

LEGISLATIVE COUNCIL

Wednesday 14 May 2008

The President (The Hon. Peter Thomas Primrose) took the chair at 11.00 a.m.

The President read the Prayers.

SPORTING VENUES AUTHORITIES BILL 2008

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

Motion by the Hon. Michael Costa agreed to:

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

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

AUDITOR-GENERAL'S REPORT

The President tabled, pursuant to the Public Finance and Audit Act 1983, a report entitled "Auditor-General's Report—Financial Audits—Volume Two 2008", dated May 2008.

Ordered to be printed on motion by the Hon. Tony Kelly.

RADIUM HILL SMELTER SITE

Motion by the Mr Ian Cohen agreed to:

That General Purpose Standing Committee No. 5 inquire into and report on the Radium Hill uranium smelter site in Nelson Parade, Hunter's Hill, and in particular:

- (a) any rehabilitation or remediation of the site previously undertaken,
- (b) the extent of contamination and radioactivity levels,
- (c) the impact of any contamination on public health and the environment,
- (d) the appropriateness of the Government's planned remediation strategy, and
- (e) disposal of waste from the site.

PROGRAM OF APPLIANCES FOR DISABLED PEOPLE

Motion by the Mr Ian Cohen agreed to:

1. That this House notes:
 - (a) that citizens of New South Wales with disabilities have a right to the provision of equipment that enables the realisation of fundamental human rights,
 - (b) that without essential equipment, people with disabilities are at greater risk of suffering isolation and a lack of employment prospects, and there is potential for further injury,
 - (c) that current waiting lists for equipment procurement by clients under the Program of Appliances for Disabled People (PADP) is not conducive to enabling disabled citizens to participate and contribute to society, or enjoy a satisfactory standard of living and freedom of movement,

- (d) that anecdotal evidence suggests there are instances of extreme hardship for PADP clients due to delays in providing essential support equipment with some clients waiting for between six months and two years, occasionally longer, for wheelchairs and essential aids,
 - (e) that excessive waiting periods have an adverse effect on PADP clients affecting both physical and mental health, quality of life, relationships and prospects, and
 - (f) the PriceWaterhouseCoopers 2005 report titled "Review of the Program of Appliances for Disabled People" stated that there is a potential demand for the PADP in the range of \$35 million to \$70 million (before co-payments or expenses) compared to the current budget of \$23.8 million.
2. That this House calls on the Government to:
- (a) clear the existing PADP waiting list backlog with an immediate injection of funding, and
 - (b) reconsider and fully evaluate before the full rollout of PriceWaterhouseCoopers efficiency recommendations, whether a funding increase of \$13.5 million will secure operation of the scheme today and into the future.

PETITIONS

Princes Highway Speed Zone

Petition requesting that the House reintroduce the 100 kilometre per hour speed limit between Omega Hill and Fox Ground and immediately upgrade the Princes Highway between Gerringong and Bomaderry, received from **the Hon. Don Harwin**.

FISCAL RESPONSIBILITY

Matter of Public Importance

The Hon. GREG PEARCE [11.10 a.m.]: I move:

That the following matter of public importance be discussed forthwith:

The Government's recent performance and progress against fiscal targets and principles of the Fiscal Responsibility Act 2005.

It is clearly a matter of public importance that the Government comply with its own legislated fiscal targets, and it is not appropriate for the Treasurer to giggle continually when I raise this matter of public importance. A responsible Treasurer would address this matter in some detail. The Government's fiscal strategy was designed, according to its own budget papers, to provide a cushion so that the Government can borrow in times of difficult financial circumstances and when revenues are at risk. It is important that its fiscal strategy enables the Government to borrow instead of having to increase taxes or reduce services. This is a legislated fiscal strategy.

The Treasurer has shown that he cannot budget, he cannot control expenses, he does not get his projections right and prior to the last election he deliberately set on a strategy of breaching his legislated fiscal targets to fund the infrastructure backlog created under this Government. Not only that; it is possible that the Treasurer is borrowing to fund recurrent expenses. While the Treasurer, in his first budget, at least paid lip service to the Fiscal Responsibility Act and made an argument that the breaches were temporary, in the most recent budget the breaches are simply entrenched through the whole estimates period. So for the first five years of the 10-year strategy the Government has simply failed to reach its legislated targets.

There is no argument that the Government is responsible for its fiscal strategy. However, if it cannot meet its current fiscal strategy it is a matter of public importance and a matter of importance to the Parliament that it explains why it cannot meet its strategy, what changes it needs to make, what impacts such changes will have on the budget and the economy, and the timeframe to reaching its targets. As a Parliament we are responsible for maintaining government accountability, and on a matter as important as fiscal targets, particularly when they are legislated fiscal targets, we expect the Treasurer to behave like a responsible Minister and the Government to be accountable. This matter is important and urgent because the next budget is due shortly, and in that budget we expect the Treasurer to properly explain his fiscal strategy, explain why he has not been able to meet it in the past, explain the impacts on the economy and the budget, and give timeframes to meet its targets.

The Hon. MICHAEL COSTA (Treasurer, Minister for Infrastructure, and Minister for the Hunter) [11.13 a.m.]: The Government's view is that this matter is not important, largely because the issues will be canvassed in about three week's time in the State budget. I have had repeated questions on this matter from the

Hon. Greg Pearce. It is true that the Government is on the record about having difficulties meeting its fiscal targets. We have been upfront about that. Indeed, the most recent budget indicated that we would not meet our long-term fiscal target; from memory, that was part of my budget speech and part of Budget Paper No. 2, which outlined the Government's fiscal target. There is no secret that we have some problems in this area.

Indeed, much of the debate we are having with the Commonwealth over State-Federal fiscal arrangements is precisely about our long-term challenges in terms of revenue versus projected expenditure growth. A lot of that is outside the Government's control because, as the Warren inquiry clearly showed, we have a highly centralised system of revenue collection in this country which puts enormous pressure on State revenues at a time when expenditure factors are growing outside the Government's control. In addition, we have been clear about the challenges we face. A number of Government reports, including a budget paper on long-term demographic change in the State, clearly show that over time all the targets in the State budget will be challenged by the ageing of the population.

This matter has not arisen overnight. The Government has been explicit about the challenges it faces in terms of both its fiscal targets and its revenue and the need for a better set of arrangements with the Commonwealth. State revenues are certainly under pressure and our long-term revenue projection is for revenue growth of about 4.5 per cent to 5 per cent. However, in key areas such as health we are seeing enormous growth in expenditure driven by factors outside the Government's control. That growth is largely demographic in nature and technological in terms of the changing cost and expenditure associated with new medical technologies.

For example, we know that on average the health budget is growing about 8 per cent and currently represents in the order of 26 per cent to 27 per cent of overall State revenue. One does not need a mathematics degree or a PhD in statistics to understand that those revenue trends, matched against growth in expenditure, will lead to big pressures on the Government's budget. That is precisely the reason we have been arguing for a change in State-Federal fiscal arrangements. Last night the Federal Government brought down its budget. Part of that budget's premise is a review of long-term State-Federal financial arrangements. We support that because ultimately it is the basis of trying to resolve this problem.

I am surprised that the Hon. Greg Pearce thinks this matter is urgent. He used the fact that we have indicated we will spend record amounts on long-term infrastructure to criticise the Government's strategy. I do not think anyone in the community feels that spending record amounts of money on infrastructure is in any way a negative. Certainly, our targets are important, and we will seek to meet those targets within the confines of the limitations on revenue and expenditure. As part of the State Plan we have said that the triple-A credit rating will be the framework that drives the Government's fiscal position.

I am pleased to say—the honourable member should know this—that as recently as a couple of months ago the ratings agencies reconfirmed our triple-A credit rating; that is an objective measure of how the Government is performing in terms of its fiscal targets. It is true that the targets in the Fiscal Responsibility Act give general guidance to that, and that we have challenges in meeting those targets—I have never shied away from that—but it is pleasing that we have objective agencies such as the ratings agencies that are able to argue that the triple-A credit rating is consistent with the Government's strategy.

This matter is pre-emptory. In about three week's time the budget and Budget Paper No. 2 will outline clearly for everyone the Government's position in relation to both its fiscal targets and the challenges it faces in meeting our fundamental expenditure on public services. Therefore, I argue that this is not a matter of public importance in the sense that the member is arguing it. It is simply a political stunt that should not be debated today.

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

Motion to discuss the matter of public importance negated.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Dr JOHN KAYE [11.20 a.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Member's Business item No. 87 outside the Order of Precedence, relating to the Energy Services Corporations Ownership (Parliamentary Powers) Bill 2008, be called on forthwith.

This motion is indeed urgent. The Iemma Government has now made it abundantly clear that it will push ahead with the sale of electricity retailers and the long-term lease of generators. Despite assurances given to this House to the contrary by Treasurer Costa on 27 February in response to a question from the Hon. Robert Brown, we now have reasons to be very concerned that the future of the electricity industry will be determined without the ability of both Houses of Parliament to have the final say. On 5 May 2008 Australian Associated Press reported:

Legislation may not be needed to push ahead with privatisation, with Mr Iemma saying legal experts are now examining all options.

From which we take it that the Government is looking for ways to administratively effect its plan. The Government wishes to rely on section 20Y of the State Owned Corporations Act 1989, which allows shareholding Ministers to issue written approval for the sale or disposal of the main undertakings of energy services corporations.

The PRESIDENT: Order! I ask members on both sides of the Chamber to cease interjecting.

Dr JOHN KAYE: On 7 May 2008, in response to a question from me to clarify the position, Treasurer Costa declined to reiterate his commitment. The motion seeks to suspend standing and sessional orders to allow a motion to be moved for the resumption of debate on the Energy Services Corporations Ownership (Parliamentary Powers) Bill 2008. This would ensure that the sell-off, leasing or disposal otherwise of a main undertaking of an energy services corporation cannot proceed without approval of both Houses of Parliament. This includes the sell-off of electricity retailers and the leasing of generators.

The Hon. Michael Costa: So we're not privatising the generators? I am glad you've changed your position on that.

Dr JOHN KAYE: You will get your chance. It is urgent that the motion be moved to give the Parliament the final say on the sell-off before the Government locks in ownership and control changes. The motion remains urgent, despite any assurances that might or might not have been given that legislation will be introduced, because such assurances totally lack accountability. If the Treasurer assures us that the sell-off will not go ahead without legislation, there will be no penalty if the Government proceeds to pass control to the private sector administratively, despite those assurances. There would be no comeback against the Treasurer if he says in this House, "Here is the legislation; we are going to do this," and then he sells it off anyway. We would have no recourse against the Treasurer.

The motion remains urgent even if legislation is introduced in the Parliament. There is no guarantee that rejection of the legislation, or amendment to it in any way, would result in the sell-off being stalled or ended. If we reject that legislation, the Government could easily say, "That is okay. We are going to proceed with our powers under section 20Y of the State Owned Corporations Act 1989 to sell off the industry." If this urgent motion is not passed the Government could proceed and this House would only see the so-called back-end legislation dealing with comparatively uncontroversial matters such as extending retail price regulation or increased funding for greenhouse abatement programs—issues that we would not want to have to reject as a surrogate for the real legislation, for the real game in town, which is stopping the privatisation of the electricity industry.

The elected Houses of Parliament should have the final say on the substantive issue, given the economic, social and environmental impacts of the electricity sell-off and lease-out. It is particularly urgent, given the Premier's commitments during the last election that any reasonable test could only be interpreted as excluding the sell-off of electricity retailers and the leasing of generators. The overwhelming public opposition to the plans of the Premier and the Treasurer also support the urgency of this motion. This important matter of democratic process will only have meaning if this legislation is passed in the near future, before the Iemma Government goes beyond the point of no return on its privatisation process. I commend the motion to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [11.25 a.m.]: On behalf of the Opposition I place on record our support for this motion being brought on as a matter of urgency. There is no doubt that this is currently the hottest issue exercising the minds of the people throughout New South Wales. The people of this State want to know not only the detail; they want to know the views of members in this House. They want to see us in there fighting for them. There are plenty of members on both sides of the House who have been talking to their branch members and their friends about this issue. Today is the day. This is the opportunity for members of this House, who have been talking privately and at various gatherings, to state on the public record whether they believe it is urgent that the motion be brought on this morning.

This is the chance for members opposite—like the Hon. Lynda Voltz and the Hon. Michael Veitch—to ensure a public debate on this issue, for which the Treasurer has denied any opportunity. This will be the last opportunity before we approach the break in June. I challenge members opposite to join with us in supporting this motion being brought on forthwith, because this is the first chance we have had to debate the issue. Regardless of whether members support privatisation or not, this is it. There will be no more little backroom chats with friends and saying, "I can hide in the darkness of the Labor conference." There is no darkness in this Chamber; there is light here. Each and every member has an opportunity to come on down and make sure that *Hansard* will record—

The PRESIDENT: Order! Members of the Opposition will cease interjecting.

The Hon. MICHAEL GALLACHER: Members opposite will have an opportunity to put onto the record for history their views, firstly in regard to whether this motion is urgent. When the debate is found to be urgent, all members in this place will have an opportunity, if they so desire, to step up and put onto the record forever their views in relation to this issue. There will be no more background briefing, no more talking to friends and saying, "I am opposed to it" or "I support it." This is their chance to put their case.

The Hon. ROBERT BROWN [11.27 a.m.]: I am just checking to see that I am standing in the light—I am. On 27 February in this House, prior to the Labor Party conference, I asked the Treasurer a question. I thought the question was well framed, very clear and lucid. I asked the Treasurer to make sure that he gave an answer in kind: lucid and clear, with no fudging. The Treasurer replied that legislation would be brought before the Parliament that would determine the sale or leasing—whatever one wants to call it—and that other legislation would also be brought before the Parliament to cover the back-end issues that Dr John Kaye referred to.

I am not inclined to support urgency with regard to the motion unless the Treasurer is not prepared, following the Labor Party conference, to reassert the answer he gave me on 27 February. I ask the Treasurer to give this House a clear undertaking that legislation will be brought to the Parliament that will determine whether these assets will be leased, sold, privatised, or whatever word one wants to use. There should be no fudging. Will the Treasurer, in his reply to this motion for urgency, assure the House in clear and concise terms that legislation will come before the Parliament that will either enable the sale to take place or disable the whole thing? If the Treasurer gives us that assurance, we will not support the urgency motion.

The Hon. MICHAEL COSTA (Treasurer, Minister for Infrastructure, and Minister for the Hunter) [11.29 a.m.]: I do not intend to waste any more time of the House on this. I have already given a commitment to the Hon. Robert Brown and the House that we would bring in legislation to enable the Government's lease of its generation assets and the sale or transfer of its retail assets.

I am happy to reaffirm that. This is unnecessary; this is a cheap political stunt because the member thinks he can exploit some divisions that may exist on the Government side on this issue. If the member is really concerned about the matter, I have made the point on a number of occasions that while it is not technically necessary we have given a commitment that we will bring in legislation to enable the Government's electricity reforms to go ahead. I cannot be clearer than that.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.30 a.m.]: This is urgent because of the Labor Party's track record. It is urgent because the Labor Party went to the people at the last election and said that it would not do this. It is urgent because as of tomorrow the Premier will be travelling to China and may be doing deals on the sale of this asset. The Premier needs to know—as do the people of New South Wales—before he gets on that plane that there will be full public scrutiny and the Parliament of New South Wales will be part of the decision. It is urgent because frankly we cannot trust them. It is urgent because many of us feel this is a dud deal and we need to represent the people of New South Wales in outlining and examining the detail of this deal. The only way to do that is through the legislation put forward by the honourable member. We support the urgency of this matter. There is no more urgent matter in New South Wales than this.

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

Motion agreed to.

Order of Business

Motion by Dr John Kaye agreed to:

That Private Members' Business item No. 87 outside the Order of Precedence be called on forthwith.

ENERGY SERVICES CORPORATIONS OWNERSHIP (PARLIAMENTARY POWERS) BILL 2008**Second Reading****Debate resumed from 27 February 2008**

The Hon. GREG PEARCE [11.32 a.m.]: The Coalition will support the motion by Dr Kaye. The reason the Coalition supports the bill is that the right of the public to know what the Government proposes, and to have its elected representatives vote on those proposals, should be upheld in this Parliament. Debate should be in Parliament and not behind closed doors between Labor Ministers and union officials. We just heard an undertaking of sorts from the Treasurer. I will come back to his previous answer to Mr Brown's question. The issue again is that the undertaking is capable of being slipped through like a snake down a drain. The reason for supporting the bill is that it has been drafted by the parliamentary draftsman to ensure that both Houses of Parliament will vote on the matter. I refer members to proposed section 4 (1), which provides:

None of the main undertakings of an energy services corporation, and none of the main undertakings of any of its subsidiaries, may be sold, leased or otherwise disposed of, unless the disposal is approved by resolution of each House of Parliament.

If the Government is serious about giving an undertaking it should give it in the terms of the bill and by the Government as a whole, not just one Minister. The Coalition also supports the legislation because the Government's track record in its dealings with the private sector has been dismal to say the least. It has mismanaged almost every transaction with the private sector at great cost and expense to the taxpayers and public of New South Wales. There is a litany of projects. Members will remember the \$100 million-plus lost on the Millennium trains; the Cross City Tunnel, the Lane Cove Tunnel, the north-west rail line; and the Epping to Chatswood railway, which has well over a \$1 billion over-run and is half the original length. The list goes on. Now we are faced with a situation where there are great concerns about the public interest in the sale of these assets.

There are genuine concerns about whether this Government will deliver the \$15 billion proceeds that are expected in relation to these assets. There are, of course, concerns as to how this Government will deliver on the guarantee repeated so often by Mr Iemma, Mr Costa and other members of the Government that new baseload electricity generation will be built by 2013-14 to ensure that we do not have a problem with electricity supply.

The Coalition's position is very clear. The New South Wales Liberal-Nationals Coalition has refused until recently to support the electricity privatisation plans because of a lack of detail and Labor's history of failed private sector deals and mismanagement of State finances. Labor refused to present its policy at the last election and in all its negotiations with the unions has ignored the concerns of the public, particularly in rural and regional areas. It is clear that the Premier intends to press ahead with the sale, dealing behind closed doors in Sussex Street and refusing to provide details to the public or the Parliament. As indicated by the Leader of the Opposition, Barry O'Farrell, and the Leader of The Nationals, Andrew Stoner, the Coalition supports private sector involvement in the delivery of public services and infrastructure where it is in the community's best interests. That is our concern. We want to see that it is in the community's best interests. We want to see that \$15 billion of revenue delivered and we want to see a baseload generator delivered.

Our support for greater private sector involvement in electricity provision is subject to a number of conditions, as indicated by the Leader of the Opposition and the Leader of The Nationals. They are: firstly, that all sale or lease arrangements be subject to the Auditor-General reporting to Parliament before the legislation is introduced, including but not limited to timing and price, conditions for workers, pensioners and low income earners, and price guarantees for consumers; secondly, that completion, release and adoption of a rural communities impact statement focused on—among other issues—jobs, prices and service levels occurs before the sale; thirdly, the establishment of an independent oversight body comprising the Auditor-General, a community representative and a financial expert to monitor the use of funds realised from the sale; fourthly, the establishment of a parliamentary oversight committee to guarantee delivery of improvements in clean, green and renewable energy investment resulting from the sale.

Our position also includes retention of poles and wires in public ownership and appropriate safety nets for pensioners, low-income families and employees as determined by the Auditor-General. The sale of the \$15 billion asset should not occur through cosy backroom deals between ALP powerbrokers and union bosses. Deals behind closed doors will only ensure that taxpayers' interests are put last, not first. We want the interests of taxpayers and the people of New South Wales put first.

Much turns on whether the Treasurer can be believed in giving any undertaking in relation to the legislation. I have looked closely at the answer the Treasurer gave to the Hon. Robert Brown on 27 February 2008. It is not an unequivocal assurance that these matters will come to both Houses of Parliament prior to the disposal of the assets. Indeed when one reads the words used, there is no undertaking at all. His comments during the urgency debate today in my view do not go far enough. The legislation that has been drafted for Dr John Kaye sets out in proposed section 4 what should occur, and that is what we require from the Government in the circumstances. The public interest should prevail and the Opposition will be supporting this resolution.

Ms LEE RHIANNON [11.40 a.m.]: I congratulate my colleague Dr John Kaye on bringing the Energy Services Corporations Ownership (Parliamentary Powers) Bill 2008 before Parliament. The bill elevates the democratic process to centre stage in resolving complex political and economical issues. A vote for the bill is a vote for this House—this Parliament—to debate and determine the critical issue of the future management and ownership of electricity generators and retailers. While the bill, if passed, would clearly impact on the electricity privatisation debate, it would not in itself stop any sell-off plans.

Surely all of us, irrespective of our views on privatisation, would agree that as representatives of the people of New South Wales we have a responsibility to debate critical issues that will shape the future of this State. Energy is an essential service. Since the early days of this Parliament members have debated and voted on how energy is managed in this State. The bill ensures that we continue with this most important role. It is a role that we should not give up. The bill will ensure that this Parliament will have the responsibility to consider the future of this industry before any sell-off plans are initiated.

The need for this legislation has been highlighted by the fact that the Government has no mandate for privatisation. At the last election, not only were the Labor leadership's privatisation plans not revealed, voters understandably would have believed that the Iemma Government was committed to safeguarding public services, including the electricity industry. Remember all those Labor advertisements berating the Opposition for their plans to axe 30,000 jobs? The voter was left in no doubt that the way to safeguard those jobs—and in turn the public sector—was to vote to return the Labor Government. But when Premier Morris Iemma and Treasurer Michael Costa got back into their offices at Governor Macquarie Tower there was a complete policy reversal. Within a few months of Labor's re-election, we learnt that the Premier and the Treasurer planned to sell the electricity retail sector—Integral Energy, Country Energy and Energy Australia—and lease the power generators, Delta, Eraring and Macquarie.

When we reflect on Labor's 2007 State election campaign, it is apparent that the State Labor Government has no mandate to privatise electricity because Labor did not take that policy to the last election. No-one thought, when casting their vote in the March 2007 State election, "I will vote Labor because I support a privately-owned power industry." In fact we know that the Government gave a clear commitment not to privatise the power industry prior to the last election. The Premier's office gave written assurances just before the election that Labor had no intention of privatising the power industry and that it would remain in public hands.

On 2 March last year, three weeks before New South Wales voters went to the polls, an email was sent to an official of the Electrical Trades Union by a media adviser on behalf of Mr Iemma's then chief of staff, Mike Kaiser. The email, with quotes attributed to Mr Kaiser, assured Emma Brindley, an Electrical Trades Union communications officer and the recipient of the email, that there were no plans to privatise:

This is what Mike K has given me as per our phone conversation. There is no plan to privatise our electricity network. That includes the generators, the poles and wires. Making sure New South Wales has a stable and secure power system is a priority because it's a key service of Government and vital for our economic growth.

The United Services Union secretary Ben Kruse received a similar commitment 10 days later in a letter. The Premier himself made a personal pledge that "privatisation was not on the agenda". The Premier said:

The Government is maintaining ownership of all electricity infrastructure under its plan to secure the State's future energy needs.

Despite the clarity of this commitment, the Premier and the Treasurer are trying to make out that there was no broken promise because they are planning on leasing, not selling off, the generators. Anyone who is honest will acknowledge that a 99-year lease is no different from a sell-off. But the key point is that the Labor Government went to the election with a clear commitment to protect public services and not to sell-off the electricity industry. Now the leadership has reversed its position, the Greens argue that this Parliament has a responsibility to ensure any privatisation plan is debated in the Parliament. That is what the legislation we are now debating would achieve, if passed.

Members of the House who are committed to electricity industry privatisation can vote for the bill. The essence of the bill is that it ensures that legislation on such a critical issue as a power sell-off must come before the Parliament. We have twice heard the Treasurer speak about legislation coming before this Parliament. We know that the Treasurer goes back on his word, as we have seen in the case of the privatisation issue itself, but I remain particularly concerned about the formulation he used in the debate today when he gave emphasis to the word "enable", that they would bring legislation to enable the sell-off to occur. That can mean anything. It can mean backdoor legislation to ensure pensioners are not worse off and workers get an extra pay boost in the early years. We cannot trust the Treasurer's words today. In fact, there are many reasons for members to be highly suspicious.

We know that members disagree about who should own the electricity industry. Surely that underlines the need for this Parliament to have a role in determining ownership and the form it should take. Even those who back the sell-off surely would agree that the democratic process should have a central role. What do the people's representatives say? Should not members of these Houses of Parliament be able to debate and determine the future of this most critical industry? We were elected to represent the views of the people of New South Wales in this Parliament. I argue strongly that consideration of the critical issues that will shape the economy and impact on our society and our environment is the most important aspect of our job. If we fail to pass the bill we will be turning our back on our key role: facilitation of the democratic process by debating and then determining by our vote on a resolution that is representative of the views of the people of New South Wales. That is what we do, day in and day out. Surely we need to ensure that the democratic process has a role in determining such a critical issue as the sale of the electricity industry.

The Greens have different views from those of many members of this House on the merits of the planned privatisation, but surely we agree that our job as members of Parliament, as representatives of the people of New South Wales, is to determine the legislation that will frame the direction of the power industry. The bill does not stop privatisation. The Greens' opposition to privatisation is on the record. We join with the trade union movement, with the vast majority of the environment movement, and with the community in opposing privatisation. There has been enormous public interest in the proposed sell-off. The public debate further underlines our responsibility to ensure that the proposed privatisation is debated in this Parliament so that its merits or otherwise can be weighed. A vote for the bill supports the democratic principle that the people's representatives have the right to determine the future of this most important infrastructure the electricity industry.

The bill, if passed, will help revive people's faith in democracy, faith in parliamentary democracy, and faith in members of Parliament being able to do their job openly and transparently. I think we all know from our work in the community that there is a perception that members of Parliament do not always do their job properly. Democracy in this country has been waning in recent years. I would be surprised if any member of Parliament disagreed with the assertion that the public are becoming increasingly cynical about the democratic process, the role of political parties, and about members of Parliament and how we go about our work. This legislation, if passed, will become an important statement that this Parliament is committed to the democratic process and that the members of the Parliament of New South Wales will not allow deals to be done behind closed doors and are ready to debate the important issues that will determine the future of this State.

