill and she said that she received "good, open and fair responses" which were helpful to the Opposition in coming to a position on the proposed legislation.

It is my understanding that extensive consultation has taken place in relation to matters that form part of the bill. The extensive consultation process began in March when the Government issued a discussion paper, which raised some pertinent issues around the five-year statutory review. As a result of that, stakeholders, consumers, carers and many other people put in submissions—I believe more than 95 submissions were received—and a number of face-to-face consultations took place. In the spirit of getting the best outcome, perhaps consultation should take place on the regulation and the implementation of the provisions in the bill. I am sure the Minister will take that on board.

The bill contains four main sections. The first section of the bill relates to care, capacity and consent, which is important to supported decision-making. The bill emphasises recovery and listening to the consumer and having the consumer involved in his or her own treatment plan. There is also more emphasis on carers being involved as part of the treatment. The bill enhances acknowledgement of the important roles and rights of designated carers and principal care providers, particularly in relation to the right to be informed, consulted and involved in discharge planning and supporting the consumer in the community. Consumers can now nominate up to two persons who can access relevant information about their care. Further, initial detention assessment processes now require clinicians to seek and consider the views of carers and family members.

The bill provides that all reasonable efforts will be made to consider the wishes of the consumer and to obtain their consent to treatment and recovery plans. Consumers who are not capable of providing consent will be supported to participate in decision-making and treatment decisions. The bill introduces the terms "designated carer" and "principal care provider" and the second section of the bill relates to designated carers and principal care providers and to strengthening the rights of carers and families. A "designated carer" is defined as the guardian or parent of the patient. If the person is over the age of 14 years and there is no designated carer nomination in force, the designated carer is the spouse of the patient—if the relationship between the patient and spouse is close and continuing—or any individual who is primarily responsible for providing support or care to the patient, or a close friend or relative of the patient. A "principal care provider" is defined as the individual who is primarily responsible for providing support or care to the person.

In summary, a designated carer is the person appointed to the consumer as such, or a person who has a guardian role. The principal care provider is to give status to another person who may be providing care and support to the consumer who might otherwise be bypassed and not be appropriately informed, consulted or involved in recovery plans, discharge, hearings or the like. One area of concern is that an authorised medical officer of a mental health facility or a director of community treatment may determine who is the principal care provider of a person.

The third section of the bill relates to strengthening protection for consumers, which is of concern to a number of us on this side of the House. The new requirement for voluntary patients must be reviewed by the Mental Health Review Tribunal [MHRT] at least once every 12 months of continuous voluntary and involuntary

residence in mental health facilities. A psychiatrist must be consulted in situations where authorised medical officers are making decisions via audiovisual link or accredited persons are making decisions regarding detention and involuntary treatment. Provisions for young people, 16 years and under, have been strengthened. Any young person requiring a MHRT hearing will be represented by a lawyer. Any proposal for electroconvulsive therapy [ECT]—a number of us in this place have received emails about ECT and the way it is dealt with in the bill—for people under 16 years of age will require an assessment by a psychiatrist with child and adolescent expertise. The bill also requires the MHRT to arrange a hearing to review the appropriateness of the proposed ECT.

The fourth section of the bill relates to increased access to assessment and mental health care. The bill increases access to timely assessment and emergency mental health care, particularly in rural and regional New South Wales. More clinicians will be empowered to undertake assessments, including accredited persons and authorised medical officers from another facility or local health district. I am advised that consultation found there was broad support for retaining the current ban on psychosurgery and for retaining the current regulatory mechanism concerning these procedures. As I stated at the outset, we will not be opposing the bill but we will move an amendment in the Committee stage. I again place on the record my appreciation for the way the shadow Minister has dealt with this bill.

The Hon. PAUL GREEN [10.58 p.m.]: On behalf of the Christian Democratic Party I make a contribution to debate on the Mental Health Amendment (Statutory Review) Bill 2014. The objects of the bill are to amend the Mental Health Act 2007 as follows: to include in the principles for the care and treatment of people with a mental illness or mental disorder a requirement to consider the views and expressed wishes of those people in developing treatment and recovery plans and a requirement relating to obtaining consent, where reasonably practicable, to such plans; to extend the reach of existing requirements to consult with and inform carers of persons with a mental illness or mental disorder by enabling a person to nominate more than one carer for that purpose and recognising a category of individuals who are principal care providers; and to enable a voluntary patient to be detained in a mental health facility for up to two hours for the purpose of a review by a medical officer to ascertain whether the patient should be detained in the facility for assessment. Further, the bill will provide for alternatives to personal examination or observation of a person by a medical practitioner where such examination or observation is not possible for the purpose of determining whether to detain the person in a mental health facility for assessment or to hold a mental health inquiry.

The objects of the bill are intended to enable community treatment orders to be made in additional proceedings and to make further provision about consultation on, and notice of, community treatment orders; to tighten the requirements to be met for administering electroconvulsive therapy to persons under the age of 16 years; to amend provisions relating to non-psychiatric treatments to remove provision for voluntary patients and for greater consistency with similar provisions in other legislation; to require persons under the age of 16 years to have legal or other representation in any proceedings before the Mental Health Review Tribunal, which is referred to in the bill as the tribunal; and to make other minor amendments, to update references and expressions, and to enact provisions of a savings and transitional nature consequent on the enactment of the proposed Act.

The Christian Democratic Party notes that the purpose of this bill is to amend some sections of the Mental Health Act 2007 to ensure it is fit for purpose, reflects contemporary language, improves operational clarity and aligns with best practice. The bill can be supported in four situations that include supported decision-making. The bill provides that reasonable efforts will be made to consider the wishes of the consumer and obtain their consent to treatment and recovery plans. Consumers who are incapable of providing consent will be supported to participate in decision-making and treatment decisions. The second situation is in the area of strengthening the rights of carers and families. Consumers will be able to nominate up to two persons who will be able to access relevant information about their care. The bill also strengthens initial detention assessment processes, including the requirement for clinicians to seek and consider the views of carers and family members.

The third situation is strengthening of protection for consumers when authorised medical officers who are not psychiatrists are making decisions by audiovisual links or when accredited persons are making decisions regarding detention and involuntary treatment. In those circumstances, the authorised medical officers or accredited persons must consult with a psychiatrist. There is also a new requirement for voluntary patients who have been in a mental health facility for up to 12 months to have a hearing before the Mental Health Review Tribunal to review the case. In addition, all voluntary patients are to be provided with a statement of rights, giving them the same rights as those afforded to involuntary patients under the current legislation.

The bill strengthens provisions with regard to young people 16 years and under. Any young person who is subject to a Mental Health Review Tribunal hearing will be represented by a lawyer. Any proposal for electroconvulsive therapy to be administered to a young person will be subject to assessment by a psychiatrist with child and adolescent expertise, even if the young person consents to ECT. Furthermore, the bill requires the Mental Health Review Tribunal to conduct a hearing to consider the most appropriate course for the use of ECT.

The fourth situation relates to increased access to assessment for mental health care. The bill increases access to timely assessment and emergency mental health care, particularly in rural and regional areas of New South Wales. More clinicians will be empowered to undertake the assessments, including accredited persons and authorised medical officers from another facility or local health district. I have had some experience in mental health institutions where I have looked after patients from all walks of life. I have also seen electroconvulsive therapy being administered. Thank God it is not as barbaric as portrayed in some films we have seen about mental illness. My understanding is that there is no recorded recent case of a person under the age of 16 years undergoing ECT in New South Wales and that there have been only four cases of persons over the age of 16 years undergoing ECT in recent times, which shows that ECT is not a prevalent treatment.

Quite often, ECT is a last resort after drugs, treatments and psychology—everything that can be put at the disposal of a patient to try to help them alleviate their psychosis or mental health distress—has been administered. It is good to note there have been no cases of the use of electroconvulsive therapy on a person under the age of 16 years, as noted by the review. Amazingly, one in six people or more will suffer some form of mental ill health. It is great that mental health treatment is the subject of this bill after having been on the agenda for a few years. The National Disability Insurance Scheme also has been on the agenda for a few years. The bill deals with very important issues. Although it is easy to detect when someone is unwell because they have the flu or when someone is tired because they yawn, it is difficult to diagnose and treat a psychosis that is internal. It is very tricky. When it comes to health care, the key principle is that every case—physical or mental—is different.

It is great that the legislation is being updated. As noted by the Hon. Mick Veitch, the Christian Democratic Party has received representations over great concerns relating to ECT. I believe the bill addresses those issues. I am sure the Minister will deal with those concerns in his reply and how the Government intends to respond. The Christian Democratic Party commends the bill to the House.

The Hon. LYNDIA VOLTZ [11.06 p.m.]: On 4 September 2012 in this House I moved a motion, which was passed by this House, following the tragic murder of Nick Waterlow and Chloe Waterlow at the hands of a family member. The motion called on the Government to conduct a public inquiry into the current definition of "mentally ill persons" in section 14 of the Mental Health Act 2007 and investigate wider calls for a move to best-interest capacity-based mental health legislation to ensure that treatment of people with mental illnesses is not restricted due to their decision-making incapacity.

Although the Government undertook the statutory review of the Mental Health Act, which is what the bill before the House will amend, the call by the Legislative Council regarding a public inquiry has been ignored. No public review of the definition of a mentally ill person or a wider call for a move to best-interest capacity-based mental health legislation, as requested by the Legislative Council, has been undertaken by the Minister. The legislation before the House today reflects that. It is worth referring to the Antony Waterlow case and what the Coroner's Court said in relation to that case. The Coroner's Court notes the comments of Dr Giuffrida, who stated:

Mr Waterlow's mental illness would in my view have been considered to be very to extremely severe given that it was likely that he was constantly tormented by derogatory, threatening and commanding hallucinations, which reinforced his delusional fears and caused him to entertain violent thoughts of harming or killing members of his family and two friends. He was in any event grossly disabled by it in his ability to function at all competently. That is, in effect, as severe as paranoid schizophrenia becomes.

Dr Ryan agreed with Dr Giuffrida on this point and stated, "I think most psychiatrists would believe him to have been severely unwell." The Coroner noted that the history showed that there is no doubt that for many years Antony suffered an increasingly debilitating mental health condition. His quality of life was severely restricted. In the 18 months prior to the events of 9 November 2009 he was living in a boarding house and was receiving a Newstart allowance due to having been unemployed for some years. He was in a state of constant paranoia and believed that he could be killed at any time. Antony was in a state of constant fear and he hardly slept, fearing that when he was asleep he was being sexually assaulted and that his dreams were being manipulated.

To say that Antony's existence was miserable as a consequence of his condition would hardly be an adequate description. That it could have been ameliorated significantly by medication is, as the situation

following the deaths of Nick and Chloe has shown, undoubted. I have been referring to a report by the Coroner, who describes a situation in which people with mental health illnesses are living. That is why section 14 of the Mental Health Act needed a public review, a public debate and a public airing of why the Government does not see fit to change that section of the Mental Health Act. The Coroner continued:

The evidence available shows that in the two years prior to Nick and Chloe's death Antony had no contact with mental health professionals in spite of his apparently worsening mental health. ... if the condition results in aggression—

this is schizophrenia—

it is usually expressed to family, friends or others who are close to them and rarely to strangers.

I note that studies in Australia have shown that mentally disordered offenders who commit homicide are more likely to victimise a family member in or at some private residence. The reality is that when a person with a mental illness kills someone it is most likely to be a family member or someone who is close to them and it is most likely to be at the family residence. For that reason people like Antony Waterlow's family and friends went constantly to mental health professionals trying to get some kind of treatment for him for what was an obvious psychosis and fear. Yet because of the legislation and the way that section 14 has been written, they received no help. There was no way that Antony would have been involuntarily sectioned; he was not given his medication and he refused to accept that he had a mental illness. The Coroner said:

In such circumstances the only way that Antony would have the benefit of such medication would be if he were compelled to accept such medication. This would have required the making of orders under the Mental Health Act. This brings us to the question ... is that legislation adequate in order to deal with circumstances such as occurred in this case?

Dr Ryan provided an outline—there are different views about this—as to why he and others within the profession consider that the current system discriminates against persons solely on the basis of their mental health and consequently it is not consistent with the United Nations Convention on the Rights of Persons with Disabilities, which Australia ratified following the enactment of the Mental Health Act 2007. Dr Ryan notes that the Mental Health Act makes no reference to a patient's decision-making capacity. He presumes that this is the explanation for the lack of any mention of that matter in Antony's clinical notes.

Dr Ryan also notes that it is well established at common law, outside the realm of mental illness, that a person with decision-making capacity may refuse medical treatment even if the decision is not sensible, rational or well considered and even if refusal will likely lead to death or serious injury. It is also well established that if a person does not have the decision-making capacity their decision can be overridden, as it will not be taken to reflect genuine free choice. In such cases an application might be made in accordance with the Guardianship Act 1987. According to Dr Ryan:

If instead of suffering schizophrenia, Mr Waterlow had suffered a medical illness, say hypothyroidism, it is likely that the approach to his refusal of treatment would have been quite different. His doctors would have come to any consultation with the presumption that he had decision-making capacity. However, his refusal of treatment, coupled with the knowledge that hypothyroidism may cause cognitive problems that may interfere with an individual's decision-making capacity, would have prompted a formal review of that capacity. If, on this review, he was found to retain decision-making capacity his decision to refuse treatment would have been respected, but if he had been found to lack decision-making capacity, it is likely that the provisions of the Guardianship Act would have been invoked to allow Mr Waterlow access to unconsented treatment.

We know however that at all, or almost all, clinical encounters, Mr Waterlow believed he did not have schizophrenia or any other psychotic illness, and that his perceived experiences of persecution reflected the reality of the world around him. It seems likely that it was on this basis—the delusional belief that he was in fact being persecuted—that he refused antipsychotic medication. If this assumption is correct then it is reasonable to say that with regard to a decision to accept antipsychotics, Mr Waterlow lacked, at least, the ability to use and weigh relevant information as part of the process of making the decision, and as such lacked decision-making capacity as defined by common law.

Based on that analysis, Dr Ryan recommended that consideration be given to amending the Mental Health Act so as to remove the requirement that clinicians make an estimate of a mentally ill person's risk of serious harm and that this be replaced by capacity-based provisions that mirror treatment refusal laws for people without mental illness. I have already noted that there is disagreement within the profession. For that reason this House asked the Minister to undertake a public inquiry into the matter. A motion was passed by this House, but the Minister has chosen to ignore it. The Coroner further said:

The debate within the medical profession, and elsewhere, as to most appropriate tests to be applied in respect of compulsory treatment of the mentally ill is not something that can be resolved by me in this case. That will eventually be a matter for the Parliament.

Unfortunately it is not a matter for the Parliament. Unfortunately we do not have that discussion and that legislation. The Coroner continued:

The evidence before me shows that there are legislative proposals before the Victorian, Tasmanian and Australian Capital Territory Legislatures that provide various models to be considered by those responsible for deciding how best to resolve this difficult issue.

Counsel assisting the Coroner made a number of recommendations, and the Coroner suggested that the first four recommendations be addressed. They have not been addressed as part of this legislation. The recommendations are:

1. An amendment to the Mental Health Act 2007, so that it expressly states that in determining whether to schedule a mentally ill patient pursuant to s. 14(1)(a), the term 'for the person's own protection from serious harm' should be understood to include the harm caused by the mental illness itself.
2. An amendment to the Mental Health Act 2007, so that it expressly states that in determining whether to schedule a mentally ill patient pursuant to s. 14 (1)(a), the term 'for the protection of others from serious harm' should be understood to include 'for the protection of others from serious emotional harm'.
3. An amendment to the Mental Health Act 2007, to delete the reference to 'physical harm' in sections 15 (a) and (b) and to specify that the term 'for the person's own protection from serious harm' should be taken to include the harm caused by the mental illness itself, and the term 'for the protection of others from serious harm' should be understood to include 'for the protection of others from serious emotional harm'.
4. That schedule 1 to the Mental Health Act 2007 be amended to remove any ambiguity in Part 1(1) of the Form, with respect to the test that must be met before a patient can be scheduled.

The Coroner said:

I consider that it would be appropriate for such changes to be considered in order to assist in clarifying the tests to be applied.

Again, none of those recommendations has been put before us; they are not being considered by the House and they are not up for public debate. Previously in the House I have raised the death of young Luke Batty and his mother's ongoing fight, for more than 20 years, to get his father some mental health treatment. Unfortunately, his father never got that treatment. In that case, although it is a Victorian case, what the police said to the Coroner is insightful. The police said of Gary Anderson, "The police weren't mucking around with this guy ... we've got a man with no criminal history. He has no diagnosed history of mental illness. What do you do with someone like this? We put him up before the courts and the courts let him out. We've gone down the mental health route and it didn't work." Time and time again Luke Batty's mother tried to get mental health treatment for this man, who went on to beat his son to death with a cricket bat.

These are not isolated cases. The reality is that throughout Australia, as we know with schizophrenia, families are living in fear, locked in their homes and seeing mental health professionals. Time and time again, with all the best intentions in the world, these people do not recognise the situation they are in because they do not recognise their own mental illness, so no treatment is provided to them.

I want to make a couple of other points. In 2011 we spent \$30 billion on counterterrorism. In 2011 we spent \$7.2 billion on mental health, yet in 2011 some 2,000 Australians committed suicide. Overwhelmingly, the major cause of that was depression. And for every person who committed suicide in 2011, another 30 people attempted suicide. So one can do the sums on how many Australians' lives were at risk in 2011 due to mental illnesses. The spend on counterterrorism, possibly quite justifiably, was \$30 billion, while the spend on mental health was \$7.2 billion. Still on the issue of mental health and counterterrorism, I find some recent horrendous things that have happened overseas very interesting. Waleed Aly made quite a good point in his article in the *Sydney Morning Herald* titled "Suddenly, the lone wolf is on the hunt". He says in that article:

In Canada, Michael Zehaf-Bibeau was living in a homeless shelter before he decided to open fire on the Parliament Building. This was a man with a crack cocaine habit, a suite of drug possession and theft episodes, and a history of mental illness. In this respect his story isn't so far from Baryalei's—

that is Mohammad Ali Baryalei, who was shot by Victorian police and also had a history of mental illness—

which has more to do with cocaine, gambling and Kings Cross strip clubs than it does with advanced explosives training and a piercing political manifesto. He, too, has a history of mental illness, much like Khaled Sharrouf, who so infamously tweeted a picture of his son holding a severed head, and who was also diagnosed with schizophrenia.

We are seeing a pattern of people with mental health issues who are highly susceptible to this counterterrorism and terrorism threat, and who in reality should at some point in this country be treated by mental health teams.

I am not saying the spend on counterterrorism is a bad spend, but there would be great efficacy in having a public debate and a review of section 14 of the Mental Health Act, to assist those who do not recognise that they have mental health illnesses and could then go on to do horrendous things, like having their young children standing in front of cameras with heads in their hands. Luke Batty's father had an intervention order placed on him. What was that intervention order for? It was because he had threatened to cut the head off his housemate.

There is a pattern and history of mental health issues, and we need to deal with the real and perceived risks in our own country. Many of those risks can be dealt with, not through a big spend somewhere else but through a spend within our communities dealing with people with problems—problems that quite often are ignored or never dealt with because we will not review our Act and we will not look at a simple thing like section 14 of the Mental Health Act, or have a public debate, because that might be a little bit too difficult.

Dr JOHN KAYE [11.22 p.m.]: I speak on behalf of The Greens to address the Mental Health Amendment (Statutory Review) Bill 2014. I say from the outset that The Greens will not be opposing this legislation. That is not to say that we are not disappointed with this legislation. The Minister and his predecessor embarked on an extremely high-quality statutory review consultation; a large number of professionals, clients and carers within the mental health sector were consulted and their opinions were gathered together. I have to say there was an expectation, coming out of that review, that there would be substantial reform of the Mental Health Act, including the reforms which the Hon. Lynda Voltz referred to with respect to thresholds for involuntary treatment, transition from risk of harm to self and others, to the threshold test of capacity to make decisions.

The review produced a series of nice-sounding words and some minor improvements for patients, their carers and medical staff. Given the long and extensive consultation, and the excellent way in which that was conducted, it seems a shame that all that came out of that process was largely window-dressing and some minor improvements. It has to be said that probably nothing in this bill takes mental health backwards; but there are not the breakthroughs that we have seen in Victoria and Western Australia—the major changes that recognised the United Nations Convention on the Rights of Persons with Disabilities, to which Australia is a signatory. The sorts of provisions that would respect our commitments under that convention are desperately lacking in this legislation. There are some good things in this legislation—things which are commendable and worthy. However, as one psychiatrist said to me:

... the overwhelming impression is of opportunity lost. Despite all the fanfare and considerable cost of the review they have actually changed very little. The changes made seem sensible enough, but basically they have not changed things much at all.

I would not have been at all surprised by this 12 months ago—

that is, he would not have been surprised if this legislation had been introduced 12 months ago—

but now, after Western Australia, Tasmania and Victoria adopting (at least some of) the major changes required to make the law compatible with the United Nations Convention on the Rights of Persons with Disabilities, I was expecting New South Wales to follow suit. Instead the bill, for example, embeds the importance of decision-making capacity in the revised Act's principles at section 68 where, frankly, they are very unlikely to have any real effect on the ground at all.

There are some provisions in the legislation which I think are positive. Some of the wording changes, for example, removal of the "control" of patients and addition of "recovery" principles, are good; but they are so deeply embedded in the legislation that they largely will end up as window dressing that will make what psychiatrists do sound a bit better without substantively changing the fact that they are still agents of control as long as they have powers of detention and forcible treatment.

Among the positive aspects of the bill is the facilitation of diagnosis of mental illness in rural and remote settings where an on-site medical practitioner might not be available. This obviates the need for lengthy transport of patients to obtain diagnosis, and that is a positive outcome. However, The Greens have some concerns about the use of audiovisual links, which appear to be a second-best cost-saving solution to the problems of remote patients presenting with severe mental illness. The reality is that a better solution—though a more expensive solution—would be to have enough qualified medical practitioners on site, ready to perform—

DEPUTY-PRESIDENT (The Hon. Trevor Khan): Order! Conversations that are occurring in the Chamber, including across the table, are highly distracting and unfair to the member with the call. I ask that the number and volume of those conversations be reduced.

Dr JOHN KAYE: I was saying that audiovisual links appear to be a second-best cost-saving solution to the problems of remote patients presenting with severe mental illnesses, and that a better solution would be to

have more psychiatrists and more mental health professions in rural and regional settings. We welcome the tightening of the requirements for electroconvulsive therapy for persons under the age of 16 years—although, in effect, there will be little change in outcome because there are very few, if any, patients under the age of 16 years who are receiving electroconvulsive therapy. Nonetheless, it is good to have those protections in place.

My office—and, I presume, other members' offices—has been inundated by emails talking about how this bill facilitates electroconvulsive therapy. It does not do that. It has the opposite outcome, which is to restrict electroconvulsive therapy. I suspect that many of the emails that I received originated from the Church of Scientology and its long-held disrespect for the psychiatric profession. I have no time for their arguments. Anyone who has dealt with somebody who is mentally ill, and has seen the work of psychiatrists and psychiatric nurses and psychiatric facilities, recognises that there is a genuine science of psychiatry, recognises that there is a genuine treatment regime that works, and knows that the ideological nonsense that comes out of the Church of Scientology on these matters should be rejected.

It certainly should be rejected when it is based on a completely false premise with respect to the legislation. That being said, there is a live debate about electroconvulsive therapy—discounting entirely that which comes from the Scientologists—and it is a debate that we should have in a sensible form. I am yet to be convinced that there are valid alternatives in some cases for electroshock therapy. I am concerned that too many people are influenced by what electroshock therapy was and how it was used 30, 40 or 50 years ago compared to what it is today.

The Greens support the requirement that people under the age of 16 years who appear before the Mental Health Review Tribunal have legal representation. That is a step towards better rights for patients. We note that the bill delivers a glancing blow at the issues of capacity and risk and does so by removing control and care and control in the objects of the Act. It does so by inserting a new provision into the principles for care and treatment of the Act which requires:

... every effort that is reasonably practicable should be made to obtain the consent of people with a mental illness or mental disorder when developing treatment plans and recovery plans for their care, to monitor their capacity to consent and to support people who lack that capacity to understand treatment plans and recovery plans,

That will be buried at section 68 of the Act. It probably will not have a huge impact on the final outcome of treatment or on the practices of psychiatrists. It leaves open the question: What does "reasonably practicable" mean? Who decides what is "reasonably practicable"? Such efforts only "should be made". Even that general principle for care and treatment would not be specifically enforceable. One lawyer said to me was that it would be hard to devise a less enforceable and less meaningful requirement. Meanwhile, for patients who continue to refuse treatment—even for good reasons, and even with capacity—the Act remains simply coercive.

I note that those changes are really confined to the principles and do not appear in the enforceable sections of the Act. They leave open the issue of interpreting "reasonably practicable" and they refer only to monitor capacity to consent, not acting on it as a threshold issue for coercive treatment. The real issue is our failure to move towards capacity tests that are more objective and repeatable. They offer greater opportunities and incentives for treating physicians to constructively engage with patients, and they allow patients to receive involuntary treatment, even when they are not displaying any behaviour that would suggest they pose a risk or threat to others.

It was put to me, I think quite correctly, whether we would enforce chemotherapy or radiotherapy treatment onto a cancer patient who had the mental capacity to say they did not want it. We would not, and would see it as being uncivilised and violating the rights of that patient. Why, therefore, should we force treatment onto patients who have the capacity to say no, even if it risks harm to them? Surely we should respect them. Conversely, why should patients who do not have the capacity to say no but do not pose a risk of harm to themselves go without treatment? The risk of harm to self and others does not work; it does not respect the rights of those who have the capacity to make a valid decision and it does not respect the treatment needs of those who do not have that capacity.

It is hard to understand why New South Wales is refusing to move in this direction, when Western Australia and Victoria have moved in this direction and South Australia is moving in this direction. It makes no sense for us to continue with a threshold test on involuntary treatment that stands outside the United Nations Convention and world's best practice. It is denying treatment to those who need it and it is enforcing treatment on those who, in many cases, can make a sensible decision not to have that treatment. It is time for New South Wales to throw off those shackles.

This House has voted on a motion moved by the Hon. Lynda Voltz for an inquiry into this matter, which I supported with trepidation. The more I learned about the issue of capacity-based tests for coercive treatments the more I understood that it is about respecting the rights of patients both to receive treatment when they are not in a position to make their own determination and to reject it when they are. Nothing could come closer to respecting the rights of patients, both those with capacity and those without, and Australia's commitments under the United Nations Convention on the Rights of Persons with Disabilities. Nothing could do better to ensure that we get treatment to patients on as objective a basis as we possibly can.

This legislation does very little harm. The Greens have some minor concerns about it but we will not vote against it. However, it is an opportunity lost. There were real opportunities for the O'Farrell Government and Baird Government to make a change that took New South Wales forward, and it is a great shame that that was not made. I do not want to speculate whether it was because it would cost more money and more people would be in treatment because they did not have the capacity to reject it, or whether it was just basic conservatism and a failure to make the change.

It could have been because the Minister, his office and the department listened to voices that were strongly opposed it. I think the Minister should enact the motion of the New South Wales upper House to have an inquiry into this issue. The Greens were hoping it would happen through statutory review, but it appears to not have done so. I do not think it is sustainable to continue along the current path without respecting the rights of our patients. I conclude by saying that The Greens will not oppose this legislation.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [11.37 p.m.], in reply: I thank the Hon. Mick Veitch, the Hon. Paul Green, the Hon. Lynda Voltz and Dr John Kaye for their contributions to this debate. I note the Opposition will move an amendment and I will reserve my comments for the Committee of the Whole. The Minister for Mental Health in the Legislative Assembly said in his second reading speech that this bill provides a number of very good improvements for people with a mental health issue, including strengthening the rights of consumers to participate in their treatment and have their views respected; strengthening the provisions for carers and families to be involved in treatment and decision-making, and to receive information about their loved one's case; strengthening the protection of young people receiving treatment, people being assessed by video-link and long-stay voluntary patients; and increasing access to mental health assessment, particularly in rural and regional areas.

This Government is committed to reforming the mental health sector and aligning it with world's best practice. A number of matters were raised by the Hon. Lynda Voltz, firstly, in relation to the definition of "mental illness". On 10 January 2014 Deputy State Coroner McMahon, following the inquest into the tragic deaths of Nicholas Waterlow and Chloe Heuston, recommended changes to the Act. These changes focused on the risk of serious harm requirement in the definition of the Act of a mentally ill person and mentally disordered person. The definition of mental illness and the requirements for persons to be considered a serious risk of harm to themselves or to others in order to be involuntarily treated were considered by stakeholders, including the expert reference group, during the review of the Act. The majority of stakeholders did not support changes to the definition of mental illness, stating that the current definition is robust and that the flexibility of the symptomatic-based definition allows for the treatment of acutely unwell persons with a range of different conditions.

The Hon. Lynda Voltz commented also on replacing the risk-based test with the capacity-based test. The threshold for involuntary care will remain one based on the risk of serious harm and no other appropriate care of a less restrictive kind being available. However, in recognition of the importance of consumer-led treatment, the bill provides that every effort should be made to obtain the consent of consumers when developing treatment and recovery plans for their care, to monitor their capacity to consent and to support people who lack the capacity to understand treatment and recovery plans. The Hon. Lynda Voltz referred also to the Luke Batty issue. Clinicians now are required to seek and consider the views of consumers, carers, family members, treating community psychiatrists or general practitioners, and emergency service providers where possible when making decisions on detention or discharge.

Dr John Kaye raised two issues. The first related to compliance with the United Nations Convention on the Rights of Persons with Disabilities. The proposed recommendations for reform to the Mental Health Act 2007 are consistent with the principles of the convention by revising the Act to provide that persons should be supported to make decisions about their care and treatment to the extent that this does not impact on the risk of serious harm to themselves or to others. The Government considers that the proposed amendments to the Mental Health Act are consistent with the principles of the convention. Dr John Kaye raised the use of the telehealth

and audiovisual assessment as a cost-cutting measure. He can be assured that it is not about cost cutting. It prevents unnecessary long-distance transport of persons for assessment, especially in rural and regional areas. It is based on the best interests of the person. 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

DEPUTY-PRESIDENT (The Hon. Sarah Mitchell): There being no objection, the Committee will deal with the bill as a whole.

The Hon. STEVE WHAN [11.43 p.m.]: I move Opposition amendment No. 1 on sheet C2014-150A:

No. 1 **Transfer of persons to or from mental health facilities**

Page 13, schedule 1. Insert after line 28:

[81] Section 189A

Insert after section 189:

189A Memorandum of understanding dealing with transfer of persons to or from mental health facilities

A local health district constituted under the *Health Services Act 1997* is to enter into a memorandum of understanding with the Commissioner of Police that deals with the transfer by police officers of persons to or from mental health facilities in the area of the local health district.

This amendment arises from representations I have received from the Police Association. Many members, particularly regional members, will be aware that police in many country communities are concerned about the number of occasions on which they are required to transport mental health patients to facilities often some distance away and the length of time involved. This concern has been expressed consistently, particularly when those mental health facilities are several hours away. The Police Association made it clear that it accepted police had a strong responsibility in those instances when people were a danger either to themselves or to others or when there was potential violence. The concern was that in some cases police were being used as the first transport resort to transfer people to mental health facilities. Of course, another concern is for the people involved because, naturally, being taken away in a police car involves a certain degree of stigma.

The Police Association advocated a much stronger approach than that advocated in the Opposition's amendment. It wanted the legislation formally to include provisions that set out a hierarchy that Health had first responsibility to transport a mental health patient and that police should be used as a last resort. Labor's shadow Minister in the other place pointed out that when she was the Minister a memorandum of understanding [MOU] was put in place that enabled the health department to reach a memorandum of understanding on when police were to be used to transport mental health patients. The Police Association believed that in many local area health districts the MOUs had not been put in place appropriately and were not working, and that police continued to be used as transport of first resort, for want of a better term. This amendment inserts into section 189A:

Memorandum of understanding dealing with transfer of persons to or from mental health facilities

A local health district constituted under the *Health Services Act 1997* is to enter into a memorandum of understanding with the Commissioner of Police that deals with the transfer by police officers of persons to or from mental health facilities in the area of the local health district.

The idea is to put the onus on the local area health district to reach a memorandum of understanding with the police. It is not an onerous task; we hope that they do so already. The Police Association representations suggest that it is not satisfied with the procedure and the idea is that this MOU makes it an obligation for it to be put in place. Some areas may have MOUs in place, but feedback I get from police in rural areas is that they are still being taken from their communities for far too long for this work. Of course, I recognise also that using an

ambulance to transport a mental health patient from, say, Cooma to Goulburn also would take an ambulance from the community for a significant time. Difficult choices arise in all situations, but this is a reasonable amendment that deals with the concerns of the Police Association.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [11.47 p.m.]: The Government does not support Opposition amendment No. 1 on sheet C2014-150A. Local health districts already work with police and other stakeholders, such as the Ambulance Service of NSW, regarding the transfer of persons to or from mental health facilities. The Government is increasing the number of declared mental health facilities to reduce the distance police officers need to transport patients for assessment. The locations being selected to become declared mental health facilities are being prioritised based on New South Wales police preferences, such as Deniliquin, Moree, Bathurst and Lithgow.

We recognise the resources provided by New South Wales police to assist with the transportation of people with mental health issues when there are serious concerns relating to the safety of the person or other persons. A statutory requirement for local MOUs is not required or appropriate as local interaction exists with regular meetings held between police and health at district level. These help to resolve unique and location-specific issues. Additionally, regular high-level meetings are held statewide between the Mental Health, Drug and Alcohol Office and the New South Wales Ministry of Health, Ambulance Service of NSW and NSW Police Force. As I indicated, the Government does not support the amendment.

The Hon. PAUL GREEN [11.48 p.m.]: If I had had more time or I had received representations from the Police Association I think the Christian Democratic Party would have examined this issue further. In the Shoalhaven it was most distressing when police had to put in the back of a paddy wagon patients in an acute psychotic state who, sadly, were displaying animalistic behaviour, and whisk them to the Shellharbour mental health hospital. It was not a humane procedure but it was the best that could be done with the limited resources of a regional town.

I note that such a town has other issues too. The area lacks police resources—a lack of authorised numbers versus actual numbers—and sometimes those numbers are down for other reasons. There may not be the resources to enable two police officers to take patients in an acute psychotic state in a van to Shellharbour, for instance, but the professional resources are needed for obvious reasons, many of them being legal. The situation requires legal expertise as well as professional restraint. When I was mayor I was constantly in negotiations with police to establish what a future government could do in this area.

I believe that many retirees have expertise in this area. Indeed, they virtually run our communities in their various volunteering capacities in areas such as men's sheds and the women's auxiliary. Some volunteers have the training and expertise to be drivers, which would free up one police officer and enable him or her to go back on our streets. Those sorts of initiatives should be considered when the Police Association is trying to be efficient with its resources. The Hon. Steve Whan moved a reasonable amendment but I cannot support it, first, because this issue was not referred to the Christian Democratic Party and, secondly, the best people to deal with resources are at a grassroots level.

They should make the decisions about the best way to use their resources to accommodate any situation confronting them. At this stage that is the best way to handle the matter. However, we believe there are other ways to better utilise resources. Rather than sending two police officers or two ambulance men when only one may be required, perhaps a retiree with expertise in the area could assist with driving. The Christian Democratic Party does not support the amendment, although it is a commendable effort.

Dr JOHN KAYE [11.52 p.m.]: For the reasons outlined by Hon. Steve Whan, The Greens support the amendment.

The Hon. STEVE WHAN [11.52 p.m.]: I appreciate the Minister's comments and would be interested to hear the response of the Police Association to his assertions concerning the level of cooperation. From what the association has told me, it is not consistent across the State. I point out that despite the list of facilities he mentioned, it is a long drive for two police from Cooma to the facility at Goulburn, which is the most common place people could end up going, and it is even further to go from Bourke or Brewarrina to Moree. Those are the situations we need to address. I urge the Government to look carefully at how to improve them.

Question—That Opposition amendment No. 1 [C2014-150A] be agreed to—put and resolved in the negative.

Opposition amendment No. 1 [C2014-150A] 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. John Ajaka agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by 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.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO 2) 2014

Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [11.55 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 Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014 continues the statute law revision program which has been in place for the past 30 years. Bills of this kind are an effective method for making minor policy changes, repealing redundant legislation and maintaining the quality of the New South Wales statute book.

Schedule 1 to the bill contains policy changes of a minor and non-controversial nature that are too inconsequential to warrant the introduction of a separate amending bill. It contains amendments to 29 Acts and related amendments to five regulations. I will describe some of the amendments to give honourable members an indication of the kinds of amendments that are included in this schedule.

Schedule 1 amends the Conveyancers Licensing Act 2003 to extend the class of persons who may carry out the compulsory auditing of licensees' records under the Act. In particular, the class of persons is extended to include audit companies registered by ASIC under the Corporations Act 2001 of the Commonwealth and members of professional accounting bodies who hold a Public Practice Certificate.

The amendment to the Parents and Citizens Associations Incorporation Act 1976 make it clear that a parents and citizens association of a school may vote in an election under the Act for the councillors and delegates of the Federation of Parents and Citizens Associations only if the association is admitted as a member of the federation. The amendments also make it clear that a person is eligible to be elected as a councillor or delegate of the federation only if the person is a member of a parents and citizens association that is admitted as a member of the federation.

The final schedule 1 matter I will mention is an amendment to the Parliamentary Contributory Superannuation Act 1971. The amendment enables the existing trustees of the Parliamentary Contributory Superannuation Fund who are appointed by the Legislative Council or Legislative Assembly to continue in office, despite ceasing to be members because of the dissolution or expiry of the Assembly before a State general election, until the Assembly or Council appoints a successor after the State general election.

The Parliamentary Remuneration Tribunal has, under section 4 of the Parliamentary Contributory Superannuation Act 1971, issued a certificate approving this amendment. Such a certificate is required before Parliament can deal with a bill that amends that Act.

Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill. Examples of amendments in schedule 2 are corrections of cross-references, typographical errors and terminology, and amendments arising out of the enactment of other legislation.

Schedule 3 repeals various redundant and superfluous Acts and provisions of Acts. These include the Pacific Power (Dissolution) Act 2003, which is made redundant by the amendments to the Energy Services Corporations Act 1995 I mentioned earlier.

Schedule 4 contains general savings, transitional and other provisions.

These include provisions dealing with the effect of amendments on amending provisions, and savings clauses for the repealed Acts and provisions.

The various amendments are explained in detail in explanatory notes set out beneath the amendments to each of the Acts and statutory instruments concerned or at the end of the schedule concerned.

I am sure that honourable members will appreciate the straightforward and non-controversial nature of the provisions contained in the bill. However, if any amendment causes concern or requires clarification, it should be brought to my attention. If necessary, I will arrange for Government staff to provide additional information on the matters raised.

I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [11.56 p.m.]: I lead for the Opposition in debate on the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014. As is the way of these things, the Opposition does not oppose the bill. The object of the bill is to make minor amendments to various Acts and regulations, to amend certain other Acts and instruments for the purpose of effecting statute law revision, to repeal various Acts and provisions of an Act and regulation, and to make other provisions of a consequential or ancillary nature. This type of bill—the kind that has been adopted by governments of all political persuasions over many years—generally is accepted as an efficient and effective way of making a number of comparatively minor amendments to the law and regulations.

It is easier and more efficient than moving separate amendments for each piece of legislation. Inevitably, a number of matters are included in the bill across the field of legislation. As is the way of these things when any party or individual raises a concern or objection, the convention is that they are removed from the bill. I understand that there may be some items to deal with the amendment to the Ombudsman Act and also to the Public Interest Disclosures Act to which objection has been made. The Government may well move to excise those from the legislation. I believe there is a proposal to attempt to split the bill so that those excised provisions form the basis of a separate bill.

Of the two matters to which objection has been raised, the shadow Attorney General in the other place queried the amendment to item [24] of schedule 1 to the Public Interest Disclosures Act which provides that regulations can provide that specified public authorities or classes of public authorities are exempted from requirements to provide reports to the Ombudsman and to the Parliament. As the shadow Attorney General in the other place said, there could have been an entirely innocent and sensible explanation for that but, on the face of it, it seemed to be a reasonably significant change. If there was a simple and easy explanation the shadow Attorney General invited the Attorney General to provide it when he replied to the debate. Mr Daryl Maguire, MP, Parliamentary Secretary in the other place, on behalf of the Attorney General, replied to that matter and gave this explanation:

The current definition of "public authority" in section 4 of the Act would capture some authorities with only one or no staff. Those authorities' reporting requirements are set out in section 6CA and section 31 of the Act. The committee believes it is anomalous for authorities with no or only one staff member to be subject to the reporting requirements of the Public Interest Disclosures Act. The committee notes that several arrangements for exceptions to reporting obligations exist in section 33 (6) of the Privacy and Personal Information Protection Act 1998 and in section 45EA of the Public Finance and Audit Act 1983.

Having had discussions this evening with the shadow Attorney General I am aware that he is satisfied with that explanation and as such we have no objection to the amendment. If the bill is split in two and the amendments to the Public Interest Disclosures Act are coupled with amendments to the Ombudsman Act, we will look to the Government as to the rationale behind those amendments before we form a view in relation to the Ombudsman Act. With those observations we do not oppose the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014.

Dr JOHN KAYE [11.59 p.m.]: On behalf of The Greens I address the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014. I will speak about two separate matters. The first is the three specific sub-schedules within the bill and the second is the process that we are embarking upon this evening. The first sub-schedule I refer to is schedule 1.9, amendments to the Energy Services Corporations Act 1995 No. 95 and, in particular, the transfer of the rights, assets and liabilities of what is called the Residual Business Management

Corporation [RBMC] to the Crown. The RBMC, as it is known, is a body that was set up by the Pacific Power (Dissolution) Act 2003 to manage the residual business of Pacific Power when it was broken up into Macquarie Generation, Eraring Energy and Delta Electricity. The RBMC is what was left behind. It is the last gasp of what was left of the institution known by its various terms as the Electricity Commission, Elcom and Pacific Power.

When Pacific Power was split up in 2003 it was said that it was not about privatisation but about creating a more efficient electricity industry that was sensibly structured and more amenable to operating in the electricity market. Eleven years later the vast majority of the electricity industry has been privatised. In the first instance it occurred under Labor with the appallingly silly gentrader transactions, and the coup de grâce was delivered by the Liberal-Nationals trying to extract whatever money they could from the industry. The moral lesson is this: Never trust any government that says that corporatising or restructuring an industry is not about privatisation, because it is lying. For as long as I can remember the restructuring of every State-owned enterprise—despite the protestations of purity of intent that came from the government of the day—has been about reshaping and fattening the enterprise to make it ready for privatisation.

The second sub-schedule I refer to is schedule 1.19. I note that The Greens have not asked the Government to extract schedule 1.9 nor schedule 1.19. Schedule 1.19 goes to what I thought was a seemingly minor amendment to the Parents and Citizens Association Incorporation Act 1976. In effect, it is an amendment to the changes that were made to that Act earlier this year when the Federation of Parents and Citizens Associations was restructured after becoming non-functional because of internal disputes. Schedule 1.19 means that only a parents and citizens association of a school can vote in an election for the councillors and delegates of the Federation of Parents and Citizens Associations if that association is admitted as a member of the federation. Secondly, a person is only eligible to be elected as a councillor or delegate if that person is a member of a parents and citizens association that is admitted as a member of the federation.

I have received some strong representations that that was not the intention of the Parliament when that legislation was passed. I do not think that is correct. I have also received representations that the current elections that are being conducted are being justified after the event by this amendment. It has been alleged that individuals and associations have been excluded on the basis that they are not members of the federation. The Minister's office assures me that that allegation is not true and that no nominations were received for persons who were not members of an association that was not a member of the Federation. I have to take the Minister's word at face value. It is unfortunate that this issue has occurred only after the elections have commenced.

I recognise the concerns that have been raised by good people in the parents and citizens associations who believe that this legislation will undermine the capacity to create genuine democracy in the federation. The Greens did not seek to have this section removed because we were concerned not to undermine the current election; it is important that the election proceeds to its conclusion. The final sub-schedule I address is schedule 1.24, Public Interest Disclosures Act 1994. The Greens ask the Government to remove item [1] and item [3] of the proposed amendments. These are amendments to the Public Interest Disclosure Act that enable the regulations of the Act to exempt specific public authorities, or classes of public authorities, from the requirement to provide reports to the Ombudsman and to Parliament about the public authority's obligations under the Public Interest Disclosures Act.

The Greens became very concerned that excluding those agencies and public authorities from their requirement to report on the public interest disclosure activity removes scrutiny. Removing scrutiny in 2014 is inappropriate. However, we will not die in a ditch over this sub-schedule. We understand there will be regulations and we understand the Government's argument relates to issues of concern that small public authorities have an inappropriate and disproportionate burden imposed upon them. I do not buy that argument. If they are small, they probably do not have many public interest disclosures and their reporting requirement would be relatively small.

Finally, I comment on the issue of the amendment before the House that runs directly counter to the tradition under which statute law has occurred. When any member of Parliament asks for a section to be removed, traditionally it is taken out and comes back subsequently in a separate piece of legislation. I entered the Chamber this evening expecting that the public interest disclosure matters that we sought to have omitted from the bill would return next year, and if I was lucky enough to be re-elected we would debate them then. That is not what is happening.

If I read the Government's amendments on sheet C2014-129A-1 correctly, they are seeking an instruction to the Committee of the Whole to split the bills and to then vote on the two amendments that

The Greens have asked to be removed from the legislation. That violates the spirit of statute law miscellaneous provisions legislation. Perhaps I am being naive. I thought the Government would proceed in the same way as it has in the past. I was not told that this would happen. Clearly it is going to happen. We will vote against both of those sections and we will not trust the Government again on these matters. If that is the game it wishes to play, we will play the game differently from now on.

The Hon. DAVID CLARKE (Parliamentary Secretary) [12.10 a.m.], on behalf of the Hon. John Ajaka, in reply: I thank all honourable members for their contribution to debate. It has been a longstanding practice in this Parliament for the Government to introduce a miscellaneous amendments bill by way of statute law revision in each sitting. These statute law review bills allow for the more efficient management of the parliamentary agenda by allowing minor technical and otherwise entirely uncontroversial amendments to be considered and passed by the Parliament using a batched approach. This avoids unnecessary and time-consuming discussion on insubstantial matters, freeing up the Parliament's time to debate more important matters of substance. Accordingly, these bills contain the following matters only: minor amendments proposed by government agencies; minor amendments by way of pure statute law revision; repeals of obsolete or unnecessary Acts; and transfers of savings and transitional provisions with ongoing effect.

Consistent with this approach, it has been the practice of this and previous governments that any provision of a statute law review bill will be removed on the request of any member of either House. Such requests may be made because a member has concerns with the relevant provision. Sometimes it may be that the member, while generally supportive of the provision, considers it would be appropriate for it to be the subject of more detailed consideration and debate by the House. In either case, however, it is appropriate that the provision not continue as part of the statute law review bill consistent with past practice and the purposes of that bill. I turn now to the bill before the House.

Members have requested the removal of two of its provisions because some members consider that those provisions should be the subject of a stand-alone bill and subject to the usual debate and deliberation. It is appropriate therefore that those provisions not continue as part of this bill. However, given the nature of those provisions and the concerns raised by members, it is proposed that the relevant provisions be split out and proceed to be considered by the House as a substantive bill. It is proposed to amend section 35 of the Act to ensure that a former Ombudsman and former Ombudsman officers and current and former Australian legal practitioners assisting the Ombudsman are not required to provide evidence or produce documents in legal proceedings except in the circumstances set out in section 35 (2) of the Act.