I urge all members to support this bill, irrespective of their views on privatisation. It is a vote for democracy. Surely we have the courage to say we are ready to engage in the public debate on privatisation, and we are ready and willing to bring that debate into this Parliament. I commend the bill to all members.

[Business interrupted.]

DISTINGUISHED VISITORS

The PRESIDENT: On behalf of the House I welcome Mr Hans-Josef Fell, a member of the German Bundestag, who is here on behalf of the International Renewable Energy Agency.

ENERGY SERVICES CORPORATIONS OWNERSHIP (PARLIAMENTARY POWERS) BILL 2008

Second Reading

[Business resumed.]

The Hon. IAN WEST [11.49 a.m.]: It is not my intention to waste the time of this House, but I wish to state that I do not have faith in the Greens and I have great reservations about the matters that they bring before this House on many occasions. The overview of the bill states:

The object of this Bill is to prevent the sale, lease or other disposal of the main undertakings of an energy services corporation, or of its subsidiaries, without a mandate from the people's elected representatives in Parliament.

After considering the recent annals of the Labor Party over the past 12 months or so I find little inconsistency with conferences, caucuses, party lobbyists, commitments of Ministers, licks and promises, winks and nods, and any other manifestation that I can think of as to the intent of the Government in bringing legislation before this House. The bill is consistent with my position as a member of the Labor Party in this House. If this matter comes to a vote in this House I will be voting for the bill.

The Hon. LYNDIA VOLTZ [11.51 a.m.]: I, like my colleague the Hon. Ian West, have concerns about electricity privatisation. I have expressed publicly and in the media domain my support for the position taken by my party on the conference floor. I will be supporting that conference position. It is vital for me to have an opportunity to put forward arguments on behalf of unionists and the 700 delegates—half of whom were rank and file members—who represented average members of the Australian Labor Party.

I want an opportunity to put forward my case in debate on this legislation. As members of Parliament we have a right to debate legislation in this House. I take note of the comments that were made by the Treasurer that he will introduce legislation relating to the sale of assets. I want to be sure that legislation such as that will be introduced. We, as members of Parliament, should have a chance to debate this issue in the House. I move:

That this debate be adjourned until the next sitting week.

Question put.

The House divided.

[*In division*]

The Hon. Michael Gallacher: Point of order: Mr President, in the event of a tied vote could you indicate to the House what would be the convention relating to the adjournment of debate?

The PRESIDENT: Order! That is not a point of order. As the member is well aware, I do not yet know the result of the division. I am very happy to read passages from Erskine May's *Parliamentary Practice* with the Leader of the Opposition in my chambers at an appropriate time at his convenience.

Ayes, 20

Mr Brown	Mr Kelly	Mr Tsang
Mr Catanzariti	Mr Macdonald	Ms Voltz
Mr Costa	Mr Obeid	Mr West
Mr Della Bosca	Ms Robertson	Ms Westwood
Ms Fazio	Mr Roozendaal	<i>Tellers,</i>
Ms Griffin	Ms Sharpe	Mr Donnelly
Mr Hatzistergos	Mr Smith	Mr Veitch

Noes, 20

Mr Ajaka	Mr Gay	Ms Parker
Mr Clarke	Ms Hale	Mrs Pavey
Mr Cohen	Dr Kaye	Mr Pearce
Ms Cusack	Mr Khan	Ms Rhiannon
Ms Ficarra	Mr Lynn	<i>Tellers,</i>
Mr Gallacher	Mr Mason-Cox	Mr Colless
Miss Gardiner	Reverend Dr Moyes	Mr Harwin

The PRESIDENT: Order! The vote being equal, I give my casting vote with the ayes and declare the question to be resolved in the affirmative.

Motion agreed to.

Debate adjourned and set down as an order of the day for a future day.

QUESTIONS WITHOUT NOTICE

HIGHWAY PATROL POLICE NUMBERS

The Hon. MICHAEL GALLACHER: My question without notice is directed to the Minister for Roads. Does the Minister recall telling the House last Thursday, "There are a million more vehicles on our roads than there were in 1995." As Minister responsible for road safety, will he indicate to the House any concerns he has raised with the Minister for Police regarding his failure to increase the number of highway patrol police to keep pace with this explosion in vehicle registrations? Is the Minister aware that despite claims of an additional 100 highway patrol police, those officers are not fully operational, and the further 50 highway patrol officers promised by his Government will not come online until just before the next State election in 2011?

The Hon. ERIC ROOZENDAAL: I thank the member for his question and for his interest in the number of vehicles on our roads because it raises many other issues. Indeed, there are a million more vehicles on our roads than there were in 1995. Of course, that places substantial pressure on our road network. Sydney, like any city around the world, faces the challenge of urban congestion. Indeed, urban congestion is a national problem and was rightly recognised by the Federal Government in its recent budget. Some of the issues raised by the member include speeding and enforcement. Reflecting on the enforcement issue, I thought of Andrew Stoner. Of course, he was sidelined from his position of holding the shadow road safety portfolio in November 2006 because of a record number of speeding offences. With regard to offences committed by other members, I am reminded of Pru Goward.

The Hon. Melinda Pavey: Which database did you get that from?

The Hon. ERIC ROOZENDAAL: I have more. Do not worry, you might be there too, Melinda.

The Hon. Melinda Pavey: The Minister can stop wasting his time trying to find mine. I have two offences.

The Hon. Duncan Gay: Point of order. Can the Minister assure the House that he has not been looking at confidential files of members of this Parliament—

The PRESIDENT: Order! That is not a point of order.

The Hon. ERIC ROOZENDAAL: I am happy to cite my references. In relation to Andrew Stoner, of course, my reference was a *Daily Telegraph* story. The Hon. Melinda Pavey has just volunteered that she has two speeding fines. I did not know that.

[Interruption]

I am shocked to hear that the Hon. Melinda Pavey thinks that speeding is not a serious offence; that it is trivial. Speeding is one of the main causes of accident fatalities on our roads. Members might want to hear of other offenders. Pru Goward was caught speeding in a school zone in her electorate. She did the right thing about that. I was reading a recent Pedestrian Council of Australia media release—that journal of record—which reported that Adrian Piccoli also was caught speeding in a school zone. People are faced with the challenge of sticking to our road rules but, of course, I acknowledge that people do make mistakes.

Hon. Greg Pearce: Point of order: My point of order is relevance. Has the Minister actually paid his fine and also taken the points—

The PRESIDENT: Order! That is not a point of order. The Hon. Greg Pearce will resume his seat.

[Interruption]

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

[Interruption]

The PRESIDENT: Order! I call the Hon. Greg Pearce to order for the second time.

The Hon. ERIC ROOZENDAAL: The Hon. Greg Pearce just asked did I commit an offence. As he would well know, it is against the law for anyone to take the points for someone else's traffic offence; it is a crime. Perhaps the Hon. Greg Pearce does this. Is the Hon. Greg Pearce suggesting that is what he does? Is that how The Nationals and the Liberals deal with their offences? Clearly, there are challenges in our road network.

The Hon. Duncan Gay: Who got the points for your offence? You never came through on that. You covered that up. I wouldn't be touching this if I were you.

The Hon. ERIC ROOZENDAAL: How many speeding offences do you have, Duncan?

The Hon. Duncan Gay: You would know, you have looked.

The Hon. ERIC ROOZENDAAL: Melinda Pavey has been honest about hers. How many have you got? Own up! Clearly, there are challenges in our road network. I urge all road users to respect the road rules and slow down.

TAFE AWARDS NIGHT

The Hon. PENNY SHARPE: My question is addressed to the Minister for Education and Training. Can the Minister inform the House what the Iemma Government is doing to recognise and reward excellence in the TAFE sector?

The Hon. JOHN DELLA BOSCA: I thank the member for her question and her ongoing interest in the affairs of TAFE New South Wales and in skills training. TAFE New South Wales is the largest provider of vocational education and training in Australia. It is backed by a record \$1.7 billion in recurrent and capital funding from the Iemma Government. Each year each of our 10 TAFE institutes hold award nights to recognise excellence and achievements of students. Last night I had the pleasure of attending the TAFE New South Wales Northern Sydney Institute awards night when 19 State medal winners were announced and 12 excellence award winners were honoured.

The 2008 TAFE New South Wales Northern Sydney Institute Student of the Year Award went to Katherine Sheidow from Bayview, who studied an Advanced Diploma of Hospitality Management. Katherine also won the 2008 Excellence Award for Tourism, Hospitality and Events Management, and received a State medal for gaining the highest marks in the State in her program. Other excellence award winners included Nenad Djuric of Strathfield, who was named 2008 Apprentice Student of the Year. Nenad studied commercial cookery and competed in national events, including the 2007 Sydney Regional Worldskills Competition. Since graduating he has been employed at Sydney's popular restaurant Est.

Madeleine West of Dundas won the 2008 Higher School Certificate Pathways Student of the Year award. Madeline achieved Higher School Certificate results beyond her expectations. With her Higher School Certificate and a design fundamentals qualification she plans to enter the design and fashion industry and become a freelance stylist. Jeffrey Meares of Beecroft was named 2008 Information Communications Technology, Media and Arts Student of the Year. Jeff completed the Certificate IV in Screen at North Sydney College last year and is now working as a technical director with Fox Sports News.

I am sure all members will join me in congratulating the students, their teachers and TAFE New South Wales Northern Sydney Institute. New South Wales Government funding for TAFE supports enrolments in over 1,300 qualifications at over 130 TAFE campuses across the State. The Iemma Government's commitment to training will be enhanced by the Rudd Government's \$1.9 billion "Skilling Australia for the Future" package, referred to in last night's budget. This will provide 630,000 new places over five years, including 85,000 apprenticeship places. The Rudd Government is to be commended for this massive investment and for its first budget, which delivers on education and training. The Iemma Government is working hard to deliver high-quality vocational education to New South Wales students through TAFE and our growing network of trade schools. Last Friday the member for Wollondilly, Philip Costa, and I had the pleasure of officially opening our latest trade school.

The Hon. Michael Costa: That's the good Costa.

The Hon. JOHN DELLA BOSCA: He is the good Costa, that is right. The Treasurer is also a good Costa; just a different kind of good. Campbelltown's new \$500,000 trade school, which operates out of

Campbelltown TAFE, will give local students the opportunity to take on school-based apprenticeships, traineeships and vocational training while they complete their Higher School Certificate. South-western Sydney is an ideal site for trade schools because it is a national hub for industry, particularly manufacturing. It is experiencing the third-largest growth in apprenticeships and traineeships in New South Wales. A total of 525 students from schools across the area already have enrolled at the trade school. The school is one of 25 trade schools being established across the State as part of the Iemma Government's \$67 million Learn or Earn initiative, which is a further initiative to keep schooling relevant for all students while encouraging our young people to remain at school to maximise their opportunities for life.

WOY WOY ROAD COLLAPSE

The Hon. DUNCAN GAY: My question is directed to the Minister for Roads. Is he aware that the road collapse on Woy Woy Road over a fortnight ago has left residents in such a desperate situation that a mother had to row her daughter to school and an elderly man resorted to using a kayak to obtain medical supplies for his wife? Is he also aware that last week the Gosford City Council resolved to make the washed-out Woy Woy Road a priority and seek State assistance with funding? After short-changing the Gosford City Council by \$3 million last year in funding for road maintenance, what action will he take to ensure that the Gosford City Council receives funding to repair Woy Woy Road, and additional funding to maintain its local roads?

The Hon. ERIC ROOZENDAAL: The New South Wales Government is making every effort to assist the Gosford City Council to reopen Woy Woy Road as soon as possible. I am advised that Woy Woy Road is a council road, but it is a vital and significant road to the peninsula, the bays area and the Kariong communities. I am advised that Woy Woy Road was closed on Thursday 24 April due to subsidence of the road. The Gosford City Council has agreed to the Roads and Traffic Authority [RTA] investigating the site and designing repairs to the road. I understand that geotechnical investigations will continue this week.

The RTA will liaise with the council during the design process to determine the best way to carry out the repairs of the road. I am advised that one lane of Woy Woy Road was reopened on 1 May 2008. This allows traffic coming from the F3 Freeway to travel along Woy Woy Road to Woy Woy and the surrounding peninsula areas. I am also advised that currently only light vehicles can use Woy Woy Road. On 28 April the RTA also adjusted the traffic light phasings at the intersection of Central Coast Highway and Brisbane Water Drive to allow for increased traffic volumes turning into and out of Brisbane Water Drive.

The RTA will continue to monitor the operation of the traffic signals and provide every assistance to the council. The RTA has been on site at the intersection through every peak hour since the Anzac Day long weekend and will continue to monitor and adjust the traffic lights to maximise traffic flow until Woy Woy Road fully reopens to traffic. I am advised that a community meeting took place on Monday 5 May and was attended by the member for Gosford and the Minister for the Central Coast. I am advised by my colleagues that several key issues were raised by local residents. Those issues are being followed up by the Gosford City Council and the RTA.

LONG BAY CORRECTIONAL COMPLEX HOSPITAL LOCK-IN EXTENSION

Ms SYLVIA HALE: I address my question to the Minister for Justice. Did self-harming behaviour among Long Bay Correctional Complex Hospital inmates increase with the introduction of extended lock-in hours at the hospital on 2 April this year? Were the extended lock-in hours introduced for administrative or resource reasons, or for clinical reasons? Will there be any review of the new lock-in hours? Will he undertake to personally meet with the New South Wales Nurses Association on this matter, as the association requested in its letter to him of 29 April 2008?

The Hon. JOHN HATZISTERGOS: I am advised that, following developments that have occurred since I last updated the House on the Long Bay Hospital's operational routine, firstly, on 22 April 2008 at my direction, Assistant Commissioner Brian Kelly of the Department of Corrective Services met with representatives of the New South Wales Nurses Association to discuss the association's concerns with the new operational routine. I understand that during that meeting it was agreed that joint inspections involving the Department of Corrective Services, Justice Health and the New South Wales Nurses Association would be conducted to monitor the new routine currently being trialled at the existing Long Bay Hospital. I understand it was also agreed at the meeting that a review mechanism would be developed by the relevant parties to assess the routine and to resolve any issues that may arise at the new Long Bay Hospital. I am advised that consensus was reached and that the format of the review would be discussed at a meeting to be arranged with the parties.

Secondly, on 28 April 2008, the chief executive officer of Justice Health, Julie Babineau, Department of Corrective Services Assistant Commissioner Brian Kelly, general managers Jeanne McGlinn and Karen Boyko, and New South Wales Nurses Association delegate Ray Gregory, conducted an inspection of the existing Long Bay Hospital's evening operations. Participants observed the operations and spoke to both the Department of Corrective Services and Justice Health staff, who were on duty at the time.

I am advised that an informal meeting was held following the inspection. I understand that it was agreed that the issues raised during the inspection could easily be addressed by changes in operational procedures and the implementation of improved communication strategies. It was agreed that all parties would monitor the situation and that any further inspections would be at the request of the New South Wales Nurses Association. Further meetings will take place in forthcoming days.

CHILDREN'S COURT YOUTH JUSTICE REFORMS

The Hon. HENRY TSANG: My question is addressed to the Attorney General. What is the latest information on Government initiatives to deal with young offenders?

The Hon. JOHN HATZISTERGOS: The Government has a strong record of tackling the problem of youth crime. Between 2002 and 2006 the number of juveniles who came to the attention of police and the courts decreased by 8.8 per cent. But the Government is not resting on its laurels. As part of a major overhaul of the youth justice system, I recently announced a raft of reforms to the Children's Court. The first of these will be the introduction of victim impact statements in the Children's Court. Impact statements already are used widely in adult courts. They help the victims of crime to overcome their ordeal and enable the courts to more fully appreciate the impact of crime on the victims. This important reform will allow victims to have their voice heard in the Children's Court and will force young offenders to face up to the impact of the crime as well as take responsibility for their behaviour.

The Government also will double the amount that the Children's Court can order a juvenile offender to pay a victim in compensation. Last year the Children's Court made 142 compensation orders. While the court will continue to be required to consider an offender's means when making such orders, this change recognises that many of those who appear before the Children's Court have the capacity to pay, and those young offenders should be made to make full amends for the damage they have caused. The Government also is maintaining a strong commitment to rehabilitation. When necessary, we are determined to use the criminal justice system to make young offenders confront the root causes of their behaviour. Evidence shows that the key factors contributing to criminal behaviour are the lack of education and training as well as unemployment.

To address that, new powers will be given to Children's Court magistrates so that they will be able to order a juvenile offender to participate in education, training and behavioural programs as part of a community service order. Offenders who fail to complete an order risk being sent to a juvenile detention facility. The new powers deliver on a commitment made by the Premier during last year's election campaign and also will help the Government to achieve its State Plan goal of reducing the rates of reoffending. The reforms show that the Government is continuing to put in place new measures on strategies to tackle the difficult problem of youth crime. It is a shame that the same cannot be said for the Opposition, which continues to be completely bereft of ideas about confronting the issue. On radio 2UE on 4 August 2007, the shadow Attorney General was asked what he thought—

The Hon. Matthew Mason-Cox: Here we go again!

The Hon. JOHN HATZISTERGOS: This is what he said. The shadow Attorney General was asked about a police decision to issue two children with a formal caution. Opposition members should listen to this. He said, "Back in my day, when I was a kid, we probably would have got a smack, or a strap." Then he added:

More responsible parents would say, "I'm not letting you out until you give me a solemn assurance that you're not going more than 100 yards away from here."

Then he was asked how he would have dealt with his own children. He said, "I would be very strong in my punishment of kids", and—wait for it!—"I'd certainly give them a tongue lashing." So if the Opposition is dealing with other people's kids, it would be smacks, straps and restriction orders, but if the kids are the shadow Attorney General's children, they get away with their dad giving them a good talking to. When it comes to the Opposition, there is either no plan or two plans—one for their own children or relatives, and another for everyone else.

RENEWABLE ENERGY TARGET

Dr JOHN KAYE: My question is directed to the Minister for Energy. Is he aware that a number of Government members of Parliament continue to peddle materials advertising the Iemma Government's New South Wales renewable energy target, despite the Government quietly dropping the scheme? Will he ensure that members of his own party are aware that the New South Wales Government no longer has plans for a mandatory renewable energy target?

The Hon. IAN MACDONALD: Sometimes I despair when I am asked this type of question by the Greens.

Dr John Kaye: Point of order: The Minister is debating the question.

The PRESIDENT: Order! I uphold the point of order to the extent that the Minister should not debate the question. The Minister may proceed.

The Hon. IAN MACDONALD: I make this point: We have made several statements over the past few months since the Rudd Government announced that it would be introducing a national scheme, the New South Wales renewable energy target, with a target of 20 per cent by 2020.

The Hon. Michael Costa: It's too high.

The Hon. IAN MACDONALD: I will discuss that with the Treasurer later. We indicated that we would fit in with a national scheme, which is slated to start in about 2010.

The Hon. Duncan Gay: Are you or aren't you?

The Hon. IAN MACDONALD: The Deputy Leader of the Opposition should hold on a second—let me answer the question my way.

The Hon. Duncan Gay: The Treasurer said you will not—

The Hon. IAN MACDONALD: The Treasurer has not said that at all. As Labor promised before the Federal election, the Federal Government is introducing a 20 per cent scheme by 2020. Members will recall that the States got together and discussed the issue of an emissions trading scheme and a renewable energy scheme. The feeling was, and is, that we should have a national framework for this because that is the best way to proceed. It means that each State will be on pretty much a level playing field. Our position is clear: we are looking clearly at the Federal scheme as being a one-for-all scheme to cover New South Wales and the other States.

Dr JOHN KAYE: I ask a supplementary question. Will the Minister explain how he is communicating what he said to the House—

The Hon. Duncan Gay: Is this a supplementary question?

Dr JOHN KAYE: Yes. I am asking the Minister to expand on what he said. Will the Minister explain how he is communicating that fact to the members of his party who continue to peddle the virtues of the New South Wales renewable energy target?

The Hon. Greg Donnelly: Point of order: Clearly the final part of Dr John Kaye's question is argumentative and should be ruled out of order.

The PRESIDENT: Order! I uphold the point of order.

The Hon. IAN MACDONALD: I am happy to go over it again.

The PRESIDENT: Order! I point out to members, particularly the Deputy Leader of the Opposition, that the role of the Chair is to allow, where possible, a full answer to be given to all the questions asked in question time. I always attempt to allow questions to be asked and answers to be given. Whether the supplementary question is in order is borderline. However, although the question contains argument, if the Minister wishes to respond to it—and for him to do so would be in the true spirit of question time—I will allow him to do so.

The Hon. IAN MACDONALD: I repeat the situation for Dr John Kaye, who has great difficulty comprehending many of these matters. We are working through the Council of Australian Governments for a harmonised national scheme. Our approach was always to try to get a national scheme. We set up our own policy, and we are working with the other States and the Commonwealth on the renewable energy target. That is the course we are taking.

BUDGET PROJECTIONS

The Hon. GREG PEARCE: My question is addressed to the Treasurer. Does he stand by the revised projection for gross State product growth from 2.75 per cent to 3.25 per cent as predicted in his mid-year review?

The Hon. Rick Colless: Not now.

The Hon. MICHAEL COSTA: No.

The Hon. Michael Gallacher: Is the answer to the question "No"?

The Hon. MICHAEL COSTA: No, I was responding to the Hon. Rick Colless. As the Hon. Greg Pearce knows, the budget, which will be coming out in a matter of weeks, will contain the macro aggregates for the State. However, I can say on the record that it has always been the practice that we take into account the Federal Government's budget, which was released last night. Our figures will be revised in relation to what occurred last night, but the Hon. Greg Pearce will have to wait for the budget to get the final figures.

ILLEGAL FISHING

The Hon. AMANDA FAZIO: My question is addressed to the Minister for Primary Industries. Will the Minister inform the House of what the Government is doing to stop black market operations in seafood along our coastline?

The Hon. IAN MACDONALD: Department of Primary Industries fisheries officers have had great success in their covert operations. More than 9,000 illegally gained abalone have been seized by fisheries officers in this financial year. More than 1,900 penalty infringement notices have been issued and about 400 prosecutions for offences under fisheries legislation have been conducted since June last year. I am pleased to say that the hard work of fisheries officers has paid off. Last week alone I was able to announce two separate seizures of illegally taken abalone, as well as the State's largest seizure of illegally taken rock lobsters.

In the latter incident a fisherman on the State's mid-North Coast was apprehended after a major operation by fisheries officers along the coastline between Crescent Head and Port Macquarie. The operation recovered almost one tonne of eastern rock lobsters, with a combined weight of about 950 kilograms and valued at about \$60,000. It involved 14 fisheries compliance officers from the Department of Primary Industries and the fisheries patrol vessel *Sydney Swan*. The good news is that all these lobsters were returned to the water alive. The alleged offender is likely to face a number of charges under the Fisheries Management Act 1994.

In another successful operation by fisheries officers last week two alleged abalone thieves were arrested during a surveillance operation near Tathra on the far South Coast of New South Wales. The statewide operations and investigations group based at Merimbula, with assistance from Eden fisheries officers, stopped a vehicle leaving the area near Moon Bay, approximately five kilometres north of Tathra. It will be alleged that 202 shucked black lip abalone valued at approximately \$3,000 on the legitimate market were recovered. The vehicle, a quantity of diving gear and the abalone were seized by fisheries officers. Two men aged 38 and 32 from Lansvale and Cronulla were arrested and charged in relation to seven offences under the Fisheries Management Act. The pair have been charged with a range of offences, including taking more than the daily limit, possessing fish illegally taken, and possessing shucked abalone adjacent to waters.

In yet another case last week a surveillance operation on a suspected abalone poaching syndicate resulted in the apprehension of five men. The group was stopped by Department of Primary Industries fisheries officers at Bittangbee Bay, 30 kilometres south of Eden, on the State's far South Coast. This is the second abalone bust within a week and proves that the Government's compliance strategy of targeting illegal syndicates and repeat offenders is working effectively. In this case 641 shucked abalone were seized, along with a quantity of diving gear. The abalone would have been worth more than \$9,000 on the legitimate market. Twelve charges

under the Fisheries Management Act are expected to be laid in relation to the latest abalone seizure, including possessing more than the legal limit and taking more than the daily limit. The maximum penalty for both offences is a fine of \$11,000 and three months imprisonment.

The message is clear: Illegal fishing affects not only the vulnerable environment of New South Wales waters but also ultimately the livelihoods of those fishers who are abiding by the rules. These prosecutions send a clear message that the Government is serious about stamping out illegal fishing, which is effectively stealing from a community resource. I am aware of some concerns regarding the level of penalties that may be applied for abalone offences in particular. I stress that the Government is considering the issue of instituting a more significant penalty regime for serious fisheries crime, and working in partnership with national fisheries agencies to ensure that appropriate penalties and strategies apply. In the meantime, those doing the wrong thing have been put on notice by our effective fisheries compliance operations targeting high-risk offenders. The crackdown by Department of Primary Industries fisheries officers will continue, and offenders will be caught.

DENTAL SERVICES

Reverend the Hon. Dr GORDON MOYES: I ask the Attorney General, representing the Minister for Health, the following question without notice. Is the Minister aware that in order to maintain existing levels of dental service in Australia there will be a shortage of about 1,500 dental and oral health workers Australia-wide—or a shortfall of 3.8 million visits by 2010—and that Australia has a rate of 46.8 practising dentists per 100,000 of the population, which ranks nineteenth on a list of OECD countries? Is the Minister aware that there is a lack of professional staff needed to address the dental crises, particularly in the State's rural areas such as on the western slopes of the Blue Mountains, in Broken Hill, Albury, Orange-Bathurst, and on the Central Coast? Will the Minister inform the House about the future of the School Dental Service Scheme and give an assurance that children in New South Wales will continue to access free dental care, especially in low socioeconomic areas that have no local dental therapists?

The Hon. JOHN HATZISTERGOS: I will refer the question to the Minister for Health.

FREE WIRELESS BROADBAND NETWORK

The Hon. DAVID CLARKE: My question is directed to the Minister for Roads, and Minister for Commerce. Why did the Minister announce last Thursday that the Government would not provide the free wireless broadband network for the Sydney central business district and surrounds as promised at the last State election? Why were proposals from 15 providers found to be "not practical based on technical and financial grounds" when less than a year ago the Minister said he was in the "final approval stage of selecting a supplier to build the network which would provide free Internet access to anyone within range"? Does this mean there will be no free broadband Internet access for the City of Sydney during the term of this Government?