The Act currently provides that the current Ombudsman and Ombudsman officers are not required to provide that information. The Ombudsman has requested the amendment to ensure that the information obtained by former office holders while holding office and by current and former Australian legal practitioners appointed under section 19 to assist the Ombudsman is not required to be disclosed in legal proceedings, except in the circumstances set out in section 35 (2) of the Act. Section 35 (2) excludes a small number of legal proceedings from the restrictions, including proceedings for certain offences under the Royal Commission Act 1923 and the Special Commissions of Inquiry Act 1983.

The proposed amendment will bring section 35 into line with similar provisions applying under section 111 of the Independent Commission Against Corruption Act 1988, section 56 (1) of the Police Integrity Commission Act 1996, and section 81 of the Crime Commission Act 2012, which already apply to both current and former office holders and to Australian legal practitioners appointed to assist them. The amendment will apply to protect information obtained as an office holder before or after the commencement of the amendment.

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

Motion agreed to.

Bill read a second time.

Suspension of Standing Orders: Instruction to Committee of the Whole

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

That standing orders be suspended to allow a motion to be moved forthwith for an Instruction to the Committee of the Whole in relation to the bill.

Instruction to Committee of the Whole

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

That it be an Instruction to the Committee of the Whole:

- (a) that the Committee have power to divide the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014 into two bills so as to incorporate in a separate bill provisions of the bill that would amend the Ombudsman Act 1974 and the Public Interests Disclosures Act 1994; and
- (b) that the Committee report the bills separately.

In Committee

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Is there any objection to the Committee dealing with the bill as a whole?

Dr JOHN KAYE [12.16 a.m.]: I seek a point of clarification. I wish to deal with the Ombudsman Act and the Public Interests Disclosure Act clause by clause, not the Statute Law (Miscellaneous Provisions) Bill (No. 2). Specifically, I do not oppose item [2] of schedule 2 to the Act but I oppose items [1] and [3] on sheet C2014-129A-2.

The Hon. Dr PETER PHELPS [12.17 a.m.]: Leave has to be given to allow the Committee to deal with the bill as a whole and then they will be dealt with individually.

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): That is correct.

Mr DAVID SHOEBRIDGE [12.18 a.m.]: The leave would ordinarily include the proposed amendments but Dr John Kaye wants items [1], [2] and [3] of schedule 2 to the bill to be put separately.

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): That request can be made and that will be done. The Committee has received instruction from the House that it has the power to divide the bill into two bills. The Committee will deal with the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014 in the usual manner. If there is no objection, the Committee will deal with the bill as a whole.

The Hon. DAVID CLARKE (Parliamentary Secretary) [12.20 a.m.]: I move the Government amendment on sheet C2014-129A-2, according to the instructions of the House:

That the bill be divided into 2 bills, and that schedule 1.18 on page 10 and schedule 1.24 on pages 12 and 13 be incorporated in a separate bill (the *Ombudsman and Public Interest Disclosures Legislation Amendment Bill 2014*) with the following long title and provisions:

A bill for an Act to amend the *Ombudsman Act 1974* with respect to the giving of evidence; and to amend the *Public Interest Disclosures Act 1994* with respect to reporting requirements and the referral of matters.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Ombudsman and Public Interest Disclosures Legislation Amendment Act 2014*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Explanatory notes

The matter appearing under the heading "Explanatory note" in the schedules does not form part of this Act.

Schedule 1 Amendment of Ombudsman Act 1974 No 68

Section 35 Ombudsman, officer or expert as witness

Omit section 35 (3). Insert instead:

- (3) Subsection (1) applies to the following persons in the same way as it applies to the Ombudsman and officers of the Ombudsman:

- (a) a former Ombudsman,
- (b) a former officer of the Ombudsman,

- (c) an Australian legal practitioner who is or was appointed under section 19 (4) to assist the Ombudsman,
 - (d) a person whose services are or were engaged under section 23.
- (4) Subsection (3) extends to information obtained by those persons before its substitution by the *Ombudsman and Public Interest Disclosures Legislation Amendment Act 2014*.

Explanatory note

The proposed amendment to the *Ombudsman Act 1974* ensures that former office holders (including the Ombudsman), experts formerly engaged to assist the Ombudsman and Australian legal practitioners appointed or formerly appointed to assist the Ombudsman cannot give evidence or produce any document in legal proceedings in respect of any information obtained in the course of office or service with the Ombudsman. At present, current office holders and experts currently engaged to assist the Ombudsman cannot give such evidence or produce such documents in legal proceedings.

Schedule 2 Amendment of Public Interest Disclosures Act 1994 No 92

[1] Section 6CA Reports to Ombudsman by public authorities

Insert after section 6CA (4):

- (4A) The regulations may exempt any specified public authority (or any specified class of public authorities) from the requirements of this section.

[2] Section 25 Referral of disclosures by investigating authorities

Omit "An investigating authority referring a matter to another investigating authority may enter into arrangements with the other authority:" from section 25 (7).

Insert instead "Despite any other Act or law (including section 22), an investigating authority referring, or considering whether to refer, a matter to another investigating authority may exchange information or enter into arrangements (or both) with the other authority:".

[3] Section 31 Reports to Parliament by public authorities

Insert after section 31 (3):

- (3A) The regulations may exempt any specified public authority (or any specified class of public authorities) from the requirements of this section.

Explanatory note

Items [1] and [3] of the proposed amendments to the *Public Interest Disclosures Act 1994* enable regulations under the Act to exempt specified public authorities (or specified classes of public authorities) from requirements to provide reports to the Ombudsman and to Parliament about the public authority's obligations under the Act.

Item [2] enables an investigating authority referring, or considering whether to refer, a matter to another investigating authority to exchange information or enter into arrangements with the other investigating authority. In particular, the investigating authority may exchange information or enter into arrangements with the other authority to avoid duplication of action, to allow the efficient and effective use of both authorities' resources and to ensure that action is taken in a manner providing the most effective result.

The Government has removed the items relating to the Ombudsman Act and the Public Interest Disclosures Act from the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014 because of the longstanding practice in this place that statute law revision bills are passed only with the agreement of all parties. In the spirit of that convention, the Government has removed those items from the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014 in response to objections raised by non-government parties. The Government believes the Committee should vote separately on those proposals because they contain necessary amendments that will enable minor policy changes to be made efficiently and which will ensure that New South Wales legislation remains up to date and effective. In particular, the amendment to the Ombudsman Act 1974 has been requested by the Ombudsman to ensure that the information obtained by former officeholders while holding office and by current and—

Dr John Kaye: Point of order: The Minister is speaking to a bill for an Act to amend the Ombudsman Act and the Public Interest Disclosures Act with the short title "Ombudsman and Public Interest Disclosures Amendment Bill 2014". No such bill has been first read or second read in this Chamber. We were in the Committee stage of a bill with different short and long titles. I do not understand how we can now be talking to a bill for an Act that has not been first or second read in this Chamber.

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! The instruction to the Committee of the Whole was to split the bill, so the Minister is entitled to speak to both at this stage. There is no point of order.

The Hon. DAVID CLARKE: As I said, the amendment to the Ombudsman Act 1974 has been requested by the Ombudsman to ensure that the information obtained by former officeholders while holding office and by current and former Australian legal practitioners appointed under the Act to assist the Ombudsman is not required to be disclosed in legal proceedings, except in certain circumstances. The Ombudsman Act 1974 already contains identical provisions that apply to information obtained by current officeholders. The proposed amendment will bring the Ombudsman Act 1974 into line with similar provisions in the Independent Commission Against Corruption Act 1988, the Police Integrity Act 1996 and the Crime Commission Act 2012, which already apply to both current and former officeholders and to Australian legal practitioners appointed to assist them.

The amendment to the Public Interest Disclosures Act 1994 has also been requested by the Ombudsman and is supported by the Public Interest Disclosures Steering Committee. The amendment will enable regulations to be made under the Public Interest Disclosures Act to exempt specified public authorities or specified classes of public authorities from requirements to provide reports to the Ombudsman and to Parliament about the public authority's obligation under the Act.

Mr DAVID SHOEBRIDGE [12.25 a.m.]: I understand we are now debating a bill that was immaculately conceived by the Parliamentary Secretary and which will amend the Ombudsman Act 1974 in respect of the giving of evidence and the Public Interest Disclosures Act 1994 in respect of reporting requirements and the referral of matters. Is that correct?

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): That is correct.

Mr DAVID SHOEBRIDGE: I note the reservations of my colleague Dr John Kaye in relation to speaking to a bill that has not been given a first or second reading. It is, to say the least, irregular and unusual to be adopting this practice half an hour after midnight on the third last sitting day of the Parliament. At no other time in my four years in this place has this occurred. The Deputy Leader of the Opposition suggests that it may have occurred 14 years ago. It is irregular to say the least. The Greens took objection to the proposed amendment to the Ombudsman Act 1974 in the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014 because no considered rationale supporting it was put to the House in the second reading speech.

This raises significant concerns because the Government is seeking to broaden substantially the exemptions from being compelled not only to the Ombudsman and current officers of the Ombudsman but also to a raft of additional persons, being former ombudsmen, former officers of the Ombudsman and Australian legal practitioners appointed under section 19 (4) to assist the Ombudsman. It then picks up the current exemptions under section 35 (3) of a person whose services are—but extends it to "were"—engaged under section 23. I am sure members are aware that the Government has the current Ombudsman on what could be politely described as a short leash. It is a temporary appointment—not a five-year appointment—that involves significant uncertainty about longevity in the office because the Government has failed to resolve clearly whether it wishes to appoint the current Ombudsman for another statutory term. I think the maximum is five years.

Currently, the Ombudsman is seized of at least one substantially controversial inquiry. The political uncertainty—the uncertainty as to whether this current Ombudsman will become one of these former ombudsmen named in this proposed bill—raises real concerns about why the Government is seeking to put this provision through without any scrutiny in the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014. For that reason we objected to its being passed without scrutiny. The Government's response was not to separate it, put it in the substantive bill, properly second read it and distribute as ordinarily—

The Hon. Shaoquett Moselmane: It is a legal sausage factory.

Mr DAVID SHOEBRIDGE: I note the interjection from the Hon. Shaoquett Moselmane. The Government is adopting a sausage factory approach, whereby Parliament spits out legislation without scrutiny. As I understand it, that does not accord with the accepted conventions of this House as to how it deals with statute law miscellaneous provisions bills. We are unsure of the extent to which the exemptions in the Ombudsman Act would prevent, for example, a former officer of the Ombudsman being compellable to give

evidence in criminal proceedings in relation to material that they became aware of in the course of their duties as a former officer of the Ombudsman. On my reading, it seems to simply say, under those exceptions listed in current section 35 (2), that a former officer of the Ombudsman cannot be compelled and cannot be brought to give evidence in any criminal proceeding other than those exempted under section 35 (2).

What is the rationale for extending that to a former officer of the Ombudsman? Why is this legislation being put forward a little after midnight on the third last sitting day of the House, with this sudden rush of urgency? Why are these statutory provisions now required to protect former ombudsmen? One would be led to believe it is attached to the fact that the current Ombudsman is a temporary appointment and at any time could become a former Ombudsman simply by dint of the Government's terminating the temporary appointment or at least not extending it. An extremely unsavoury set of circumstances has brought us here. An extremely unsavoury process has been adopted. For those reasons, and absent of any cogent explanation as to why we must rush this through now—other than the fact that the Government may want to terminate the Ombudsman and make him a former Ombudsman—The Greens will not support the amendment.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [12.32 a.m.]: The Opposition has some concerns, which I will raise and hopefully the Parliamentary Secretary will get some instructions that may lead us through these difficulties. One of the difficulties we are currently in is that this was part of the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014, and clearly those matters require some separate consideration. The questions I have initially relate to the amendments to the Ombudsman Act. I understand that the current Ombudsman has requested the extension of the protections that apply to the current holder of that office and current officers to former officer holders, including former staff.

I ask the Parliamentary Secretary to answer the following question. In new section 35 (3) (c) there is an extension to "an Australian legal practitioner who is or was appointed under section 19 (4) to assist the Ombudsman". I would have thought that such a legal practitioner would be protected by legal professional privilege from compellability. Specifically seeking to enact a provision that provides they are not compellable raises a whole host of questions about why the Government feels that provision is necessary. That is my first question.

I turn to my second question. I understand that the public policy rationale underpinning section 35 of the Ombudsman Act is to prevent interference in current investigations, and that makes sense. It would not be good to have a current Ombudsman, a staff member of the office or an expert engaged to assist having their work interfered with perhaps part way through an inquiry. But what is the public policy rationale for extending that current protection for former ombudsmen, former officers of the Ombudsman and former experts engaged to include legal practitioners engaged to assist the Ombudsman in an inquiry? We know that this arises from a request from the Ombudsman, but why did he request this? What is the public policy rationale? What is the underpinning here?

Can we be satisfied, for example—and I am not suggesting this is the case—that this request has been motivated in part perhaps by a resolution of this House establishing a certain parliamentary inquiry. Does it arise from that? When was this request made by the current Ombudsman of the Government? I need to know the answers to all those questions before the Opposition can sign off on that aspect. As I said, I am not necessarily opposed to it, but the fact that we are here at 12.30 a.m. dealing with what now appears to be a substantive law reform measure without adequate explanation is problematic.

I turn now to the next point, which I think can be dealt with much more easily—that is, schedule 2 and the amendment of the Public Interest Disclosures Act. The explanation of this provision given to the shadow Attorney General in the other place was that it would seek to exempt from the reporting obligations agencies that have only one or no staff. We accept that rationale; we are satisfied with it. But the regulation-making power created in schedule 2 goes much further than that limited class. If there are other classes the Government has discovered that required attention, then I would like it to identify them or to give an undertaking that the regulations proposed to be made under schedule 2 will be limited to agencies that have no staff or only one staff member. As I said, it seems to go significantly beyond the explanation given by the Parliamentary Secretary in the other place.

As I said, I think that is probably the easier of the two matters to deal with. It may be that perhaps the rest of the Committee stage on this bill should be held over until daylight hours, but that is ultimately a matter for the Government. As I said, I am predominately concerned with the matters I have raised about the

amendments to the Ombudsman Act. I look to the Government to provide some more fulsome explanation as to why it believes those provisions are needed beyond the fact that there was a request from the current Ombudsman.

Dr JOHN KAYE [12.37 a.m.]: I would feel more comfortable making a contribution if I knew what I was talking to. I understand that I am talking to a move to split the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014 into two separate bills. If that amendment gets up then we will have two separate bills. Of course, I have not had an opportunity to develop amendments to the new bill—the Ombudsman and Public Interest Disclosures Legislation Amendment Bill 2014—because I did not know it was going to exist until five minutes ago. Could Madam Temporary Chair enlighten me? Am I talking to the motion moved by the Parliamentary Secretary that the bills be divided, which seems to be in the Committee stage, or am I talking to the specifics of the schedules?

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! Dr John Kaye is speaking to both the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014 and the Ombudsman and Public Interest Disclosures Legislation Amendment Bill 2014. We are discussing both bills.

The Hon. Duncan Gay: You were told about this over two hours ago; you were not told five minutes ago.

Dr JOHN KAYE: That is not correct.

The Hon. Duncan Gay: It is correct.

Dr JOHN KAYE: To the Minister's interjection—

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! Does the member have a further question or would he like to speak to the matter?

Dr JOHN KAYE: I am going to speak to the matter, but to the Minister's interjection—

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! I suggest that the member not respond to interjections.

Dr JOHN KAYE: Then it would be nice if the Minister did not interject.

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! I remind all members not to interject.

Dr JOHN KAYE: Although I do not understand how this works and I am deeply concerned about what we are doing tonight, I will make a process comment. It has been said to me this has been done before, but it has never been done to statute law. It has only been done on substantive matters of ordinary law—that is my understanding from reading Evans and Lovelock. This is a violation of the understanding of statute law, which is why I am cranky about this. It leaves us in the difficult position that from now on we have to make an assumption about the agreement that has operated in this Chamber that if we knock out a provision of statute law that provision will not be brought back on the spot but will come back in a separate piece of legislation so it can be debated and dealt with. The Minister is quite right that this was explained to me, but it was not explained well. I did not understand that we would deal with this legislation in this fashion.

I turn to the substantive issues of schedule 2 and state from the outset that I do not oppose item [2] but I do oppose items [1] and [3]. The effect of items [1] and [3] is that they exempt public authorities from the requirement to provide reports to the Ombudsman or the Parliament with respect to their activities in public interest disclosure. The Greens are concerned about that because it would create a class of public sector organisations that does not have to report on public interest disclosure. Public interest disclosure is critical to the operation of whistleblowing in New South Wales. It is, in effect, this State's whistleblower legislation.

The reason we are asking for this exemption is that we have grave concerns and want to consult more widely before this provision comes back as legislation. I understand the Government is serious about this, but we have not consulted widely in order to get a greater understanding of the impacts of this amendment on whistleblower protection. We see a risk that there will be a raft of regulations that will exempt organisations.

Some of these organisations might be small and some might have no public interest disclosure interest. However, some of them might have substantial public interest disclosure activity. We do not know that and yet we are creating this power.

This is the twenty-first century and we know that New South Wales has a substantial problem with corruption. One of the remedies to corruption is public interest disclosure—that is why it was created in the first place. Tonight we are weakening the reporting on public interest disclosure. That cannot be a good thing. It has to lead us to a situation where we have less accountability, not more.

Both sides of a Parliament that have had to deal with significant corruption issues should not feel comfortable making the State less accountable in the lead-up to an election where corruption will be an issue. I am surprised the Government is dealing with this in a way that can only be described as unconventional, and that makes it very difficult to debate these matters seriously. I urge the Government to withdraw from this process. I do not see urgency in the schedule 2 amendments. This Act has been around since 1994 and I presume that provision has been in the Act since 1994. For 30 years this legislation has operated with this requirement, and suddenly at 12.45 a.m. we need to delete this reporting requirement.

It is more than odd that it has to be done in this strange way, with questionable validity and outside the convention of how we deal with statute law. The way we are dealing with it raises real questions about the motivation of the Government. Madam Chair, how will we vote on schedule 1 and schedule 2, items [1] and [3], but not item [2]?

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! As previously requested the vote will be on individual schedules and items.

Dr JOHN KAYE: When will we do that? Will we do that before or after we have voted on the motion that is before the House at the moment? Do I need to move an amendment to delete schedule 2, items [1] and [3]?

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! The first vote will be on the Statute Law (Miscellaneous Provisions) Bill as put. The second vote will be on the Ombudsman and Public Interest Disclosures Legislation Amendment Bill, with proposed amendments, first to schedule 1 and then to schedule 2 with items [1], [2] and [3] voted on individually.

Dr JOHN KAYE: At what stage will we address the motion before the Committee—that is, the motion of the Parliamentary Secretary?

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! We are doing that now. When the Parliamentary Secretary finishes his reply, I will put the motions for the votes as I have explained them.

Dr JOHN KAYE: Will the Parliamentary Secretary's motion be the first thing put?

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): This is the motion.

Dr JOHN KAYE: Will it be put to the vote?

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! Once the Parliamentary Secretary has finished speaking, the first question will be that the first bill, the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014, be agreed to. The second question will deal with the Ombudsman and Public Interest Disclosures Legislation Amendment Bill, which includes the schedules and items the member is debating.

The Hon. Matthew Mason-Cox: The instruction to the Committee has been agreed to.

Dr JOHN KAYE: The motion has not been agreed to, so the bill has not yet been divided into two bills.

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! The instruction to the Committee was to deal with it separately.

The Hon. DAVID CLARKE (Parliamentary Secretary) [12.46 a.m.]: The Hon. Adam Searle raised the issue of the protection being provided to legal practitioners. This is to bring the Ombudsman Act into line with the provisions of the Independent Commission Against Corruption [ICAC] Act. Specifically the proposed amendment will bring the Ombudsman Act 1974 into line with similar provisions in the Independent Commission Against Corruption Act 1998, the Police Integrity Commission Act 1996 and the Crime Commission Act 2012, which already apply to both current and former officeholders and to Australian legal practitioners appointed to assist them. The Ombudsman sought this amendment prior to the House considering the motion relating to the committee inquiry into Operation Prospect.

TEMPORARY CHAIR (The Hon. Natasha Maclaren-Jones): Order! I again clarify that the first question will be put on the Statute Law (Miscellaneous Provisions) Bill (No. 2) 2014.

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

PETROLEUM (ONSHORE) AMENDMENT (NSW GAS PLAN) BILL 2014

Second Reading

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [12.50 a.m.]: I move:

That this bill be now read a second time.

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

Leave not granted.

The Petroleum (Onshore) Amendment (NSW Gas Plan) Bill 2014 is part of the package of reforms announced last week in the NSW Gas Plan. I congratulate the Minister for Resources and Energy on that excellent announcement. The NSW Gas Plan sets out the Government's blueprint for building a safe and sustainable gas industry and securing reliable and affordable gas supplies for the State. As an important first step in implementing the NSW Gas Plan the bill amends the Petroleum (Onshore) Act 1991 to enable us to hit pause and to reset the development of our gas resources.

This State is rich in gas resources; however, only 5 percent of what it uses is produced domestically. Unless we take decisive action, New South Wales will face potential gas shortages over the next five years. We face increasing competition for access to gas from other States as producers on the east coast move to sell their product overseas. Census data from the Australian Bureau of Statistics shows that industrial users of gas, including metal product manufacturers and chemical industries, employ around 300,000 people in New South Wales. I seek leave to have the balance of my second reading speech incorporated in *Hansard*.

Leave granted.

Without affordable and reliable gas supplies, these manufacturers will struggle to compete and grow.

Some will be forced to move their activities out of New South Wales, taking jobs and government revenue with them. Others will be forced to cease operations altogether.

This Government is committed to the safe and sustainable growth of our domestic gas supply.

At the same time, however, we recognise that some in the community have rightful concerns about gas activities in New South Wales.

The development of our gas reserves must be guided by stringent regulation to ensure our vital land and water resources are protected and that there are no risks to human health.

Since taking office in 2011 the New South Wales Liberal-Nationals Government has implemented the toughest rules around coal seam gas in Australia.

We have delivered more than 30 significant reforms.

These include:

- a Water Monitoring Framework to map, monitor, report and protect groundwater resources across New South Wales;
- scoping the development of an environment data repository and baseline subsidence mapping;

- banning the use of harmful BTEX chemicals;
- banning evaporation ponds; introducing an aquifer interference policy; and
- developing codes of practice for well integrity and fracture stimulation.

We have also taken measures to facilitate greater consultation between government, community and industry about gas activities.

For example, we appointed a New South Wales Land and Water Commissioner to provide independent advice to the community about exploration activities.

We have also established the Gloucester Dialogue, chaired by the Land and Water Commissioner.

The Gloucester Dialogue brings together community, industry and local and State governments to explore issues surrounding the exploration and extraction of coal seam gas in the Gloucester Basin.

This is the first time in New South Wales that this type of dialogue has occurred.

Through the dialogue there is regular contact between senior departmental officers and Gloucester Shire Council. Any topic is up for discussion.

A community liaison officer from my department operates out of the council chambers two to three days a week.

The tenth dialogue meeting was held less than two weeks ago.

I commend the Gloucester Shire Council, particularly the mayor, Councillor John Rosenbaum, for its tireless work in the dialogue.

It has not been an easy road—there have been a lot of robust discussions.

However, the dialogue has reshaped the way local communities engage with government and companies in relation to large resources projects.

It has transformed our role from absence to informing to genuine engagement.

Through the dialogue, the community has access to all materials relevant to licensing decisions and approvals about AGL's Gloucester Gas Project.

It has also resulted in changes to the way AGL carries out its activities in the Gloucester Valley.

For example, through the dialogue, the Gloucester Shire Council asked for more air monitoring. As a result, additional monitoring sites were implemented.

Similar arrangements to the dialogue are being established in Santos' Narrabri project area.

Here the council and community have also benefited from access to government and the company.

However, we do not shy away from the fact that there is more to be done—by government and industry—to build community confidence in the New South Wales coal seam gas industry.

We are committed to a world-leading regulatory framework underpinned by science, not scaremongering.

That is why, last year, we commissioned the New South Wales Chief Scientist and Engineer, Professor Mary O'Kane, to undertake an independent review of coal seam gas activities in New South Wales.

Professor O'Kane released the final report on 30 September 2014.

The report brings together the extensive body of work undertaken during the review and makes a series of 16 recommendations.

Professor O'Kane's report provides us with a road map to establish a world-leading industry that is safe and sustainable.

The Government welcomes the report and will adopt all of its recommendations.

Professor O'Kane found that the risks posed by the coal seam gas industry can effectively be managed.

They can be managed through ensuring the right regulatory framework is in place, engineering solutions and constant learning through monitoring and research.

The NSW Gas Plan draws on the insights of the Chief Scientist and Engineer's report to set a clear direction for gas in New South Wales.

The NSW Gas Plan identifies five priority pathways to reset New South Wales approach to gas.

These are:

1. Pausing, resetting and recommencing: gas exploration on our terms.
2. Developing a framework underpinned by better science and information to deliver world's best practice regulation.
3. Ensuring strong and certain regulation.
4. Sharing the benefits of gas production with landholders and communities.
5. Securing supply and helping consumers.

The plan sets out a raft of actions under each of these pathways.

These actions include:

- resetting the Government's approach to granting petroleum exploration licences;
- developing an online portal that will bring together environmental data collected by New South Wales regulators;
- establishing the independent Environment Protection Authority as the lead compliance and enforcement watchdog for all gas activities;
- lifting industry performance through minimum standards for applications and outcome-based licence conditions;
- commissioning the Independent Pricing and Regulatory Tribunal to benchmark compensation rates annually; and
- establishing a Community Benefits Fund to fund local projects in communities where gas exploration and production occur.

As a key first step in implementing the NSW Gas Plan, the proposed amendments enable us to pause and reset the approach to issuing petroleum exploration titles.

This bill lays the foundations for a transparent, informed and strategic approach to allocating our petroleum resources, to be introduced in 2015 as part of a second, comprehensive tranche of legislation.

This second tranche of legislation will implement a number of other actions set out in the NSW Gas Plan.

These include establishing the Environment Protection Authority's new lead role, introducing new landholder compensation requirements, ensuring that standards and conditions are continually updated and improved and equipping regulators with the tools they need to strictly enforce compliance.

Gas exploration and development will be undertaken on our terms.

Under the current legislative framework, applications for petroleum titles are processed on a "first come, first served" basis.

There is no clear requirement preventing companies with no financial capacity or technical expertise from applying for petroleum titles over large areas of land.

The Labor Government handed out petroleum exploration licences in a careless and clumsy, freewheeling fashion with little oversight and no long-term vision.

It gave a number of companies with no operating history and no technical expertise licences over vast expanses of the State.

Understandably, this placed unnecessary stress on communities.

New South Wales deserves better.

The Chief Scientist recommended that the Government designate those areas of the State in which coal seam gas activity can occur.

We support that recommendation.

As set out in the NSW Gas Plan, we will introduce legislation next year to scrap the existing "first come, first served" system.

In its place, the Government will introduce a strategic release framework for petroleum titles.

This will give the Government control over the areas that are released for petroleum exploration and production.

Petroleum exploration and production will be undertaken on our terms and we should not be tied to the mistakes of those sitting opposite.

The bill is the first step in ensuring that we have a targeted and controlled approach to facilitating petroleum exploration in this State.

There will be no more ad hoc, inadequate and inappropriate applications to explore which take the community by surprise.

Never again will licences be allocated like confetti to anyone who puts up their hand.

Gas exploration and production will be undertaken on our terms.

However, before we can introduce a strategic release framework, we need to roll back the areas under application for titles and ensure the settings are right for a safe and sustainable industry.

The NSW Gas Plan lists a number of measures for achieving this.

An important measure—which the bill implements—is to wipe the slate clean of the outstanding petroleum title applications that cover almost half the State.

These applications will be expunged and the \$1,000 application fees paid returned.

I will now turn to a more detailed discussion of the provisions in the bill.

As a first step, the bill will wipe the slate clean of applications for licences.

It will do this by voiding all current applications.

The bill will not affect applications for areas that are already covered by an existing title. However, as I noted earlier, the NSW Gas Plan sets out a range of measures to lift the performance of existing titleholders.

The bill will remove 16 petroleum title applications from the books.

These applications currently blanket 43 per cent of the State, including large parts of the Northern Rivers, the Riverina district and the Southern Highlands.

There will be no compensation payable for voiding these applications. However, application fees will be refunded.

I stress that these actions are not a reflection of the merits of the applications or the companies that submitted them.

Rolling back these applications is simply a necessary first step towards moving to a framework that enables us to designate areas in which it is appropriate for exploration to occur.

Currently, under section 9 (1) of the Petroleum (Onshore) Act the Minister for Resources and Energy may designate areas in which a petroleum title cannot be granted.

In March this year the Minister used this power to impose a freeze on processing new petroleum title applications.

As set out in the NSW Gas Plan, next year we will introduce a Strategic Release Framework to release areas for gas exploration.

This will give the Government control over the areas that are released for petroleum exploration and production.

The freeze on processing new applications will remain in place until this framework is implemented.

Once the freeze is lifted new exploration licences will only be issued in areas released by the Minister for Resources and Energy.

A triple bottom line assessment of environmental, economic and social factors will be undertaken before these areas are released.

This will draw on the new approach to coal exploration recommended by the Independent Commission Against Corruption.

It is time for a "reset" in New South Wales.

Gas exploration and development should be undertaken on our terms.

The bill achieves just that. It pauses and enables us to reset the current approach to issuing petroleum titles.

It lays the foundations for a transparent, informed and strategic approach to allocating our petroleum resources.

This bill is an important milestone towards developing a safe and sustainable coal seam gas industry, and securing reliable and affordable gas supplies for industry and households.

I commend the bill to the House.

The Hon. STEVE WHAN [12.52 a.m.]: It has been an interesting couple of weeks for coal seam gas policy in this place. In some ways the name of the Petroleum (Onshore) Amendment (NSW Gas Plan) Bill 2014 is rather exaggerated. Although last week the Government announced the latest iteration of its policy on New South Wales gas that has been developing over the past couple of years, this bill is a fairly narrow piece of legislation that simply seeks to abolish a number of petroleum titles. It goes nowhere near covering the full extent of the plan the Government has been talking about. Instead, it expunges petroleum title applications. In

publicising the bill, the Government talked about wiping the slate clean. The bill clearly does not do that. It simply arbitrarily removes a number of titles around the State and, as I will come to later, in some cases it does so in a misdirected way. We have been talking about coal seam gas or unconventional gas as the focus of the bill but it appears to directly target conventional gas as well. That is not what the Government claimed in its proposals.

As I said, this is a relatively small piece of legislation that does not wipe the slate clean as the Government said it would. It essentially expunges a number of title applications for areas around the State in which no exploration activity is taking place. It does not address the far North Coast or other controversial areas such as the Sydney catchment special areas. Instead, it enables Government members to hold up a map of New South Wales and say, "Look at us. Aren't we clever? We have removed a whole lot of the sections that had petroleum applications over them." But none of those were areas where exploration was taking place because the applications were still in process.

The Opposition will move amendments to implement the Opposition's expressed policy. We have stated on a number of occasions that the policy includes three critical things. The first is to implement the ban that the Opposition would put in place on coal seam or unconventional gas extraction in the North Coast and Northern Rivers. The second is to permanently protect the special areas of the Sydney catchment. Just last week in this place we spoke about the special areas. They are the places where even bushwalking is not allowed and yet there is no permanent protection from surface activities of drilling and exploration. We will also seek to amend the legislation to implement a recommendation from the Chief Scientist and Engineer's report to establish an expert committee. We will discuss those amendments further during the Committee stage.

The Government's announcement last week seems to have caused a degree of discomfort to a number of Government members, particularly The Nationals members and those from the North Coast. I suspect that might be the reason that the Hon. Walt Secord is waiting to talk in this debate.

The Hon. Walt Secord: I have insomnia.

The Hon. STEVE WHAN: This is the place to cure that. The announcement last week caused a great deal of angst for many Government members because, far from dealing with community concerns about coal seam gas, the NSW Gas Plan has turned out to be the plan to give the go-ahead to coal seam gas extraction in many parts of the State. The areas causing the most concern are the North Coast and the Sydney catchment. Government members are feeling a bit uncomfortable because the plan does not go as far as many of them would have liked. Before the last election Labor made it clear that areas of the State should be ring fenced from coal seam gas and it started the process of identifying those areas. The NSW Gas Plan makes some unnecessary comments. For instance, it tells us in a big bold headline that the Coalition will protect national parks from exploration for coal seam gas. It has been made very clear that they were already protected.

Mr Jeremy Buckingham: They're going to ban it in New Zealand.

The Hon. STEVE WHAN: They are going to ban it in New Zealand, says The Greens representative. Before the last election the Labor Party proposed that areas would be ring fenced. We have made it clear since then that we believe there should be a pause on unconventional gas in New South Wales, but that we wanted to set in place a process to ensure that before any extraction proceeded there would be absolute confidence in the state of our groundwater, our aquifers. To that extent there are a number of recommendations in the Chief Scientist's report that are worth pursuing, but there is a lot of work to be done on those. The Chief Scientist has set the Government a lot of tasks. I am pleased that one of the positive aspects of the NSW Gas Plan is that the Government accepts all of the Chief Scientist's recommendations, but some of those are pretty complicated to implement and they will take some time.

This legislation is not about endorsing the NSW Gas Plan; it is about deleting a number of applications. The Government has made a bit of a cock-up in a number of areas. The legislation does not offer the protection for areas that Labor has advocated, and we will, of course, move amendments to rectify that. But one thing the legislation does, which is clearly unintentional, is remove a number of pending applications for gas developments for conventional gas—not coal seam gas but conventional gas. Some of those applications were in process from the NSW Aboriginal Land Council for the west of the State. They are in areas that are not coal basins; they are in exactly the same type of geological formations where gas is extracted in South Australia and which flows through the Moomba gas pipeline to be used by gas consumers in New South Wales, or from Gippsland in Victoria.

While those who oppose all forms of fossil fuel might argue about the use of conventional gas, the vast majority of people in New South Wales do not have a problem with the use of conventional gas or, indeed, the extraction of conventional gas. They have a problem with gas that does not come from gas-type formations but from shale gas or from coal seams. Conventional gas often comes from a sand-type structure, and this legislation cancels those titles as well. I do not think that that is a satisfactory situation. I do not know if it is an unintended consequence by this Government but it is clear that, despite all the time the Government has spent on it, this legislation was rushed. It has failed to do the job it was intended to do and it contains some significant flaws.

The Opposition will move amendments to this legislation. We believe there is still a long way to go on coal seam gas in New South Wales. It is interesting to note the number of elements of the Government's NSW Gas Plan that are moving gradually closer to Labor's position, which we have been putting forward for some time. That is welcomed, but what this plan clearly does not do is take action to ban coal seam gas explorations in the Sydney catchment special areas or on the North Coast and it does not take enough action to implement immediately some of the recommendations of the Chief Scientist, which we believe the Government should implement. I commend the amendments that we will move in the Committee stage.

Mr JEREMY BUCKINGHAM [1.03 a.m.]: I contribute to debate on the Petroleum (Onshore) Amendment (NSW Gas Plan) Bill 2014. What a long and winding road it has been to get to this wafer-thin bill. After nearly five years of policy development, promises, posturing and touting their wares across the countryside, the Government came up with a Petroleum (Onshore) Amendment (NSW Gas Plan) Bill that is nothing of the sort. There is no gas plan in this bill; there is no response to the Chief Scientist and Engineer in this bill. This bill is a thin veneer of the Government's plan to sneak coal seam gas through the next election and launch it onto the countryside. This is more spin, more carpetbagging, from a government that the people of New South Wales do not trust.

The Hon. Duncan Gay: Take your koala suit off.

Mr JEREMY BUCKINGHAM: It did not take long to get a rise out of you. The Strategic Regional Land Use plan failed, the Aquifer Interference Policy failed, and the people of New South Wales do not believe a single word those opposite say on this issue. Not even the Government's backbenchers, parliamentary secretaries or Ministers believe a single word Minister Gay says.

The Hon. Matthew Mason-Cox: Point of order: The member should direct his comments through the Chair and should stop pointing at people across the table. He should take a moment to take a deep breath, relax and be calm.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! The Minister was referring to relevancy. There is no point of order.

Mr JEREMY BUCKINGHAM: We are debating the Petroleum (Onshore) Amendment (NSW Gas Plan) Bill. Where did this bill start? It started with the Hon. Chris Hartcher introducing an onshore petroleum bill back in May 2013. Do members remember him introducing that bill and saying ad nauseam, "These are the toughest rules in Australia"? He went on to say, "These are the toughest rules in the world". What a joke that is. We heard announcement after announcement after announcement and that bill, which passed the Legislative Assembly on 28 May 2013, then disappeared; it was pulled off the *Notice Paper* on 10 September this year. It died an inglorious death; slowly and quietly culled—euthanased—because it was an absolutely pathetic bill that did nothing to placate the people of New South Wales who have concerns about coal seam gas.

The Hon. Steve Whan said this bill is not very broad. I have seen needles with more breadth and depth than this bill. Talk about pinpoint legislation—it is pathetic. The Government is expunging a handful of titles—and it very nearly could not bring itself to do that—when the people of New South Wales wanted substantive action in this area. They wanted, as the Government promised, areas ruled out of coal seam gas activity. We got some very sensible recommendations from the Chief Scientist that should be applied to extractive industries across the State.

The Hon. Duncan Gay: We're going to do the whole lot.

Mr JEREMY BUCKINGHAM: No, you're not. There were dozens of pages in the Chief Scientist's report—I read them—and the Bret Walker report, but did their recommendations turn up in the gas plan? No, they did not. Some key things are missing from the NSW Gas Plan. One of the most important things missing is

the recommendations of Bret Walker, SC: the rights of farmers and the rights of communities to be empowered in arbitration and land access. It says in the Government's response to the review in the most *Yes Minister* type language I have ever seen:

On 15 April 2014, the NSW Government commissioned Mr Bret Walker SC to undertake an independent review of the land access arbitration processes relating to exploration under the *Mining Act 1992* and the *Petroleum (Onshore) Act 1991*.

The Walker Report ... made 31 recommendations to improve the arbitration land access framework. The NSW government has endorsed all the recommendations in the Walker Report relating to the current arbitration framework and committed to a process of implementation commencing immediately where possible."

The Government is committed to a process of implementation commencing immediately, where possible. What an absolute joke. This Government is a farce. No-one trusts this Government and no-one believes this Government. The gas plan is an absolute joke. It is just a blueprint to turn a beautiful State into a toxic gas field. No-one believes this Government.

Do Government members know who does not believe this Government, in particular? The Minister for Mental Health, and the Assistant Minister for Health and member for Wollondilly, Jai Rowell, Gareth Ward, Lee Evans, Mark Speakman, Mark Coure, Stuart Ayres, Chris Patterson, Brian Doyle, Russell Matheson, Rosa Sage, Barry O'Farrell, Don Page, Kevin Anderson, Thomas George, Chris Gulaptis and whoever the Coalition has running as a candidate in Ballina. They all rushed out within 24 to 48 hours of the announcement to state on the public record, "We're banning it. We're banning it." They knew what the community's interpretation of the NSW Gas Plan was.

It is a carpetbagging exercise by snake oil salesmen who have come into New South Wales communities to sell them a story that New South Wales is running out of gas and this State must have coal seam gas. How many Holdens does New South Wales produce and how many mangoes? Are we completely self-sufficient concerning mangoes? Do we have to have a mango industry? We are a federation, part of a commonwealth, and this issue should be dealt with at the Council of Australian Governments [COAG], not through some carpetbagging exercise by the New South Wales Government. In the context of the most outrageous, erroneous and egregious untruths, I will refer to the Minister's second reading speech, which states:

For example, we appointed a New South Wales Land and Water Commissioner to provide independent advice to the community about exploration activities.

When referring to the framework for community engagement, the Minister stated:

We have also established the Gloucester Dialogue, chaired by the Land and Water Commissioner. The Gloucester Dialogue brings together community, industry and local and State governments to explore issues surrounding the exploration and extraction of coal seam gas in the Gloucester Basin.

This is the first time in New South Wales this type of dialogue has occurred. Through the dialogue there is regular contact between senior departmental officers and Gloucester Shire Council. Any topic is up for discussion. A community liaison officer from my department operates out of the council chambers two to three days a week. The tenth dialogue meeting was held last Thursday. I commend the Gloucester Shire Council, particularly the mayor, Councillor John Rosenbaum ...

Through the dialogue the community has access to all materials relevant to licensing decisions and approvals about AGL's Gloucester gas project.

That is unadulterated rubbish from the Minister because in that very week the man who had the idea for the Gloucester Dialogue, Aled Hoggett—a former councillor of the Gloucester Shire Council—resigned from the Gloucester Dialogue. He did that in the very week when the Minister was spruiking it as the way forward for engagement and the way to sell the Government's gas plan. Aled Hoggett stated in his letter of resignation, "The dialogue was initiated at my suggestion in February this year."

Mr Scot MacDonald: Point of order: I appreciate that there is wide latitude in second reading debates, but we are getting far away from relevance.

Mr JEREMY BUCKINGHAM: To the point of order: I am referring to the Minister's second reading speech and his introduction of this legislation in the other place.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! Members have an opportunity to contribute to the debate. Wide latitude is given in the second reading debate.

The Hon. Matthew Mason-Cox: Point of order—

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! Is the member taking a further point of order?

The Hon. Matthew Mason-Cox: I have been listening carefully. Mr Jeremy Buckingham is casting reflections upon the Minister.

Mr JEREMY BUCKINGHAM: I have not mentioned his name.

The Hon. Matthew Mason-Cox: Mr Jeremy Buckingham has said untruthful things and made a number of comments. Mr Jeremy Buckingham should be very, very careful about what he is saying and about casting reflections upon members of the other place.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! At the time Mr Jeremy Buckingham was citing the Minister's second reading speech. However, I caution Mr Jeremy Buckingham generally about making reflections upon any member of the other House.

Mr JEREMY BUCKINGHAM: Thank you, Madam Deputy-President. "The dialogue was initiated at my suggestion in February this year", Mr Aled Hoggett stated in his letter of resignation from the Gloucester Dialogue to which the Minister referred in his second reading speech. "I hope that Mr Roberts' current assertions would become reality, that we could find a new path to coexistence between coal and gas projects in local communities. Instead I resigned my position on the dialogue early this month. In my opinion, the dialogue has failed and has become an overbearing monologue directed at our tiny and under-resourced council. It is being managed to satisfy the requirements for consultation while delivering no such thing. More fundamentally, the dialogue cannot address three major problems in the New South Wales planning system that undermine coexistence between rural communities and the coal and gas industries. The first problem is that the New South Wales planning system disempowers local communities."

Mr Hoggett went on. He resigned from the committee; that was his idea. The Government's NSW Gas Plan is a farce. The gas plan is based on a false assumption around economics and on a belief that the Government can say just anything to the community and get away with it. I will read onto the record what Mr Jai Rowell declared in the *Wollondilly Advertiser* to his community in relation to the announcement of the gas plan: "It ain't happening, it's over, we won", Wollondilly MP Jai Rowell declared last week", after the gas plan was released. Yet the gas plan refers to the very fact that the AGL gas development in Camden will remain an integral part, in the Government's opinion, of gas delivery in New South Wales. That completely contradicts what Mr Jai Rowell said—"It ain't happening, it's over, we won", there will be no coal seam gas in Wollondilly. The community is not stupid.

The Hon. Matthew Mason-Cox: It is in Camden. It is not in Wollondilly, mate.

Mr JEREMY BUCKINGHAM: I acknowledge the interjection. The expansion plans of AGL are clearly into the Camden electorate. The member for Camden knows it. The community knows it and they are not being sold a pup on that one. Another very important element of the recommendations made by the Chief Scientist and Engineer that did not make it into the Government's NSW Gas Plan, and it should serve as a warning to all in New South Wales, is that the Chief Scientist concluded her report with these words:

There are no guarantees

- All industries have risks and, like any other, it is inevitable that the CSG industry will have some unintended consequences, including as the result of accidents, human error, and natural disasters. Industry, Government and the community need to work together to plan adequately to mitigate such risks, and be prepared to respond to problems if they occur.

They are wise words by any measure in regard to risk management. How did the Chief Scientist and Engineer suggest that those risks be managed? Recommendation 9 states:

Recommendation 9

That Government consider a robust and comprehensive policy of appropriate insurance and environmental risk coverage of the CSG industry to ensure financial protection short and long term. Government should examine the potential adoption of a three-layered policy of security deposits, enhanced insurance coverage, and an environmental rehabilitation fund.

That is a very sensible recommendation. It is something that I would recommend in relation to any extractive industry, in all industries and most undertakings.

Mr Scot MacDonald: Point of order: Madam Deputy-President, I challenge you to draw relevance between the bill and what Mr Jeremy Buckingham is saying. The New South Wales Chief Scientist and Engineer's report is not referred to in the bill.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! There is no point of order. Wide latitude is granted in second reading speeches. Mr Jeremy Buckingham may continue.

Mr JEREMY BUCKINGHAM: I was referring to the recommendations made by the Chief Scientist and Engineer, which underpin the gas plan bill.

Mr Scot MacDonald: It is not in the bill.

The Hon. Steve Whan: You should not have called it the NSW Gas Plan bill.

Mr JEREMY BUCKINGHAM: It should not have been called the NSW Gas Plan bill.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! There will be no discussion across the Chamber.

Mr JEREMY BUCKINGHAM: Clearly, there is enormous concern in the community. Does the recommendation to which I have referred turn up in the gas plan bill? No. What we have from this Government is a suggestion that all this will be done after the election—just like after the 2011 State election the Government had strategic regional land use plans that covered the State and protected areas, such as water catchments—"no ifs, no buts, a guarantee". Where did that go? It went the way of the premiership of the Hon. Barry O'Farrell. Those promises were not kept and people will hold this Government to account on its word. People do not believe for one instant that this promise from the Government will be kept. That is clear from the words of Mr Kevin Anderson who, straightaway after the announcement of the gas plan, rushed out to say that he wants the Liverpool Plains to be protected. Other members on the North Coast have said that they want those areas protected. I join them in saying that those areas should be protected. This coal seam gas industry is unnecessary. As the Chief Scientist said, it has major issues in terms of risk.

The Government may argue that it did not have time to do this. Why has it not implemented the recommendations of the Bret Walker review? I would like to hear from the Minister in his reply why the recommendations have not been implemented. There is a massive configuration in the community about land access and arbitration. The Government commissioned one of the best legal minds in the nation to deal with the issue, and he made fantastic recommendations about how to deal with it. The recommendations are widely supported by the environment movement, people in social justice, the legal fraternity and all sides of politics. Yet the Government has not moved. That shows that the Government is not serious and cannot be trusted on the recommendations of the Chief Scientist; otherwise some of the low-hanging fruit in the recommendations would have turned up in this wafer-thin petroleum bill. All the bill does is set out to cancel or expunge—

Mr Scot MacDonald: Finally we can talk about the bill.

Mr JEREMY BUCKINGHAM: I will cover the whole bill in my remaining two minutes. The Government will expunge a number of petroleum title applications, which simply could have been rejected. Will the Government cancel the petroleum exploration licences [PELs] that are up for renewal? As promised, will it protect areas such as water catchments? No, it will not. With this bill, the Government thinks it can erect a thin veil and hide behind it and sneak through to the next election. However, the electors of Lismore, Ballina, Tamworth and Barwon do not want to be guinea pigs in the Government's toxic coal seam gas experiment. They understand that we are a country rich in natural resources. Former Federal Labor and Coalition governments have signed up to a massive export of LNG without proper socio-economic analysis.