The Hon. ERIC ROOZENDAAL: I appreciate that very long-winded question from the honourable member. The Department of Commerce did an extensive expression of interest process to gauge private sector interest in providing a free wireless broadband network.

The Hon. Duncan Gay: That is not what you blokes said. You said you were going to provide it.

The Hon. ERIC ROOZENDAAL: The honourable member is just wrong. It was an expression of interest [EOI]. The Department of Commerce received 15 responses to the EOI process and they were diverse and innovative but none could establish a clear benefit for the people of New South Wales. It is clear from the EOI process that the market believes the delivery of free wireless broadband is not practicable for the Government at this time based on technical and, of course, financial grounds. I am advised that the overseas experience is that large-scale free wi-fi projects have proved ineffective in meeting the needs of local businesses and the community.

In fact, in the last 12 months a number of overseas free wi-fi programs have collapsed and required substantial local government or State Government funding to be propped up. Indeed, San Francisco EarthLink is one company that collapsed and required a substantial input of funds from the Government to sustain it. That is a very important point. Given those experiences, and the fact that many cities in New South Wales already have free wi-fi points in libraries and in some commercial centres such as hotels and cafes, it would be an inappropriate use of taxpayers' dollars to continue this investigation. Major telecommunications companies now have multiple products on the market and are developing and implementing their own wireless broadband

services. Although this process has now concluded, the Government will continue to explore other opportunities outlined in the Innovation Statement, particularly for emergency services and transport. The Government has an ongoing commitment to innovation.

FEDERAL GOVERNMENT ROADS INVESTMENT

The Hon. HELEN WESTWOOD: I address my question to the Minister for Roads. Can the Minister update the House about the Rudd Labor Government's investment in roads and infrastructure funding?

The Hon. ERIC ROOZENDAAL: I welcome the Federal Treasurer's budget delivered last night. It is a great budget. New South Wales roads and rail will receive more than \$906 million in Commonwealth funding for 2008-09. This includes \$589.9 million towards the Auslink investment program, an increase of \$91 million on last year. After more than a decade of neglect from the discredited Howard Government and more than a decade of petty politics and short-term vision we finally have a Government that recognises the need to invest in the future of hardworking families and the need to work closely with the States.

The budget that was delivered last night acknowledges the need for investment in nation-building road and rail projects, and also promotes a partnership with the Iemma Government to address urban congestion and planning in New South Wales. This budget helps to provide for better roads in New South Wales and commits funding for some key projects, enabling the acceleration of work on roads previously neglected by the discredited Howard Government. The Federal Minister for Infrastructure, Anthony Albanese—"Albo" to his mates—has announced \$157.3 million worth of projects for New South Wales, which are not due to commence until 2009-10, as well as delivering projects to upgrade interstate transport networks and critical freight corridors.

This critical funding will make an early start on the Rudd Government's election commitments, including: \$100 million to start construction of the Ballina bypass on the Pacific Highway; \$15 million to begin construction of the Bulahdelah bypass on the Pacific Highway; \$13.6 million to start building the Alstonville bypass; \$20.2 million towards the upgrade of the Great Western Highway between the M4 at Penrith and Katoomba; \$2.4 million for the planning of the upgrade of the Katoomba to Lithgow section of the Great Western Highway; \$800,000 for a comprehensive study into the transport needs of the Lower Hunter region, in conjunction with New South Wales; \$1 million for a study of the transport needs of the Central West; and \$1 million for planning the Bega bypass.

The Rudd Government's investment in New South Wales transport infrastructure in 2008-09 allocates: \$576 million for construction projects and maintenance on the 8,134 kilometres of road and rail National Land Transport Network; \$35 million for 57 Auslink strategic regional projects promoting regional development; \$15.3 million to eliminate 78 road safety black spots; \$13.6 million for non-Auslink roads; and \$266.4 million for local roads. The Rudd Labor Government has also invested \$5 million in 2007-08 in a feasibility study to examine potential improvements to the M5 corridor from Port Botany-Sydney Airport to southwest Sydney. This is about planning for infrastructure to support growth in freight, passengers and population in Sydney's south-west.

Times have changed. We are now seeing neglect and inaction by the Howard Government replaced with long-term planning and investment by the Rudd Labor Government. The \$20 billion that will be invested in the Building Australia Fund, which is aimed squarely at fixing the consequences of more than a decade of underinvestment and poor planning, will be used to build critical economic infrastructure such as roads, rail and ports. This is real action by the Rudd Labor Government, and the Iemma Government remains committed to working closely with it to find sensible solutions for real issues.

MINISTER FOR ROADS FUNDRAISER ATTENDANCE

ROADS BUDGET: TRAFFIC LIGHTS AND ROAD EXTENSIONS

Ms LEE RHIANNON: I direct my question to the Minister for Roads. Considering today's *Illawarra Mercury* reports that Shellharbour Mayor, David Hamilton, has stated that by attending political fundraisers for both sides of politics he has successfully secured funding for new traffic lights near Illawarra Regional Airport and a road extension to Dunmore, could the Minister inform the House whether he attended fundraisers organised by Noreen Hay and Matt Brown in October and December 2004 and how and when—

The Hon. Michael Costa: What about the money you took off developers?

Ms LEE RHIANNON: He is the one who said that this is how he gets the funding. How and when did the Minister determine that money from the Roads budget should be allocated for new traffic lights near Illawarra Regional Airport and a road extension to Dunmore?

The Hon. ERIC ROOZENDAAL: I attend a lot of functions for all sorts of organisations. Indeed, only recently I attended an NRMA function and had to enjoy the company of the Hon. Duncan Gay, which just proves my point—

[Interruption]

It is commitment! It proves my point that you do not know whom you will sit next to at these functions. Incidentally, at the same function I also met Dick Johnson, the famous motor sport driver, and we had an interesting evening talking about motor sport. He is a very interesting person. The point I make is that we meet a lot of people at functions. I am not aware of the issues that the honourable member raised, but I can assure the House that the Roads and Traffic Authority looks carefully at each project and assesses it on the appropriate basis to ensure that we roll out road safety.

Traffic lights are an important part of managing the road network and improving road safety, as are school flashing lights, pedestrian overpasses, pedestrian fencing, and our continual upgrading of the road network. We have a \$3.6 billion record Roads budget that we spend on improving the road network and keeping Sydney moving. As was pointed out in an earlier discussion, there are a million more vehicles on our roads now than there were in 1995, and that of course presents major challenges to the road network. That is what we do. We grapple with those challenges and do a proper assessment on a needs basis to ensure we get the right outcomes for Sydney and New South Wales.

ELECTRICITY INDUSTRY PRIVATISATION

The Hon. CHARLIE LYNN: My question is directed to the Treasurer. What action has the Treasurer taken to act in the public interest and commission the Auditor-General to report to Parliament in respect of the power sale on matters such as timing, price, conditions for workers, pensioners, low income earners and working families, and price guarantees for consumers?

The Hon. MICHAEL COSTA: This is a renewable question—I heard it in the lower House, yesterday, I think. I refer to the Premier's answer in the lower House.

CENTRAL COAST BUSINESSES

The Hon. LYNDA VOLTZ: My question is addressed to the Minister for Regional Development. What is the New South Wales Government doing to promote Central Coast businesses?

The Hon. TONY KELLY: I thank the honourable member for her continued interest in the Central Coast. The New South Wales Government, through the Department of State and Regional Development, is committed to working with regional areas to make sure that they thrive and prosper. The Central Coast, in particular, is representative of the New South Wales Government's commitment to regional development across the whole State. In the past year the New South Wales Government was involved in attracting 31 business projects to the Central Coast, representing capital investment of more than \$20 million and 290 jobs.

The Hon. Michael Gallacher: I saw Crittenden wines in a bottle shop the other day.

The Hon. TONY KELLY: Produced at Griffith by the same company that produces New South Wales Parliament wines. We are also supportive of local initiatives that help to raise the profile of our regional areas. With so much competition for investment, regional areas can struggle to achieve recognition, let alone attract interest from prospective investors. The Central Coast has come up with an innovative method of leveraging recognition for the region gained by the Central Coast Mariners A-league football team.

Last season the New South Wales Government provided \$80,000 in funding to the Central Coast regional development board, Business Central Coast, to contribute towards a partnership marketing program in association with the Mariners and Gosford and Wyong councils. This association has been a real breakthrough

for the Central Coast with the Mariners helping to get the region on the map in the minds of interstate and overseas audiences. The Central Coast business brand is displayed at every Mariners home game and the Central Coast's civic pride for their team is now being matched with interest from outside the region as television coverage of their games reaches audiences across Australia, through to Hong Kong and New Zealand. In particular they reach the Sydney and Melbourne markets, which are particularly important, as these are the most likely cities for attracting businesses to relocate. Business Central Coast is able to use the association with the region's football club to show businesses interested in relocating the lifestyle opportunities that are available to them. This is proving to be a winner for the region on and off the field with the business attraction program securing \$8.3 million in investment and some 41 jobs. The New South Wales Government sees the benefits of this program.

The Hon. Duncan Gay: Do you remember telling us about the wireless program?

The Hon. TONY KELLY: The Deputy Leader of the Opposition is not interested in Central Coast matters, which obviously interest the Leader of the Opposition. Earlier this week on a visit to the Central Coast to address the Australian regional economies conference I announced that the New South Wales Government would contribute \$100,000 to a matched funding arrangement with Wyong and Gosford councils to continue the business attraction program in the 2008-09 season. This funding will continue to capitalise on the business wins already achieved and further boost the profile of the Central Coast with a national and international audience.

I also announced the New South Wales Government's commitment to the region's economic development through ongoing funding for a Central Coast regional development board. Regional development boards are the Government's peak economic development organisation in New South Wales. The New South Wales Government supports 13 boards across the State, which provide a strategic framework for economic growth. Boards are a critical part of local collaborative efforts to attract business investment and deliver sustainable long-term employment and regional prosperity. In addition, boards provide a focus for a regional business brand. [*Time expired.*]

GENETICALLY MODIFIED CANOLA

Mr IAN COHEN: My question is directed to the Minister for Primary Industries. Yesterday I asked a question regarding why he had failed to comply with section 7A (12) of the Gene Technology (GM Crop Moratorium) Act 2003. The Minister's response to why he had not complied with the Act was as follows:

The changes to the Act last year were passed overwhelmingly in this House.

Can the Minister indicate the causal relationship between his current failure to comply with section 7A (12) of the Act and the manner in which the Act was passed in this House? Can the Minister identify the principle of parliamentary responsibility that states the way in which the Act moved through the House can affect the obligation of Ministers to comply with legislative requirements?

The Hon. IAN MACDONALD: Mr Ian Cohen continues to raise this issue time and time again. As I have pointed out previously, I have complied with all sections of the Act, including section 17 to which he refers. I have complied with that; I have the legal advice stating that very clearly. I point out that I released my reasons in my press release on the day.

QUEANBEYAN SHOWGROUND CAR PARK

The Hon. MELINDA PAVEY: My question without notice is directed to the Minister for Roads and Commerce. What consultation has the Department of Commerce had regarding the 250-lot car park that is to be built for the New South Wales State office block on the Queanbeyan showground? Has the Department decided how much it will pay to the Queanbeyan Showground Trust for the use of this land for State government employees, money that could go towards much needed maintenance and upgrades at the showground?

The Hon. ERIC ROOZENDAAL: Mr President, I will take the question on notice.

FEDERAL BUDGET: EDUCATION

The Hon. KAYEE GRIFFIN: My question is addressed to the Minister for Education and Training. Can the Minister inform the House about the benefits to education in New South Wales as a result of last night's Federal budget?

The Hon. JOHN DELLA BOSCA: I thank the honourable member for her ongoing interest in education matters. Last night we saw further evidence that we now have a Commonwealth Government that truly believes in the value of education for all Australians. We have seen the first instalment of the \$19 billion Rudd education revolution. Gone are a series of Howard Government obsessions: The wasteful summer schools stunt, where it would have been more useful and cheaper to send teachers to Harvard; literacy and numeracy vouchers, green vouchers and work skills vouchers have been cut to fund additional vocational education and training places; and \$100 million saved from the dodgy Australian technical college initiative. In their place are real initiatives to boost early childhood education, schools, vocational education and higher education.

Last night we saw the announcement of a new national partnership for literacy and numeracy valued at \$577 million. New South Wales has been urging the Commonwealth to adopt an evidence-based approach, initiatives that we know work in Australia's different jurisdictions, and that is exactly what has been proposed. The Rudd Government has announced the new program will be "developed in partnership with schools, families, State and Territory governments and non-government school systems". Members opposite may not understand those words. I congratulate Kevin Rudd and Julia Gillard for signalling that they want to work in partnership with the States. The previous Commonwealth Government tried to ignore that the States run schools, employ the teachers and have responsibility for the outcomes. In partnership, the Commonwealth and the States will achieve much more, delivering quality education to students and families.

New South Wales will accept the challenge and propose programs and initiatives that our experience demonstrates will work. The Commonwealth Minister has already asked New South Wales to develop and propose initiatives directed at improving teacher quality. The Rudd budget also contained an \$11 billion education investment fund. It incorporates the higher education endowment fund and extends it to vocational education and training institutions.

The priorities are for capital expenditure and renewal and refurbishment in universities and vocational institutions as well as in research facilities and major research institutions. TAFE students, teachers and the State's employers will welcome capital investment in vocational education. The budget contains \$457 million next year on school capital works and maintenance. Unlike the Howard government's discredited Investing in our Schools program, it is not a headline-hunting program to fund flagpoles, birdbaths and sundials, but a genuine investment in useful school capital.

To develop the best possible outcomes for families, students and teachers in New South Wales there must be genuine cooperation between the States and the Commonwealth. The Howard Government had no commitment to education and refused to fund higher-value, higher-cost teaching and learning initiatives. We welcome the Rudd Government's new approach to provide support for technology infrastructure and real resourcing in education. The Lemma Government will embrace this new opportunity to get the best possible outcome for students, teachers, schools and families in New South Wales.

TAFE DISTANCE EDUCATION

The Hon. ROBYN PARKER: My question is addressed to the Minister for Education and Training. Following the release this week of the third consultation paper on proposed TAFE changes, why has the Minister not allocated any extra funding, staff or resources to support his proposal of moving distance education from the expertise of the Open Training and Education Network [OTEN] to each TAFE institute, and also for the trials of OTEN and institute partnerships in the second semester this year? How will already overstretched classroom teachers in TAFE colleges be able to give students the assistance that they presently receive from OTEN teachers? What will happen to the future employment of existing OTEN staff? Will the 120 permanent teachers and 120 casual and part-time teachers have jobs next year?

The Hon. JOHN DELLA BOSCA: I will make a number of key points while answering the member's question. Obviously she is one of those people who participates in the rhetoric to which I was referring earlier, when I referred to the outgoing Howard Government's chief rhetoric relating to educational change, and the need for TAFE and public institutions to be more flexible, more responsive to employers and more responsive to the skills that are required for our future economy. The member and other members of her party will glibly say that rhetoric, but they are not prepared to do the hard policy work to achieve it. The twenty-first century program to which she referred is the hard policy work of this Government to ensure that the TAFE institution is transformed, up to date and an important public institution capable of responding to—

The Hon. Robyn Parker: Do you support the Teachers Federation?

The Hon. JOHN DELLA BOSCA: Of course I support the Teachers Federation. I support the Teachers Federation on a number of issues because it cares about education. It cares about public employment and about the important principles of skilling the population. In 2007 and again in February this year, TAFE NSW released public consultation papers with proposals to improve the services it delivers to students and to employers in New South Wales. It is a new blueprint designed to improve TAFE services and to assist individual TAFE institutes to deliver the services in a more responsive way.

In fact, 2,500 people participated in this consultation, sending responses or voicing their opinions in meetings. They included staff, employer groups, the National Industry Skills Council, industry organisations, trade unions and community groups. As a result, TAFE NSW has now released another consultation paper to staff. In the latest stage of this initiative it details a proposed reorganisation of TAFE NSW support services, which will be consistent with the changes that we need to make in order to ensure that TAFE continues to grow and service the needs of its students and the economy. The consultation processes are a genuine and transparent attempt to seek ongoing input from TAFE staff, including TAFE teachers, about the future of their organisation.

The latest consultation paper outlines new arrangements for support services, including a minor restructure. It is expected that the restructure will affect about 350 positions from a total of 14,000 positions, but the vast majority of those 350 people will find equivalent positions in the new structure. We expect a reduction of up to 50 positions, with some staff expected to apply for voluntary redundancies. No teacher or head teacher positions will be affected: the new structure will increase support for teachers. I note that the New South Wales Teachers Federation has held a number of meetings with TAFE senior management about this reform agenda. There have also been consultations with the Public Service Association.

The new arrangements will give TAFE much greater scope to respond quickly and effectively to the needs of students, businesses and enterprises. Initiatives are also underway as part of our proposals to strengthen TAFE services, and \$1 million has been committed to staff training, commencing this semester, and to the TAFE NSW workforce development guarantee. A teachers' portal will be established to give teachers quick and easy access to the learning resources that they need. In 2007-08, \$4.5 million will be invested in TAFE system upgrades, giving us a leading edge in the delivery of important education and training services. This expertise will be shared across all TAFE institutes to improve services for students who wish to have flexibility and distance delivery of their qualifications. TAFE NSW will continue to have a central coordination unit looking after the training needs of people in equity groups. [*Time expired.*]

FOOD AND WINE SHOWCASE

The Hon. CHRISTINE ROBERTSON: My question is addressed to the Minister for State Development. Will the Minister inform the House about what the Government is doing to promote food and wine from the New England and north-western regions of this State?

The Hon. Michael Gallacher: This is what we want to hear!

The Hon. IAN MACDONALD: This is regional development to its fullest extent. A number of Opposition members and a few rare members of The Nationals attended the showcase the other night, which was great. Our food and wine industries, which are key contributors to our regional economies, are playing an increasingly important role in regional tourism. The New South Wales food processing industry generates a turnover of more than \$23 billion each year, employs 58,000 people, and generates exports worth more than \$3 billion.

I wish to make a confession, under pressure from the Leader of the Opposition. I have not had a drop to drink for 10 weeks, and I am also riding my bicycle. New South Wales offers a quality clean and green food and wine production environment, leading edge research and development expertise, and excellent export opportunities. The New South Wales Government works hard to promote the growth of our food and wine industries. This week the Government hosted in State Parliament the fifth showcase in an ongoing series of regional food and wine showcases.

The Hon. Michael Gallacher: Did you have a drink?

The Hon. IAN MACDONALD: I had only a milkshake. We are promoting world-class food and wine products from the New England and north-west regions and we are also encouraging more regional tourism to those industries.

The Hon. Michael Gallacher: If you had a milkshake, how come you are losing weight?

The Hon. IAN MACDONALD: Because I am riding my bike. The Government has previously conducted food and wine showcases promoting the Orange, Hawkesbury, Southern Highlands and Northern Rivers region.

The Hon. Charlie Lynn: Was that a condition of you jumping ship in the caucus?

The Hon. IAN MACDONALD: No, I have never jumped any ships. I have always been—

The Hon. Charlie Lynn: Did you give up your Chardonnay?

The Hon. IAN MACDONALD: I am not a Chardonnay drinker and I have not been since the 1980s. I have not had a drop of Chardonnay. If the member had referred to Sauvignon Blanc or Riesling, I might have a drop, but not in the last 10 weeks. On Monday, along with my colleague the Hon. Tony Kelly, I had the pleasure of co-hosting a food and wine showcase that featured around 30 of the region's best food and wine suppliers from the New England area. This was a great event for specialty food retailers, wholesalers, providores, food and beverage makers, distributors, chefs, restaurateurs, caterers, export consolidators, tour operators and the local media. I will not read out the note that I have just been given.

Ben Davies, a three times Michelin starred chef and the executive chef of Monty's Restaurant in Tamworth, was among those who took part in addressing the audience. He spoke about the region's distinctive produce and how it is being used in creative and innovative ways. I am pleased to inform the House that members in this place have not missed out on the opportunity to taste these culinary delights.

The Hon. Michael Gallacher: Read it out!

The Hon. IAN MACDONALD: I am too modest to read out the note. Members of Parliament and members of the public can taste this world-class cuisine for the rest of the week in the Strangers Dining Room in Parliament House. Head chef Scott Clark has incorporated a specially designed menu that showcases the region's fine produce. [*Time expired.*]

SURF LIFESAVING ASSOCIATION CHAMPIONSHIPS

Ms SYLVIA HALE: My question is directed to the Minister for Lands. Is it correct that plans to hold the Surf Lifesaving Association of Australia Championships at Boambee Beach have been abandoned because of the failure of the Federal Labor Government to provide financial support for the event?

The Hon. TONY KELLY: No.

TAFE RESTRUCTURE

The Hon. MARIE FICARRA: My question is directed to the Minister for Education and Training. What is the Minister's response to claims by the New South Wales Teachers Federation and the TAFE Teachers Association that the Government's plan to restructure "Doing Business in the 21st Century" released on 6 May appears to be skewed towards increased systems and management positions rather than educational delivery and support for teachers? Why did the Minister not consider and act upon the concerns expressed by the TAFE Teachers Association prior to the restructure announcement? What is his response to the stated opposition by the Teachers Federation to these proposed changes on the basis that they will cause more uncertainty in TAFE rather than better educational outcomes?

[*Interruption*]

The Hon. JOHN DELLA BOSCA: The Deputy Leader of the Government just said that the world has turned upside down. I do not know about that, but I do know that when I heard the Hon. Marie Ficarra ask that question I felt a bit dizzy. I hope I do not get a note from her, that is for sure!

The Hon. Marie Ficarra: It might be phrased differently.

The Hon. JOHN DELLA BOSCA: I am sure it would be. Essentially I answered most of the points raised in this question in my response to an earlier question from the Hon. Robyn Parker. The TAFE twenty-first

century consultations have been long and expressly negotiated with the TAFE New South Wales workforce. Extensive consultative discussions have been held with the TAFE Teachers Association—the technical branch of the Teachers Federation. Those negotiations and discussions have been very satisfactory. Let me say again for the benefit of Opposition members that the essential outcome we are seeking is to make TAFE more responsive as a public institution to the needs and requirements of the economy—that is, small business and larger corporations—so that they can continue to provide the skills young people need to gain useful employment. This is part of what TAFE's mission always has been and always will be. The TAFE Teachers Association and the vast majority of TAFE teachers—I would say all of them—accept this as a critical part of TAFE's objectives.

Of course, as a great public institution TAFE delivers these outcomes to contain the key social objectives that TAFE shares. Generally speaking, in a policy sense, I suppose we call those the equity concerns of TAFE. TAFE delivers all of its programs, even the commercial ones, with those clear objectives as part of its mandate. It is not like a private training provider; it provides its services across all of New South Wales. Members of The Nationals from regional areas know that only a few towns or suburbs away is a TAFE outreach centre and the capacity for TAFE to deliver a service.

The Hon. Marie Ficarra: What about Seaforth TAFE?

The Hon. JOHN DELLA BOSCA: I remind the Hon. Marie Ficarra that there are plenty of TAFE facilities on the northern beaches. I am sorry to say that she will have to keep her Seaforth debate for another time. The fact of the matter is that that is what the TAFE twenty-first century consultations have been about. I suppose we have reached finality on the organisational changes needed to satisfy that mandate. That also has now been discussed in great detail with the TAFE Teachers Association and TAFE teachers. I refer the Hon. Marie Ficarra to my previous answer to the question of the Hon. Robyn Parker: there will be a small number of voluntary redundancies. Generally speaking, they will not be amongst teachers. In fact, the amount of support for teachers has increased along with the relative number of teachers. Again and again TAFE New South Wales has been shown to have the leanest and most efficient operation in administering staff and it does an outstanding job. It is about time that members on the other side of the House stop knocking TAFE and its efforts to carry out its mandate to make sure that it continues to skill the nation. We should be very proud—

The Hon. Marie Ficarra: Talk to the Teachers Federation.

The Hon. JOHN DELLA BOSCA: I talk to the Teachers Federation all the time. I am sure I do so a lot more often than the members does.

The Hon. Duncan Gay: And the TAFE Teachers Federation.

The Hon. JOHN DELLA BOSCA: I talk to those teachers all the time too. They are all my very good friends. *[Time expired.]*

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

Questions without notice concluded.

[The President left the chair at 1.04 p.m. The House resumed at 2.30 p.m.]

HEMP INDUSTRY BILL 2008

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Tony Kelly, on behalf of the Hon. Ian Macdonald.

Motion by the Hon. Tony Kelly agreed to:

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

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

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION**Report: Review of the 2005-2006 Annual Report of the Inspector of the Independent Commission Against Corruption**

Debate called on, and adjourned on motion by the Hon. Greg Donnelly.

GENERAL PURPOSE STANDING COMMITTEE NO. 2**Report: Inquiry into the Operations of the Home Building Service**

Debate resumed from 7 May 2008.

The Hon. ROBYN PARKER [2.31 p.m.]: On behalf of General Purpose Standing Committee No. 2 I thank all those who participated in the inquiry, by appearing as a witness, by participating in the public forum or by making a submission. The committee especially appreciates the contributions of those who shared their personal experiences with the home building industry and the impact those experiences had on their lives and the lives of their families. I acknowledge that building a house is the dream of most families, but unfortunately when things go wrong in that regard the impact can be significant. The committee recognises the importance of effective regulation of the home building industry. Without proper protections, consumers and builders may experience massive financial loss.

The difficulties of dealing with defective building work can also take an enormous emotional toll on people. Numerous State and national inquiries and reviews over the past 15 years have highlighted the need to continually modernise and improve regulation. I am grateful to my committee colleagues for their commitment to this inquiry, and also to the members of General Purpose Standing Committee No. 4, which commenced the inquiry during the previous Parliament. My thanks go also to the committee secretariat, in particular Merrin Thompson, Rebecca Main, Madeline Foley and Beverley Duffy, for their work in facilitating the inquiry process.

The role of the Home Building Service in the Office of Fair Trading is to protect consumers by regulating the home building industry. It is responsible for licensing builders, investigating building complaints, resolving disputes and administering the home warranty insurance scheme. Regulatory systems are put in place by government for the benefit of citizens. The home building industry is regulated in order to protect consumers, and consumer protection should always be seen as its first and most important goal.