There is a parliamentary inquiry into gas supply and demand. I look forward to that inquiry. We have seen some of the submissions to the lower House inquiry from companies such as Jemena, which say there is no gas supply crisis, there is lots of gas in Bass Strait from conventional sources and all it needs to do is build a pipeline. There are other suggestions for pipelines, et cetera. The Greens are not opposed to fossil fuels.

The Hon. Rick Colless: I hope that's in *Hansard*.

Mr JEREMY BUCKINGHAM: The stereotypical base characterisations of the environment movement by members opposite are pathetic. Coal seam gas is a complex topic and argument. The community

is smarter than the Government thinks. People understand that we are arguing for a transition away from conventional gas sources and reliance on oil, for a range of reasons, and a transition to a jobs rich renewable energy future. We are sure there will be a role for gas as feedstock and for oil. However, an exciting range of new technologies are coming around the bend and we should be adopting them.

Simply expunging these titles and applications is an absolutely damp squib of an exercise. We have seen the significant recommendations in the Chief Scientist's report and the Walker review. Then we saw the gas plan and we end up with this bill. This does not fly. One would be hard pressed to make a paper aeroplane out of the bill. It is absolutely pathetic. After five years of promises, posturing and all the rest, at 1.30 a.m. on the second last sitting day of this Parliament we get the Government moving this bill through. Thank you very much. Last week I was in Broken Hill. People from east to west and north to south are furious because the Government cannot be trusted.

The Hon. WALT SECORD [1.24 a.m.]: As the shadow Minister for the North Coast I speak on the Petroleum (Onshore) Amendment (NSW Gas Plan) Bill 2014. My observations on the bill will centre on North Coast issues. On Thursday 13 November at 10.05 a.m., without warning, the Liberal-Nationals Government introduced this bill in the Legislative Assembly. For a start, the title of the bill is a complete and absolute deception. The bill does not abolish current coal seam gas [CSG] and unconventional gas production licences currently in operation and it does not protect the Northern Rivers region of New South Wales. Furthermore, the Liberal-Nationals Government has put on the table the possibility of reopening the special area of the Sydney water catchment for CSG operations.

If the purpose of the bill's title is to convey the Government's intention at law, then the bill should have been called the "Unlock the gate and roll out the red carpet for Metgasco on the North Coast after the March 2015 election". That is because that is the intention of this bill. It will allow CSG and unconventional gas exploration to return on steroids on the North Coast after the March 2015 State election. The bill provides no guarantee to the communities of New South Wales, particularly those on the Northern Rivers which have made their views abundantly clear. But that is no surprise. The Liberal-Nationals Government has already flagged that it will back big corporations over the people of New South Wales every time.

That is why Labor will be moving a number of amendments to the bill to bring it into line with Labor's policy, announced by Opposition leader John Robertson on 29 October. Our amendments will ban coal seam gas from the special areas of the Sydney water catchment and from the Northern Rivers, encompassing the local government areas of Ballina shire, Byron shire, Kyogle shire, Lismore city, Tweed shire, Richmond Valley and Clarence Valley. At the 29 October announcement John Robertson, the Country Labor candidate for Clarence, Trent Gilbert, and I came together in Grafton to announce that a Labor government will declare a coal seam gas and unconventional gas free zone from the Clarence Valley local government area to the Queensland border.

Labor will not allow new CSG exploration licences and will refuse to grant CSG exploration licences. Labor will refuse renewal of existing licences and any applications to expand existing operations on the Northern Rivers. Labor will ban existing and future CSG and unconventional gas mining on the North Coast. I urge The Nationals to vote for Labor's amendments to protect the North Coast. Members will be aware that as recently as two weeks ago Premier Mike Baird said:

Do we want coal seam gas? Absolutely we do.

On 30 October he stood at Ballina-Byron Gateway Airport and spoke in favour of the CSG industry. The Premier made it clear that when it comes to CSG and unconventional gas exploration he is squarely on the side of mining companies and not local North Coast communities, which remain rightly worried about the impact of this risky industry on their homes, environment, agricultural lands and drinking water catchments. But the Government finally woke up to the fact that there is an election coming, so it has created this smokescreen of a bill. This is to make it look like it is doing something on the North Coast. This bill is the Baird Government's belated attempt to take some of the political red heat out of the issue of coal seam and unconventional gas, particularly on the North Coast.

This is because the Liberal-Nationals Government knows that the residents of such communities will vote wholeheartedly against The Nationals members who are pushing hard to expand CSG and unconventional gas in such areas. That is why The Nationals' bill is not genuine. They are not genuine about CSG and unconventional gas. The Coalition and, in particular, The Nationals are not telling the truth on coal seam gas. They cannot be trusted to back the community's position against CSG mining. Despite their claims on the North

Coast, that these are the "previous Government's licences", it was The Nationals who reissued exploration licences across the State in September 2012. The then Deputy Premier and Leader of The Nationals, Andrew Stoner, had his sticky, greasy paws all over those leases.

The Hon. Matthew Mason-Cox: Point of order—

The Hon. WALT SECORD: But make no mistake: All those licences on the North Coast remain in place because The Nationals—

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! The Hon. Walt Secord will resume his seat. I remind him that he is on two calls to order.

The Hon. Matthew Mason-Cox: The Hon. Walt Secord is reflecting on a member in another place. He knows that that is disorderly. I ask you to call him to order.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I ask the Hon. Walt Secord to withdraw his comments.

The Hon. WALT SECORD: Make no mistake—

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I ask the Hon. Walt Secord to withdraw his comments about a member of the other House.

The Hon. Steve Whan: To the point of order: I do not think "greasy, sticky paws" has ever been ruled to be an unparliamentary phrase. It may be a reflection that the Hon. Walt Secord should avoid, but he should not have to withdraw it.

The Hon. Rick Colless: You just admitted it.

The Hon. Steve Whan: No, it is not an unparliamentary term that the member should have to withdraw.

The Hon. WALT SECORD: I will withdraw if I get to move along.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! Does the member withdraw the comments?

The Hon. WALT SECORD: Yes, I withdraw. Make no mistake, all of the existing leases on the North Coast remain in place because of The Nationals' support for this industry, and that support is writ large in this bill. The object of this bill is to give the appearance that The Nationals are expunging certain pending applications for petroleum titles. That is not so. The bill does the reverse. We have a big clue to the fact that this bill is disingenuous in the way it was introduced. Last Thursday the Minister for Resources and Energy, without any warning, and without adhering to any normal or longstanding protocols of the New South Wales Parliament, introduced the legislation. There was no briefing to the Opposition, there was no consultation and there was no prior notification. The Minister just walked into the Legislative Assembly, suspended standing orders and introduced the legislation.

Now, we all know that if this were a genuine attempt to say, "Hey, look, we're listening, we're making reforms," no genuine government would take such a clandestine approach to the bill. The Liberals and The Nationals do not want to consult on the detail because, in this case, the devil is in the detail, and they do not want communities to know that. But our North Coast communities are clever, and they are onto The Nationals and their tricks. They will see through this scam that the Coalition has forced The Nationals to bear. And so Thursday 13 November 2014 will go down in New South Wales political history. It will go down in history as the day Premier Mike Baird and Deputy Premier Troy Grant signed the death certificate of the North Coast Nationals. The Nationals have made the 25 March 2015 State election into a referendum on coal seam gas and unconventional gas exploration on the North Coast.

Labor is about protecting the unique lifestyle, the pristine environment and the prime agricultural industries of the region. But The Nationals have sold out the locals on CSG, and their betrayal will be toasted at The Nationals Murwillumbah Christmas party on 26 November, where the special guest of honour will be the

CSG Metgasco chairman Peter Henderson. Let me say that again: the special guest of honour is Peter Henderson, head of Metgasco. What we do know is that the Liberals and The Nationals are more interested in giving the appearance of responding than truly acting on community concerns about CSG and unconventional gas exploration. The Nationals are only interested in glossy brochures, spin doctors and glossy pamphlets.

If the Liberals and The Nationals were interested in responding to community concerns they would have proceeded with a second reading speech by the Minister and then adjourned the bill, allowing the Opposition and crossbenchers to consider it. But their motivation is simple. If the North Coast community had time to consider the bill they would find it lacking in any detail and teeth, and they would see that it was an attempt to dupe them. But what is even more shameful is that not a single member of The Nationals spoke on the bill. I say that again: not a single Nationals member of Parliament spoke on the bill. That is a big betrayal of their electorates—not a word from the member for Tweed, not a word from the member for Ballina, not a word from the member for Lismore, and not a word from the member for Clarence. And out of left field, on 14 November the member for Tamworth popped up in his local media and said that he wants to protect the Liverpool Plains. After months of absolute silence, he enters the fray. It was like a scene out of *Muriel's Wedding*: "Deidre Chambers, what are you doing here? What a coincidence!" It is no wonder that the local community have dubbed The Nationals "Team Metgasco".

While I oppose Scot MacDonald's views on CSG and unconventional gas, he at least has the integrity to state and defend his positions in this Chamber. Scot Macdonald has repeatedly argued against and interjected upon me when I spoke about the harms of CSG and unconventional gas exploration. I respect that. Scot Macdonald, you stand up and you say the same thing in the Parliament and in New England.

Mr Scot MacDonald: Point of order—

The Hon. WALT SECORD: I am praising him.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! The member rises on a point of order.

Mr Scot MacDonald: The member well knows he should refer to me by my proper title.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! Mr Jeremy Buckingham will resume his seat. Mr Scot MacDonald—

The Hon. WALT SECORD: The Hon. Scot MacDonald.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! The member has elected to be referred to as Mr Scot Macdonald.

The Hon. WALT SECORD: I respect that, because Mr Scot MacDonald says the same things in New England as he does in Macquarie Street in Sydney. The same cannot be said for the North Coast Nationals. In their electorates, they attempt to divert attention away from their pro-CSG policies with glib trifold newsletters filled with the latest clip art nonsense—straight out of their Carrington Street headquarters Nationals play book. But the community has seen through The Nationals' tricks. On Friday 14 November Elly Bird, from Gasfield Free Northern Rivers, told ABC Lismore that she was disappointed by the policy:

We have been calling for a long time now for cancellation of licences across the Northern Rivers.

It is really clear, the sentiment of the community.

The industrial nature of this industry just does not fit with our community.

While there has been some concession through cancellation of some applications, there has been no actual cancellation of any exploration licences.

Our community is not going to stand for the rollout of the industry in the Northern Rivers.

We have shown that at Bentley, we have shown it at Glenugie.

Ms Bird also said that the North Coast feels so strongly about the CSG and unconventional exploration industries that they will "engage in civil disobedience" if they need to. These communities know that after

March 2015 families in the electorates of Ballina, Lismore, Tweed and Clarence will see coal seam gas let rip if The Nationals are re-elected. For the last three years, I have been saying on my many visits to the North Coast that the voters in the Northern Rivers region have a clear choice at the next election. A vote for The Nationals will be a vote for coal seam gas and unconventional gas extraction. And a vote for Labor will be a vote for protecting the North Coast.

This bill shows that The Nationals are not interested in implementing the recommendations of the Chief Scientist and Engineer, Professor Mary O'Kane. This bill shows The Nationals are not interested in a standing committee of scientists to watch over CSG and unconventional gas. This bill shows The Nationals are not interested in protections for drinking water catchments, as Opposition Labor leader John Robertson has repeatedly sought. This Liberal-Nationals bill does not protect the community. This bill is a road map for the expansion of CSG and unconventional gas across the State.

This Liberal-Nationals bill is a betrayal of the families, farmers, students, religious leaders, knitting nanas and small business people who came together to protest at Bentley near Lismore. The Nationals have ignored them and continue to ignore them. They have ignored Ms Meg Neilsen. They have ignored Gasfield Free Northern Rivers. They have ignored Lock the Gate. The Nationals are prepared to compromise prime agricultural land. They are prepared to jeopardise industries such as dairy, tourism and beef production. Just to give one example: on a recent trip to the North Coast New South Wales Labor Leader John Robertson and I held meetings with dairy farmers at Norco. For years and years those farmers felt the brunt of the duopoly of Coles and Woolworths when they were being forced to sell their milk for as little as \$2 for two litres.

But they did not moan about it. They found a better overseas market. They worked hard and invested millions to build an export industry, exporting fresh milk to China's growing middle class, which pays \$8 to \$9 a litre for that milk. Those dairy farmers are now very concerned that the Liberals and Nationals will destroy their industry and livelihood and the prosperity that they have fought to save. They know that the Chinese are paying up to \$9 a litre for milk because it is produced in a pristine environment in Australia. That is the premium the Chinese are willing to pay. That is New South Wales' unique selling proposition. All that will be under threat if The Nationals are returned in March 2015.

But a vote for Labor means the communities on the North Coast will never see coal seam gas extraction in that region. Labor has listened to the North Coast. That is why New South Wales Labor has announced that a Labor government will declare a coal seam gas and unconventional gas exploration free zone from the Clarence Valley local government area to the Queensland border. That will roughly cover the State electorates of Ballina, Tweed, Lismore and Clarence. Labor will ban all existing and future CSG and unconventional gas mining activities on the North Coast. It is a position unequivocally supported by the Federal Labor member for Richmond, Justine Elliot; Labor's community champion Janelle Saffin; the Labor candidate for the Tweed, Ron Goodman; the Labor candidate for Lismore, Isaac Smith; the Labor candidate for Ballina, Paul Spooner; and the Labor candidate for Clarence, Trent Gilbert.

Furthermore, Lock the Gate NSW coordinator Georgina Woods has backed Labor's position. Labor is offering North Coast communities a clear position. The Nationals are invisible, sitting in silence while the Coalition ignores the overwhelming voices across the Northern Rivers. Well, actually, "silence" is not quite correct. In his valedictory speech, after 24 years in this Parliament, the member for Ballina said coal seam gas and unconventional gas exploration should not be allowed in the electorate of Ballina. After 24 years of being a big CSG supporter, including in the Cabinet room, he now pretends, in his last speech to the House, that coal seam gas is evil and must be stopped. The rationale is very simple: the member for Ballina would not be welcomed in his community because of his staunch pro-CSG positions. His position would leave him a social pariah in his twilight retirement years on the North Coast. It brings me no pleasure to reflect on his ultimate betrayal to a community that elected him seven times.

The Hon. Duncan Gay: Point of order: If the honourable member gets no pleasure from saying those words, why would he mislead the House in such a grotesque way? The member for Ballina has never been a supporter or done as the member says.

The Hon. WALT SECORD: To the point of order—

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! The Minister was taking a point of order when he was interrupted by the Hon. Walt Secord. His interruption was disorderly.

The Hon. Lynda Voltz: To the point of order: A member who takes a point of order should do so on the basis of relevance, the long title of the bill or if there is a reflection on a member of the House. The Minister has not taken his point of order on any of those bases. I ask the Chair to rule that the member should be heard in silence.

The Hon. Trevor Khan: To the point of order: Describing a member in the other place as a social pariah—

The Hon. WALT SECORD: Point of order: I seek clarification—

The PRESIDENT: Order! I call the Hon. Walt Secord to order for the second time. I will have no hesitation in sending him home early if he does not resume his seat and stay there.

The Hon. WALT SECORD: May I resume, Mr President?

The PRESIDENT: Order! You may, on a very short leash.

The Hon. WALT SECORD: Bentley was a stone's throw from the electorate office of the member for Lismore but the member never once visited protesters at that site. Justine Elliott, the Federal member for Richmond, visited on numerous occasions. The Labor candidate for Lismore—

Mr Scot MacDonald: Point of order: I am asking for a ruling. The Hon. Walt Secord is talking about Bentley; he has not referred to petroleum titles and he has not referred to the bill.

The Hon. Steve Whan: To the point of order: The title of the bill is the Petroleum (Onshore) Amendment (NSW Gas Plan) Bill 2014 which is well and truly broad enough to be talking about coal seam gas.

The PRESIDENT: Order! We are on the second reading debate. The Hon. Walt Secord has three minutes left.

The Hon. WALT SECORD: Bentley was a stone's throw from the electorate office of the member for Lismore but he never once visited protesters at that site.

The PRESIDENT: Order! The Hon. Walt Secord is reflecting on a member of the Legislative Assembly. This is his very last warning.

The Hon. WALT SECORD: Justine Elliott, the Federal member for Richmond visited on a number of occasions. Isaac Smith, the Labor candidate for Lismore, Ron Goodman, the Labor candidate for Tweed, and Paul Spooner, the Labor candidate for Ballina, all visited Bentley.

Reverend the Hon. Fred Nile: We have no way of verifying what he is saying.

The PRESIDENT: Order! The Hon. Walt Secord has the call.

The Hon. WALT SECORD: I visited twice and on one occasion I took the Leader of the Opposition, John Robertson, to meet the families at Bentley. But not once did the member for Ballina, the member for Tweed, the member for Clarence or the member for Lismore visit Bentley. They have all failed North Coast families in relation to coal seam gas—an unconventional gas. I thank the House for its consideration.

Reverend the Hon. FRED NILE [1.42 a.m.]: On behalf of the Christian Democratic Party I speak in debate on the Petroleum (Onshore) Amendment (NSW Gas Plan) Bill 2014. The Petroleum (Onshore) Act 1991 is the primary piece of legislation regulating coal seam gas [CSG] exploration and production in New South Wales. This bill will amend that Act to void all pending applications for new petroleum titles. In total, the bill will void 16 applications—10 applications for petroleum exploration licences and six applications for special prospecting authorities. These applications cover approximately 43 per cent of New South Wales, including parts of the Northern Rivers region, the Riverina district and the Southern Highlands. Compensation will not be payable for voiding these applications. However, application fees will be refunded.

The bill will not affect applications that relate to an existing petroleum title—for example, it will not affect an application by the holder of a petroleum exploration licence for an assessment lease over the area.

These existing petroleum titles cover approximately 15 per cent of the State. Holders of existing titles will be subject to a use-it-or-lose-it policy and incentives to voluntarily relinquish their titles. These measures will be complemented by minimum standards for assessment of applications, including for technical and financial capacity.

I received a briefing paper from the NSW Aboriginal Land Council expressing its deep concern about the legislation, which will cancel four of its licences. The land council has sought to develop sustainable, social and economic outcomes for the Aboriginal people of New South Wales in partnership with the Government, with non-government organisations and with the private sector—a central priority of the NSW Aboriginal Land Council. In 2011 the council embarked on a resource development project which was aimed at creating income streams that would further the sustainability and independence of Aboriginal people and communities across the State. The NSW Aboriginal Land Council believes that this project has the potential to make a genuine impact on the economic development and social aspirations of the Aboriginal people of New South Wales. I commend it for its efforts.

The land council and I were concerned about any action that resulted in the cancellation of those four licences. After discussions with the Aboriginal Land Council I drafted an amendment to restore those four licences and to ensure subsequent economic development. The NSW Aboriginal Land Council was seeking to exempt coal seam gas production and to deal only with natural gas. Its applications focused on the Far West of New South Wales in the petroleum-prospective Darling Basin near the Moomba-to-Sydney gas pipeline. The area is sparsely populated with few competing land use pressures and is an area where Aboriginal communities are in need of real employment opportunities.

Aside from direct employment in the gas industry, the development of gas fields in this region offers the potential for other energy-dependent industries to be established. After drafting my amendment I had discussions with the Minister. As a result, the Government will announce its commitment to work with the NSW Aboriginal Land Council on these matters and it will support an amendment I foreshadowed on sheet C2014-172A, which will replace the amendment on sheet C2014-167 that I distributed earlier. My amendment is in the following terms:

No. 1 **Applicants of expunged applications to be given priority to make new applications**

Page 4, schedule 1. Insert after line 26:

6 Applicants of expunged applications to be given first opportunity to make new applications

- (1) The Minister must not take fresh title action in respect of any area for which an expunged application was made (a *relevant area*) unless:
 - (a) the Minister has first invited the applicant for the expunged application to make a new application for the petroleum title concerned, and
 - (b) the applicant has:
 - (i) informed the Minister that the applicant does not wish to make a new application, or
 - (ii) not made a new application within 28 days of being invited to do so, or
 - (iii) had the applicant's new application refused.
- (2) ***Fresh title action*** is:
 - (a) inviting applications under section 8 for petroleum titles in respect of a relevant area, or
 - (b) granting a petroleum title in respect of a relevant area.

I hope all members support that amendment which will provide employment opportunities for the NSW Aboriginal Land Council in the future. The Government must assist the Aboriginal people of this State to move away from a welfare mentality and provide them with an opportunity to secure their own economic future. I look forward to hearing the Minister for Fair Trading confirm those arrangements. With that assurance, the Christian Democratic Party will support the bill.

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [1.49 a.m.], in reply: Despite what members opposite might say, this bill is part of a package of reforms set out in the NSW Gas Plan—our

blueprint for developing a safe and sustainable gas industry and securing reliable and affordable gas supplies. To put it simply, this bill is about ensuring that future petroleum exploration is undertaken on our terms. A key priority of the NSW Gas Plan is to pause, reset and recommence gas exploration. In line with this, this bill amends the Petroleum (On Shore) Act 1991 to wipe the slate clean of new exploration applications. Currently, New South Wales has 16 outstanding applications for new petroleum titles. These applications are a legacy of a licensing framework that gives companies free rein to apply for petroleum exploration titles wherever they please. Taken together, these applications cover almost half the State, including large parts of the North Coast, the Riverina district and the western part of the State.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I call Mr Jeremy Buckingham to order for the first time.

The Hon. MATTHEW MASON-COX: The bill extinguishes these applications. Effectively, this will reduce the land covered by petroleum titles and applications from 60 per cent of the State to 15 per cent. By rolling back these areas the bill lays the foundations for a strategic release framework that we will introduce next year. Importantly, no new applications will be considered until the strategic release framework is in place. The strategic release will give the Government control over the areas that are released for petroleum exploration and production. The strategic release will enable the Government to identify the most appropriate areas for gas extraction and ensure community consultation is conducted up front. New exploration licences will be issued only in areas released by the Minister for Resources and Energy after a careful assessment of economic, environmental and social factors.

Title areas will be put out for public expressions of interest so that the Government can identify the most suitable and capable proponents. Reverend the Hon. Fred Nile has raised concerns with the Minister for Resources and Energy about the impact of this bill on six applications for petroleum titles submitted by the NSW Aboriginal Land Council. Reverend the Hon. Fred Nile has been very constructive in his discussions with the Government, unlike those opposite. The Government understands the concerns of proponents who went through a government process and who now find their applications expunged. However, the Government is firm in its view that the current application system for petroleum titles is broken and that applications under this system cannot progress further. I flag that the Government therefore will support the amendment circulated by the Christian Democratic Party that will give these former applicants priority to apply if the areas over which they have applications currently are released in the future under the Government's strategic release framework.

Of course, these applications will not be simply waved through; like all others, they will be subject to the Government's rigorous assessment standards, including in relation to technical and financial capacity, environmental performance and social outcomes. We, like Reverend the Hon. Fred Nile, recognise the advantages of an Indigenous gas industry in helping the Aboriginal people of this State to secure their economic future. On behalf of the Minister in the other place I can assure Reverend the Hon. Fred Nile also that the Government will work with the NSW Aboriginal Land Council to ensure that it can fully participate in the new processes under the strategic release framework. Indeed, we are committed to providing opportunities for the economic empowerment of Aboriginal communities across this State. The Chairman of the NSW Aboriginal Land Council has publicly stated:

If Aboriginal people are going to break out of the dependency system that exists, they need to have an opportunity to prove that they can make a fist of businesses, like gas extraction.

Mr Jeremy Buckingham: Then why are you cancelling their applications and no-one else's?

The Hon. MATTHEW MASON-COX: We wholeheartedly agree. If the member would just listen, he will understand. The resources sector presents significant employment and development opportunities for Aboriginal communities. That is why I can give an assurance to Reverend the Hon. Fred Nile that the Government will establish a dedicated case manager to specifically assist and case manage future applications by the NSW Aboriginal Land Council as areas for exploration are released under the new strategic framework. This role will assist the council in all aspects of the application process, including meeting the Government's rigorous requirements, demonstrating the benefits of gas development to the State and to Indigenous communities, and facilitating partnerships with resource companies that have the technical expertise to carry out exploration and production works. We recognise that a reset to the approach to gas exploration development is required. That is exactly what this bill achieves. It lays the foundations for a transparent, informed and strategic approach to allocating our petroleum resources. The bill is an intrinsic part of the NSW Gas Plan—our blueprint for a safe and sustainable gas industry and reliable and affordable gas supplies. Accordingly, 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

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! There being no objection, the Committee will deal with the bill as a whole.

The Hon. STEVE WHAN [1.56 a.m.], by leave: I move Opposition amendments Nos 1 and 2 on sheet C2014-164A in globo:

No. 1 Expert advisory body

Page 3, schedule 1. Insert before line 3:

[1] Section 114

Insert after section 113:

114 CSG Expert Advisory Committee

- (1) The Minister is to establish a committee to be called the CSG Expert Advisory Committee (*the Committee*).
- (2) The members of the Committee are to be appointed by the Minister and must comprise experts from relevant disciplines, particularly information communications technology and the earth and environmental sciences and engineering, but drawing as needed on expertise from the biological sciences, medicine and the social sciences.
- (3) The Committee is to advise the Government on the following matters in relation to activities involving unconventional gas:
 - (a) the overall impact of coal seam gas activities in the State through a published Annual Statement which would draw on a detailed analysis of the data held in the Whole-of-Environment Data Repository to assess impacts, particularly cumulative impacts, at project, regional and sedimentary basin scales,
 - (b) processes for characterising and modelling the sedimentary basins of the State,
 - (c) updating and refining the Risk Management and Prediction Tool,
 - (d) the implications of coal seam gas activity impacts in the State for planning where coal seam gas activity is permitted to occur in the State,
 - (e) new science and technology developments relevant to managing coal seam gas activities and when and whether these developments are sufficiently mature to be incorporated into the State's legislative and regulatory system,
 - (f) specific research that needs to be commissioned regarding coal seam gas activities,
 - (g) how best to work with research and public sector bodies across Australia and internationally and with the private sector on joint research and harmonised approaches to data collection, modelling and scale issues such as subsidence,
 - (h) whether or not unconventional gas extraction industries involving shale gas or tight gas should be allowed to proceed in the State and, if so, under what conditions.

No. 2 Restrictions on unconventional gas titles

Page 4, schedule 1. Insert after line 4:

[2] Schedule 3

Insert as schedule 3:

Schedule 3 Restrictions on unconventional gas petroleum titles

1 Operation

This schedule has effect despite any other provision of this Act or any authorisation or approval under this Act.

2 Definitions

In this schedule:

northern rivers area means the area comprising the local government areas of Ballina Shire, Byron Shire, Kyogle Shire, Lismore City, Tweed Shire, Richmond Valley and Clarence Valley.

petroleum title relating to unconventional gas means any of the following:

- (a) an exploration licence granting the holder the exclusive right to prospect for unconventional gas on the land comprised in the licence,
- (b) an assessment lease granting the holder the exclusive right to prospect for unconventional gas and to assess any unconventional gas deposit on the land comprised in the lease,
- (c) a production lease granting the holder the exclusive right to conduct petroleum mining operations for unconventional gas in and on the land included in the lease,
- (d) a special prospecting authority granting the holder the exclusive right to conduct speculative geological, geophysical or geochemical surveys or scientific investigations in relation to unconventional gas on and in respect of the land comprised in the authority.

special area means a special area within the meaning of the *Sydney Water Catchment Management Act 1998* or the *Water New South Wales Act 2014*.

unconventional gas means coal seam gas, shale gas or tight gas.

3 Cancellation of petroleum titles relating to unconventional gas in special areas and northern rivers area

On and from the commencement of this schedule:

- (a) any petroleum title relating to unconventional gas that is in force solely in relation to land in any special area or the northern rivers area is cancelled and ceases to have effect, and
- (b) any petroleum title relating to unconventional gas that is in force in relation to land that includes land in any special area or the northern rivers area ceases to have effect in relation to that part of the land that is in the special area or northern rivers area.

4 Permanent prohibition on grant or renewal of petroleum titles relating to unconventional gas in special areas and northern rivers area

The Minister must not grant or renew any petroleum title relating to unconventional gas in relation to land in any special area or the northern rivers area.

5 Compensation not payable

(1) Compensation is not payable by or on behalf of the State:

- (a) because of the enactment or operation of this schedule, the *Petroleum (Onshore) Amendment (NSW Gas Plan) Act 2014* or any Act that amends this schedule, or
- (b) because of any direct or indirect consequence of any such enactment or operation (including any conduct under the authority of any such enactment), or
- (c) because of any conduct relating to any such enactment or operation.

(2) This clause extends to conduct and any other matter occurring before the commencement of this clause.

(3) In this clause:

compensation includes damages or any other form of compensation.

conduct includes any statement, or any act or omission:

- (a) whether unconscionable, negligent, false, misleading, deceptive or otherwise, and
- (b) whether constituting an offence, tort, breach of contract, breach of statute or otherwise.

statement includes a representation of any kind, whether made orally or in writing.

the State means the Crown within the meaning of the *Crown Proceedings Act 1988* or an officer, employee or agent of the Crown.

These amendments, foreshadowed in the second reading debate, do two things. First, to establish the expert advisory body—the CSG Expert Advisory Committee—to advise the Government on activities involving unconventional gas and impacts, modelling, risk management, prediction tools, implications, new science and technology, et cetera, as recommended by the Chief Scientist and Engineer; and, secondly, to implement the Opposition's policy for permanent bans, not just temporary shelving of titles, of all unconventional gas in those areas and the Northern Rivers area. The area is defined by the local government areas as previously announced in the Opposition's policy, as well as the special areas within the meaning of the Sydney Water Catchment Act 1998.

As I mentioned earlier, the ban will be permanent and the amendment states specifically that "the Minister must not grant or renew any petroleum title relating to unconventional gas in relation to land in any special area or the Northern Rivers area" which is consistent with the Opposition's policy. I spoke about this matter in the second reading debate and do not propose to go into the issue in detail. The Minister, in saying in his reply that this bill is a reset, again is misleading people completely because the only titles that are being reset or removed by this process are for people who had not received a title for exploration. We know there are titles in the Northern Rivers area and the Government policy without this amendment means exactly as the Hon. Walt Secord said earlier—straight after the election the Government could go back and open up that area again.

Mr JEREMY BUCKINGHAM [1.58 a.m.]: The Greens will support Labor's amendments Nos. 1 and 2. The first amendment, being the establishment of the CSG Expert Advisory Committee, clearly has been cut from recommendation 12 of the Chief Scientist and Engineer. It is interesting because it contradicts the amendment of Labor. The second amendment of Labor is to create an exclusion zone, a special enclave free of CSG, a sort of Lichtenstein or Cayman Islands free from that exploration, and that is the Northern Rivers. I am sure if this amendment passes people from the Lock the Gate Alliance and others will flock there in the knowledge that they will be protected. The contradictory nature of the amendment is that it acts on the assumption that the coal seam gas industry is going ahead. It sets up the CSG Expert Advisory Committee and says, "Yes, we will do that and we will regulate the industry in a particular way"—mitigating, minimising risk and the like. The fundamental assumption is that the industry will go ahead, and that is where The Greens go a different way from the Chief Scientist.

The Hon. Dr Peter Phelps: The science denier.

Mr JEREMY BUCKINGHAM: The assumption that the industry can be managed is something the Chief Scientist said. The issue the Chief Scientist never dealt with is whether or not fundamentally the industry was necessary.

Mr Scot MacDonald: She wasn't tasked with that.

Mr JEREMY BUCKINGHAM: That is exactly right; the Chief Scientist was not tasked with that. We said, "You set the policy framework and you set the terms of reference." But that question was not asked, so the Chief Scientist was clearly hamstrung. The two amendments of Labor are contradictory in nature.

The Hon. Matthew Mason-Cox: But you are supporting them anyway.

Mr JEREMY BUCKINGHAM: We are supporting them but the issue that concerns me about Labor's position and the contribution of the Hon. Walt Secord to the second reading speech is that there is no mention of Narrabri or Gloucester. Right now as we speak tens of thousands of litres of unknown proprietary chemicals are being pumped into the aquifer of Gloucester valley. They are fracking in Gloucester; that is happening right now in the dead of night. Halliburton is fracking in Gloucester, approved by this Government; approved by this Government four pilot wells by AGL; and out in Narrabri Santos is preparing for drilling another tranche of its wells. It is clearing the Pilliga Forest right now. Those issues are front and centre of community concern. We understand there is an effort to create one area that is totally free of CSG and special area catchments—

The Hon. Walt Secord: Safe havens.

Mr JEREMY BUCKINGHAM: Safe havens, if you like. We will not oppose those; we will support them. Opposition amendment No. 1 implements recommendation 12 of the Chief Scientist. The Greens will support that amendment, and we have a similar amendment to amendment No. 2.

The Hon. WALT SECORD [2.03 a.m.]: I speak in support of Labor's amendments. Amendment No. 1 creates a CSG expert advisory committee, which is one of the key recommendations from Chief Scientist Professor Mary O'Kane. It is also one of the recommendations ignored by the Liberal-Nationals State Government. The CSG advisory committee is to be made up of experts from relevant disciplines and its role is to monitor the overall impact of CSG activities in the State. The findings are then published through an annual statement. The advisory committee also monitors the revolution of technology and science in response to its fluidity by recommending suitable advances to be incorporated into legislation. Furthermore, the advisory committee has the ability to commission specific research. It is quite obvious why The Nationals have omitted this recommendation. They do not want an independent—

The Hon. Duncan Gay: Point of order: There are two amendments before the Committee. Not one of those amendments mentions The Nationals.

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! I remind the Hon. Walt Secord that he is on two calls to order. He will allow the Minister to speak. If he interrupts the Minister again he will be called to order for a third time.

The Hon. Duncan Gay: My point of order is relevance. There is no mention of The Nationals in any of the amendments. The member is spending an inordinate amount of time talking about The Nationals. I ask that you draw him back to the amendments.

The Hon. Steve Whan: To the point of order—

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! I have heard enough on the point of order. I do not uphold the point of order.

The Hon. WALT SECORD: Amendment No. 2 spells out the protection for the northern rivers region. The amendment names specifically "Ballina Shire, Byron Shire, Kyogle Shire, Lismore City, Tweed Shire, Richmond Valley and the Clarence Valley". This spells out in law the geographical area for protection. It makes it crystal clear. I urge The Nationals to support Labor's amendments.

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [2.05 a.m.]: So far as expert advisory bodies are concerned, I am pleased that those opposite and The Greens are supportive of the Chief Scientist's work. After all, establishment of the expert advisory committee is one of the 16 recommendations made by the Chief Scientist in her final report and we have said that we will be doing this.

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! Mr Scot MacDonald will cease interjecting. I warn Mr Jeremy Buckingham that if he interjects again he will be called to order.

The Hon. MATTHEW MASON-COX: That is why we announced last week that the New South Wales Government supports all 16 of the Chief Scientist's recommendations and that includes establishing an expert advisory body for CSG. However, we are not going to rush into establishing a body without first making sure that the settings are right. As we noted in our response to the Chief Scientist's report, we will consider the best way to harness this advice. We will also carefully consider its relationship with the Independent Expert Scientific Committee on Coal Seam Gas, which undertakes a similar function. Accordingly, Opposition amendment No. 1 is unnecessary and we will not be supporting it.

In relation to Opposition amendment No. 2 dealing with restrictions on conventional gas titles, again the Government will not support the amendment. I remind members that the Government did not grant one of these titles. Responsibility for this situation lies completely with those opposite. The former Government handed out petroleum exploration licences in this State like it did business cards. That is the reality of the situation. Labor gave a number of companies with no operating history and no technical expertise licences over vast tracts of land in this State. Incredibly, many of these companies paid only \$1,000 to apply for titles over vast expanses of this State.

It is no wonder this has created significant community unease. Since coming to office we have taken decisive action to clean up this mess. In fact, we have taken over 30 actions, which include introducing a two kilometre exclusion zone around residential and village areas, creating critical industry clusters to protect horse studs and vital agricultural lands, banning the use of harmful BTEX chemicals, undertaking an audit of all CSG operations and licences, increasing licence application fees from \$1,000 to \$50,000—

Mr Jeremy Buckingham: Point of order: My point of order is relevance. These amendments relate to the establishment of an independent expert scientific committee and the banning of unconventional gas in special area catchments. The Minister is giving a second reading speech on the broad issues of CSG. I ask that you bring him back to the amendments.

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! I do not uphold the point of order.

Mr Jeremy Buckingham: We have heard it 400 times. It doesn't wash.

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! I have warned Mr Jeremy Buckingham that if he interjects again he will be called to order.

The Hon. MATTHEW MASON-COX: As I said earlier, the Government believes strongly that the regulatory framework for coal seam gas should be underpinned by science, not scaremongering. To simply carve out an area such as the northern rivers region and exclude it from onshore gas activity, as is suggested by members opposite, is a policy based on political expediency and populism, not on science. It is a policy that was reflected in the words of the Hon. Walt Secord as we heard earlier in his disgraceful contribution to debate on the second reading. Next year the Government will introduce a new strategic release framework for future exploration licences. The current freeze on new petroleum exploration licences will remain in place until then. As indicated in the NSW Gas Plan, new exploration licence applications will only be permitted in the areas the Government chooses to release. These areas will be assessed on economic, social and environmental factors. Areas where the economic, social or environmental factors will pose an unacceptable cost to New South Wales will not be released for exploration. Accordingly, the Government opposes these amendments.

The Hon. AMANDA FAZIO [2.10 a.m.]: I speak in support of the Opposition amendment that seeks to create an exclusion zone for the North Coast. As members know, I have been the Labor Party's duty member of the Legislative Council [MLC] for Ballina for some time. I am currently the duty MLC for Clarence and I was formerly the duty MLC for Tweed. I can honestly say I have never met anyone on the North Coast who is in favour of CSG. In fact, at many of the community events—most notably Primex at Casino—the most popular and most visited tent at the expo is the Lock the Gate Anti-CSG tent. Many families, including children, can be seen walking around with "Lock the Gate Anti-CSG" balloons, badges, brochures and show bags. It is an unstoppable movement against unconventional gas. I support strongly the Opposition amendment to create this exclusion zone.

As has been mentioned previously, exports from the area receive a premium price because the markets to which they are being sold will pay extra as they know the products come from a clean environment. The introduction of coal seam gas in those areas—which will happen if Opposition amendment No. 2 is not agreed to—will seriously impact the entrepreneurial developments that many farmers and other producers have made to market their healthy, clean and, in many cases, organic products overseas. Premium cattle from the area receive good prices in the Japanese market for the same reason.

I find it difficult to comprehend that members in this place who claim to represent the interests of farmers and people who live in the country would not support the Opposition's amendment. Some members in this place have a chequered history in respect of CSG. They have not opposed it in their joint party room or in debates in the other place, but they make unbelievable claims in their local media that they are opposed to unconventional gas. People in the electorates on the North Coast have a high level of cynicism about these actions. It is unbelievable, it is unacceptable and they will not tolerate it.

The Hon. Duncan Gay: Point of order: It relates to relevance. Second reading speeches are made during the second reading debate on the bill. The member decided not to make a contribution to the second reading debate. She is now making a contribution to debate on the second reading and is not addressing the issues that are before the Committee.

The Hon. AMANDA FAZIO: To the point of order: I respectfully submit that my comments are in support of Opposition amendment No. 2, which deals with an exclusion zone in the northern rivers region for unconventional gas. It is appropriate and relevant to talk about the attitudes of the people who reside and vote in the electorates of the northern rivers, because they will be affected if Opposition amendment No. 2 is not carried.

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! I do not uphold the point of order. The Hon. Amanda Fazio may proceed.

The Hon. AMANDA FAZIO: A highly educated and literate group of voters reside in those areas and they have concerns about issues, particularly unconventional gas mining. We have seen that demonstrated, literally, at Bentley. When one reads the local media or studies the opinion polls one finds that there is huge community opposition to unconventional gas mining on the North Coast. The people who are promoting coal seam gas and who are opposed to the exclusion zone are lobbyists. They are people with an interest in the Metgasco company or who have strong links with and knowledge of the working of the New South Wales Parliament. Quite frankly, they are promoting a poison chalice for the northern rivers region, which is why one has to be sceptical of any opposition to this amendment.

One only has to know that Metgasco's Peter Henderson is the guest of honour at The Nationals Murwillumbah branch Christmas party on 26 November. That is the reason this amendment must be carried. We have to ensure that the people of the northern rivers region are treated honestly and decently by this Government and this legislation. They do not want CSG; they do not need it. In fact, it will hamper their personal, economic and entrepreneurial endeavours, all for the benefit of Metgasco. That is unfortunate. I am strongly opposed to CSG going ahead, particularly in the northern rivers region. I would be negligent in my role as the Labor Party's duty MLC for Ballina and Clarence if I did not take this strong stand in support of Opposition amendment No. 2. It is necessary to preserve the livelihoods of the people who reside in the northern rivers region. I am concerned that the interests of a private company such as Metgasco can be given a higher priority than the interests of the residents of the northern rivers region. Shame on the Government for giving Metgasco's needs priority over the community's needs.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [2.17 a.m.]: I speak in further support of the Opposition's amendments. The Government has claimed to support the Chief Scientist's recommendations and it has committed itself to adopting and implementing them. While the Chief Scientist has claimed that this industry can be operated safely with the highest standards, when one studies her report and recommendations one finds that she does not sketch out how the industry could be operated safely but whether the industry could be operated safely. That is because each of the recommendations involves a field of inquiry and detailed work that, if done properly, would take considerable time and would, of course, answer a whole lot of technical and scientific questions for which the Government presently has no answers.

It may well be that in undertaking that investigation the Government would learn that it was not possible to operate this industry safely. Until this work is done properly and thoroughly, the science will not be in and we will not know the answers to the fundamental questions. One of the core recommendations of the Chief Scientist is recommendation 5, which suggests that on the basis of economic, social and environmental factors work needs to be done to determine what are or should be the no-go areas for coal seam gas. That work cannot be undertaken without the establishment of a CSG advisory committee, which is why Opposition amendment No. 1 is vital to begin that work. I understand the Government says that this will be done, but when will it be done? If the Government is serious about fulfilling the recommendations of the Chief Scientist, it should be commencing now and it should be stated in this bill.

If this bill does not ultimately include provisions such as those in the Opposition amendments it will be a great smoke-and-mirrors trick. The Government has said, "Here is our great plan. We are going to do all this wonderful stuff, including implementing the report of the Chief Scientist." But not a single step in that direction will have been taken in this bill. This will be not only a missed opportunity but also a gross deception of the public of New South Wales a mere five months before polling day. If the Government is serious about undertaking the work of the Chief Scientist and working out what should be the go and no-go areas, on the assumption that the industry can be operated safely—and the jury is still out on that—it should join us in taking this first step.

Mr Jeremy Buckingham's comment about contradiction in the Opposition amendments is incorrect. The application of economic, social and environmental factors led to the Opposition adopting the provision in its second amendment, which would prevent coal seam gas operations in the northern rivers and Sydney water catchment areas. However, the Opposition does not rule out that the expert advisory committee and thorough scientific work may not reveal other areas in which coal seam gas operations should not take place. It is beyond argument that the northern rivers area designated in this amendment, by reason of its natural pristine beauty, tourism and other industries that rely upon its reputation for cleanliness, and its national parks, environmental factors that the Chief Scientist said should be central—

The Hon. Walt Secord: Declare your interest as to why you feel so strongly.

The Hon. ADAM SEARLE: I acknowledge the interjection. I will declare my interest in a moment. The common-sense application of those principles has led the Opposition to this proposition. As to declaring my interest, I am a former far North Coast resident. I grew up there and many of my friends still reside in the area. I acknowledge the contribution of the Hon. Amanda Fazio. I have not encountered any people in the area, irrespective of their occupation or calling, who are in favour of coal seam gas operations. In fact, the proposition does not enjoy any support in the broader community. The notion that coal seam gas operations should be excluded from water catchment areas is a common-sense proposition because the water supply will be put at risk. It is my understanding that one cannot even walk in these areas without the potential of being fined. If one cannot walk in these areas because they are so sensitive how could there be coal seam gas mining there?

Labor's view is based on a common-sense approach to economic, social and environmental factors to nominate these two exclusion areas. We do not rule out that there should be more, but a marker needs to be laid down. The scientific work the Chief Scientist says must be done, so it is more broadly known where one should and should not operate, is part and parcel of this. It will ensure that any further expansion of this industry will be done safely and on a proper scientific basis. The Government's non-committal to the establishment of a committee undercuts the credibility of its statement that it is in favour of properly implementing the recommendations of the Chief Scientist. If it were, it would have made a more profound start at this point.

The Government has taken the time to introduce this bill, to announce its gas plan and to enumerate the plan's colour and flavour, but it has not put any flesh on the bones of this bill. That undercuts the credibility and bona fides of this Government. It is almost as if the Government is trying to kick this issue into touch to get to the other side of election day so that constituents of the northern rivers region and elsewhere in this State will not notice that it is simply pro coal seam gas, without the highest standards and restrictions, and without the proper basis indicated by the Chief Scientist as being necessary if the go button is to be pressed. It is almost as if the Government has no intention of implementing the Chief Scientist's recommendations properly and is just doing a slapdash job in the hope that on the other side of the election no-one will notice. I strongly urge all members in this place to support the Opposition amendments.

Mr JEREMY BUCKINGHAM [2.25 a.m.]: I make a brief response to the contribution of the Minister in which he outlined the Government's opposition to the principle that there should be exclusion zones, preferring that the Government designate those areas over time based on science and various other factors as to whether coal seam gas mining should occur, how it should occur, et cetera. The Government is being hypocritical in taking that position because it has already been creating exclusion zones—for example, the residential exclusion zones. If one is fortunate enough to live in an area zoned urban residential that is an exclusion zone. Why did the Government apply that principle then, yet now it will not apply a very similar principle? If someone happens to live in an area zoned rural residential he or she will get no protection whatsoever on the basis of science but, rather, on the basis of political expediency and pure numbers. The Government previously applied that principle but it is now walking away from it. The Government is now saying it will do it in a strategic way over time, but the Government has been doing it in an ad hoc way.

The Hon. Amanda Fazio made a good contribution to this debate. The northern rivers area is a case in point. Norco said in its submission to the coal seam gas inquiry that it did not believe the modern dairy industry could coexist in close proximity with the coal seam gas industry. It said there would be a risk to the quality of its produce and its dairy operations would be unmanageable. People such as the Shermans and others in the area are of a similar view. The dairy industry will not be protected by an exclusion zone, yet the thoroughbred breeding industry and the vigneron in one part of the State have been protected by the Government through its critical industry clusters. Two years ago the Government applied this very system to protect particular areas. Vignerons in Mudgee do not get the protection and nor do those in the equine industry in other parts of the State. The Government has very little credibility on this issue. I urge the Government to take this significant step in protecting these areas.

The Hon. Adam Searle was correct in saying that the special area of the Sydney water catchment is only a fraction of that catchment. The test applied by the Sydney Catchment Authority in assessing whether a particular development is supported is that the development must be neutral or beneficial, and previously in submissions about Apex Energy's proposal to drill it has opposed it. It is entirely reasonable to support the Opposition amendments, although I repeat my assertion that they contain a contradictory element.

The Hon. Adam Searle: There is a unifying theme, Jeremy.

Mr JEREMY BUCKINGHAM: I note the interjection, but there is also a contradictory element. The Government is being hypocritical in not supporting the Opposition amendments.

Question—That Opposition amendments Nos 1 and 2 [C2014-164A] be agreed to—put.

The Committee divided.

Ayes, 17

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

Noes, 20

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

Pairs

Mr Foley	Ms Ficarra
Mr Wong	Ms Gardiner

Question resolved in the negative.

Opposition amendments Nos 1 and 2 [C2014-164A] negatived.

Mr JEREMY BUCKINGHAM [2.36 a.m.], by leave: I move The Greens amendments Nos 1 and 2 on sheet C2014-169, in globo:

No. 1 Cancelled petroleum titles

Page 3, schedule 1, line 3. Omit all words on those lines. Insert instead "**schedules 2 and 3**".