Ultimately, an effective regulatory system prevents poor building work in the first place. The service deals with complaints swiftly and fairly, and penalises those who have acted improperly. It also compensates people fairly when things go wrong. We have quite a way to go before we have such a system in New South Wales. Consumer protection is the first and most important goal of the Home Building Industry Regulation, but the system needs to work also for the benefit of builders. Both consumers and builders took part in this inquiry, and the committee's recommendations reflect their concerns. The committee has recommended legislative and policy changes as well as improvements in the way that the Home Building Service delivers on its performance standards.

The Home Building Service needs more resources to properly fulfil its role in licensing builders, handling complaints and penalising builders who do the wrong thing. Underpinning all of the committee's recommendations is the sense that consumers need to be better informed and supported as they navigate the home building system. The committee calls on the New South Wales Government to deliver each of the recommended much-needed improvements. The experience of home and building consumers has been the key focus of this inquiry, and it is clear from their experience that the Home Building Service of the Office of Fair Trading has not always succeeded in protecting consumers, whether in relation to licensing of builders, complaints handling or disciplinary matters.

In addition, the home warranty insurance scheme is limited in its ability to compensate consumers when things go wrong. The home building regulatory system must also work for the benefit of builders; it must deal with them fairly and support them as professionals. Building industry representatives revealed a number of ways in which the licensing dispute resolution disciplinary and insurance schemes need to be improved. The establishment of a Home Building Service in 2003 was a step forward for regulation of the home building industry and for consumer protection. However, the evidence gathered during this inquiry attests to the need for further work to deliver better outcomes for both consumers and builders.

Legislative and policy changes are essential to improve the way the Home Building Service seeks to deliver on its performance standards. Additional resources will be needed, and the committee believes further that it is very important that the New South Wales Government works to minimise fragmentation and duplication in the home building industry—for example, by considering the establishment of an independent building commission. In addition, the Government should ensure that the promised new home building Act delivers more cohesive and user-friendly licensing systems and should establish clear objectives for the Home Building Service to enable consumers and the building industry to better understand its role.

On the basis of evidence before the committee regarding building licensing, it is clear that the credibility of the licence assessment system and the public register have been undermined by significant and ongoing problems. Individual homeowners have suffered at the hands of unscrupulous and/or poorly skilled builders. That could have been avoided had high standards operated in the Office of Fair Trading at the time. When the licensing system fails it does so at massive financial and emotional cost to the consumers involved.

The Home Building Service has put in place a range of practical measures to enhance the licensing assessment system and the public register. However, there are many more ways that consumer protections could be improved, including a review of current performance standards and investigating changes to the public register in respect of builders who are the subject of complaints that have not yet been resolved. The committee considers also that a number of consumer concerns may be addressed through the implementation of recommendations of the review of licensing in the New South Wales home building industry, which was conducted by Ms Irene Moss.

The building complaints resolution system has three tiers, one of which is the Consumer, Trader and Tenancy Tribunal [CTTT]. A number of the cases presented to the committee by consumers predated the establishment of the Home Building Service. Nevertheless, we remain concerned by the stories of inquiry participants and alarmed by the impact that costly and prolonged disputes have had on individuals and families. On that basis the committee considers that early dispute resolution processes should be improved in a number of ways.

Further effort should be devoted to both community and Office of Fair Trading staff education, and the industry competencies of building inspectors should be improved to ensure that they are better able to investigate and resolve disputes. In addition, builders should be able to initiate early dispute resolution through the Home Building Service rather than only through the Consumer, Trader and Tenancy Tribunal, as is currently the case. Without having taken evidence from tribunal representatives, the committee is not able to document a complete picture of the performance of the Consumer, Trader and Tenancy Tribunal.

Nevertheless, we were very concerned by the evidence put forward by consumers about the protracted timeframes and the competency—or perhaps more correctly, incompetency—claimed on behalf of tribunal members. Their expertise was questionable on many occasions. These concerns were strengthened by the findings of the tribunal's operations review and the Ipsos top 10 tips research report. Together these would seem to indicate that the tribunal is not fulfilling its objective, to resolve disputes in an accessible, informal, efficient and inexpensive manner. We acknowledge that the tribunal has taken action in relation to the review findings. However, we consider that there is a critical need for substantial and timely action to improve the operations of the Consumer, Trader and Tenancy Tribunal.

The committee believes that there is a strong need for an independent body to provide advice to and advocacy for consumers about home building disputes, thereby preventing many of the adverse experiences and outcomes brought to the committee's attention. We recommend that a home building advice and advocacy service that is affordable and accessible throughout the State should be established on a long-term basis. The Home Building Service has an important role to play in ensuring that builders comply with the Act and in disciplining them when they are in breach of it. The committee believes that the level of effort in enforcing builder compliance with the Act has improved. However, compliance procedures need to be improved further, and there needs to be more investigation of alleged breaches. We are concerned that the Home Building Service needs to take a more active and consistent approach to the discipline of builders.

The committee took some evidence about home warranty insurance. As I said, many of the claims were operating prior to the establishment of the Home Building Service. We felt that claims made when dispute resolution cannot take place because of the death, disappearance or insolvency of the builder was not enough, and we recommend that further triggers be established. Certainly, the home warranty insurance scheme is not delivering on behalf of consumers in the way it should. Consumers need to be able to access more affordable

home warranty insurance and at an earlier opportunity. The committee accepts that the New South Wales Government is operating under a privatised home warranty insurance model, but we are concerned at the perceived vested interests of insurers and industry bodies within that model.

Finally, the evidence put forward by consumers and, to a lesser extent, industry representatives indicates a mismatch between consumers' understanding and expectations of the home warranty insurance scheme and their entitlements under it. Other committee members may wish to expand on the home warranty insurance scheme. The committee would like to know a little more about what other triggers can be put in place. It should not be accepted that the committee is happy with the home warranty insurance scheme—indeed, far from it. We think that the way it is operating at present needs to be strengthened and improved. Inquiry participants suggested that the Home Building Service requires more resources to effectively fulfil its role in relation to licensing, complaint resolution and the discipline of builders.

These claims were strengthened by the fact that they were made not only by consumers but also by industry representatives and other parties, as is documented throughout this report. I endorse the committee's recommendations. We look forward to a timely response from the Government. On behalf of those who have unresolved issues and who presented those to the committee, we hope that there will soon be some resolution and conclusion to their issues. We think the Government has a long way to go in terms of the Home Building Service. In quoting the Government's line, "Heading in the right direction—more to be done", I suggest there is certainly a great deal more to be done. I look forward to hearing the comments of other committee members on this report. I recommend the report on the inquiry into the operations of the Home Building Service.

Reverend the Hon. Dr GORDON MOYES [2.43 p.m.]: At the outset of my contribution to this take-note debate on the report on the inquiry by General Purpose Standing Committee No. 2 into the Home Building Service I place on record my appreciation to the committee secretariat for the excellent task it performed and to other committee members who made it an enjoyable inquiry to be associated with. In particular I appreciated the fine chairmanship of the Hon. Robyn Parker, and I thank her for that. Few things upset Australian families as much as ineffective and inadequate protection by governments against any who would damage or destroy their homes. The iconic Australian film *The Castle* is a classic example of the concern of such families. Unfortunately, there are always shonky builders and others who damage or limit the family home.

The New South Wales home building industry generates in excess of \$19 billion per year and employs approximately 250,000 people. In 2005-06 the industry built 32,000 new homes and undertook 21,500 major renovations and 1.66 million minor building works. Regulatory systems are put in place by the Government to protect citizens from shonky builders. The home building industry is regulated in order to protect consumers, and consumer protection should always be seen as its first and most important goal. However, as the report states, the committee was concerned by evidence put forward by inquiry participants about the poor consumer protections offered under the current scheme.

Particular concerns included the last resort nature of the scheme and its tendency to escalate disputes. In addition, payouts are sometimes seen to be totally inadequate, while the costs associated with exhausting other avenues before claiming on insurance can be exorbitant for the normal family. The fact that both consumer and industry representatives highlighted these deficits attested to the weight of the existing problem. For these reasons the committee considers that the New South Wales Government should adopt the recent recommendation of the home warranty insurance scheme board to introduce an additional trigger to enable consumers to claim insurance without having to pursue a builder's bankruptcy or insolvency.

In New South Wales the Home Building Act 1989 requires builders and tradespeople to be licensed for the work they do. Only builders who are properly trained and who have relevant experience may be licensed. As this is true, it is remarkable how many builders manage to slip through the net. The Home Building Service sets and maintains standards of competence for builders and tradespeople and issues licences and certificates to builders and their companies that meet the requirements of the Act. It is responsible for assessing licence applications and in so doing undertakes various checks. It also maintains a public register of information on builders, tradespeople and specialist workers that building consumers may check before entering into contracts.

On the basis of the evidence before this inquiry, as well as independent investigations by oversight bodies, it is clear that there are ongoing problems with the licence assessment system and the public register that undermine their credibility. The experience of home building consumers has been the key focus of this inquiry, and it is clear from their experience that the Home Building Service of the Office of Fair Trading has not always

succeeded in protecting consumers, whether in relation to licensing of builders, complaint handling or disciplinary matters. In addition, the home warranty insurance scheme is limited in its ability to compensate consumers when things go wrong.

Nevertheless, we remain concerned by the stories of inquiry participants and alarmed by the impact that costly and prolonged disputes have had on individuals and families. The committee may need to consider further claims about certain inaction following complaints going back over many years. On this basis the committee considers that early dispute resolution processes must be improved in a number of ways. Further effort should be devoted to both community and Office of Fair Trading staff education, and the industry competencies of building inspectors should be improved to ensure that they are better able to investigate and resolve disputes. In addition, builders should be able to initiate early dispute resolution through the Home Building Service, rather than only through the Consumer, Trader and Tenancy Tribunal, as is currently the case.

The home building regulatory system must also work to the benefit of builders. It must deal with them fairly and support them as professionals. Building industry representatives also revealed a number of ways in which the licensing, dispute resolution, disciplinary and insurance systems need to be improved. Ultimately, an effective regulatory system is one which prevents poor home building work from occurring in the first place, which deals with complaints swiftly and fairly, and which, when appropriate, penalises those who have acted improperly. It should compensate parties fairly when things go wrong. Finally, it should ensure that all parties are properly informed about the way the system works, and about their rights and responsibilities.

The establishment of the Home Building Service in 2003 was a step forward in the regulation of the home building industry and consumer protection. However, evidence gathered during the inquiry attests to a need for further work to deliver better outcomes for both consumers and builders. Legislative and policy changes are essential, as are improvements in the way the Home Building Service seeks to deliver on its performance standards. The report indicates in which directions the changes must be made. Additional resources also are necessary to ensure that the Home Building Service is more effective in its licensing, complaints handling and disciplinary roles.

The Home Building Service also has an important role to play in ensuring builders' compliance with the Act and in disciplining them when they are in breach. The committee believes that the level of effort in enforcing builders' compliance with the Act has improved since the establishment of the Home Building Service. Compliance procedures have been strengthened and penalties have increased, but far too much non-compliance is still slipping through the cracks. However, the fact that the Home Building Service determines whether it will investigate an alleged breach, and that some alleged breaches are not investigated, will trouble many people who read the committee's report.

Moreover, the committee is concerned by evidence from both consumer and industry representatives that the Home Building Service could be more active and consistent in disciplining builders. This concern was strengthened by evidence arising from the Moss review, and information from the Office of Fair Trading, that only 70 per cent of investigations in 2005-06 were completed by the due date. While the committee recognises that some delays are beyond the control of the Home Building Service, we consider that the service should take bigger steps to meet its performance standards in relation to the discipline of builders.

The committee considers that the penalty system should be reviewed with a view to further improvement in policing and encouraging compliance with the Act. The New South Wales Government also should examine the potential for contractors and individual builders, and perhaps the directors of various firms that tend to declare bankruptcy, to be prosecuted for breaches of the Act, only to be resurrected under another name.

Underpinning all of the committee's 21 recommendations is the sense that consumers need to be better informed and supported as they navigate the home building system. Under the scheme, the primary responsibility for ensuring that work is properly and adequately performed lies with the builder. The scheme provides last-resort cover for homeowners when the builder has not honoured its responsibility. Claims may be made only where dispute resolution cannot take place because of the death, disappearance or insolvency of the builder.

The relationship between the owner, the builder and government agencies will always be a complex one. Government agencies tend always to be behind the poorest practices by builders and that in turn concerns all owner-builders. We believe the recommendations of this report are long overdue. We urge government agencies to ensure they implement our recommendations. I look forward to the Government's response to the committee's 21 recommendations.

Ms SYLVIA HALE [2.53 p.m.]: I will not reiterate the litany of problems to which previous speakers have referred in this debate. Clearly, many members of the public find themselves in an extraordinary predicament when, believing they are doing the right thing, they check out the website of the Office of Fair Trading to see whether any complaints are listed against the person with whom they are proposing to contract, to either build a house or undertake renovations, they check to see that the person is licensed, and they make inquiries. When push comes to shove, often consumers find that the work performed by the builder, the subcontractor or contractor whom they have engaged is below standard, and they are left in the position of finding out what sort of compensation is available.

Frequently people naively believe that because home warranty insurance has been taken out, somehow, as with most insurance policies, there will not be any problems with claiming against that insurance, and that if the complaint is substantiated they will be appropriately compensated. After all, that is what happens in Queensland, where there is still a publicly funded, not-for-profit, statewide insurance system in operation. In Queensland, if a person has a complaint and the complaint is substantiated, the insurance body pays the claim. Because that insurance body also is responsible for the licensing of builders, it has the influence and authority to ensure that the guilty party either makes restitution by carrying out repairs or comes up with the money to settle the outstanding amount that has been paid to the wronged consumer. The Queensland system works very well.

Unfortunately, however, here in New South Wales—as in Victoria, Tasmania and Western Australia—we have a privately run system of insurance. As previous speakers have pointed out, the opportunities for claiming against that insurance are extraordinarily limited. As has been said, homeowners can make a claim only if the builder is dead, has disappeared or is bankrupt. Clearly, in the case of many people, the builder does not die in the process of the work being undertaken, nor is it common for the builder to disappear. People who stand to lose large amounts of money—in some cases their entire life savings, as well as the value of loans they have taken out in respect of the building work—are put in the absolutely untenable position of having to institute legal proceedings to have the builder declared bankrupt. By that time, instituting legal proceedings is beyond their capacity and they are left in a situation where they cannot seek any form of restitution.

In many cases, not only is the consumer financially ruined but their families also are affected, and there is huge psychological damage. In some instances people have a house that they cannot inhabit because a council refuses to give an occupation certificate, and they are left with a debt burden that they have no hope whatsoever of paying off. It was for that reason I submitted to the inquiry a minority report. However, the many problems that people experience through inadequate building work are just one aspect. The Parliament must address and focus its attention on the quality of building work and people's ability to obtain redress. These are issues that will not go away.

In large part the inquiry resulted from ongoing pressure exerted by the Building Action Review Group—a group whose membership changes over time. The group comprises people who are victims of the building system in this State. Many of the group's members, as well as other members of the community including builders, gave evidence to the inquiry. Many of their stories were genuinely heartbreaking. I suggest to members that they take the time to read the transcripts from many of those victims. They gave evidence of poor-quality workmanship and about the operations of the New South Wales Home Warranty Insurance Scheme. For years before I was a member of this Parliament, the group pushed and pushed for an inquiry. As a result of that pressure, the inquiry was established and got underway.

The Building Action Review Group certainly provided me and, I am sure, other inquiry members with a consistent series of complaints illustrating that their issues have not been dealt with. They are adamant that a new inquiry should be held so that a proper airing of the problems and inadequacies of the Government's response to the problems can take place. They said that they have not been given an opportunity to pursue matters because the inquiry's hearings have concluded. When they received the report of the inquiry they were particularly incensed at the response of the Commissioner of Fair Trading, Ms Lyn Baker, to many of their complaints. They felt that their issues had been trivialised and that many of Miss Baker's statements were either wrong or misleading, or deliberately obscured their issues.

That is symptomatic of the problems that people have had all along with the Home Building Service and the Office of Fair Trading. The group is concerned that often the people they deal with are uninformed, or they are incompetent and are not qualified to deal with issues appropriately. They feel that often inspectors and other employees of the department show partiality. They also feel that the Office of Fair Trading is extraordinarily tardy in responding to complaints. It is that tardiness, possibly because of a lack of resources and general indifference, which creates in the group a feeling that this massive government department is really wishing that complainants would go away rather than ensuring that people are provided with a measure of justice.

I am sure that members of the Building Action Review Group will continue to push for further examination of the issues that bedevil home building in this State. I know there was a great deal of disquiet among committee members about what is happening. It is not only consumers who are unhappy; many builders feel the very same way. The Master Builders Association told the inquiry that it was not at all happy with the system of privatised insurance. In submission No. 14, the Master Builders Association commented:

The privatisation of consumer protection insurance in NSW has had a devastating impact on the New South Wales residential building industry ... Other than for insurers, it is difficult to identify who has benefited from the introduction of a privatised insurance scheme in NSW.

Small builders feel that they are at a huge disadvantage when they have to deal with large insurance companies. They are often pressured to provide bonds and guarantees in case, in the infrequent event of an insurance company making a claim, the insurance company proceeds against a builder who has insurance. The insurance company effectively protects itself from having to make any payout whatsoever. [*Time expired.*]

The Hon. MARIE FICARRA [3.03 p.m.]: At the outset of my remarks relating to the recent inquiry into the operations of the Home Building Service undertaken by the members of the General Purpose Standing Committee No. 2, of which I was a member, I commend the work of my fellow committee members, particularly the Hon. Robyn Parker, who was instrumental in chairing a process that has led to 21 key recommendations. I sincerely thank all the clerks assisting the committee for their outstanding advice and support to the Chair and all committee members.

One area examined extensively by the committee was building licences. The home building industry covers contractor licences, qualified supervisor certificates, tradesperson certificates, building consultancy licences and owner-builder permits. Licences are intended to ensure that a builder or tradesman is reliable, honest and capable, yet this has not been the experience of numerous consumer complainants whose evidence was received by the committee. Furthermore, the actions of those who abuse the licence system give the profession as a whole a bad name, which is not fair to the overwhelming majority of builders and tradesmen who do the right thing.

Consumer complaints throughout the inquiry were largely in three related areas—alleged misrepresentation of licences or qualifications by builders, licence assessments and the public register. One of the key problems identified by the Building Action Review Group was that only 10 per cent of licences are checked thoroughly. While the Office of Fair Trading claims to run checks on criminal records, bankruptcy and insolvency for all licence applications wherein an applicant discloses a criminal history or has previously been bankrupt, only a random 10 per cent of those who have not declared a criminal history will be checked. In other words, unless an applicant who has a criminal record declares their criminal history in their application, there is a strong chance that the Office of Fair Trading will not check their application at all. The system virtually ensures that unscrupulous people have only a slight chance of being caught.

Misrepresentation of licence qualifications also is an issue in the building industry. One consumer had firsthand difficulty with the building licensing system when a builder who was sent by his insurance company for repairs had an expired personal licence number on his business card and a different licence number on the building contract. The number on the building contract was inappropriate for jobs worth over \$12,000. It got even worse for this particular consumer when the builder asked him to sign two separate contracts, each valued at less than \$12,000. Consumers are simply not protected under the current regulatory system.

Another problem with the public register was that it gives an incorrect view of the records of individual builders who change their company's name. One consumer signed a contract thinking that his builder had a clean record, only to find that the builder had previously been the owner of a company that had gone into liquidation. Another consumer found that it took over six months for the public register to update its information about a builder who had been fined as a result of her action against him. She discovered that after she had originally relied on the information from the public register about the builder, but the information proved to be incorrect.

Based on those experiences, the committee made three key recommendations regarding licensing, including a more rigorous assessment of licences, accurately updating the public register in a timely manner, and, through the public register, helping to alert consumers to builders who are the subject of unresolved complaints. Furthermore, the committee recommended that the Government require individuals only to be licensed with a number that is kept for life to avoid unscrupulous builders being able to hide their previous records by changing their company's name.

The committee also made a number of recommendations regarding the dispute resolution process for complaints in the home building industry. As members would imagine, the cost of building is considerable for most consumers. Significant financial strain can result from building work being found to be negligent. The committee has recommended that complainant consumers should undertake a three-tiered system that involves the Office of Fair Trading, the Home Building Service and the Consumer, Trader and Tenancy Tribunal.

One of the key complaints about the Home Building Service from consumers is the high cost of obtaining independent reports on defective building work—reports that are quite often dismissed by Home Building Service inspectors. Consumers have been required by the Home Building Service to substantiate their claims of defective building work, only to find that the opinions later are dismissed. The high cost to consumers of complaint resolution means that the longer a case goes on, the less likely it is that a consumer will achieve a satisfactory outcome. In one case a consumer spent many years trying to obtain compensation from a builder who built a home that had been declared by a local council to be too dangerous to live in.

The committee made four recommendations in this area: that the Office of Fair Trading develop and implement a strategy for further improving education for community members about early dispute resolution processes; that the Office of Fair Trading improve early dispute resolution by ensuring the highest performance standards in this area among Fair Trading Centre and Home Building Service staff; that the Home Building Service work to further increase the industry competencies of its building inspectors to ensure that they are better able to investigate and resolve complex building disputes; and that the Office of Fair Trading enable builders to initiate early dispute resolution through the Home Building Service.

I believe that the majority of builders in New South Wales and their employees are honest and hardworking people who contribute enormously to the economy. It is important that the majority of builders who are genuine, hardworking and honest are not punished for the actions of a minority. The Master Builders Association argued for penalties to be directed towards builders who actually do the faulty work and not just the contractor who is legally responsible. I am pleased that the Committee took up this suggestion and made that one of its 21 recommendations because hopefully it will ensure that the responsible party will be more likely to face penalties, rather than the primary contractor who may have had little to do with the faulty work.

The Committee concluded that since being established in 2003 the Home Building Service has effected slight improvements in home building licensing, complaints and disciplinary systems. It is important to achieve more improvements to ensure that consumers are protected from dishonest and incompetent tradesmen and to achieve a better dispute resolution process. One of the key findings of the inquiry is that the Home Building Service should be provided with additional resources to enable it to resolve disputes in a cheaper and more timely manner, thereby assisting builders and consumers to avoid being hit with unnecessary and high legal costs. In conclusion, I call on the Government to accept the Committee's recommendations, which will be the best way to ensure that consumers receive greater protection from shady operators and that competent builders are not made to pay for the mistakes of others.

The Hon. JENNIFER GARDINER [3.11 p.m.]: Unfortunately, the problems that established the need for a parliamentary inquiry into the Home Building Service go back a very long way. A former Deputy President of the House, the late Sir Adrian Solomons, was a champion of the group that was referred to earlier and attended the inquiry, the Building Action Review Group. As previous speakers have said, although the group changed its composition over the years, certainly from time to time its members have felt that they had been banging their heads against a brick wall in their attempts to have action taken. I note that in the Fifty-Third Parliament my former Liberal colleague John Ryan was among those foremost in taking up the cudgels on behalf of aggrieved home building consumers.

During the previous parliament General Purpose Standing Committee No. 4 began an inquiry into the Home Building Service of the Office of Fair Trading. I take this opportunity to thank the members of the inquiry and also to thank the secretariat of Legislative Council committees for their assistance in the work of that committee, which involved public hearings and the like. As has been pointed out, the Parliament was prorogued before the Committee reported. In the new Parliament the allocation of portfolios between various general purpose standing committees changed, and the Fair Trading portfolio was transferred to General Purpose Standing Committee No. 2. I thank my colleague the Hon. Robyn Parker and members of the General Purpose Standing Committee No. 2 for taking up this issue and bringing the inquiry to its conclusion.

As other speakers have said, the final report makes 21 recommendations. It is really important for the Government to insist on the Home Building Service and the Office of Fair Trading lifting their game and acting

upon each of the inquiry's recommendations expeditiously, particularly given the long-running nature of issues that practically affect people's sanity. Some consumers, having invested their life savings in their home, have been left with a building that is seriously faulty and financially they are bereft. All that has had a physical and mental effect upon their lives and the lives of their family.

I particularly thank witnesses who attended the inquiry to tell the committee of their personal experiences at the hands of recalcitrant builders. Some of the case studies are referred to in the report of General Purpose Standing Committee No. 2. I thank the people who came forward. I thank the members of the Building Action Review Group for attempting over a long period to bring the issues to the attention of the Parliament in a coherent manner. I think their views and problems have been fairly represented in the report. I endorse the comments of other speakers who have called on the Government to get its act together and ensure that the Office of Fair Trading and the Home Building Service, in particular, lift their game. Their performance to date has not been good enough, given the heartbreaking stories told by witnesses. It is time for action.

The Hon. CHRISTINE ROBERTSON [3.16 p.m.]: This was an incredibly complex inquiry for General Purpose Standing Committee No. 2 to undertake. We had masses of reading because the inquiry by General Purpose Standing Committee No. 4 was so broad. Certainly before proceeding, General Purpose Standing Committee No. 2 reached consensus on accepting the evidence and information from the previous inquiry, but, in a way, that increased the complexity of the task of finalisation. It was an incredibly difficult, complex inquiry.

General Purpose Standing Committee No. 2 worked very hard to develop recommendations for the long-term advantage of the people of New South Wales. For committee members the task was different from the first round of hearings in that we had written documentation and we also heard evidence from incredibly unhappy and sad persons who in some cases had endured decades of destruction in their lives as a result of incidents related to building. A lot of work was done by individuals associated with the committee to ensure that the recommendations made sense and to create a path by which to step forward, instead of perpetually looking backwards. As a whole, we worked very hard on achieving that.

Although I feel terribly sorry for the member to whom I will allude, I must express disappointment that at the second or third last recommendation the member said, "No, no, I object to this because I have to put in a dissenting report." After all the work that went into achieving consensus recommendations of the committee, including debate and negotiations for three-quarters of a day to make sure that the recommendations made sense and met all the requirements of the committee, one member declined to endorse some recommendations. That was very disturbing because the committee as a whole had worked incredibly hard to produce a report that every member of the committee could endorse. I deeply regret that in the end something went wrong, but I nevertheless think the recommendations are very valuable, both for the persons who gave evidence and for the Government.