No. 2 Cancelled petroleum titles

Page 4, schedule 1. Insert after line 26:

Schedule 3 Cancellation of certain petroleum titles

1 Application

This schedule has effect despite any other provision of this Act.

2 Definitions

In this schedule:

cancellation date means the date on which the *Petroleum (Onshore) Amendment (NSW Gas Plan) Act 2014* commences.

conduct includes any statement, or any act or omission:

- (a) whether unconscionable, negligent, false, misleading, deceptive or otherwise, and
- (b) whether constituting an offence, tort, breach of contract, breach of statute or otherwise.

relevant land means the area to which a relevant licence relates or any part of the area to which a relevant licence relates.

relevant licence means each of the licences referred to in clause 3 (1).

statement includes a representation of any kind, whether made orally or in writing.

3 Applications for petroleum titles expunged

- (1) Each of the following petroleum titles under this Act are cancelled by this schedule:
 - (a) petroleum exploration licence number 2 dated 29 March 1993,
 - (b) petroleum exploration licence number 6 dated 9 December 1993,
 - (c) petroleum exploration licence number 267 dated 20 January 1984,
 - (d) petroleum exploration licence number 426 dated 21 April 1998,
 - (e) petroleum exploration licence number 428 dated 15 September 1998,
 - (f) petroleum exploration licence number 437 dated 7 May 2001,
 - (g) petroleum exploration licence number 445 dated 19 April 2004,
 - (h) petroleum exploration licence number 450 dated 16 June 2006,
 - (i) petroleum exploration licence number 452 dated 10 January 2007,
 - (j) petroleum exploration licence number 454 dated 27 March 2007,
 - (k) petroleum exploration licence number 462 dated 22 October 2008,
 - (l) petroleum exploration licence number 475 dated 4 September 2009,
 - (m) petroleum exploration licence number 476 dated 11 November 2009,
 - (n) petroleum exploration licence number 478 dated 11 December 2009.
- (2) The cancellation takes effect on the cancellation date.
- (3) The cancellation of a petroleum title by this schedule does not affect any liability incurred before the cancellation date by or on behalf of a holder of a relevant licence or by or on behalf of a director or person involved in the management of a holder of a relevant licence.

4 Compensation not payable

- (1) Compensation is not payable by or on behalf of the State:
 - (a) because of the enactment or operation of this schedule, the *Petroleum (Onshore) Amendment (NSW Gas Plan) Act 2014* or any Act that amends this schedule, or
 - (b) because of any direct or indirect consequence of any such enactment or operation (including any conduct under the authority of any such enactment), or
 - (c) because of any conduct relating to any such enactment or operation.
- (2) This clause extends to conduct and any other matter occurring before the commencement of this clause. This clause does not exclude or limit any personal liability of a person for conduct occurring before the grant of a relevant licence.

Note. However, clause 5 absolves the State and certain employees of the State from liability for such conduct.
- (4) In this clause:

compensation includes damages or any other form of compensation.

the State means the Crown within the meaning of the *Crown Proceedings Act 1988* or an officer, employee or agent of the Crown.

5 State not liable for certain conduct

- (1) The State is not liable, and is taken never to have been liable, whether vicariously or otherwise, for any conduct (**relevant conduct**) before the cancellation date in relation to a relevant licence or mining on relevant land (whether occurring before or after the grant of a relevant licence).
- (2) In addition, the State is not liable, and is taken never to have been liable, whether under any contract, policy or other arrangement for self-insurance or otherwise, to indemnify any person against any personal liability of the person for relevant conduct.

- (3) To remove doubt, this clause extends to the following conduct as relevant conduct:
 - (a) conduct that facilitated the grant of an authority in respect of relevant land or that facilitated mining on relevant land,
 - (b) conduct relating to the provision of assistance, advice or information (including mining information) in relation to relevant land or an authority for relevant land,
 - (c) conduct relating to the licensing process in connection with relevant land,
 - (d) any conduct occurring in the course of events that culminated in the grant of a relevant licence.
- (4) This clause extends to all types of civil liability, whether at law or in equity, and whether arising in tort or contract, or under an enactment or otherwise.
- (5) An employee (or former employee) of the State acting honestly and in good faith in the performance or purported performance of his or her functions as an employee of the State has the same protections and immunities as the State under this clause.
- (6) This clause does not apply in respect of any liability arising solely in respect of an authority granted before the cancellation date that is not a relevant licence.
- (7) This clause applies despite the *Law Reform (Vicarious Liability) Act 1983* and the *Civil Liability Act 2002*.
- (8) In this clause:

employee of the State means a person employed under the *Public Sector Employment and Management Act 2002*.

licensing process means any practice, process or procedure relating to the obtaining of or grant of an authority, including in relation to expressions of interest, tenders, applications, investigations, inquiries or consents, and whether or not provided for by this Act.

mining includes prospecting.

mining information includes information about:

- (a) the mineral bearing capacity of land, or
- (b) the licensing process.

the State means the Crown in right of New South Wales and includes a statutory body representing the Crown.

These amendments test the Government's mettle about, as the Minister said, wiping the slate clean, cleaning up Labor's mess and ensuring that the New South Wales licensing regime for unconventional gas exploration is reset. The amendments seek to cancel 14 petroleum exploration licences that have lapsed and that require renewal. The holders of the licences have not been exploring or drilling and some of the licences have been due for renewal since as long ago as 2009. These licences have existed for five years and they have been causing grave concern in the community. I was asked today by that great north-east New South Wales campaigner Penny Blatchford why the Government is cancelling applications for licences when 14 have been hanging around like a bad smell over a vast tract of New South Wales.

Some of those titles are held by \$2 companies. They are just held by a name at a solicitor's firm somewhere in Queensland. Some of those titles are held by people such as Travis Duncan of Independent Commission Against Corruption [ICAC] fame. So some of these titles really need to be cleaned up. If the Government was keen to reset the agenda for petroleum exploration licences it would support these amendments. I believe the Act already ensures that no compensation is payable. But this is the opportunity to clean up that mess and walk the walk and not just talk the talk when it comes to coal seam gas.

We are not talking about applications; we are talking about the holders of petroleum exploration licences. Until such time as the title is cancelled, even though it may require renewal, the holders of that title are entitled to undertake all the functions and activities that that title grants them. So a holder of one of these petroleum exploration licences could rush out tomorrow and start work. These areas are significant. We are talking about the Illawarra escarpment, Sydney's drinking water catchment and the north-west of the State. These titles cover vast tracts of the centre, north-west and north-east of the State. If the Government wants to reset the agenda and reset the titles regime it will support these amendments now.

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [2.41 a.m.]: As I stated in detail previously, the Government will not be supporting these amendments. Clearly Mr Jeremy Buckingham has forgotten that the Government did not grant any of these titles. The Government certainly will not be doing what the member suggests. The Government opposes the amendments, as I previously foreshadowed.

Mr JEREMY BUCKINGHAM [2.41 a.m.]: The contribution of the Minister was pathetic, erroneous and egregious. It is an affront to the people of New South Wales—

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! Mr Jeremy Buckingham should address his remarks through the Chair.

Mr JEREMY BUCKINGHAM: Mr Chair, it is an affront to the people of New South Wales to keep prattling on about who granted the licences in a debate about how we are going to clean them up. Now is the time to clean them up. The Government needs to stop blaming the Labor Party and walk the walk—clean up the titles, cancel them and make sure that Travis Duncan does not have one of these licences—right here and now in this Parliament. I call on the Government to cancel those licences and make sure that people wake up tomorrow to find a vast tract of New South Wales is free from the threat of these licences. There was another point in the Minister's contribution that was erroneous. The fact is that the Government has renewed 22 petroleum exploration licences.

Mr Scot MacDonald: He said "issue"; he did not say "renew".

Mr David Shoebridge: Once you renew it, you issue it.

Mr JEREMY BUCKINGHAM: I acknowledge the interjection of Mr David Shoebridge. He is absolutely right. The Government needs to stop blaming the Labor Party. The Government is up to its neck in this. It needs to clean up the system and vote for these amendments.

Mr DAVID SHOEBRIDGE [2.43 a.m.]: Of all the reasons not to support these amendments the worst reason would have to be that because Labor issued or granted, or however one wants to describe it, the licences the Government will not cancel them. One would have thought that the fact that Labor issued the licences would ordinarily have been a rational reason for the Government to take the steps to cancel them. The Government is not responsible for it. The Government did not do it. The Government is really sorry—the previous mob did it; the Government will now do the right thing and cancel them. It is like the Government is playing some game where it lobs the blame back and forth. I think people are sick of having blame lobbed back and forth. The Government should do the right thing and cancel the licences.

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [2.44 a.m.]: As I said previously, the responsibility for this situation lies with the former Government which handed out these licences. The reality is that it gave a number of companies with no operating history and no technical expertise licences over large parts of this State. Many of these companies paid \$1,000 to apply. Since taking office this Government has taken decisive action to clean up the mess left by the previous Government. There is no denying that. We believe the regulatory framework for coal seam gas should be underpinned by science not political scaremongering. Cancelling these licences would also jeopardise our ability to secure a reliable and affordable gas supply.

As I mentioned earlier, next year the Government will introduce a new strategic release framework for future exploration licences. The current freeze on new petroleum exploration licences will remain in place until then. As indicated in the NSW Gas Plan, new exploration licence applications will only be permitted in the areas the Government chooses to release. These areas will be assessed on economic, social and environmental factors. Areas where the environmental or social factors pose an unacceptable cost to New South Wales will not be released for exploration. Accordingly, the Government opposes the amendments.

Mr JEREMY BUCKINGHAM [2.45 a.m.]: Mr Temporary Chair—

The Hon. Duncan Gay: Oh, come on, Jeremy!

Mr JEREMY BUCKINGHAM: I acknowledge the interjection by the Minister for Roads and Freight. He might not like debating this issue at 2.45 a.m.—I do not. He is the Leader of the Government in the

Legislative Council and this was the Government's decision. One of the issues the Minister for Fair Trading failed to address in his tepid response is that the holders of these petroleum exploration licences have a title that they can sell right now. They can sell and trade these petroleum exploration licences. There is concern about who handed out these licences. I highlight the licence that former Minister Eddie Obeid handed out over the Gloucester area. This licence was sold by the Government to one party for \$3 million or \$4 million and then four years later was sold by that party to AGL Energy for \$375 million.

Mr David Shoebridge: Thank you, Mr Obeid.

Mr JEREMY BUCKINGHAM: Thank you, Mr Obeid. There was a very tidy profit for Mr Andy Lukas. That is a matter of public record. There was \$350 million profit for a title which was handed over. These titles can be sold. If I was the holder of these titles I would be hocking them quick smart—for example, if I was Mr Travis Duncan. How he got the title, I do not know. The people of New South Wales would be very concerned about this.

The Hon. Rick Colless: Everybody else knows.

Mr JEREMY BUCKINGHAM: Then the Government should cancel these titles. We want to make sure that they are not traded.

The Hon. STEVE WHAN [2.47 a.m.]: The Minister has not responded at all to the point Mr Jeremy Buckingham made that these titles are not being used at the moment and are simply sitting there. I find it hard to understand how the Minister can argue that relinquishing these titles will affect the certainty of supply of gas in New South Wales. It does not seem to be a particularly logical argument. For the Minister to repeat that the Government is pausing and resetting when in fact all it is doing is abolishing titles where no exploration is taking place at the moment is really just spin.

Question—That The Greens amendments Nos 1 and 2 [C2014-169] be agreed to—put.

The Committee divided.

Ayes, 17

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

Noes, 20

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

Pairs

Mr Foley	Ms Ficarra
Mr Wong	Miss Gardiner

Question resolved in the negative.

The Greens amendments Nos 1 and 2 [C2014-169] negatived.

Mr JEREMY BUCKINGHAM [2.56 a.m.], by leave: I move The Greens amendment No. 1 on sheet C2014-171 and amendment No. 1 on sheet C2014-163F in globo:

No. 1 Further applications for petroleum titles expunged

Page 3, schedule 1, clause 3, Table. Insert after the matter relating to application number 152, in Columns 1, 2 and 3, respectively:

PPLA	9	7 January 2010
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No. 1 Further applications for petroleum titles expunged

Page 3, schedule 1, clause 3, Table. Insert after the matter relating to application number 152, in Columns 1, 2 and 3, respectively:

PPLA	11	9 January 2014
PPLA	12	9 January 2014
PPLA	13	20 May 2014
PPLA	14	20 May 2014
PPLA	15	20 May 2014
PPLA	16	20 May 2014

These amendments again test the Government's mettle, resolve and commitment to reset the titles regime in New South Wales by cancelling the petroleum pipeline licence areas [PPLAs] listed. That would give the New South Wales community the certainty that those areas—the Narrabri, Gloucester and Metgasco areas—will not become petroleum production areas. If the Government is committed to implementing the recommendations of the Chief Scientist and Engineer and a strategic review, applications to become petroleum production areas would be subject to research, fact finding and evaluation of the current practices.

The Greens do not accept the need for an unconventional gas industry in New South Wales, but if one were to accept that need expunging these titles would ensure that huge tracts of the State are not turned into a productive petroleum area. The Greens are concerned that while the Government dithers companies keep exploring and producing. As I have said, right now in Gloucester, Halliburton and AGL, with their security guards, are fracking around the clock. Fracking has been approved by this Government and these companies are turning the vale of Gloucester into a productive gas field.

That is what they are doing in Narrabri. It is what AGL wants to do in Gloucester and it is what Metgasco wants to do in the Richmond Valley and northern rivers region. The amendments test the Government's resolve to reset the agenda and put the community first. The Government should do the science first. If it is hell-bent on turning New South Wales into a gas field—we would argue unnecessarily—it should at least give those communities the breathing space that it will not give Narrabri, which will have 800 gas wells in coming years, Gloucester, which will have 300 gas wells, and Camden, which will have another 100 gas wells. From Metgasco's original announcement to the stock exchange and bold announcements a few years ago it seems there will be 500, 600 or potentially 700 gas wells in those areas.

The amendments give the community and the gas industry the certainty that while the Government gets its house in order, which will probably take another six or seven years at the rate it is going, those areas will not be turned into a gas field. The amendments are about testing the Government. As I have said previously, no-one I talk to who is concerned about the gas issue trusts the Government's announcements—whether they be farmers in Coonamble, dairy farmers on the North Coast or people in Sydney. There have been one or two announcements every couple of weeks. People now want the Government to walk the walk and not just talk the talk. They want the Government to cancel these applications so that people will know that their communities will not be turned into toxic gas fields while the regime is reset. I commend the amendments to the Committee.

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [3.01 a.m.]: The Government does not support The Greens amendments. The Narrabri and Gloucester gas projects have the potential to make a substantial contribution to the New South Wales gas supply. Cancelling production lease applications for these projects will jeopardise our ability to secure reliable and affordable gas supply. That could have a serious impact

on New South Wales manufacturers, electricity generators and other industries that rely on gas. Those businesses employ more than 300,000 people. With more than one million households connected to gas, rising prices will also impact on household budgets. We are committed to securing a reliable and affordable gas supply in this State. It is important that we put downward pressure on energy prices and secure supply. We need the growth of viable gas projects to meet those ends.

However, as we have made clear time and again only the best operators are welcome in New South Wales. The development of our gas reserves must be guided by stringent regulation to ensure our vital land and water resources are protected and that there are no risks to human health. That is why those operators will have to go through a rigorous and onerous State-significant development assessment process. Since taking office we have already made substantial progress on improving the regulatory standards that apply to gas exploration and production. Our NSW Gas Plan sets out further measures that we will implement to ensure the regulatory settings are right for a safe and sustainable industry.

Mr JEREMY BUCKINGHAM [3.03 a.m.]: The Minister has again made some misleading and false statements about petroleum production in this State. Everyone who is across the issue in New South Wales knows that gas supply crunch, as it were, is coming in 2015. The Moomba gas pipeline is being re-directed to the south-west Queensland gas pipeline as we speak. The gas that had previously come from Moomba is travelling to Gladstone, and Santos has commissioned three major gas compressing stations that completely alter the gas market in New South Wales. That will cause the gas supply crunch to hit. As I have said at length in this Chamber, gas market crunch is hitting. The Business Council of Australia, the Australian Industry Group, unions and other groups have said it is already upon us. The suggestion that production licences will do anything to meet the immediate need of New South Wales is utter—

The Hon. Steve Whan: We are changing our position the longer you talk.

Mr JEREMY BUCKINGHAM: You can do whatever you want. The point is they will do nothing to alleviate the supply problems. Santos has admitted that its Narrabri gas field will not be operational until 2018 or 2019. It will not have drilled the 200 to 800 wells or constructed the pipeline until four or five years from now. It has taken AGL three years to drill four wells in Gloucester. It has not been able to drill another well in Camden and it never will be because it is now in the exclusion zone. Metgasco cannot go to the shops and get a loaf of bread without attracting 10,000 people to a protest. It will never get a gas field there. The Minister also said that production licences will put downward pressure on prices. That is utter rubbish. We may well put downward pressure on prices, but—

The Hon. Matthew Mason-Cox: You just contradicted yourself.

Mr JEREMY BUCKINGHAM: We can put downward pressure on prices but it will not lower them. Prices will only go one way.

The Hon. Matthew Mason-Cox: You just contradicted yourself. Sit down. You are making a fool of yourself.

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! The Minister will cease interjecting.

Mr JEREMY BUCKINGHAM: The Minister may be getting frustrated that the Government has decided to bring on a bill at 3 o'clock in the morning. That is to its shame. It is a disgrace.

The Hon. Duncan Gay: Point of order: It may be 3.00 a.m. now but the Government did not bring on the bill at 3.00 a.m. It is the member who is keeping us here now.

Mr JEREMY BUCKINGHAM: I withdraw that comment and correct the record to say that the bill was brought on for debate at 1.30 a.m. That is in my press release. The people of New South Wales will wake up in the morning and hold the Government to account for sneaking this through in the dead of night. No amount of coal seam gas delivered in the next year or two will lower gas prices. It is sneaky language from the Government to suggest that it will. In fact, the Government does not say it will lower gas prices; it says it will put downward pressure on prices. However, prices are inexorably going one way.

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! I warn the Hon. Sophie Cotsis that she is on a call to order. The member will cease interjecting.

Mr JEREMY BUCKINGHAM: It is symptomatic of the Government and it characterises its sneaky nature. The untruths that infect—

Mr David Shoebridge: Underhanded.

Mr JEREMY BUCKINGHAM: It demonstrates the underhanded way the Government operates by treating the community like fools. It says there will be downward pressure on prices, but where are prices going? The free market pointy heads who let the gas market rip will take the blame for it. They have run the scare campaign that gas prices are going up, and we need natural gas and fracking. That is all discombobulated public relations spin. The fact of the matter is nothing that the Government can do to rush production of coal seam gas will do anything to lower gas prices. It will not do anything to placate the community that the coal seam gas industry is necessary in any way. I commend the amendments to the Committee.

Question—That The Greens amendment No. 1 [C2014-171] and The Greens amendment No. 1 [C2014-163F] be agreed to—put.

The Committee divided.

Ayes, 17

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

Noes, 20

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

Pairs

Mr Foley	Ms Ficarra
Mr Wong	Miss Gardiner

Question resolved in the negative.

The Greens amendment No. 1 [C2014-171] and The Greens amendment No. 1 [C2014-163F] negatived.

Reverend the Hon. FRED NILE [3.17 a.m.]: I move Christian Democratic Party amendment No. 1 on sheet C2014-172A:

No. 1 Applicants of expunged applications to be given priority to make new applications

Page 4, schedule 1. Insert after line 26:

6 Applicants of expunged applications to be given first opportunity to make new applications

- (1) The Minister must not take fresh title action in respect of any area for which an expunged application was made (a *relevant area*) unless:
 - (a) the Minister has first invited the applicant for the expunged application to make a new application for the petroleum title concerned, and

- b) the applicant has:
 - (i) informed the Minister that the applicant does not wish to make a new application, or
 - (ii) not made a new application within 28 days of being invited to do so, or
 - (iii) had the applicant's new application refused.
- (2) ***Fresh title action*** is:
 - (a) inviting applications under section 8 for petroleum titles in respect of a relevant area, or
 - (b) granting a petroleum title in respect of a relevant area.

This amendment will give some satisfaction to the NSW Aboriginal Land Council following the cancellation of its licences that the Government is giving it an assurance that it will prioritise re-establishing those licences in due course. The aim is to establish, for the first time in this State, a New South Wales Aboriginal natural gas industry run by the Aboriginal community for the benefit of the Aboriginal community, which we often say we want to do but we never take action to do it. Hopefully this amendment will result in action.

Mr JEREMY BUCKINGHAM [3.18 a.m.]: The Greens will support this amendment. But it is absolutely disgraceful that of all the titles to expunge, this Government chose to cancel the NSW Aboriginal Land Council's title. The Government did not cancel Santos' title, it did not cancel AGL's title, it did not cancel Travis Duncan's title and it did not cancel Metgasco's title; it cancelled the NSW Aboriginal Land Council's title. It is only because the Christian Democratic Party had the good sense to move this amendment that the New South Wales Aboriginal Land Council has not been rightly shafted by this Government. It is an absolute disgrace to pick that group to expunge its titles of all the groups that hold titles.

This morning The Greens moved to cancel licences of some of the largest energy companies in this country and in the world, but the Government would not do that. However, when the New South Wales Aboriginal Land Council rightly sees an opportunity for economic development for its communities through resource extraction—something that The Greens do not oppose as a matter of principle—the Government chooses to cancel the council's licences out of all the groups and communities. That is an absolute disgrace. The Government will not front up and do it to Santos, but it will do it to the NSW Aboriginal Land Council. Shame on this Government.

The Hon. ROBERT BROWN [3.21 a.m.]: Over the past few years Aboriginal groups in Australia have come to understand and realise that The Greens are not their friends. It is disgraceful for Mr Jeremy Buckingham to try to make out that The Greens are the friends of the Aborigines. The Shooters and Fishers Party supports the amendment moved by Reverend the Hon. Fred Nile. The Far North Queensland exercise and the Oxley wild rivers legislation that was pushed by The Greens through a Labor Queensland Government was The Greens doing.

The Hon. Robert Borsak: The Greens do not support Aboriginal people.

Mr JEREMY BUCKINGHAM [3.22 a.m.]: What a disgraceful thing to say. That is the only contribution to this debate made by the slumbering giant of the Shooters and Fishers Party. I am sorry I woke you. I can say to the NSW Aboriginal Land Council that The Greens are its friends.

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! Mr Jeremy Buckingham will direct his comments through the Chair.

Mr JEREMY BUCKINGHAM: I can say to the NSW Aboriginal Land Council that The Greens are its friends. We have worked closely on the Crown lands bill—the racist bill that the Government pulled from its disgraceful Minister, Kevin Humphries. That disgraceful bill tried to annul land title.

The Hon. Dr Peter Phelps: Point of order: My point of order relates to relevance. Any debate at the Committee stage must be directly relevant to any amendments before the Chair. Mr Jeremy Buckingham clearly is straying. I ask you to direct him to confine his remarks to the leave of the amendment.

TEMPORARY CHAIR (The Hon. Trevor Khan): Order! I uphold the point of order. Mr Jeremy Buckingham is straying from debating the amendment.

Mr JEREMY BUCKINGHAM: In respect of this amendment, The Greens want to work with the Aboriginal community. We think that as a matter of principle in relation to minerals development, if we are going to have gold, rare earth and conventional gas in New South Wales, the Aboriginal community should obtain a share of it. I raised those issues two days ago with the Murdi Paaki Regional Enterprise Corporation in Menindee while I was talking about economic development from irrigation.

The Hon. Robert Brown: Sheer hypocrisy.

Mr JEREMY BUCKINGHAM: No, it is not hypocrisy. Working with different community groups does not change the point. The Hon. Robert Brown did not make one iota of sense or a significant and reasoned contribution about why we have to deal with this amendment and why the Government picked on the NSW Aboriginal Land Council. Out of hundreds and hundreds of different titles to cancel, the Government chose the four for which the NSW Aboriginal Land Council had applications. I think that is a disgrace.