The committee heard evidence from many different groups, which I will not list, but which included the government, the builders and contractors, and consumers. The committee as a whole made sure of the availability of a forum for those who felt they would not be served well by the committee. I thank the secretariat: It was very complicated to organise some of those opportunities. The structures that have been put in place gave everyone affected an opportunity to say something, which was a valuable part of the process. It is important to register the time that the committee took to conduct its inquiry. Earlier the Hon. Jennifer Gardiner referred to other inquiries relating to this matter. During the course of this inquiry and the earlier inquiry the department worked hard to implement change for the long-term advantage of the industry. It was heartening for committee members to know that their proposals would be implemented. In the beginning much of what we had been talking about and much of what we had read relating to the earlier inquiry had already been implemented, which was also heartening.

I look forward to the Government and the department noting the inquiry's recommendations that changes be made in the future to the Home Building Act 1989. The committee's report, which is timely, should be taken into consideration in the rewriting of that Act. I trust that in 2008 the Government will introduce such amending legislation. Many of the committee's recommendations related to the resolution of a number of issues, for example, working through issues with the Office of Fair Trading. I know that that work is already occurring. Many of the committee's recommendations related to planning processes. I believe that committee members could have been somewhat harder in their recommendations relating to planning processes, but it was difficult to grapple with the evidence.

Many people who were badly affected by this process missed out on receiving even minimal compensation and many people inadvertently were given bad advice. Many conflicts had to be resolved when the committee was conducting its hearings, so it was difficult to keep things objective. I understand that a lot of the work that is occurring in the current round of negotiations involves changes to the planning Act, which will make a considerable difference. Any members going through the political rhetoric and reading those consultation documents will find that many of those issues have been picked up, for example, the protection of consumers, builders and investors, communities and local government.

Committee members were not the only group of people questioning issues at that time. I do not know how the Government intends to address many of these issues, but I am aware that the committee managed to link into the McClelland inquiry and the department is working hard to implement our recommendations. Committee members were able to reinforce or value-add to many of the issues that were debated. It was worth conducting this difficult inquiry. It is not possible for me to take up an inquiry such as this again in the future, as I will not be here for the next round, but I feel sorry for anyone who has to do so. Many of the committee's recommendations related to the rewriting of the Home Building Act. I was pleased to be able to contribute to that process.

The Hon. KAYEE GRIFFIN [3.23 p.m.]: I speak briefly in the take-note debate as I was a member of General Purpose Standing Committee No. 4 in the last term of Parliament when the initial inquiry commenced. It is unusual for an inquiry to commence with one general purpose standing committee and to be completed by another. I congratulate the committee on its recommendations relating to this important inquiry. As other members said, it was difficult to come to grips with this inquiry as it involved an emotive issue—the issue that consumers spoke about when they gave evidence in the committee hearings. I wish to refer, briefly, to the complaints resolution issue. Other speakers said that it was important to place an emphasis on early dispute resolution. A number of people gave evidence at the inquiries conducted by General Purpose Standing Committee No. 4 and General Purpose Standing Committee No. 2.

Many of the problems that those consumers faced pre-dated some of the reforms that are already in place and the establishment of the Home Building Service. I hope that some of those issues have been more precisely resolved since the establishment of the Home Building Service. As a result of this inquiry people are now aware of these problems. I wish also to comment on the discipline of builders and the potential for contractors and individual builders to be prosecuted for breaches of the Act. Unfortunately, it has been easy for some unscrupulous people in the industry to duck and weave, to avoid their responsibilities, and to leave people in difficult situations—people who have paid a great deal of money for homes in which they are not able to live, as a massive amount of work has to be redone. Those people are not able to tie down the builders who are responsible for that work.

As I said earlier, some builders are unscrupulous enough to evade their responsibilities, which causes financial hardship and distress for many people and renders them unable to support their families. I refer, next, to the Home Warranty Insurance Scheme. If builders do not honour their responsibilities it frustrates many consumers. Sometimes consumers employ builders to build their homes, they buy new properties, or they buy properties that require renovating and they are told that, if there are problems in the future, they will be readily resolved. In many cases people take those statements on face value. When monumental problems arise down the track and issues have to be sorted out and resolved, it is difficult to deal with some people.

Consumers believe that they do not have enough information, they are not sure how to negotiate with someone reneging on his or her responsibilities, and they need a great deal of support. The committee's recommendations acknowledge that there must be earlier dispute resolution, more information for people to use, and that individual builders as opposed to contractors must be prosecuted. It is important for people to feel secure in the future if they face the sorts of problems that were alluded to by some of those who gave evidence to the committee.

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

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Report: Review of the 2005-2006 Annual Report of the Health Care Complaints Commission

Debate resumed from 27 February 2008.

The Hon. DAVID CLARKE [3.29 p.m.]: The Committee on the Health Care Complaints Commission is an important committee of this Parliament because it oversees and monitors the Health Care Complaints

Commission—a major, if not primary, recipient of complaints from members of the New South Wales public about the medical service and treatment they receive within the New South Wales health care system. The Health Care Complaints Commission receives, processes, investigates and, where necessary, prosecutes complaints of negligence, misconduct or unsatisfactory conduct against health care professionals, including doctors and nurses as well as our health care institutions.

The health care complaints system often is the difference between life and death or between good and bad health for literally hundreds of thousands of New South Wales citizens each year. It would be hard to think of anything that could be of greater concern to most people than good health or, indeed, life itself. Consequently, it is paramount that the Government and the Parliament ensure that our health care system, its practitioners and institutions operate effectively and competently to deliver the best possible outcome for the people of New South Wales. The Health Care Complaints Commission is an important part of that process and the parliamentary Committee on the Health Care Complaints Commission helps to ensure that the commission does its job effectively.

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

MARINE PARKS AMENDMENT BILL 2007

Second Reading

Debate resumed from 13 May 2008.

The Hon. ROBYN PARKER [3.32 p.m.]: I make my comments about the Marine Parks Amendment Bill 2007 after having spent considerable time over recent years with members of the public in the Hunter region, particularly in the Port Stephens area. I should like to voice their concerns about the marine park establishment process and this bill. The process of establishing the marine park in Port Stephens did not go well. The park was not established as it should have been, with public consultation and proper scientific knowledge and experience, but was imposed on Port Stephens through an unsatisfactory process. People were told there would be a marine park, a boat was purchased and the process had begun before the community was engaged. In fact, the engagement process was limited to a couple of public meetings during Christmas holidays. Draft boundaries were presented but the advisory committee had little input in the marine park's establishment.

It seemed to the local community that the establishment of the marine park was based on fairly flimsy scientific evidence. Indeed, contrary views were expressed about the scientific evidence supporting the establishment of marine parks generally. The steamrolling process to establish Port Stephens Marine Park upset many people: hundreds of people attended public meetings and members will recall the number of petitions against the proposal. Fishers in the area have the same concerns about marine life and biodiversity as anybody else because their livelihood or recreation depends on a healthy aquatic environment. They are not interested in destroying the marine environment. However, they felt there had been no consultation and the process was an attempt by the Government to lock up good fishing areas. Also, the impacts on the Port Stephens community were not taken into account.

The Port Stephens community relies on tourism and the fishing industry. The impacts of the marine park implementation have been significant: fishing shops have closed, and caravan park and tourist accommodation has declined as people have chosen to holiday elsewhere. There is much confusion about the marine park boundaries and where it is permissible to fish. Another layer of bureaucracy seems to have been imposed on the fishing industry, a layer that seems to be concerned more, as this bill is, with penalties, regulations and changes to boundaries than with public consultation.

The Hon. Rick Colless referred to Coalition amendments to be moved in the Committee stage to ensure inbuilt public consultation about changes to marine park boundaries. These amendments are sensible as they will establish an advisory council through which the public will have input. The existing six marine parks cover one-third of the New South Wales coastline. Coastal communities, tourism operators and fishers are concerned that their interests are not being taken into account. There is further concern also that the expansion of the number of marine parks might lock up a larger part of the coastline. The public certainly has been concerned about the continued establishment of marine parks along the coastline.

The Act needs strengthening. More scientific evidence and public consultation is needed on the establishment of marine parks. Certainly Port Stephens recreational and commercial fishers need their concerns

heard as part of future marine park planning; they certainly do not need greater penalties imposed on them, particularly when there is confusion about the boundaries—knowing where and why they should fish in certain areas. The establishment of the Port Stephens Marine Park was a public relations exercise that was not implemented satisfactorily. The Coalition's amendments will go a long way towards giving the public greater contribution and participation.

On behalf of the two million recreational fishers in New South Wales, not just those in the Port Stephens commercial fishing area reliant on fishing, I raise those concerns about the overregulation of marine parks and the lack of consultation in the establishment process. I hope the Government takes on board the Coalition's proposed amendments: they will strengthen the marine park implementation process and go some way towards making it a fairer system. I look forward to hearing the debate in the Committee stage.

The Hon. MELINDA PAVEY [3.40 p.m.]: I join with my Opposition colleagues in raising many concerns about the Marine Parks Amendment Bill 2007. My colleague the Hon. Rick Colless, who leads for the Opposition in the upper House, will highlight many of those concerns and the solutions that will be offered through amendments. There is no doubt that fishing is a major part of life for all Australians, and particularly those in New South Wales, where there are two million recreational fishers and a sizable commercial fishing industry. The establishment of marine parks is not the only way to protect our waterways. Given that marine parks are located on only one-third of the New South Wales coast, we must assume that two-thirds of our coastline is unprotected, if we accept the Government's view that marine parks are the only way to protect this State's fish stocks.

One step taken by the Government has harmed our oceans and rivers. Over the past 10 years, the Country Towns Water Supply and Sewerage Program has received a \$430 million funding cut. That has had a devastating impact on waterways and local communities. An administrator—Dick Persson, a friend of the Labor Party—has been appointed to the Port Macquarie-Hastings Council to manage the local council area. One of his first acts was to increase by \$2 a week the water and sewerage rates levied on the local community. That money is intended to provide important sewerage infrastructure in smaller communities in the Port Macquarie and Hastings areas.

I am not arguing that those communities do not deserve and need sewerage infrastructure, but the Government has not kept its commitment to fund the Country Towns Water Supply and Sewerage Program. Commitment to funding that program was driven very hard by the Coalition until 1995, especially by Wal Murray, the former Deputy Premier, Minister for Public Works, and Leader of the National Party. It was a basic, commonsense program that delivered outcomes to the environment and to the health and wellbeing of country people. Currently there is a backlog of 120 projects in that very important program. Surely the completion of those projects would result in improved fishing stocks and healthier waterways. It is a shame that Verity Firth does not take up that point and argue it in Cabinet. Instead, she attacked one of the most eminent professors in Australia's marine sector.

Minister Firth attacked the professor rather than addressing other issues needing attention. My duty responsibilities include Monaro and Port Macquarie, and I live at Coffs Harbour, the first area to have a marine park on its coastal boundaries. This issue has raised the ire of many local fishermen, good people who want to participate in a recreational activity that they have always enjoyed. Under current legislation there are many headlands and other local places from which people cannot fish. Many city people would not understand the impact that this issue has had on the lifestyle of people living inland and on the coast. Many Queanbeyan people have raised concerns about not being able to travel to Batemans Bay, only 1½ hours away on the Kings Highway, to fish in their favourite spots where they had fished in the past.

[Interruption]

I value the interjection of the Hon. Penny Sharpe. It shows that she does not understand this issue. Yes, people can still fish at Batemans Bay, but not in all the areas they used to fish, not in the areas that their grandfather or their uncle used to take them.

The PRESIDENT: Order! The Hon. Melinda Pavey should speak through the Chair.

The Hon. MELINDA PAVEY: I am speaking within the leave of the bill, about the lack of community consultation and concern.

[*Interruption*]

What was that from outside the Chamber, may I ask?

The PRESIDENT: Order! From inside the Chamber, the Hon. Melinda Pavey will address the Chair.

The Hon. MELINDA PAVEY: Could that person be removed?

The PRESIDENT: Order! The member will not be removed. The Hon. Melinda Pavey will address the issue and speak through the Chair.

The Hon. MELINDA PAVEY: As I was saying, Professor Bob Kearney is literally the lone voice in the scientific community in opposing marine parks. That is what Verity said.

The Hon. Christine Robertson: The Minister!

The Hon. MELINDA PAVEY: The Minister for Climate Change and the Environment, Minister for Women, Minister for Science and Medical Research, Minister Assisting the Minister for Health (Cancer). She is a very busy Minister—no wonder she only reads the notes put in front of her rather than doing her own research. She has no understanding of or respect for a major scientist in the Australian community who put a contrary view, a view that has been belittled. It is an important part of the process that someone who puts a contrary view is taken to task and argued against. The exclusion of recreational fishers from certain fishing areas is a matter of considerable concern. Fishermen, my husband included, enjoy their recreation and do not want to destroy the environment in which they like to catch fish. They are very cognisant of fish sizes and catch numbers.

The Hon. Christine Robertson: Not on the Clarence.

The Hon. MELINDA PAVEY: Is the Hon. Christine Robertson interjecting that she loves fishing on the Clarence River and enjoys it?

The Hon. Christine Robertson: No. You should see all the rubbish I have to pick up when I go fishing, from those wonderful people who never do wrong.

The Hon. MELINDA PAVEY: So, a good Country Labor person is denigrating the fishermen.

The Hon. Christine Robertson: No. I am a Country Labor person who fishes and expects other fishers to have consideration for the environment.

The PRESIDENT: Order!

The Hon. MELINDA PAVEY: I look forward to supporting my Opposition colleague the Hon. Rick Colless during the remainder of this debate and during the Committee stage. We will put forward our concerns and reserve our right to make a decision on whether we will support the bill after the amendments are dealt with.

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.47 p.m.], in reply: Today, New South Wales has six multiple use marine parks, covering 345,000 hectares or one-third of the New South Wales coastline. Our marine parks are a key tool in conservation of marine biodiversity and one of the Government's crowning environmental achievements because they provide for both protection and sustainable use. I will focus briefly on an issue that has emerged during debate on this bill, but which largely falls outside its scope—that science has not been used to establish and zone marine parks.

Let me make it clear: New South Wales has not acted alone in establishing marine protected areas. Marine protected areas are widely regarded, both nationally and internationally, as one of the most effective mechanisms for protecting biodiversity and providing for sustainable use of the marine environment. The Government accepts that scientists and other people in the community have a range of views and are entitled to those views. The Government does not share Professor Kearney's view. If we wait for science to examine each species and tell us that more and more individual species are in decline, it will be too late to act.

There is now broad, worldwide scientific support for marine protected areas and the benefits of protection. The support from marine scientists is demonstrated by several consensus statements, including most

recently the National Statement on Marine Parks, published in 2006 by the Australian Marine Sciences Association and the Australian Coral Reef Society, which together have about 1,500 members; and the European Scientists' Consensus Statement on Marine Reserves, published in 2007 and signed by 275 marine scientists.

Clearly the vast majority of marine scientists believe there is ample scientific evidence supporting marine parks as a tool for conserving our marine biodiversity. Nonetheless, the Government has embarked on a rigorous and extensive program of scientific research to test the effectiveness of marine parks and their zoning plans. One of the overarching priorities of the New South Wales Marine Parks Strategic Research Plan is to monitor and evaluate the effectiveness of marine park zoning and related arrangements. Over the past 10 years the Marine Parks Authority has already carried out more than 30 research projects, including high-resolution sonar mapping of the sea floor in all of our marine parks. This research has resulted in quantum leaps in our knowledge of New South Wales marine biodiversity, as well as the social and economic uses of our precious marine environment. I shall highlight some of the findings of research carried out by the Marine Parks Authority.

The Marine Parks Authority has conducted seafloor mapping that, for the first time, gives us detailed and high-quality pictures of marine habitats. Monitoring programs that compare sites inside sanctuary zones to sites outside sanctuary zones have found larger abundances of red morwong, tropical snapper and sweetlips in sanctuary zones than other areas. Preliminary results also indicate that other species, including bream and combined snapper, sweetlips and emperors, are more abundant in larger sanctuary zones. Mud crabs also increased markedly in numbers in sanctuary zones in the Solitary Islands Marine Park. These results are not anomalies and they are not exceptional; they reflect research being carried out throughout Australia and the world.

I could go on but it is obvious that there is no lack of science supporting our marine parks and their zoning plans. In contrast to the hundreds of eminent scientists who support marine parks, members opposite seem to prefer sticking their heads in the sand when it comes to protecting our marine biodiversity. I am pleased that the Government has had the foresight to develop a world-class system of marine parks, and continues to invest in scientific research to monitor the health of our marine environment. I turn now to the predicted economic devastation of communities that have a marine park. The Opposition has predicted this continually, and the Hon. Rick Colless was at it again yesterday. Rather than predicting economic devastation, the Coalition should be talking up the many benefits of marine parks.

[Interruption]

The PRESIDENT: Order! I ask the Hon. Matthew Mason-Cox to cease interjecting.

The Hon. PENNY SHARPE: When the Government created the Solitary Islands Marine Park in 1998 from a pre-existing marine reserve there were a number of exaggerated predictions. Some said that there would be an end to fishing as we know it; others said that hundreds of jobs would be lost in Coffs Harbour and the price of fish would skyrocket. All these predictions were wrong. We know this because the Marine Parks Authority commissioned an independent study to investigate the economic contribution of the Solitary Islands Marine Park to the regional economy. The study indicated that the park contributes about \$6 million every year to the Coffs Harbour regional economy. We know that local business turnover and employment during the peak season have increased since the marine park was declared.

In terms of the Batemans Marine Park, I am pleased to inform the House that the head of Eurobodalla tourism, John Pugsley, who has just embarked on a new advertising campaign for the Eurobodalla, describes the Batemans Marine Park as the jewel in the crown for the area. He said that there has been overwhelming support for the marine park over summer, and he sees it and the national parks in the Eurobodalla as the key offerings in their continuing promotion of the region.

The Hon. Robyn Parker raised an issue about consultation. It is important that she notes that, as indicated in the second reading speech on the bill, the reviews of zoning plans will involve a minimum of two months formal community consultation. That is, the community will have a specified period of two months to lodge submissions on the current zoning plan. In addition, community consultation will occur with communities at the marine parks, with events such as information days and stakeholder workshops being conducted. The bill makes it clear that local marine park advisory committees are heavily involved in reviewing zoning plans. They will have the opportunity to formally comment on the zoning plan review report developed by the Marine Parks

Authority. These comments and community submissions will be considered by the Ministers in deciding whether to continue with the present zoning plan, to proceed to amend the zoning plan, to replace the zoning plan altogether or to take other actions as appropriate.

I turn now to the proposed amendments to the bill raised by The Nationals and the Greens. The bill has been on the public record since early December 2007. During debate in the other place The Nationals moved a series of amendments and indicated that they would move the same amendments in this place. The Government did not support the proposed amendments of The Nationals at that time, nor does it now after further considering them. In summary, The Nationals amendments attempt to divert ministerial responsibility associated with the development of draft zoning plans by proposing that the Marine Parks Authority undertake functions in place of Ministers. In effect, Ministers would be left to rubber stamp a draft zoning plan developed by the Marine Parks Authority, which is a body of three unelected public officials.

This is clearly inconsistent with the principle of responsible government, by which Ministers are responsible to the Parliament. The Nationals also seek to limit the ability to amend zoning plans, even for minor amendments, while incorporating a requirement to justify on a scientific basis any amendments to zoning plans. The community expects the Government to consider a range of factors in developing zoning plans that seek to meet the objects of the Act. The objects of the Marine Parks Act include providing for ecologically sustainable use and opportunities for public appreciation, understanding and enjoyment of marine parks. In exclusively focusing on science, The Nationals are neglecting the full mix of scientific, social, economic and cultural factors that are also valid considerations in not only amending zoning plans but also making and reviewing them.

In relation to penalties, The Nationals confuse the maximum financial penalty that a court may impose when an offence is prosecuted under the Marine Parks Regulation and the amount payable for a penalty notice offence, which is normally a less serious matter. Contrary to claims made, the Government has no intention through this bill of increasing the penalty notice amounts specified in schedule 2 of the regulation, which are typically set at \$200, \$300 or \$500. Finally, amendments proposed in relation to marine park advisory committees, which limit membership, absolutely require certain interests to be represented and specify membership of local associations as a key basis for appointing members. They are inflexible and unnecessary, and they will be opposed. The Government has been in discussion with the Greens and intends to support Greens amendments which seek to improve the operation of the bill and which are consistent with its original intent. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 5 agreed to.

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.57 p.m.], by leave: I move Government amendments Nos 1 and 2 in globo:

No. 1 Page 4, schedule 1 [6], proposed section 17B (3), line 9. Insert ", replace or amend" after "establish".

No. 2 Page 4, schedule 1 [6], proposed section 17B (4), line 13. Insert ", replacing or amending" after "establishing".

The amendments safeguard the validity of a regulation that establishes, replaces or amends a zoning plan. This will create certainty for the community once the regulation relating to a zoning plan is made and is consistent with the original intent of the bill.

Mr IAN COHEN [3.58 p.m.]: The Greens support the Government's amendments, which bear a remarkable resemblance to circulated Greens amendment No. 1, which was suggested by my office and which I indicate I now do not intend to move. Without these amendments, the validity of a regulation that amends or replaces a zoning plan under section 17D or section 17E could be challenged if it did not comply with the procedural aspects of either of those sections. These amendments are of a technical nature and aim to more effectively represent the Government's intention to protect the validity of regulations. The Greens support the amendments.

The Hon. RICK COLLESS [3.59 p.m.]: The Coalition will not be opposing these two amendments.

Question—That Government amendments Nos 1 and 2 be agreed to—put and resolved in the affirmative.

Government amendments Nos 1 and 2 agreed to.

Mr IAN COHEN [3.59 p.m.]: I move Greens amendment No. 2:

No. 2 Page 4, schedule 1 [6], proposed section 17C (1), line 17. Omit "18 months". Insert instead "12 months".

This amendment reduces the lag time between the declaration of a marine park and the initiation of the zoning plan process. Reducing the lag time is important as the park may be exposed to intensified extractive uses and activities in anticipation of impending restrictions to be imposed by park zoning. This amendment streamlines the process and I think it will be acceptable to the Government. I commend the amendment to the Committee.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.00 p.m.]: The Government does not oppose this amendment, which reduces the period in which a draft zoning plan is to be prepared following the declaration of a marine park. It is important to note that this amendment in no way affects the requirement to exhibit draft zoning plans for a minimum of three months public consultation, and as such the Government does not oppose it.

The Hon. RICK COLLESS [4.01 p.m.]: We do not necessarily support this amendment but we will not cause the Committee to divide on it. I point out that it is important that a proper consultative planning process is undertaken. I would be happier to see the time frame remain 18 months rather than shorten it too much and cause things to jam, particularly in view of amendments that we will move later that will remove the provision whereby the plan can be redirected straight to the authority for redrafting. We want to see more public consultation in this process, not less. We believe that maintaining the period at 18 months will present an opportunity for better public consultation. Reducing it to 12 months will lead to less public consultation.

Question—That Greens amendment No 2 be agreed to—put and resolved in the affirmative.

Greens amendment No 2 agreed to.

The Hon. RICK COLLESS [4.02 p.m.], by leave: I move Opposition amendments Nos 1, 2, 3 and 4 in globo.

No. 1 Page 4, schedule 1 [6], proposed section 17C (3), lines 21–25. Omit all words on those lines. Insert instead:

- (3) Within 3 months after receiving the draft zoning plan, the relevant Ministers are to cause public notice to be given of the draft zoning plan.

No. 2 Page 4, schedule 1 [6], proposed section 17C (5), line 34. Omit "relevant Ministers are". Insert instead "Authority is".

No. 3 Page 4, schedule 1 [6], proposed section 17C (5), lines 36 and 37. Omit "relevant Ministers allow". Insert instead "Authority allows".

No. 4 Page 5, schedule 1 [6], proposed section 17C (6), lines 3–9. Omit all words on those lines. Insert instead:

- (6) Within 3 months after the date referred to in subsection (4) (b), the Authority is to submit a zoning plan to the relevant Ministers with such modifications as the Authority thinks fit.
- (7) Within 3 months after receiving the zoning plan, the relevant Ministers are to submit a regulation to the Governor setting out that zoning plan.

The amendments will ensure that public consultation on all zoning and management plan changes is comprehensively and thoroughly processed. The same level of public consultation must occur with any proposed new marine park. In particular, amendment No 1 removes the option of the Minister referring a draft zoning plan back to the authority, and the authority and the advisory committee having 18 months—proposed to be 12 months—to clarify those issues. The Minister should not have the power to reject the plan without first giving the public an opportunity to look at it and make some comments. Amendments Nos 2, 3, and 4 further remove the power of the Minister to consider only the issues about which there has been lobbying. Given the lack of attention to scientific rigour and detail that I outlined in the second reading debate, this is a very important point. I commend the amendments to the Committee.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.04 p.m.]: The Government opposes these four amendments. As I said in my second reading speech, the Ministers reserve the right to refer a draft zoning plan back to the Marine Parks Authority for further consideration. The Ministers ultimately are responsible for recommending to the Governor the making of regulations, including zoning plans. As with other regulations the Ministers ought to have the opportunity to consider whether a draft regulation is appropriate before there is public consultation about it.

Amendment No 2 of The Nationals is inappropriate as it also has the effect of removing ministerial responsibility for considering submissions on zoning plans. It ensures that the Marine Parks Authority, which is made up of unelected public officials who are not accountable to Parliament, is solely responsible for the consideration of submissions. During debate in the Legislative Assembly, Opposition members were critical of the consideration given to submissions during the development of marine park zoning plans.

The Government fails to see how the amendment proposed addresses those concerns. The Marine Parks Authority is subject to the direction and control of the relevant Ministers in the exercise of their functions. We oppose amendments Nos 3 and 4 of The Nationals for the same reasons. If passed, they would have the effect of making the relevant Ministers a rubber stamp for the zoning plan submitted by the Marine Parks Authority, therefore removing ministerial responsibility. The Government cannot support the amendments.

Mr IAN COHEN [4.05 p.m.]: The Greens also do not support The Nationals amendments Nos 1 to 4. They seek to remove the relevant Ministers from the public consultation process in section 17C and replace them with the Marine Parks Authority. In the lower House the shadow Minister for Environment and Climate Change stated:

It is better if Ministers remove themselves one step further from the process by replacing their discretion with that of an authority. An authority is at least going to be advised formally and will not have to be sensitive to political issues whereas Ministers might.

The Greens would be concerned about the principle if the authority or entity that prepared the draft zoning plan was also the entity that reviewed submissions in relation to that draft zoning plan. A fresh pair of eyes to check and evaluate submissions against the draft zoning plan may bring new perspectives. We acknowledge the concern over ministerial discretion and the politicisation of the process but we think there is benefit in as many stakeholders as possible being involved in the process. The role of the relevant Ministers to consider submissions is an important one and ensures a degree of parliamentary involvement. If the relevant Ministers do not adequately address submissions made, there is direct public recourse to the Parliament, as opposed to the recourse available if the Marine Parks Authority were controlling the submission review process. The Greens suggest that section 17C achieves a satisfactory balance between the advisory committee, stakeholders, Marine Parks Authority and ministerial participation in the planning process. Therefore, the Greens oppose the amendments.

Question—That Opposition amendments Nos 1 to 4 be agreed to—put and resolved in the negative.

Opposition amendments Nos 1 to 4 negatived.

Mr IAN COHEN [4.07 p.m.]: I move Greens amendment No 3:

No. 3 Page 6, schedule 1 [6], proposed section 17E (4) (b), line 39. Omit all words on that line. Insert instead:

(b) the proposed amendment corrects a technical error or inconsistency.

This amendment clarifies the circumstances under which an amendment to a zoning plan does not need to go through the public consultation process outlined in section 17C. The amendment seeks to encourage diligent undertaking of procedural requirements of the division by Ministers and only allow the public consultation process to be circumvented when drafting errors or inconsistencies arise. I commend Greens amendment No 3 to the Committee and believe that it adequately serves the purpose of providing backup if errors occur.

The Hon. RICK COLLESS [4.08 p.m.]: I move Opposition amendment No 5:

No. 5 Page 6, schedule 1 [6], proposed section 17E (4), lines 33–39. Omit all words on those lines. Insert instead:

(4) Section 17C (2)–(7) apply to the making of an amendment to the zoning plan for a marine park in the same way as they apply to the making of a zoning plan under that section.

- (5) In addition to the requirements of section 17C (4) in its application to a proposed amendment to the zoning plan for a marine park, the notice referred to in that subsection is to:
- (a) give a summary of the purpose of the proposed amendment and state whether there is a scientific basis for it, and
 - (b) specify the address of each place at which a more detailed explanation of that purpose and any scientific basis for the proposed amendment may be inspected.

In our view this amendment will ensure that the science behind an amendment to the zoning plan is transparent and properly researched. Greens amendment No 3 downplays that somewhat. The wording of our amendment seeks to ensure a scientific basis for any change to a zoning plan.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.10 p.m.]: The Government does not oppose Greens amendment No. 3 as it is consistent with the original intent of the bill. The minor amendments can be simply regarded as those necessary to correct technical drafting errors. The Government opposes The Nationals amendment No. 5, which seeks to remove the ability to make amendments to zoning plans in limited circumstances, or minor in nature, without public consultation, and seeks to give disproportionate weight to scientific considerations in the amendment of zoning plans.

The provisions enabling the making of minor amendments to the zoning plans without full public consultation are already contained in section 16 (6) of the Marine Parks Act. I am not aware of any circumstances in which it has been claimed that the Government has abused this power and so cannot see the justification for effectively removing this sensible provision from the Marine Parks Act by agreeing to The Nationals amendment. I am advised that the power for minor amendments has been used once, with minor amendments included as is appropriate in the Statute Law (Miscellaneous Provisions) Act 2003. For the benefit of members, the effect of the amendment is that schedule 2 item [2.19] of the Marine Parks Regulation 1999, as it relates to zoning plans for marine parks which are dealt with in schedule 1 of the bill, will provide for the insertion of "16" after "shown on map" as that relates to shark net beach designated anchoring area in table D of division 10 of part 2 to address information that was missing. I am sure members would agree that that amendment did not require three months public exhibition and submissions.

Public funds are surely better spent on research, compliance and community education than on advertising a public notice in this case. The bill as it stands simply carries forward provisions enabling minor amendments to be made and includes a limited number of specific circumstances in which other amendments may be made without public consultation under the Marine Parks Act. Additional public consultation under the Marine Parks Act for amendments to zoning plans made to incorporate critical habitat declarations, threat abatement plans, recovery plans or relevant Commonwealth environmental instruments is not required because public consultation on these matters would have occurred under the Threatened Species Conservation Act, the Fisheries Management Act or the Environment Protection and Biodiversity Conservation Act, which is a Commonwealth Act.

It is worthwhile noting that the Opposition misled by referring to the variation of area of a marine park as a type of minor amendment not requiring public consultation under the Marine Parks Act. This is not the case. Proposed section 17E (4) (b) makes it clear that the public consultation requirements contained in proposed sections 17C (2) to (6) do not apply as a consequence of any event referred to in section 17E (2) (a) to (c). They do not capture section 17E (2) (d), which relates to proclamations varying the area of a marine park.

In relation to the scientific basis for zoning plan amendments, the Opposition seeks only to bring consideration of scientific aspects to the amendment of zoning plans, but not to the making of zoning plans for new marine parks, or completely replacing zoning plans—nor to reviews of zoning plans. By exclusively focusing on science in amending zoning plans, the Opposition is neglecting the full mix of scientific, social, economic or cultural factors that also are valid considerations in not only amending zoning plans but also in making and reviewing them. Is the Opposition suggesting that it does not matter if there is a social, economic or cultural impact, so long as the sanctuary zone is justified on scientific grounds?

The community expects the Government to consider a range of factors in developing the zoning plans that seek to meet the objectives of the Act. Science obviously is one of the most important considerations in ensuring a comprehensive system of marine parks and maintaining ecological processes. But it is only one factor that must be considered. The objects of the Marine Parks Act also include providing for ecologically sustainable use and opportunities for public appreciation, understanding and enjoyment of marine parks.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [4.12 p.m.]: I support the amendment. It is one of the absolutely key amendments to the legislation. The concern of many people is not so much the creation of marine parks but the form that the zoning takes. Enemies of The Nationals would find what I am about to say amusing, but we want to put in place a scientific basis for the creation of the marine parks. The Parliamentary Secretary in her contribution said that that is one of the most important issues, but it certainly will not be agreed to by the Government—and I might be prejudging them, but I suspect Mr Ian Cohen and his Greens colleagues also will not agree to it. Sadly, marine parks have become political parks. They have a political basis and their zoning has no relevance to science. No audit has been undertaken of these parks before declaration to ascertain what species and their number are present in the areas, or whether the species have been threatened or their numbers improved over time.

To my mind, you need to know where you start before you can zone an area of protection, and that has not been done here. That information is not available. The amendment is sensible; it asks for a detailed scientific basis for any changes. As many members know, my concern is not so much with the marine parks, but rather with what has been done or not done with these areas. Marine park protection areas have been declared, while areas between them may be subject to full commercial and recreational fishing activity. Frankly, that is not a good environmental outcome.

If it takes someone from The Nationals to tell the Greens and to tell the Government, "Your environmental policy stinks", so be it. This amendment is of critical importance. The parks have been removed from Fisheries and, as a token gesture, they have been placed with National Parks—in that green area, where land-based people are looking after sea life. The whole thing stinks. The amendment seeks to bring back some commonsense and a sense of reality for communities that live around these areas, and to provide sustainable fisheries for commercial and recreational fishers, as well as protected areas for endangered species. We will then have a better format within which to protect our sea life. If in the future it becomes obvious that an area needs to be protected, I will be the first one out there screaming for that protection. If we want to change the zones to make them recreational only or line-fishing only, or something sensible like that, we should do so, rather than be faced with a purely political decision, which requires a good and decent Parliamentary Secretary to stand up in this place and regurgitate such rubbish.

The Hon. ROBERT BROWN [4.16 p.m.]: I support The Nationals amendment No. 5. Our view is that had proper science been applied to the concept of these marine protected areas in the first place, we probably would not have anywhere near the level of community angst. The recreational fishing groups would be the first to say that they support the protection of the marine biota and environment. They just have a practical and different viewpoint about how that protection should be applied. I have often stood in this Chamber and said that lines on maps do not work. The proper way to manage a marine environment is to allow experts in the marine environment to do the managing, to manage fish stocks by the use of bag limits, temporary closures, and other methodologies. For example, if you have sub-marine environments and the ocean floor needs protecting, obviously you would not allow certain types of drag netting.

The Nationals amendment is sensible because it requires the Government to be rigorous in the science on this. The science is not exact. It is like the garbage over global warming: there are as many people saying the science in that regard is not right as there are saying the science is right. Recently, an advocate for a particular brand of application of marine science, Professor Bob Kearney, was criticised by the Government, and it was suggested that his was a lone voice. That is not so. You will get the support of recreational fishing groups and coastal communities because—just like the members of the Greens and The Nationals and everyone else in this House—they too are interested in protecting that environment. So too are commercial fishermen, although sometimes commercial fishing practices would probably suggest that that is not the case.

Self-interest is a great tool for bringing about consensus, and recreational fishers in coastal communities have an interest in ensuring that coastal and marine environments are maintained and protected. It is wrong to suggest that only the Greens rule on protection of the environment. "The Greens" is a great name for a party, but it does not necessarily follow that only its ideas hold water. I think this is a sensible amendment. I applaud The Nationals for moving it.

Mr IAN COHEN [4.20 p.m.]: I listened with interest to debate on this amendment. While the Greens do not support The Nationals amendment No. 5, there has been significant discussion about the scientific methodology used in the zoning process. In that respect I acknowledge the position of The Nationals and the Shooters Party. As a member of a previous committee that inquired into fishing, I often take the position that has been taken by The Nationals, particularly in relation to issues regarding inappropriate attacks on people in the commercial fishing industry. As a Green, I am not saying that I want to lock everyone out of marine parks; I have to take into account other points of view.

I would like sanctuary zones to be part of marine park areas and currently inadequate protected areas to be expanded. However, the Government is attempting to strike a balance. I find interesting the accusation that the Greens put themselves up as the sole font of protection on these sorts of issues. I am sure that all members have had practical experience. I live by the ocean and my property is contiguous with a coastal nature reserve. I spend a lot of time watching and monitoring fishing activities and often I clean up after them. There are some fantastic recreational and commercial fishers and there are others who do not play by the rules. If given a chance, they try to get away with some pretty scandalous activities.

I refer, for example, to a recreational fisher who a while ago went 20 metres into the water and shot about half a dozen 2 to 2.5 metre harmless and slow-moving shovel-nose sharks in a marine park sanctuary zone. He was caught and charged, but those sorts of things go on. When activities such as that occur they have a massive impact on the environment. It is important to recognise that laws are made not for those who obey the law or who do a good job, but for those who flout the law. In this respect the Government is moving in the right direction, but more debate is needed. Earlier I acknowledged the position of The Nationals and the Shooters Party, but the Greens take the position that there are numerous junctures in the consultation process.

The trigger mechanisms in section 17E (2) (a) through to (c) and the deliberations of the advisory committee and the Marine Park Authority, which suggested that these provisions would be an unnecessary duplication of requirements, lead me to believe that I should not support The Nationals amendment No. 5. Reference was made earlier to the fact that the National Parks and Wildlife Service, which is a land-based organisation, is somehow incapable of managing marine parks. In my experience it has adapted—

The Hon. Duncan Gay: It is not as capable as Fisheries, surely?

Mr IAN COHEN: I acknowledge the interjection of the Deputy Leader of the Opposition. From my perspective, I think the National Parks and Wildlife Service should be the lead agency. Fisheries is the lead agency in the Byron Bay Marine Park. I have witnessed how both bodies operate but I prefer the conservation ethos of the National Parks and Wildlife Service. Not all marine parks come within the National Parks and Wildlife Service. Fisheries is the lead agency in some of the boundary areas and zones, which leave a lot to be desired, but that is part of the process that is being undertaken in the development of marine parks.

It should not be presumed that somehow recreational and commercial fishers are under attack and that that is unreasonable. We need some balance. These parks should go a lot further, but I accept that they do not. I also accept that this legislation is a step in the right direction. By and large both agencies—Fisheries in the Byron Bay area and the National Parks and Wildlife Service—have been doing a good job and have copped a lot of flak from a number of self-interested community sectors. Reasoned argument is not always put forward, as it has in debate in this Chamber.

The Hon. Rick Colless: On a point of clarification: If the Greens amendment is passed, would that automatically exclude The Nationals amendment?

The CHAIR: Order! I propose to put Opposition amendment No. 5 first. If that is carried, Greens amendment No. 3 cannot proceed. If the Opposition amendment is negatived, I will put the question on the Greens amendment.

Question—That Opposition amendment No. 5 be agreed to—put.

The Committee divided.

Ayes, 18

Mr Ajaka	Mr Gay	Mr Pearce
Mr Brown	Mr Khan	Mr Smith
Mr Clarke	Mr Lynn	
Ms Cusack	Mr Mason-Cox	
Ms Ficarra	Reverend Dr Moyes	<i>Tellers,</i>
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin

Noes, 22

Mr Catanzariti	Mr Kelly	Mr Tsang
Mr Cohen	Mr Macdonald	Ms Voltz
Mr Costa	Mr Obeid	Mr West
Mr Della Bosca	Mr Primrose	Ms Westwood
Ms Griffin	Ms Rhiannon	
Ms Hale	Ms Robertson	<i>Tellers,</i>
Mr Hatzistergos	Mr Roozendaal	Mr Donnelly
Dr Kaye	Ms Sharpe	Mr Veitch

Question resolved in the negative.

Opposition amendment No. 5 negatived.

Question—That Greens amendment No. 3 be agreed to—put and resolved in the affirmative.

Greens amendment No. 3 agreed to.

Mr IAN COHEN [4.34 p.m.]: I move Greens amendment No. 4:

No. 4 Page 7, schedule 1 [7], proposed section 18 (4), lines 8 and 9. Omit all words on those lines. Insert instead:

- (4) This section does not apply to or in respect of sand extraction within a marine park for conservation purposes or for the purpose of preventing the risk of serious injury to a person or harm to the environment that is carried out in accordance with a consent granted under this section and any other authorisation required under any other Act.
- (5) The relevant Ministers may grant consent (with or without conditions) to the carrying out of sand extraction within a marine park but only if satisfied that the sand extraction is for a purpose referred to in subsection (4).
- (6) In deciding whether to grant consent, the relevant Ministers must have regard to the assessment criteria (if any) prescribed by the regulations.

The amendment seeks to set a more rigorous approval process for sand extraction activities rather than leaving that activity to be approved purely under part 3A of the Environmental Planning and Assessment Act 1979. The amendment narrows the objectives for which sand dredging can be carried out and gives the relevant Ministers discretion to consent, with or without conditions, to sand extraction within a marine park. The criteria for consent are contained within section 31 of the Marine Parks Regulation and constrict relevant Ministers to make decisions pursuant to the objects of the Act. I commend Greens amendment No. 4 to the Committee.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.35 p.m.]: The Government does not oppose the amendment. The bill seeks to clarify that sand extraction is permissible in response, for example, to beach recession caused by climate change, sea level changes and storm surges. Consistent with this, the amendment makes it clear that sand extraction is permissible for conservation or safety purposes, or to otherwise prevent harm to the environment. It is appropriate that sand extraction activities are subject to the consent of the Ministers, in addition to any environmental assessment required under planning laws.

The Hon. RICK COLLESS [4.35 p.m.]: The Opposition will not support this amendment, but will not cause the Committee to divide on it.

Question—That Greens amendment No. 4 be agreed to—put and resolved in the affirmative.

Greens amendment No. 4 agreed to.

The Hon. RICK COLLESS [4.36 p.m.], by leave: I move Opposition amendments Nos. 6, 7, 8 and 9 in globo:

No. 6 Page 9, schedule 1 [20], lines 3 and 4. Omit all words on those lines.

No. 7 Page 12, schedule 1 [35], proposed section 35 (2), line 6. Omit "such members as are". Insert instead "not more than 10 members".

No. 8 Page 12, schedule 1 [35], proposed section 35 (3), lines 17–20. Omit all words on those lines. Insert instead:

- (3) The advisory committee for a marine park must include at least one, but may include more than one, representative in respect of each interest referred to in subsection (2).

No. 9 Page 12, schedule 1 [35], proposed section 35. Insert after line 24:

- (5) Where possible, when appointing a member to represent an interest referred to in subsection (2) (a)–(g), the relevant Ministers are to appoint the nominee of a local body or local association that represents that interest.

Amendment No. 6 seeks to remove the provision of the bill that will double existing penalties. We oppose doubling the penalties for many reasons, but last night I referred to the principal issue during my contribution to the second reading debate, which is the inaccuracy of techniques applied to determining the boundaries of marine parks. As would be appreciated, it is difficult to determine an exact location in a boat at sea. Fishermen normally establish their location now by using global positioning system [GPS] equipment. However, at different times some GPS equipment has varying degrees of error and does not always display accurately, down to a couple of metres. Another problem is that marine parks inspectors who use the same equipment as fishers could also be wrong.

It is illogical to increase penalties so dramatically when such errors could occur. An inaccurate reading could double if equipment used by fishermen and equipment used by inspectors is out of synchronisation. In such an instance the park boundary could fall somewhere within both measurements and neither party would know the exact location. Until such time as that is resolved, increasing penalties by doubling them cannot be justified. The Coalition does not support the provision in schedule 1, item [20]. I urge the Committee to support The Nationals amendment No. 6.

Amendment No. 7 essentially clarifies membership of the advisory committee by limiting it to 10 members. Amendment No. 8 ensures that at least one representative of an area referred to in section 20H (2) of the Act must be a member of the committee, but more than one representative of a specific classification may be included. The bill stipulates eight classifications of committee members so it is possible to have more than one member from each classification. Government appointment to committee membership is limited to 10 members. Amendment No. 9 ensures that members of the committee will be local people, not members of an outside organisation with no local knowledge.

For years that has been a problem with lots of committees. Advisory committees become stacked with people from various organisations who have no understanding of local conditions. They do not understand the local fishing rules, local fishing spots and local constraints. The Opposition wants to see a much stronger representation by local people on committees, and amendment No. 9 will achieve that.

The Hon. ROBERT BROWN [4.40 p.m.]: I confirm that the Shooters Party will support The Nationals amendments Nos 6 to 9. In particular, the doubling of penalties in schedule 1, item [20], which is the subject of The Nationals amendment No. 6, is outrageous for the reasons outlined by the Hon. Rick Colless. The ordinary recreational fisher is not a law-breaker. Members of the Shooters Party have experienced the type of approach in the bill being adapted to the management of land and resources previously. We have had the hot iron applied to us; we have been branded criminals for similar misdemeanours. Recreational fishers, families, kids, grandfathers and elderly people should not be treated as criminals simply because their boat may drift over an imaginary line that is drawn on a map somewhere. That is a ridiculous concept.

The Government would be far better advised to allow current penalties to stand and assess how they work. Mr Ian Cohen said that protection of the Byron marine area has worked very well and that people got to know where they could fish and where they could not fish. Until the new marine parks at Port Stephens and Batemans Bay are bedded down, until three or four Christmas holiday periods have passed, the Government should not go gangbusters and try to rip hundreds of dollars from ordinary Australians who want to continue to do what they have been doing in accordance with the law. In response to what Mr Ian Cohen said about the behaviour of some fishermen, I point out the inevitability of miscreants permeating all levels of society. If people do the wrong thing they are branded as criminals, but drifting across a line is not a criminal act. If the amendment is not supported, the penalties will be way out of kilter with community expectations.

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.42 p.m.]: The Government opposes The Nationals amendments Nos 6, 7, 8 and 9. The Nationals amendment No. 6 relates to the amendment of section 20H by the insertion of new subsection (1), "Removal of wrecked vessels and other property from marine parks". The bill seeks to increase the maximum penalty imposed by a court for failing to remove property—for example, a wrecked and abandoned vessel or an illegal structure in a marine park—at the direction of the Marine Parks Authority. I emphasise that the offence would apply if a person failed to comply with a direction of the Marine Parks Authority in respect of the removal of property. The provision has nothing to do with penalty notices issued in respect of offences under the Marine Parks Regulation.

The Opposition raised concerns about amendments to section 48 of the Act, having incorrectly perceived that as an attempt to double penalties applicable under schedule 2. The Government opposes any amendment to its amendment of section 48 in schedule 1, item [41] because the Government's amendment sets a maximum penalty that can be imposed for an offence specified in the regulations. This is an enabling amendment: it enables the regulations to specify a higher maximum penalty. It does not automatically increase the maximum penalty. The Opposition is confusing the maximum financial penalty that a court may impose when a matter is prosecuted and the amount payable for a penalty notice offence, which is usually a less serious matter.

The Government has no intention of using this bill to increase penalty notice amounts specified in schedule 2 to the regulation. These are typically set at \$200, \$300 or \$500. The intent of the amendment to section 48 by schedule 1, item [41] is to ensure that the maximum applicable under the Marine Parks Regulation reflects the seriousness of the offence and is comparable to the level applying to similar offences under other legislation. For example, section 323 (3) of the Protection of the Environment Operations Act 1997 established that regulations may create offences that are punishable by a penalty not exceeding 200 penalty units in the case of an individual or 400 penalty units in the case of a corporation.

The Government opposes The Nationals amendment No. 7 because we believe that it is unnecessarily prescriptive by placing a limit of 10 people on an advisory committee as a one-size-fits-all approach. That is inappropriate. The size of an advisory committee needs to be workable, and the committee needs to have a balanced membership. However, our marine parks include diverse communities, and obviously each marine park varies geographically, so the need for community representation is different in each. A one-size-fits-all approach, which in this case involves simply prescribing a maximum of 10 members, is too inflexible. Aside from requiring the removal of existing advisory committee members, another impractical problem arises with a 10-member maximum. Two or three local councils may need to be represented on the advisory committee, such as the Batemans Bay Marine Park Committee, which includes Shoalhaven City Council, Eurobodalla Shire Council and Bega Valley Shire Council. That committee could reach a maximum of 10 individuals with one representing each of the other interests listed.

The Government opposes The Nationals amendment No. 8. In practice it is not always possible to maintain a representative on the committee in respect of each interest following resignation and corporate expression of interest. For example, Aboriginal people may choose not to participate in an advisory committee, and may instead prefer to be consulted in other ways. It is difficult to see the benefit of such rigid arrangements in this case. The Government is not opposed to having more than one representative of a particular interest on the advisory committees and has already provided for that. For example, the Port Stephens Great Lakes Marine Park Advisory Committee includes three commercial fishing representatives and two recreational fishing representatives.

The Government is opposed to The Nationals amendment No. 9. The principle of using local people is already used when selecting advisory committee members. It has been possible to prescribe it without the need for legislation. There should be no constraint on being able to appoint the best people possible to represent relative interests on an advisory committee. Membership often happens to reflect individuals who devote considerable time to their local interest groups, associations or organisations, and they are appointed on merit. There are obvious advantages to ensuring that the wider community is informed by members reporting back to their respective organisations. Merit ought not be based solely on whether one is a nominee of a local body, association or club. Merit is one of the factors that must be considered when making an appointment. The suggested amendment places unnecessary weight on the membership of a local body, rather than overall merit.

Mr IAN COHEN [4.46 p.m.]: The Greens do not support The Nationals amendments Nos 6 to 9. The Government's spokesperson on this matter cleared up some of the discrepancies regarding amendment No. 6. It was suggested that schedule 1, item [20] related to a fisher whose boat inadvertently floats across a boundary whereas it deals with wrecks, illegal structures and the like. I do not think anyone is keen to see fishers whose boat strays across a boundary being hammered. I have seen people in the field take great pains to give ample warnings to fishers. People who have been quite recalcitrant in national parks and marine parks have received warning after warning instead of being fined. The National Parks representatives are keen to educate the fishers along the coast. In practice, that is how regulation translates on the ground. Amendment No. 6 clearly relates to wrecks and illegal structures and the Greens believe that the Government's penalties are quite reasonable.

Amendments Nos 7 to 9 aim to reconfigure the way that members are appointed to the advisory committees. The Greens do not support The Nationals amendments. Amendment No. 7 removes discretion by

replacing the word "may" with "must". The Greens' position is that the joint involvement of the Minister administering the Fisheries Management Act and the Minister administering the National Parks and Wildlife Act will ensure that appointments to the advisory committee balance the views of extractive users and conservation-conscious individuals. The Greens do not support those amendments.

The Hon. RICK COLLESS [4.49 p.m.]: The Parliamentary Secretary said that people whose boats float across the boundary will not be fined. I cite a documented example of where that did happen. The member for Coffs Harbour, in the other place, quoted a letter from Geri Rossi, which states:

On the 27 December 2007 I was fishing at Moonee Headland when I was confronted by two Marine Parks Officers who said I was fishing in Solitary Islands Marine Park. One of the Officers asked me if I had a copy of the Marine Park on my boat and I said no, could you give me a map which he did. After questioning me, checking my fishing licence and fish catch (about 15-20 minutes) I was asked if I had a G.P.S. switched on and when I replied my G.P.S. was on the Officer asked me to read out my G.P.S. co-ordinates to him which I did twice at his request. My G.P.S. co-ordinates were 30°-12-880S and 153°-10-669E and as I read them out I wrote them down in my notebook. I reminded the Officer that we had been drifting in a north easterly direction towards the Marine Park for 15-20 minutes while they had been questioning me and before I was asked to read out my G.P.S. co-ordinates to them.

The Officer told me I would be reported for fishing in Solitary Islands Marine Park and would either receive a warning letter or a fine.

When I got home that morning I checked the Solitary Islands Marine Park map and discovered that my G.P.S. reading put me outside the marine Park Area. The border of the Marine Park is 30°-12-860S and my G.P.S. reading was 30°-12-880 S even after drifting towards the Marine Park for 15-20 minutes at .5 knots while being questioned.

The location given by the Marine Parks Authority was at 30°-12-744 S and 153°-10-822 E, which is quite different to my G.P.S. reading.

The offence I was charged with—harm attempt to harm animals in a sanctuary zone, I believe that is quite different from fishing with a rod and reel.

I received the Penalty notice on the eighth January and as I was booked to leave Australia on the fifteenth of January to go overseas for two weeks I reluctantly paid the \$500-00 fine to stop further action which I was out of the country.