Reverend the Hon. Fred Nile: It is a shame.

Mr DAVID SHOEBRIDGE [3.24 a.m.]: The Greens have noted the manner in which Reverend the Hon. Fred Nile has been seeking to put amendments forward that I believe were generally motivated to try to do the right thing by the NSW Aboriginal Land Council. Reverend the Hon. Fred Nile has a record of doing so. There is not much that Reverend the Hon. Fred Nile and I agree on in the Chamber, but he has a record over a couple of decades of trying to do the right thing to support Aboriginal land rights and to support the likes of the NSW Aboriginal Land Council. I think the amendment is motivated for that reason.

When The Greens examine the terms of the amendment, we find it is something we can support. We do not support unconventional gas, coal seam gas, shale sand gas or any of that because of the damage it causes to the environment. We have examined on its merits the amendment moved by Reverend the Hon. Fred Nile. We accept where it has come from and that it has been moved in goodwill for that purpose, which is why The Greens support it.

Reverend the Hon. Fred Nile: It is only natural gas.

The Hon. MATTHEW MASON-COX (Minister for Fair Trading) [3.26 a.m.]: As foreshadowed previously, the Government supports the amendment moved by Reverend the Hon. Fred Nile. For the reasons I outlined earlier, the amendment will allow for current applicants, whose applications will be expunged by the passing of this bill, to have priority in reapplying, should areas under their current applications be released under the Government's new strategic release framework. I note in that regard that applicants will still have to meet the rigorous standards that will be set by the Government before any title is issued.

The Hon. STEVE WHAN [3.26 a.m.]: The Opposition will support the Christian Democratic Party's amendment. However, there is a bit of history that people seem to have forgotten in their discussion. The NSW Aboriginal Land Council representatives have been sitting very patiently in the public gallery tonight. In one sense The Greens are right in saying that there is a fairly haphazard process associated with this bill which has resulted in the Government, either deliberately or accidentally, cancelling conventional gas titles. The titles that the NSW Aboriginal Land Council had in western New South Wales were for exploring for conventional gas. If the Government had processed the NSW Aboriginal Land Council's application a bit faster, the land council would not have had an application but, rather, would have had an actual title in place that would not have been cancelled under this legislation.

That goes to show the very haphazard way the Government has gone about this legislation and that this legislation is more about show than it is about practical resetting, as the Government continually claims. The other point, which is a bit of a shame considering comments that have just been made by The Greens, is that earlier today we had a discussion among several members about an amendment that would restore titles that relate to conventional gas titles and not coal seam gas titles. We would have restored them into a different category in this legislation and allowed them to continue. However, the indication we received was that The Greens would not support that amendment.

Mr Jeremy Buckingham: No, we wanted to amend it.

The Hon. STEVE WHAN: As I understand it Reverend the Hon. Fred Nile rightly went to the Government to try to achieve at least something out of this legislation for the NSW Aboriginal Land Council.

That has resulted in the amendment that is before the Chamber tonight. While I suspect the amendment might be mild comfort for the NSW Aboriginal Land Council, it is certainly nowhere near where that council would have liked to have been by the end of tonight.

Question—That Christian Democratic Party amendment No. 1 [C2014-172A] be agreed to—put and resolved in the affirmative.

Christian Democratic Party amendment No. 1 [C2014-172A] agreed to.

Title agreed to.

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

Bill as amended agreed to.

Bill reported from Committee with an amendment.

Adoption of Report

Motion by the Hon. Matthew Mason-Cox agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Matthew Mason-Cox agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly with an amendment.

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads and Freight, Minister for the North Coast, and Vice-President of the Executive Council) [3.30 a.m.]: I move:

That this House do now adjourn.

CONSCIENCE VOTES

The Hon. TREVOR KHAN [3.30 a.m.]: Tonight I will speak on the history of free or conscience votes, particularly as the concept applies to the current Parliament. In a paper prepared by Dr Gareth Griffith for the Parliamentary Library it was observed:

A common theme in the literature is that, for some, free votes show Parliament and parliamentarians at their best, freed of party discipline to express their personal views on contentious social and moral issues. A countervailing theme is that conscience votes remain locked into the system of party politics, in particular that such votes are "about parties being unable, or unwilling, to involve themselves in potentially electorally damaging issues"; according to John Warhurst, "parties allow conscience votes largely because of a desire to avoid damaging splits", recognising that "some issues invoke deeply held, often religious beliefs that cross party lines and have the potential to fracture party discipline". Another line of inquiry suggests that, when a free vote is permitted, for individual MPs voting tends to be influenced by four key variables, namely, party, ideology, gender and religion; further, free votes are said to allow "a greater degree of insight into the impact of factors such as gender and religious affiliation on members' voting patterns, as well as the continued influence of party leader behaviour and residual party loyalty".

No doubt there is an element of truth in each of these arguments although I tend to the view that, at least in this House, conscience votes bring out the best in all members of this place. Whilst, of course, we remain bound by our party disciplines, I believe that conscience votes have helped engender a greater degree of respect for each other, irrespective of our party affiliations. I note that during this Parliament we have had a number of conscience debates in this House, including a motion relating to the conduct of Magistrate Jennifer Betts, a

motion relating to the conduct of Magistrate Brian Maloney, a motion on marriage equality, the Rights of the Terminally Ill Bill 2013 and the Same-sex Marriage Bill 2013. All these matters inspired considered and sometimes vigorous debate.

I am sure all members will remember that on some of these matters I was on the winning side, whilst on others I was not. I particularly note that whilst I supported some elements of the Rights of the Terminally Ill Bill 2013, I was not prepared to support the bill as presented. I remain saddened that I and others were not able to convince the mover of the bill to amend it to make it acceptable. I fully understand, however, that the mover felt unable to amend her bill because of commitments she felt she had made to various stakeholders. I respect her for that. Likewise, I am sure members will remember that I was one of those who supported and promoted the Same-sex Marriage Bill. This was a bill which, well before the day it was voted on, we knew was likely to be defeated. On the day it was defeated, I well remember how saddened I was. But I knew that we had tried our best; we had prosecuted our case and ventilated the arguments. In my view we had done the best we could by our stakeholders.

That brings me to one bill that this House has not had the opportunity to debate. It is a bill that has attracted much public interest. Tonight I do not wish to ventilate the reasons that justify my opposition to the bill. However, the bill deserves to be debated. Like many others, I believe that Brodie Donegan and her partner, Nick Ball, are entitled to hear the debate. I know that Government members in this place will support the bringing on of this bill for debate. However, it is in the hands of the member who has the carriage of the bill in this House to bring this bill forward. I urge for that to be done.

WORKERS COMPENSATION SCHEME

The Hon. PETER PRIMROSE [3.35 a.m.]: The Liberals and The Nationals 2012 amendments to the New South Wales workers compensation scheme were both harsh and unnecessary. On 26 June this year, following public outrage, the Government agreed to reinstate a few of the benefits that it had slashed in 2012. It reinstated access to hearing aids, prostheses and home and vehicle modifications, for example, but only until retirement age. Medical benefits would become available for workers with "whole person impairment" assessed between 21 per cent and 30 per cent, but again only until retirement age. But there was a catch: the changes would be made by regulation, and would apply only to injured workers who had made claims before 1 October 2012. Thousands of others with more recent injuries were left in limbo.

In his media release of 26 June 2014 the Minister for Finance and Services promised that these changes would be "completed with legislation" to apply also to injured workers who made claims on or since 1 October 2012. It is now November 2014. We are in what is probably the last sitting week. A worker who loses his or her foot today is still not covered by the changes made in June. Premier Mike Baird and his Minister for Finance and Services have sat on their hands for five months and failed to introduce the legislation. These injured workers and their families are still subject to the full harshness of the 2012 cuts.

WorkCover's actuary, PricewaterhouseCoopers, has confirmed that the 2011 prediction of a \$4 billion deficit was largely based on a temporary low-point in returns from yields as a result of the global financial crisis. Even while praising its own 2012 amendments, the Government acknowledges that the bulk of its "turn-around" of the scheme to its current surplus was not as a consequence of slashing benefits to workers, but rather massively increased returns as "a result of stronger investment yields". On 31 December 2011 WorkCover's Investment Division estimated a long-term average return on assets of 6.58 per cent per annum. This formed part of the basis for the incorrect assertion of a "\$4.1 billion deficit" by the Government when it introduced its unjust legislation in 2012. However, the actual investment return in calendar year 2012 was 10.0 per cent. In calendar year 2013 it was 11.2 per cent.

The 2011 estimates by then Treasurer Mike Baird were simply and demonstrably slapdash and wrong. At present the scheme is over \$1.3 billion in surplus. Even with the recent reductions in premiums, around 20 per cent more is being collected in premiums than is required to pay the current package of benefits. By 2019 WorkCover will hold 55 per cent more in assets than it needs to meet its liabilities, or a surplus of around \$5 billion. That is money that has been taken unnecessarily from employers' pockets and taken callously from the pockets of injured workers, and put straight into Mike Baird's pocket. There is no financial reason not to reinstate the small package of changes announced in June to all workers. It could have been achieved in a day. There would have been no opposition to the legislation. It would have eased the dreadful impact that these harsh provisions are having on thousands of injured workers and their families. All that was lacking was the political will. It is nothing more than another grubby and callous cash grab by the New South Wales Liberals and The Nationals.

In government, New South Wales Labor will scrap the harsh changes that then Treasurer Mike Baird made to workers compensation in 2012. Labor will genuinely seek to support both injured workers returning to work and employers who take on injured workers. Labor will conduct a genuine review of the workers compensation scheme. We will restore journey claims to cover workers for injuries occurring on their way to or from work, and give injured workers the financial assistance they need to pay their medical bills. Labor will reinstate protections for workers with total and permanent disabilities.

VIP GAMING MANAGEMENT AGREEMENT

Dr JOHN KAYE [3.40 a.m.]: The upper House of the New South Wales Parliament demonstrated the critical role it plays in holding government to account when it forced the Baird-Grant Government to release key provisions in the VIP Gaming Management Agreement relating to the penetration of organised crime and corruption in New South Wales. It is to be hoped that the voters in the March 2015 State election recognise the value of a House of review that is independent of the ruling parties. If they do, they will return a Chamber with the political will to use its power to probe every high-risk government decision.

The VIP Gaming Management Agreement contains a number of controls over the operations of the Barangaroo Restricted Gaming Facility that were agreed between the Independent Liquor and Gaming Authority [ILGA] and the Crown casino. When it was initially published on ILGA's website, large sections were redacted including schedules 1 and 2 and any reference to them in the table of contents. It took the best part of two months from this House ordering the production of the unredacted document, including an independent arbiter's report and a Privileges Committee inquiry, for anyone other than the 42 members of this House to see the secret provisions. In the end schedule 1 of the agreement became public on 13 November at which time it put paid to any suggestion that Sydney's second casino was not a corruption risk.

Schedule 1 deals directly with the relationship between James Packer and Macau casino operator Stanley Ho, and the risks associated with junkets, satellite casinos and operations in other jurisdictions. Stanley Ho is the father of James Packer's business partner, Lawrence Ho. Their joint venture, Melco Crown, owns and operates Studio City casino in Macau. It is currently developing City of Dreams in the Philippines and is attempting to break into the Japanese market. Stanley Ho and some of his close associates have been publicly connected to organised crime, including at least two triads, money laundering and business connections to North Korea including by the New Jersey Attorney General's Division of Gaming Enforcement. The former New South Wales Casino Control Authority banned Stanley Ho for life.

Regulators in both New Jersey and Nevada have warned operators in those states that they cannot have business arrangements with Stanley Ho or his associates. The now publicly available provisions of schedule 1 attempt to deal with the risk of organised crime entering New South Wales through the international dealings and connections of Crown casino and James Packer. They place requirements on Crown casino to attempt to stop and if that fails to report to ILGA any move by Melco Crown casino to operate casinos without licences, host junkets that lease out gaming facilities or develop closer business ties with Stanley Ho and his deemed associates. They also impose reporting requirements and restrictions on Crown casino ventures into casinos in less regulated jurisdictions. The measures are largely self-regulatory and rely heavily on Crown casino attempting to stop an event, then reporting on the event if it fails to do so.

Two major questions remain unanswered. The first question is the extent to which the restrictions in schedule 1 will be enforceable and, if they are, the extent to which they will stop the Barangaroo casino from becoming a portal for triads and other organised crime to gain a foothold into New South Wales. As the Chinese Government cracks down on organised crime in Macau, Sydney could become an attractive target for those seeking to launder drugs, prostitution and racketeering money. Secondly, the question remains as to why ILGA feels it appropriate to operate behind such a veil of secrecy. The three arguments ILGA mounted in support of keeping the documents secret were rejected by the arbiter, the Privileges Committee and, ultimately, the upper House. The claim of commercial in confidence and the statutory secrecy are not relevant considerations on their own for the maintenance of privilege.

Most telling was the failure of public interest immunity in which it was suggested the public interest in disclosure is outweighed by the public interest in their suppression. The latter, it was asserted, derived from the damage that would be done to ILGA's processes for sharing information amongst regulators, prejudicing third parties from cooperating with the regulator and prejudicing relationships between the Government and the private sector. The rejection of these arguments strongly suggests that ILGA has misunderstood the need for openness and accountability. Peter McClellan, QC, who conducted the 1994 investigation into Sydney's

first casino licence, stated the inquiry was run "on the basis that it should be as open as possible so that the public could hear as much of the oral evidence and gain access to as much of the documentary exhibits as possible". The challenges posed to Sydney by its second casino suggest it is time to go back to that level of transparency.

MONARO REGION PUBLIC HOUSING

CAPTAINS FLAT BRIDGE

The Hon. STEVE WHAN [3.45 a.m.]: The Hon. Sophie Cotsis, shadow Minister for Housing, today provided statewide figures about the New South Wales public housing sell-off—a net decline. I was concerned to see the figures she provided for the Monaro region as they show that since this Government came to office that region now has 31 fewer public housing properties in Queanbeyan, 16 fewer in Cooma and three fewer in Bungendore. In the four years leading up to the last State election we saw a significant expansion of public housing in the Queanbeyan area through the Federal Government's economic stimulus policies and the previous Labor Government's policies. A number of older single houses on blocks in Queanbeyan were redeveloped into units as well as accommodation for people with disabilities and the aged. This resulted in a significant expansion in the public housing stock in our community. Consequently, we started to see a difference in the public housing waiting list.

Since this Government came to office it has shown disregard for continuing that work in the Queanbeyan area. Indeed, I would be hard pressed to see a single new public housing development in our community, which is in stark contrast to the many developments over the past few years, including multiunit developments on the corner of Fergus and Donald roads, by the Queanbeyan River near the State Emergency Service headquarters, near the Queanbeyan railway station and near the Queanbeyan hospital that provide much-needed accommodation. Those important, high-quality residential developments were for people in accommodation stress and in serious need of housing. Unfortunately, this lack of public housing development is an indication of this Government's attitude to people in need in our community.

The Government has disregarded the elderly in Queanbeyan by no longer providing community services for people with dementia. Many carers of people with dementia have complained to me about the Government not continuing to provide those services and concerns have been expressed to me by HOME in Queanbeyan also about cuts and changes to mental health services in the area. In Cooma, these cuts have caused significant worries for those who rely on home care and mental health services. Unfortunately, this Government shows a lack of interest for those areas of concern. Public housing is one area where, over many years, people have said to me, "Well, you won't win many votes by advocating more public housing in Queanbeyan." But that is not what it is about; public housing is about equity and fairness for the people in the area. Currently, Queanbeyan has 864 public housing properties, which still is a significant proportion. It is critical that we ensure that as the city develops so too does accompanying appropriate public and community housing. This ensures that we are a community that looks after those who are less well off.

Last week in this place I sought to make a personal explanation on another local issue in the Monaro area about a misrepresentation on the Captains Flat Bridge. Unfortunately, the Government withdrew leave to enable me to make that personal explanation. I now place on the record that during question time last week the Minister claimed that Labor had done nothing about fixing the Captains Flat Bridge. The facts are that the bridge's load-limit problems, which cut access by trucks and school buses to the service station, occurred in April 2012—a year after this Government was elected. I raised the matter as a question without notice in this place in late 2013—more than a year later.

At the time the Minister said it had not been drawn to his attention and that he would look into it. To his credit, the Minister and the Government have since provided assistance to the Palerang Council to fix the bridge, and the community welcomes that assistance. It is disappointing that it took more than a year for the Government to take the necessary action. Even more disappointing is that rather than the Minister, quite rightly, taking credit for providing the funding, on which I congratulated the Government at the time, he seeks to make a political point by misleading—

The Hon. Melinda Pavey: Show me the press release.

The Hon. STEVE WHAN: I did put out a press release welcoming it. The Minister seeks to mislead the Parliament and the people by telling fibs about when the Captains Flat Bridge problem arose.

PARLIAMENTARY YEAR 2014

The Hon. PAUL GREEN [3.50 a.m.]: Tonight I reflect on the past parliamentary year. While this speech is by no means a felicitations speech, one could call it a "thank you" speech. If I miss anyone, feel free to let me know, although I remind members that interjections are disorderly at all times. However, at this time of morning, I do not think there will be too many of those. I thank all the parliamentary staff who work solidly behind the scenes to ensure smooth sailing in the Legislative Council Chamber. I thank all the hardworking Hansard staff, the committee staff and the Legislative Council attendants for their dedication and late nights for almost four years.

Speaking of late nights, nothing goes better with late nights than great coffee, which helps us through those long nights, rather like tonight ironically. I thank the staff in Cafe Quorum for providing that elixir of concentration. I really enjoy that new "Yeeha" blend they now use. They seem to remember my usual order, which means that either they are very good at their job or I simply drink too much coffee. I think less coffee will be the subject of my New Year's resolution, plus reducing my pie intake. I thank also the Ministers—the Hon. Duncan Gay, the Hon. John Ajaka and the Hon. Matthew Mason-Cox—the Parliamentary Secretaries, and all other members in this Chamber for their hard work. I thank the advisers for navigating in good spirit often difficult pieces of legislation with tact and skill.

I thank my staff for all the work that they have done for nearly four years. It is very much appreciated. In particular, I thank Yvette Hanna, who filled in for Marie Mirza for the last couple of years and for the spirit she brought into the office while Marie was enjoying maternity leave. I acknowledge also Dr Alex Burton, my personal assistant, who virtually carried the burden while Marie was away and kept my office running, particularly when I was away from the office travelling throughout the State. I note Reverend the Hon. Fred Nile's staff, Judy Russell and Belinda Dover, who have also assisted with our contributions in this Chamber. I thank Reverend the Hon. Fred Nile for his wisdom, his grace and his leadership. There is no doubt that he is tried, trusted and true. I wish him the very best in the March 2015 elections.

I acknowledge my wife, Michelle, and our six children, Ben, Jo, Emma, James, Michael and Eden, particularly over this past week, which has been quite a testing week. As members, we have had some difficult times with each other over contentious bills. While there are the obvious often irreconcilable ideological differences between parties, we have had some tremendous bipartisan wins. And the main winner of those bipartisanship approaches has been the people of New South Wales. We have all done our part to represent our constituents to the best of our abilities.

I hope that all members over the next month or so take the opportunity to spend time with their families and loved ones and take time out to be refreshed so that come the new year we can do what we do best. If we disagree with each other, so be it. It is my hope that we can express ourselves in ways that are honest but respectful. That is certainly reflective of the position over the past few years. I thank all members for their kind words of sympathy to me and to the many who have shared my burden during this past week following the death of my father. As I look forward to time to absorb this great loss over the coming weeks, I look forward also to the challenges of the new year and I hope to see you all next year when we continue the cause of this great State.

OXLEY ELECTORATE EVENTS

The Hon. MELINDA PAVEY (Parliamentary Secretary) [3.55 a.m.]: I share with members the wonderful experiences I have had in the Oxley electorate in the past week. On Sunday at the Urunga Bowling Club I was given the honour of presenting awards to State Emergency Service [SES] volunteers from the Clarence-Nambucca region. The awards recognise the work of volunteers in the Bellingen, Coffs Harbour, Copmanhurst, Corindi, Dorrigo, Grafton, Maclean, Lowanna, Nymboida, Ulmurra, Urunga, Yamba and Yuraygir SES branches.

I was particularly delighted to join the Mayor of Coffs Harbour, Denise Knight, the Mayor of Bellingen, Mark Troy, and the Mayor of Grafton, Richie Williamson, in presenting certificates and badges of merit to the SES volunteers for their many years of hard work. In particular, I acknowledge Toby Cuthell of Bellingen, who was recognised for his 29 years of service with life membership of the SES. Last week we celebrated SES day. It is an amazing organisation with 10,000 volunteers. The SES volunteers on the mid North Coast are a busy lot. They have to deal with an unregulated river system and the Great Dividing Range that has the potential to have rainfall of up to a metre on some days. Their work is recognised and appreciated.

On Friday I joined the member for Oxley, the Hon. Andrew Stoner, to acknowledge the culmination of his excellent work with Express Coach Builders at Macksville. Express Coach Builders started its operations in Macksville in 1995. It was supported enormously by the local community and Express Coach Builders now employs 73 staff in Macksville. I understand that it is the only bus-building facility in a regional location. Many of its contracts are in Victoria. It provides buses for charter companies and school bus runs. A bus with seatbelts was displayed on site on Friday.

The company celebrated bringing two of its sites to one location, which was supported by the Regional Infrastructure Program. It was a proud moment for the organisation, which continues to produce premium coaches and buses at a cost-effective price. China is beating on its door, attempting to undercut costs, but it is not able to meet the value and quality product of Express Coach Builders. The streamlined factory operation at Macksville provides hope that Express Coach Builders will continue to provide a top-notch quality product at a competitive price.

I enjoyed Friday afternoon in the company of the Mayor of Kempsey, Liz Campbell. We travelled to Crescent Head for an announcement by the Hon. Andrew Stoner about the remarkable deal between the Crescent Head community through its country club and the Department of Lands. The approximately 300 people who were present at the Crescent Head Country Club were excited at the prospect of having control of the land, which will give them power and equity to further improve the club and its facilities. Councillors Anna Shields and Betty Green were also present, as was the President of ClubsNSW, Peter Newell. The celebration was appreciated by the community.

I acknowledge the work of Trevor Sargeant and the Forests Task Force throughout the Port Macquarie and Oxley electorates. Trevor Sargeant is a councillor on Port Macquarie-Hastings Council and is a former economic development officer at Port Macquarie. He is doing an amazing job highlighting the benefits of the forest industry within the Oxley electorate. The Forests Task Force Strategic Plan 2011-13 highlights to the community of the mid North Coast that the forest industry is a sustainable growth industry that deserves to be supported. I congratulate Trevor Sargeant on his work.

Finally, I lend my support to the Hon. Charlie Lynn's recommendation to the Minister for Veterans' Affairs and the Federal environment Minister that responsibility for the management and development of the trail between Owers Corner and Kokoda should be transferred from the Department of Environment, Heritage and the Arts to the Department of Veterans' Affairs.

The Hon. Charlie Lynn: Hear, hear!

The Hon. MELINDA PAVEY: A master interpretative plan should be developed to protect the wartime historical integrity of the Kokoda Trail. Options for a more effective management model for the Kokoda Trail and other significant wartime sites in Papua New Guinea should be explored. One need only visit the gravesite at Port Moresby to appreciate what a great job the Department of Environment, Heritage and the Arts is doing in that community. Charlie, I will never forget undertaking that trek with you. Nor will I ever forget your beautiful, beaming smile or the happiness you bring to people not only in New South Wales but also in Papua New Guinea. I am more than happy to join in the battle to ensure that the Department of Environment, Heritage and the Arts takes over this trail to ensure that future Australians can enjoy the experience I was privileged to have with you.

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

Motion agreed to.

**The House adjourned at 4.00 a.m. on Wednesday 19 November 2014 until
11.00 a.m. on the same day.**