Question—That Opposition amendments Nos 6 to 9 be agreed to—put.

The Committee divided.

Ayes, 17

Mr Ajaka	Mr Gay	Mrs Pavey
Mr Brown	Mr Khan	Mr Pearce
Mr Clarke	Mr Lynn	Mr Smith
Ms Cusack	Mr Mason-Cox	<i>Tellers,</i>
Ms Ficarra	Reverend Dr Moyes	Mr Colless
Miss Gardiner	Ms Parker	Mr Harwin

Noes, 21

Mr Catanzariti	Mr Macdonald	Ms Voltz
Mr Cohen	Mr Obeid	Mr West
Mr Della Bosca	Mr Primrose	Ms Westwood
Ms Griffin	Ms Rhiannon	
Ms Hale	Ms Robertson	
Mr Hatzistergos	Mr Roozendaal	<i>Tellers,</i>
Dr Kaye	Ms Sharpe	Mr Donnelly
Mr Kelly	Mr Tsang	Mr Veitch

Pair

Mr Gallacher	Mr Costa
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Question resolved in the negative.

Opposition amendments Nos 6 to 9 negatived.

Mr IAN COHEN [5.02 p.m.]: I will not move Greens amendment No. 5 as circulated. I now move Greens amendment No. 6:

No. 6 Page 13, schedule 1 [35], proposed section 35AA, lines 1 and 2. Omit ", on the request of the relevant Ministers or the Authority,".

This amendment removes the potential for the functions of the advisory committee to be reduced or minimised at the discretion of the Ministers or the Marine Parks Authority. Statutory responsibility for providing advice should not become the discretion of the Ministers or the Marine Parks Authority. The role of the advisory council and committee is an important soundboard for the Ministers and acts as a conduit for public participation in zoning decisions. It must remain free from interference by Government and government agencies. I commend Greens amendment No. 6 to the Committee.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.03 p.m.]: The Government does not oppose the amendment.

The Hon. RICK COLLESS [5.03 p.m.]: The Coalition does not support the amendment but will not cause the Committee to divide on it.

Question—That Greens amendment No. 6 be agreed to—put and resolved in the affirmative.

Greens amendment No. 6 agreed to.

Schedule 1 as amended agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion by the Hon. Penny Sharpe agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.04 p.m.]: I move:

That this bill be now read a third time.

Question put.

The House divided.

Ayes, 22

Mr Catanzariti
Mr Cohen
Mr Costa
Mr Della Bosca
Ms Fazio
Ms Griffin
Ms Hale
Mr Hatzistergos

Dr Kaye
Mr Kelly
Mr Macdonald
Mr Obeid
Ms Rhiannon
Ms Robertson
Mr Roozendaal
Ms Sharpe

Mr Tsang
Ms Voltz
Mr West
Ms Westwood
Tellers,
Mr Donnelly
Mr Veitch

Noes, 18

Mr Ajaka	Mr Gay	Mr Pearce
Mr Brown	Mr Khan	Mr Smith
Mr Clarke	Mr Lynn	
Ms Cusack	Mr Mason-Cox	
Ms Ficarra	Reverend Dr Moyes	<i>Tellers,</i>
Mr Gallacher	Ms Parker	Mr Colless
Miss Gardiner	Mrs Pavey	Mr Harwin

Question resolved in the affirmative.

Bill read a third time and returned to the Legislative Assembly with a message requesting its concurrence in the amendments.

SNOWY MOUNTAINS CLOUD SEEDING TRIAL AMENDMENT (EXTENSION) BILL 2008

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

Motion by the Hon. Ian Macdonald agreed to:

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

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

TABLING OF PAPERS

The Hon. Penny Sharpe tabled the following paper:

Coroners Act 1980—Report of the New South Wales State Coroner into Deaths in Custody/Police Operations, 2007

Ordered to be printed on motion by the Hon. Penny Sharpe.

OCCUPATIONAL HEALTH AND SAFETY LEGISLATION REVIEW REPORT

Production of Documents: Return to Order

The Clerk tabled, pursuant to the resolution of 7 May 2008, documents relating to a report on occupational health and safety legislation received this day from the Director General of the Premier's Department, together with an indexed list of documents.

NATIONAL PARKS AND WILDLIFE (LEACOCK REGIONAL PARK) BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.12 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

Leave granted.

This bill proposes the revocation of a small area of land from Leacock Regional Park, which is located at Casula in south west Sydney. The revocation is to allow for the construction of the Southern Sydney Freight Line.

From time to time circumstances arise which require the revocation of lands reserved under the National Parks and Wildlife Act 1974. To achieve this, and ensure that conservation outcomes remain a priority, lands reserved under the National Parks and

Wildlife Act may not be revoked except by an Act of Parliament. The revocation of lands will generally be undertaken as an avenue of last resort and only where appropriate.

The Australian Rail Track Corporation (ARTC), which is a Commonwealth Government-owned company, and RailCorp have entered into a joint arrangement for the construction, operation and maintenance of the Southern Sydney Freight Line. The Southern Sydney Freight Line is to be a single bidirectional non-electrified dedicated freight line for a distance of 30 kilometres between Macarthur and Sefton in South Sydney. The capital value of the project is estimated to be in excess of \$190 million. The key objective of the Southern Sydney Freight Line is to enable freight and passenger trains to run independently and to increase the reliability and efficiency of freight and passenger train operations. The Southern Sydney Freight Line will be managed by ARTC, while RailCorp will continue to own the corridor.

The design of the southern and northern approach ramps to accommodate a proposed Glenfield flyover and the grade and curvature limitations of the railway track has resulted in design constraints and the requirement for acquisition and de-gazettal of a small portion of Leacock Regional Park, to accommodate the proposed route of the Southern Sydney Freight Line.

The project was assessed under part 3A of the Environmental Planning & Assessment Act 1979 with an Environmental Assessment report prepared and publicly exhibited in May and June 2006. The Minister for Planning approved the construction of the Southern Sydney Freight Line in December 2006. The Southern Sydney Freight Line is to be completed in 2009. The proposed revocation is required because the construction of a freight line is not permissible on land reserved under the National Parks and Wildlife Act. This development requires the revocation of 1,564 square metres of land from Leacock Regional Park.

Leacock Regional Park was reserved under the National Parks and Wildlife Act 1974 in September 1997 and there was a small addition to the park in 2001. Leacock Regional Park is situated within a region where there is high demand for recreational areas for activities such as walking, bicycle riding and picnics. The park, in combination with other protected areas in the Sydney Basin, forms an important refuge area for native animals. It also protects an important range of vegetation communities, which have largely been cleared elsewhere in the Sydney Basin.

The proposed revocation represents a small area of the park, less than 0.5 per cent of the total area of about 34.3 hectares and the land to be revoked does not have any significant natural and cultural heritage values. Compensation will be determined by the Valuer General and will be used to purchase compensatory land.

This bill is a positive one for the people of New South Wales as it will allow for the construction of the Southern Sydney Freight Line, which will provide for reliable and efficient freight train operations through the southern Sydney metropolitan area without affecting passenger rail services. While a small area of land will be lost from the reserve system, the compensation paid will be used to purchase compensatory land in the vicinity of Leacock Regional Park, where this is appropriate for park management purposes and consistent with the objectives of the National Parks and Wildlife Act.

This is a necessary and sensible bill, which benefits many sectors within the community. I commend this bill to the House.

The Hon. RICK COLLESS [5.13 p.m.]: I support the National Parks and Wildlife (Leacock Regional Park) Bill. This bill seeks to revoke 1,564 square metres of the Leacock Regional Park at Casula, south of Liverpool, to allow the development of the Southern Sydney Freight Line. This freight line is to run between Macarthur and Sefton in South Sydney, a distance of some 30 kilometres, and has a capital value of more than \$190 million. The purpose of this line is to allow both freight and passenger lines to operate independently, thus facilitating the timely movement of rail freight to the appropriate railhead and/or port. While the Coalition generally supports the improvement of rail freight corridors, it is worth noting the Leacock Regional Park was gazetted only a couple of years ago and it beggars belief that the Government would not have a transport plan in place to prepare for future improvements to the rail corridor. It makes one wonder what sorts of revocations, acquisitions and resumptions will occur for other rail expansion plans the Government has. Or is the Government simply playing politics with the communities of north-western Sydney and in fact no plans are in place? Despite the lack of forward planning by the Government this bill is non-controversial and the Opposition will not oppose it.

Mr IAN COHEN [5.14 p.m.]: The Greens support the National Parks and Wildlife (Leacock Regional Park) Bill 2008, which revokes a total of 1,564 square metres of land at Casula originally reserved as Leacock Regional Park under the National Parks and Wildlife Act. The bill will not only revoke the national park reservation, but also will vest the land in the Minister for Climate Change and the Environment, enabling the State Property Authority to acquire the land on behalf of RailCorp.

The purpose of the revocation is to allow construction of the Southern Sydney Freight Line. Revocation of national park land is required as this development is not permissible on land reserved under the National Parks and Wildlife Act. Similar revocations have occurred previously, such as with the movement of boundaries. It is appropriate to note the process of revocation, which requires an Act of Parliament to alter the status of land listed as national park. We should not underestimate the importance of parliamentary oversight in matters that reduce protected areas. In the instance of Leacock Regional Park, I appreciate the role given to Parliament to provide a check and balance on actions of the executive. The balancing of development and environment objectives should be undertaken by a broad spectrum of individuals from all political persuasions.

The Southern Sydney Freight Line was assessed under part 3A of the Environmental Planning and Assessment Act, with an environmental assessment report publicly displayed and approval given by the Minister for Planning in 2006. Chapter 12 of the Environmental Impact Assessment notes that the revocation will affect approximately 0.4 hectares of Cumberland Plain woodland, which is listed as an endangered ecological community under the New South Wales Threatened Species Conservation Act and the Commonwealth Environment Protection and Biodiversity Conservation Act. However, the assessment states that this vegetation is of low conservation value due to the level of disturbance and weed encroachment.

The Southern Sydney Freight Line aims to improve the efficiency and cost effectiveness of rail freight services along the north-south rail corridor between Melbourne, Sydney and Brisbane. Presently, freight trains travelling south have significant restrictions placed on the time and reliability of their services due to the preferential status of passenger services. The Southern Sydney Freight Line would effectively eliminate this tension and create potential environmental benefits from the reduction in freight haulage by road.

I am aware that early estimates of the land value are between \$40,000 and \$50,000, which will be paid to the Department of Environment and Climate Change. It is important that these funds are applied to enhance the environmental amenity of the park. It is interesting to see that the assessments undertaken by the Minister for Planning said that the vegetation was of low conservation value due to the level of disturbance and weed encroachment. That may well be the case but it is a shame that that assessment was made because I understand that there are endangered ecological communities on that site. I suggest, without any ability to follow it through, that the department could have looked at mitigating and compensating for the loss caused by the Southern Sydney Freight Line.

If there are any individual threatened species on the site they could be transplanted. I have been put in a situation like this. Homeowners are often required by local councils to transfer such endangered ecological communities or specimens as conditions of development approvals. Maybe the same principle should apply to a State infrastructure project. This is quite a degraded area of land—I have pictures of it—but it is also quite likely that endangered ecological species are on this site. It is not unreasonable for a department to look at the possibility of transplanting individual species from the area that needs to be cleared for the freight line.

If it works for individuals in private property, it should also work for State infrastructure development. If the department cannot purchase compensatory land in the vicinity of Leacock Regional Park, I hope that the funds would be applied to assist the regeneration of other endangered ecological communities in the park and overall park management consistent with the objectives of the National Parks and Wildlife Act. The Greens understand the bill is an important step to the realisation of this project and hence support the bill and the objective of configuring the freight line to a point where there is greater efficiency in rail transport, which is to be commended.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.20 p.m.], in reply: I understand that all members will support the bill. I make three points about some of the issues raised by honourable members in the debate. The reduction is only 0.5 per cent of the total size of the park, or 1,564 square metres, and the land has less significant natural or cultural heritage values than other areas of the park. The small area to be revoked currently forms part of the buffer zone with the existing rail corridor and its removal will therefore not impact greatly on the integrity of the park.

I cannot provide detailed advice to Mr Ian Cohen about transplantation, but I can advise that the land to be revoked has been estimated to be worth about \$40,000 to \$50,000. This will be paid to the Department of Environment and Climate Change when compulsorily acquired. The Valuer General will determine the final amount. The Department of Environment and Climate Change will use the money to purchase compensatory land in the vicinity of Leacock Regional Park where this is appropriate for park management purposes and consistent with the objectives of the National Parks and Wildlife Act.

I advise the Hon. Rick Colless that with regard to the South Sydney freight line the design of the southern and northern approach ramps to accommodate the proposed Glenfield rail flyover and the grade and curvature limitations of the railway track has resulted in some constraints. These in turn have required the acquisition and de-gazettement of a small portion of the regional park to supplement the original area planned for the proposed route. There was always a plan. However, the design has changed, hence the reason for this amending bill, which 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. Penny Sharpe 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 3 to 9 postponed on motion by the Hon. Penny Sharpe.

CRIMES AMENDMENT (ROCK THROWING) BILL 2008

Second Reading

Debate resumed from 7 May 2008.

The Hon. JOHN AJAKA [5.23 p.m.]: The Crimes Amendment (Rock Throwing) Bill 2008 seeks to amend the Crimes Act 1900 to create a specific offence punishable by imprisonment for five years, that of throwing objects at or dropping objects on or towards vehicles or vessels on roads, railways and navigable waters. The bill also makes consequential amendments to the Criminal Procedure Act 1986 to require the new offence to be dealt with summarily unless the prosecutor elects otherwise. The Opposition does not oppose the bill.

Rock throwing has received consistent media attention since 1998. Recent incidents have again brought the issue to the fore. In September last year, a 10-year-old boy was injured in a rock-throwing attack south of Wollongong whilst travelling on a bus with other primary school children. One has to wonder about the intellect of some people. When I first saw this bill I thought perhaps it should be called the morons bill because, seriously, only a moron would consider throwing an object at a school bus or any other vehicle. A car travelling on the F6 at Unanderra was also subjected to a bombardment of rocks thrown from the Nolan Street bridge, and a 17-year-old suffered severe injuries after being hit by a rock thrown through the rear window of a car on Sydney's northern beaches.

The Attorney General mentioned previously the case of Nicole Miller, as well as the cancellation of bus services following a spate of incidents. These incidents created a furore in the community and prompted demands for harsher penalties to be levelled against those committing these callous crimes—and rightly so. The Opposition has proposed a multifaceted approach to the problem. Since 2007 the Coalition has been calling for increased resources for education campaigns against rock throwing, as well as a specific offence of rock throwing. The Opposition called for specific rock-throwing offences for growing levels of seriousness to be introduced, with the maximum penalty of 25 years imprisonment for the most serious rock-throwing offences with intent to cause grievous bodily harm. This proposal is in line with the penalty for intentionally causing grievous bodily harm, mirroring section 33 of the Crimes Act, but would specifically target rock throwing.

The Opposition also called for an amendment to the Bail Act to introduce a presumption against bail for persons charged with rock-throwing offences. The Government failed to institute a specific offence against rock throwing last year, and instead introduced the Crimes Amendment Bill 2007, which increased the maximum penalty for recklessly causing grievous bodily harm from 7 to 10 years imprisonment, and 14 years for offences in company. At the time the Opposition called on the Government to enact specific offences to cover rock throwing, but the Government did not immediately act on those calls. The Government also has done nothing to amend the Bail Act to ensure that those charged with rock-throwing offences face a presumption

against bail, despite the Premier declaring in July 2007 that he would commission a report on the matter. The Government now brings to the House the type of solution that the Opposition proposed a long time ago, only now seeking to address the community concerns that surrounded the events of September last year.

I now turn to the detail of the bill. Schedule 1 amends the Crimes Act 1900 to provide for a new offence of intentionally throwing an object at or dropping an object on or towards a vehicle or vessel on any road or road-related area, railway and so on. For the offence to be made out there must be a person in the vehicle or vessel and the conduct of the accused must risk the safety of a person. However, it will not be necessary for the prosecution to prove that the accused was aware that his or her conduct risked the safety of a person or that the object concerned actually made contact with the vehicle or vessel. The maximum penalty for the new offence is five years imprisonment.

Schedule 2 amends the Criminal Procedure Act 1986 so that the new offence is triable summarily unless the prosecutor elects to have the matter prosecuted on indictment. It also provides for the maximum penalty for the offence when dealt with summarily. The bill finally introduces a specific offence of rock throwing and will act as a sufficient deterrent to individuals who consider such heinous acts. The implementation of such an offence will prove a significant deterrent and express the community's expectations on such matters. However, the proposed new offence only carries a five-year maximum penalty, which I believe many would see as being inadequate for such an offence.

The Opposition initially proposed a maximum penalty of 25 years for the most serious rock-throwing offences with intent to cause grievous bodily harm. However, I note that the Attorney General in his second reading speech stated that to have such a high penalty for this offence would put it out of step with a range of offences where people are actually injured, such as reckless wounding, which carries seven years imprisonment, or recklessly inflicting grievous bodily harm, which carries a penalty of 10 years.

Accordingly, the bill proposes that this new offence carry a maximum penalty of five years imprisonment. The Government stated that, if somebody is killed as a result of a rock being thrown at him or her, the offender could be charged with manslaughter, which carries a penalty of five years imprisonment, or murder, which carries a penalty of life imprisonment. However, on the basis of the law at present that would be a difficult charge to make out.

There is no doubt that a specific offence targeting such offences would make it easier for such an offence to be made out. I note, however, that the New South Wales Police Association, when consulted on the bill, suggested rewording section 49A because of concerns about the ability of police officers to make out some offences under this legislation. If there are concerns about the ability of police officers to make out certain offences under more specific legislative provisions, that serves only to highlight the difficulty of making out more serious rock-throwing offences under the manslaughter and murder provisions of the Crimes Act, which is what the Government is proposing.

Sadly, the Government has made no specific offences covering rock throwing that attract greater penalties in line with section 33. It has also failed to make any amendments to the Bail Act to cover a presumption against bail for people charged with such offences. I urge the Government to give proper and due consideration to the Opposition's proposed amendments to the Bail Act to ensure that those charged with rock-throwing offences face a presumption against bail. For the reasons I have stated, the Opposition does not oppose the bill.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [5.33 p.m.]: I support the contribution of my colleague the Hon. John Ajaka and reiterate that the Opposition does not oppose the Crimes Amendment (Rock Throwing) Bill 2008. I take this opportunity to congratulate Greg Smith, Senior Counsel, and shadow Attorney General in this State, who got this matter rolling—as the Hon. John Ajaka stated earlier. This bill came about as a result of a number of serious and arguably tragic events involving acts of stupidity by people—not necessarily always children. It is often contended that only children commit such acts.

Over the past few days there have been reports of children stoning buses in Lethbridge Park and of occasional incidents of rock throwing in Sydney's south. Invariably children who are not supervised by their parents or guardians carry out these sorts of acts late at night. But a child did not commit the tragic event that occurred down south. It drove home to us all the foolish and dangerous nature of this activity and the fact that it is not always children who become involved in such serious behaviour. So much of what this Government does with regard to law and order takes place after the event. Whether we are talking about this particular response or some other response, it always seems to be after the event.

Rock throwing is not new; it has been going on for years. Honourable members would be aware of an incident on the Hume Highway many years ago when a truck driver was killed as a result of being hit by a rock that had been thrown. There was much community outrage after that attack in the Illawarra, and the Government was forced to address the issue. The Government then decided to do something about it. Greg Smith, Senior Counsel and shadow Attorney General, put forward a strong public argument that something had to be done, and offered a suggestion that might well have assisted the Government. The Government's initial response was to dismiss his suggestion, as it has dismissed other suggestions from the shadow Attorney General. It dismissed a suggestion from a man whose experience in criminal law exceeds that of all the people in this Chamber combined.

The Hon. John Ajaka: That is acknowledged.

The Hon. MICHAEL GALLACHER: A number of honourable members have a great deal of experience in legal matters, but very few members in this Parliament would have Greg Smith's knowledge and understanding of criminal law, so it is fair to pay him a high degree of respect in this regard. The Government has been caught out in another area of community safety. The evidence that rock throwing has been occurring for many years is strong. I am sure that honourable members will correct me if I am wrong but I believe that some time ago the State Government—it might have been the Federal Government—implemented a program to safeguard bridges on all our main roads at a cost of many millions of dollars. There must have been a problem to cause the Government to implement a program to safeguard all our bridges and to prevent people from throwing rocks.

In 2008 we are debating legislation to address a problem that everyone knew existed, other than, it seems, the members of the Government. I draw to the attention of the Parliamentary Secretary a response that I have received from the Police Association, and I would appreciate it if she would address this issue in her reply to the debate. The Police Association is concerned about proposed section 49A (1) (a), which states:

- (a) the person intentionally throws an object at, or drops an object on or towards, a vehicle or vessel that is on any road, railway or navigable waters.

From a practical policing perspective police officers must be able to get to the key part of this legislation, that is, get a person who intentionally threw or dropped an object to admit to such an act. A police officer must be able to prove that it was the intention of the person who threw the object to hit a vehicle. The Police Association is concerned that a person might say, "I did not intend to hit the vehicle; I was aiming for the road", or, "I was merely throwing a stone at a sign on the side of the road and it inadvertently hit a vehicle."

Police Association lawyers examined this legislation to determine how police officers would enforce it. The best way to address this issue is to seek advice and an assurance from the Government that this provision will not be used by anyone in a court as a "get out of jail free" card if a person merely states, "It was not my intention to hit the vehicle." I ask the Attorney General, who is in the Chamber, to address the concerns of the Police Association, which I am sure were raised in a spirit of goodwill. I am sure the Attorney General will put our minds at rest. As I said earlier, the Opposition does not oppose this bill.

The Hon. John Hatzistergos: You have all these legal advisers. You have a terrific legal adviser—better than anyone else in the House.

The Hon. MICHAEL GALLACHER: Unfortunately, he is not here. If I cannot have the best, I go to the next. I would greatly appreciate the advice of the Attorney General in relation to this matter.

Ms LEE RHIANNON [5.38 p.m.]: The Crimes Amendment (Rock Throwing) Bill 2008 will amend the Crimes Act to create a specific offence, punishable by imprisonment for five years, of throwing objects at, or dropping objects on or towards vehicles or vessels, on roads, railways and navigable waters. That is a crime regardless of whether an object makes contact with anything or anyone is hurt. That is what this bill sets out to do. However, the big question is: What will change? Clearly, throwing rocks at vehicles is a crime. Hurling anything at anyone, especially from a height, or if at a target that is travelling at speed, is incredibly dangerous behaviour. I am sure that no-one in this House would condone such a reckless act.

The challenge is how to stop these antisocial and potentially life-threatening activities. The Greens dispute that this rock-throwing bill is the solution. The name of this bill is a giveaway in understanding the Government's motives. This is media management via legislation. It is a law for the sake of a tabloid headline. The comments of the Leader of the Opposition help to explain why we are having media management by

legislation. In effect, we again have the law and order option. One could be forgiven for believing that an election was looming, as that is usually when we have an escalation by the two conservative parties to push a simplistic law and order response. This is playing in a way that is not going to make our community safer.

The Hon. Duncan Gay: Who are the two conservative parties?

Ms LEE RHIANNON: I am sorry, I should have said three conservative parties. I apologise.

The Hon. Duncan Gay: We are a bit left of them.

Ms LEE RHIANNON: I acknowledge that. The Leader of the Opposition attributed praise to Greg Smith for being responsible for the introduction of the bill. That explains a great deal. Mr Smith pushed for this bill and he really should know better. Shortly I will outline the various laws already in place that deal with these crimes. However, Mr Smith pushed for this bill to be introduced, and the Government rushed in and introduced the rock-throwing bill. What an extraordinary title for a piece of legislation. It is obvious that the name for this bill came from a tabloid headline.

The bill is not needed; laws already exist to deal with rock-throwing incidents. Rock throwers can and do face tough penalties under a range of laws: the offence of malicious damage carries a penalty of up to five years imprisonment; malicious damage with intent to cause bodily injury carries a penalty of seven years imprisonment; the offence of affray carries a penalty of 10 years imprisonment; and malicious damage with intent to endanger life carries a penalty of up to 25 years imprisonment. The State already has legislation covering these sorts of activities with sentences ranging from periods of 5 to 25 years imprisonment. Clearly, legislation exists already to deal with these issues under which offenders can be charged.

The bill demonstrates that the Government is failing to deal with the crime of rock throwing. It is not a failure in law; it is a failure to manage the problem. Current laws are not preventing rock throwing and neither, necessarily, will more harsh laws—the same way capital punishment does not prevent murder. The Government should work with key players to find solutions that work. It could start by reading the interesting comments of the bus industry, because many of its employees are in the frontline of these attacks. A recent editorial in the Australasian bus magazine suggests talking with offenders to try to discover their motivation. The article states:

The Government should be conducting a study to find the reasons and put in some preventative and educational programs.

The Greens support this approach. We need improved educational and preventative measures. We acknowledge that the solution is tough but, clearly, that is what must be done. The media quoted one supporter of this bill in the following terms:

These harsher punishments will be a good thing as many of these perpetrators are not aware of how serious the ramifications of their actions can be.

Let us remember that in the main those who commit these stupid, thoughtless and potentially fatal acts are young teenagers—usually young men. A teenage boy's ability to rationally ascertain possible outcomes of any act is not renowned. The bus industry has called for education of offenders who throw missiles at moving vehicles. Let us show them the horrific results of this type of stupidity. It will not solve things overnight, but existing laws can be put into place when these crimes are committed. However, the Government should work on other responses to stop this antisocial behaviour. The Greens welcome news that the Government has set up an interagency task force to work on these issues. We believe a variety of agencies should be involved and a range of solutions adopted. The Greens do not support the bill.

The Hon. MARIE FICARRA [5.44 p.m.]: The Coalition welcomes the Crimes Amendment (Rock Throwing) Bill 2008. The community is outraged at how many instances of death and serious injury sustained as a result of mindless, cowardly, disgraceful and dangerous rock-throwing incidents have led to this bill being debated, finally. I reiterate the comments of my Coalition colleagues: it has taken too long. This Government is viewed as being reactive and not proactive. The community has given plenty of warnings. The Roads and Traffic Authority has been criticised because of its failure to assess properly dangerous spots for screening requirements. Indeed, yesterday the *Sydney Morning Herald* reported:

Barry Whitney, 65, said he had "gone to water" since his prime mover was targeted as it travelled south on the F3 under the Newcastle Link Road overpass at 3.10am on Sunday.

The Roads and Traffic Authority came under criticism yesterday for its failure to erect fence barriers at the site, which is believed to be the only overpass on the F3 not to have such barriers.

Within hours of those remarks, four youths were questioned by police over another incident on the freeway near Gosford where five cars were damaged.

The RTA has also been criticised after they confirmed the overpass where the incident occurred had been deemed not to need a large fence barrier to deter rock throwers.

The final line of the article states:

An RTA spokesman said the Newcastle Link Road overpass would be inspected today to "assess screening requirements at the site".

It is about time the Roads and Traffic Authority woke up to itself. The Government has taken too long to introduce this bill. The Coalition has repeatedly raised this matter and issued numerous press releases in relation to it. I shall refer to some of them. On 22 October 2007 the Hon. Michael Gallacher issued a press release entitled "Not to throw stones—but it's about time!" On 20 September 2007 he issued another press release entitled "Potential rock throwers need education." On the same day a press release was issued by Greg Smith, the shadow Attorney General, under the heading "Labor has failed to act: Rock throwers need big penalties and no bail." On 23 July 2007 the Leader of the Opposition, Barry O'Farrell, released a press release relating to rock throwing entitled "Iemma Government fails again on bail laws." On 7 June 2007 a further press release from Barry O'Farrell about rock throwing stated, "Labor must increase police presence after more attacks on buses."

On 10 January 2008 Andrew Stoner, the Leader of The Nationals in New South Wales issued a press release again on rock throwing stating, "Latest bus attack highlights Iemma's bus safety failures". On 11 January 2008 Gladys Berejiklian, the shadow Minister for Transport, issued a press release entitled, "Watkins fails bus safety yet again." Finally, on 24 April this year Greg Smith issued a further press release stating, "Labor finally listens to Coalition and creates a specific offence for rock throwers." All those press releases were issued over the past six months. It has taken a long time for this bill to be introduced but we are happy that it has arrived.

The Crimes Amendment (Rock Throwing) Bill introduces a new five-year imprisonment maximum penalty for the stand-alone offence of throwing objects at vehicles or vessels, including all forms of motor vehicles, trains, trams, bicycles, vessels and animals being ridden. Clearly, the community needs to hear the message that rock throwing can kill. The term "throw" is defined to include propel for slingshot use, and the act of kicking or dropping objects from heights will be covered by the offence. Police and the judiciary now will have at their disposal an appropriate range of penalties when charging and sentencing offenders. Importantly, offenders will not escape serious charges and penalties because their actions failed to inflict personal injury or damage to property.

The potential to cause injury now will be considered with regards to the intentional act of throwing an object at a vehicle or vessel, and criminal sanctions now can be applied. Throwing rocks at vehicles is a serious crime that can have fatal consequences; vehicles can be damaged, but drivers and passengers can be seriously injured or even killed. This type of activity is not a juvenile prank; it is a serious act that can endanger lives. Police are aware that many of the offenders who have been involved in this activity are young people who have been copying their friends or others, or have been motivated by publicity to commit this type of crime.

Rock throwing has reached epidemic proportions across New South Wales with many copycat, senseless acts. Our communities are suffering from driver and commuter fear. This is no way to live in a civilised society. Interagency task forces comprising police, transport, education, housing and Department of Community Services representatives have been established on the Central Coast and in Western Sydney—the regions of most reported acts of rock throwing. Those interagencies have helped to shape this bill. I acknowledge and thank Mr Keith and Mrs Helen Evans from Camden for their relentless and sincere lobbying of Government and Opposition members for the legislative changes now before the House.

Almost 10 years ago their son, a father of two, was killed by four football-size rocks weighing 13 kilograms smashing through his semitrailer window and striking him hard on his chest. Mark Evans was only 29 years old at the time. He was driving down the Hume Highway and was killed instantly. The perpetrators, who were given lenient 25 per cent discounted sentences because they pleaded guilty—not immediately after the crime but two years on—were two men and two teenagers. Their sentences ranged from two who received short jail terms of three years and two years and three months respectively and another who received a non-custodial sentence of 2½ years of periodic detention to one teenager who was given a three-year good behaviour bond. The penalties were considered to be too lenient by police and the public—too lenient, considering that Mark Evans was killed. Manslaughter carries a maximum penalty of 25 years in jail. As has been pointed out, we are legislators. It is up to us to enact the laws that enable the police and the judiciary to do their job.

The Hon. Duncan Gay: And we remember Mark Evans every time we drive down the Hume Highway and see the Mark Evans Bridge.

The Hon. MARIE FICARRA: Absolutely. In a tragic incident in July last year, 22-year-old Nicole Miller, a South Coast beauty therapist and competitive Latin American dancer—a young and vibrant woman who was engaged to be married and loved life until one fateful night—was returning home from a night out in Wollongong with her friends. A rock was thrown at her car when she was travelling as a passenger at Kiama Downs, almost killing her. She survived being in a coma for four days with severe head and neck injuries, but now still lives in a fuzzy haze, suffering from panic attacks, dizziness, hearing and memory loss. She is too terrified to leave her home alone and is unable to even tie her shoelaces unaided. She has been scarred physically and mentally forever. She has to cope with endless consultations to neurosurgeons and eye and ear specialists and she is unable to return to work.

Just last week two boys aged 14 and 15 were arrested for throwing a two-kilogram rock at a car from the Horsley Drive overpass in Fairfield. Thankfully the driver escaped with just windscreen and car bonnet damage. In another case last September, a 10-year-old boy was travelling on a bus with other primary school students at about 1.00 a.m. after an eisteddfod performance. South of Wollongong, the bus was showered with rocks. As the bus drove past a skate park on Bong Bong Road, Dapto, police allege three youths on motorbikes appeared and started throwing rocks at the bus. One rock smashed a rear window of the bus, showering the 10-year-old boy with broken glass. Fortunately he suffered no major trauma, but the potential harm to all the bus passengers and the driver could have been far worse. Indeed, that case was the subject of many Coalition press releases to which I referred at the commencement of my speech.

On the previous evening, another rock-throwing incident had occurred in the Illawarra region after a car travelling on the F6 at Unanderra was targeted about 7.00 p.m. A 32-year-old man, his wife and six-year-old son were in the car, which was hit by an object that was believed to have been thrown from the Nolan Street Bridge. Thankfully no major injuries were suffered, except for shock. During the very same week, 17-year-old John Marinovic from Brookvale suffered severe injuries after being hit in the head by a rock thrown through the rear window of a car on Sydney's northern beaches. He had to undergo emergency brain surgery. I could cite many recorded incidents to emphasise that this offence has reached epidemic proportions in New South Wales.

In the past a range of existing offences applied to rock throwers when serious injury or damage had been inflicted. The charges included attempted murder, manslaughter, maliciously and recklessly inflicting grievous bodily harm, reckless wounding and malicious damage. The bill will add a further range of criminality with a corresponding range of penalties to cover all forms of throwing offences. I emphasise that more preventive community and school-based educational awareness programs need to be funded. That is the best means of avoiding senseless acts. It will make people think before they commit foolish and dangerous acts such as rock throwing. Experience has shown that penalties alone are not the total answer. Education about the serious consequences endured by victims and concern of the perpetrators for their own futures may be better deterrents.

An initiative by the South Australian Police [SAPOL] involved information supplied to school principals and students. That program of community awareness and shared responsibility for crime prevention began in 2005. The information states:

The attached Statement relating to rock throwing at vehicles is an extremely serious matter and steps need to be taken to ensure that all members of the community are aware of the seriousness and consequences of this behaviour.

I wish to state quite clearly that I have the utmost belief that the vast majority of our students are responsible young people who are not engaged in this antisocial behaviour. These are isolated incidents although the consequence of such behaviour could be extremely serious.

With concerns for public safety, SAPOL has launched a special operation to identify hot spots of activity in order to assist police to locate and apprehend the persons responsible for engaging in this very dangerous crime. Many of the offenders caught committing these types of crime have been young people, copying peers or inspired by publicity to engage in this crime. With school holidays upon us, we want to make sure that the young people in our community are made aware that throwing rocks or objects at vehicles is a serious crime that can have fatal consequences. Vehicles can be damaged, but worse drivers and passengers can be seriously injured or even killed.

We have attached a flyer with the message titled "Rock Throwing Can Kill; could you deal with the consequences". This message contains information that police want to convey to your students to protect them from causing harm to others and to deter them from engaging in this serious and dangerous activity. We ask that you distribute this flyer to your teaching staff and have them convey this message to their students as soon as practicable before the commencement of school holidays.

A further pertinent part of the school flyer states:

Police together with the community want to make sure that you all understand the seriousness of this crime. The message is clear; **ROCK THROWING CAN KILL**. Police and the community will be working together to make sure you are safe while you are on school holidays; help them by not getting involved in rock throwing. If you find yourself with others who think rock throwing is fun, remind them that it can kill, and could they deal with the consequences?

If you know of anyone who has been involved in throwing rocks or objects at vehicles please ring Bank SA Crime Stoppers on 1800333 000. If you see any suspicious behaviour ring Police on 131444.

Infrastructure spending on the provision of more protective screens for our many overhead bridges needs to continue. New section 49A (2) in schedule 1 the bill will make rock throwing an offence, regardless of whether the vehicle or vessel was stationary at the time the object was being thrown or dropped. New section 49A (3) will make rock throwing an offence without needing to prove that the accused person was aware that his or her actions put at risk the safety of any person. The bill also includes a new provision to cover circumstances in which the rock or object does not connect with a vehicle or vessel.

I am pleased to have had the opportunity to speak during debate on this legislation. The bill introduces a new stand-alone range of penalties and offences relating to rock and object throwing and will assist in giving our communities confidence that we as legislators are listening to their concerns. We are sending senseless, callous and indiscriminate offenders a clear message that rock-throwing attacks on drivers, passengers and transport workers will not be tolerated and that people who commit such offences will feel the full force of the law.

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.59 p.m.], in reply: I thank honourable members for their contributions to this debate. The maximum penalty of five years sends a strong message to the community about the seriousness of throwing rocks and other objects. The Opposition has made a number of claims about this issue. Its proposal to have a 25-year prison term for simply throwing a rock when the rock does not even hit the car and no-one is injured is ill-conceived. The Government is taking a careful, considered approach by legislating for a range of offences with a range of penalties to properly cover the full range of rock throwing from the least serious to the most serious.

In relation to reckless wounding, rock throwers who cause injury to their victims also could be charged with reckless wounding or recklessly inflicting grievous bodily harm. If someone is wounded, the rock thrower could be charged with reckless wounding, which carries a penalty of seven years in prison. Rock throwers in a group who wound someone could face up to 10 years in prison under a reckless wounding in company charge. If someone is seriously injured in an attack, the rock throwers face heavier penalties for inflicting grievous bodily harm. Last year the Government passed legislation to increase the penalty imposed on those who recklessly inflict grievous bodily harm from seven years imprisonment to 10 years.

The Government also increased, from 10 years to 14 years, the maximum penalty imposed on those who recklessly inflict grievous bodily harm in the company of others. For all the chest beating about what the Opposition did or did not say, what did Greg Smith say at the time? He said that the Government was using the issue of rock throwing as a Trojan horse to rush through legislation. We hope that it does not happen, but if someone is killed in a rock throwing attack the thrower could face a charge of murder and a maximum sentence of life imprisonment if the prosecution can show that the thrower acted with reckless indifference or intention to cause grievous bodily harm. Even if that intention cannot be established, a thrower could face a charge of manslaughter, which carries a maximum penalty of 25 years in prison.

Twenty-five years imprisonment is the penalty for extremely serious criminal offences, including manslaughter, sexual assault of a child under 10, kidnapping and the victim is harmed, and ongoing child sexual assault or supplying commercial quantities of drugs to a child under 16. Rock throwing is serious, but cases in which a car is not hit and no-one is injured do not belong in the same category as other extremely serious offences. If rock throwing without hitting a car or injuring a person carried a 25-year penalty, juries would be extremely unlikely to convict someone of the offence.

In response to an issue mentioned by the Leader of the Opposition, I point out that intention is a key element of many offences in New South Wales criminal law. While we accept that an admission is helpful, frequently there is no admission to assist police and prosecutors. Rather, in this bill the intention is inferred from the circumstances of the offence. Moreover, the prosecution does not have to prove any intention to hit the car or vessel. The prosecution must establish that the throwing or dropping was deliberate and not accidental. This is important because it protects people who might innocently knock or drop an object towards a car or a

vessel—for example, tradespeople who may have boxes of tools while they are working on overpasses. No-one wants to see people who harm others by throwing rocks acquitted, and that is what the bill is about. 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. Penny Sharpe agreed to:

That this bill be now read a third time.

Bill read a third time and transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.

ADMISSION OF THE TREASURER INTO THE LEGISLATIVE ASSEMBLY

The President reported the receipt of the following message from the Legislative Assembly:

Mr PRESIDENT

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

That the Legislative Assembly invited the Honourable Michael Costa MLC, Treasurer, Minister for Infrastructure, and Minister for the Hunter, to attend the Legislative Assembly on Tuesday 3 June 2008 at 12 noon to give a speech of unlimited duration in relation to the New South Wales Budget 2008/2009.

Legislative Assembly
14 May 2008

R. Torbay
Speaker

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

WORKERS COMPENSATION AMENDMENT BILL 2008

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.05 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

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

Leave granted.

The Workers Compensation Amendment Bill 2008 contains a number of initiatives to cut red tape and improve workers compensation arrangements. The bill also gives effect to changes to specialised insurance to ensure the ongoing viability of the WorkCover Scheme.

The bill contains a number of new provisions that modify the obligations of employers to take out workers compensation insurance. First, the bill exempts employers who pay wages below a threshold, initially of \$7,500, from the requirement to hold a workers compensation policy.

This reform aims to reduce the costs and administrative burden on several hundred thousand small and domestic employers by removing the requirement to obtain a minimum premium or domestic workers compensation policy.

Currently around 200,000 householders take out workers compensation insurance, this reform will remove their need to do so and also extend the same workers compensation coverage to around 2.4 million households in New South Wales.

The exemption will not apply where an employer engages an apprentice or trainee, or is a member of a group for workers compensation purposes.

Workers employed by these exempt employers will be covered for their compensable injuries by virtue of a "deemed" policy. If a worker employed by an exempt employer is injured at work, the employer will be required to notify the Nominal Insurer and pay the Nominal Insurer a once only fee for the administration of the claim. The fee will be prescribed by regulation but it is expected initially to be in the vicinity of \$175.00.

Consequently, these exempt employers will still be required to meet all other workers compensation and injury management obligations. These include advising employees of their right to lodge a claim when injured, reporting injuries and providing suitable duties where appropriate.

This reform aligns New South Wales arrangements regarding the obligation to hold a workers compensation policy with Victoria; and is a further step in achieving the harmonisation and streamlining of workers compensation requirements between the States and Territories.

Another insurance reform in the bill is to align the period for which records relating to wages must be kept with the record keeping requirements of Victoria and the Australian Taxation Office. Currently, the workers compensation legislation requires employers to retain all records relating to wages for seven years. Under the bill, this will be reduced to five years.

The bill corrects an anomaly that exists in relation to the recovery of compliance audit costs from certain employers. Compliance audits or inspections are currently undertaken by or on behalf of WorkCover to ensure that the correct premiums are paid. Under existing legislation, costs of these inspections may be recovered from employers who have workers compensation policies and who under-declare wages by 25 per cent or more.

However, there is no provision for recovery of these costs from employers who have failed to take out a policy. The bill contains a new provision that corrects this anomaly and will enable recovery of all audit and inspection costs incurred by WorkCover where the employer does not have a workers compensation insurance policy.

The bill also clarifies that an individual employer should hold only one workers compensation policy of insurance. While it is the intention of the existing section 155 of the Workers Compensation Act 1987 to prevent employers from holding more than one workers compensation policy of insurance, there has been some questioning of this. The bill now makes it clear that the rule is, one employer, one workers compensation policy. However, the amendment will not prevent an employer in the coal mining industry holding a policy under the Coal Industry Act for employees in that industry, as well as holding a general workers compensation policy for any other employees.

An important reform in the bill is to ensure that WorkCover has sufficient powers to obtain and manage securities from current and former self-insurers to ensure ongoing claim liabilities (including for dust diseases) are serviced. New provisions in the bill extend the existing security arrangements to make it clear that they apply to former self-insurers who may be required to provide additional deposits or security.

Further, interest earned may be applied to supplement any additional deposits that have not been made. These amendments will assist in protecting the Scheme in the event that there is a shortfall in security and a self-insurer or former self-insurer is unable to fund their liabilities.

I now turn to proposals in the bill to close the class of specialised insurers. Around 75 per cent of employers are covered by the WorkCover Scheme, which is managed by the Workers Compensation Nominal Insurer. The Nominal Insurer administers the Scheme Funds, which are held in the Workers Compensation Insurance Fund. The WorkCover Scheme offers workers compensation cover to any eligible employer, regardless of risk or claims history, and the substantial size of the fund allows the Scheme to offer affordable premiums to all employers.

The New South Wales Scheme has experienced a major improvement in efficiency and performance, with a deficit of over \$3 billion in December 2002 being returned to surplus in less than four years. This strong performance has allowed the Government to reduce workers compensation premium rates by an average of 30 per cent and increase statutory benefits twice since December 2005.

However, workers compensation insurance is also offered to employers in some industries by specialised insurers, which are licensed by WorkCover. Specialised insurers are generally responsible for specific industries or cover specific categories of employers, such as Catholic Church Insurance or StateCover, the local government scheme. Most specialised insurers are of long standing and offer workers compensation cover to relatively small groups of employers.

The WorkCover Board has been concerned that the potential growth in the numbers of specialised insurers could threaten the ongoing viability of the Nominal Insurer because, unlike the Nominal Insurer, specialised insurers can refuse proposals for workers compensation insurance. This capacity allows specialised insurers to offer cover to employers who have a good claims record, but reject proposals from high-risk employers. If the number of employers eligible for cover by specialised insurers were to increase, the Nominal Insurer could be left with high risk and/or poor performing employers, affecting the stability and viability of the Nominal Insurer scheme.

Further, the WorkCover Board believed permitting the entry of new specialised workers compensation insurers would effectively involve the private underwriting of a significant section of the workers compensation system. The WorkCover Board accordingly recommended that the entry of new specialised insurers should cease immediately.

The bill provides for the closure of the class of specialised insurers to new entrants and it takes effect from the date of introduction into the House. Prohibiting the entry of new specialised insurers will reinforce the recent achievements in stabilising and enhancing the Scheme, by ensuring that it maintains a size and industry mix that is sufficient to provide stable and affordable

premiums and that will ensure its long term viability. The holders of existing specialised insurer licences will still be able to operate under their licences and to apply for renewals where the term of a licence expires. In summary, the bill provides a number of initiatives that will improve the workers compensation arrangements and administration and ensure the continued long-term viability of the Scheme.

I commend the bill to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [6.05 p.m.]: I lead for the Opposition on the Workers Compensation Amendment Bill, which has a number of aims that are supported by the Coalition. First, the bill removes the compulsory requirement for employers who spend less than \$7,500 a year on wages paid to employees to take out workers compensation. Currently, approximately 200,000 households, as part of their home contents insurance policy, have an optional additional payment to cover cleaners, gardeners and other domestic workers for workers compensation. This means that approximately 2.4 million households throughout the State—I am sure members who are familiar with imposts on small businesses will welcome this—will no longer need this level of coverage. The Opposition supports that amendment.

Pardon my ignorance, but how did the Government arrive at the figure of \$7,500? I am sure departmental advisers could provide the Parliamentary Secretary with a reasonable rationale for that figure. That is important because no doubt members of this House—some of them might have a professional interest in this—will from today be asked why the figure is \$7,500, and not \$8,000 or \$9,000, was selected. The legislation dictates that if a claim is made, an employer will be required to pay an administration fee for the claim. It is important that the Government and WorkCover do their part by ensuring that the fee commences and remains at the lowest possible level so that employers and home owners are not unduly burdened.

The bill makes it clear that an employer must have a single workers compensation policy covering all the employer's workers. Sensibly, the bill stipulates five years as the period for which an employer must keep wages records—a period that aligns with Victorian and Australian Taxation Office requirements. The bill also provides for the recovery of compliance audit costs from employers who fail to obtain workers compensation insurance. Additionally, the bill aims to ensure that WorkCover has sufficient power to obtain and manage deposits by self-insurers and former self-insurers so that ongoing workers compensation liabilities, including dust diseases, are provided for. Self-insurers must deposit money with WorkCover to ensure that their ongoing workers compensation liabilities are met. At times self-insurers also may be required to deposit additional funds.

The bill extends the provisions to allow WorkCover to require former self-insurers to deposit funds or additional funds that will be adequate to provide for all liabilities, current and future. The existing arrangements also are extended to cover self-insurer liabilities arising from dust diseases. The most controversial aspect of the bill is the restrictions placed on new applications for specialised insurance. It would come as no surprise to the Government that the Opposition is concerned about the application of such a provision. As the Government would be aware, we have met with a number of industry representatives who also are concerned about it. I propose to put forward a case as it was put to the Opposition by industry representatives. On behalf of these employer representatives and in a last-ditch effort, I ask the Government to reconsider its inflexibility on this issue.

Under current legislation, an industry—for example, hoteliers or the racing industry—could be granted the ability to effectively insure itself. That reform was promised in the aftermath of the controversial 2001 changes to workers compensation. Since enactment of workers compensation legislation, seven specialised insurers have been established, including Catholic Church Insurance, Coal Mines Insurance, Hotel Employers Mutual, Racing New South Wales, Guild Insurance, StateCover Mutual and North Insurances. The Government stated its belief that the central workers' compensation scheme was at risk of becoming financially unviable as industries pulled out of the central fund to establish their own scheme. On 18 March, without any prior notification, the Minister for Industrial Relations issued a press release stating:

New specialised workers compensation insurers would not be permitted entry to the State's workers compensation system.

This bill formalises that announcement. At the time of the announcement a number of industries were in varying stages of preparing to lodge applications to establish their own workers' compensation scheme. For them this announcement came as a shock. The aged care industry—through Aged Care Employers Mutual Limited [ACEM]—had submitted its application prior to the announcement of the changes. Other industries, including the meat processing, printing and motor trade industries, were preparing applications, and some were within a few weeks of submitting their applications for approval. Several of those industries rightly expressed concerns about the fairness of abolishing new entrants into specialised insurance without consultation or, shall we say, a

lead period in which an application could be lodged. They argue that the failure to notify the business community of the closing of the scheme was a violation of natural justice and good governance.

A number of industries dedicated considerable resources, financial and administrative, to identify and implement all of the necessary processes and paperwork prior to the submission of an application for specialised insurance, including new occupational health and safety systems. One industry indicated it expended almost \$1 million over three years in preparing its application. The aged care industry has indicated to the Opposition and to crossbench members that the application process has cost it \$1.9 million.

As I mentioned earlier, the aged care industry submitted its application for a licence prior to the March 18 announcement by the Minister that the system was closed. It paid a deposit and received a letter confirming receipt of the deposit. I have a copy of that letter and I will refer to it shortly. This legislation will prevent its application from being accepted. The Parliamentary Secretary yesterday in the other place made a number of claims about the application by Aged Care Employers Mutual Limited, and I believe they need to be addressed. The member claimed that the Aged Care Employers Mutual Limited application was:

... resubmitted on 18 December 2007, and on 15 January 2008 WorkCover confirmed that the licence application met the broad requirements for a specialised insurer licence but was still incomplete due to a lack of Australian Prudential Regulation Authority approval.

The member for Strathfield must have been reading a different letter from that received by ACEM. The letter it received made no mention of the application being incomplete because of a lack of Australian Prudential Regulation Authority [APRA] approval. Indeed, it said:

WorkCover will contact you if further information or clarification is required when your licence application is reviewed.

Aged Care Employers Mutual Limited was more than happy to receive the letter I have in front of me, which was signed by the acting director of Regulatory and Financial Services Group. Attached to the letter was a copy of the tax invoice from WorkCover New South Wales for the sum of \$30,000. It is all there, but of course the Government does not want to try to explain the situation. However, it most certainly needs to be clarified. On 26 October 2007 WorkCover wrote to Aged Care Employers Mutual Limited advising in part:

The WorkCover Board has considered the standard of the application and resolved that WorkCover cannot accept or consider ACEM's application until ACEM submits a complete application to WorkCover. The board agreed that this decision would not apply to the requirement that ACEM be an approved insurer by APRA.

At least two other successful industries undertook the licensing process in concurrence with their Australian Prudential Regulation Authority licence application. This is a clear contradiction of what the Parliamentary Secretary, the member for Strathfield, said yesterday. It is quite obvious that she was reading from different letters, or misunderstood, or was misrepresenting the correspondence that had taken place between WorkCover and Aged Care Employers Mutual.

Last night in the other place the Parliamentary Secretary also said that "... the aged care industry was advised generally in November, through its board members, not to continue..." with its application. Yet the 15 January 2008 letter from WorkCover also enclosed the receipt for the \$30,000 application fee. Yesterday in the lower House the Parliamentary Secretary said that in November the applicant was told, "Don't proceed. You're wasting your time", yet on 8 January 2008 WorkCover issued a receipt for \$30,000. I have the receipt. The receipt was happily accepted—"We will gratefully accept your \$30,000 but when the time comes we will tell you about something you may or may not recall that took place in November." Seriously, this has been a botched job right from the start in terms of dealing with these individuals.

If, as claimed, WorkCover was telling Aged Care Employers Mutual Limited to basically cease and desist with its application in November, why then on 15 January 2008 did it confirm that it had cashed the cheque? Could it be that, contrary to the assertions of the Government in another place, the Aged Care Employers Mutual Limited board was not advised until March that its application might not be able to continue? The aged care industry has indicated it expected savings of up to \$4 million from this licence. That is \$4 million that could be returned to employers and consequently reinvested into caring for the elderly. There would not be one person in this place who could stand, hand on heart, and say a sufficient level of care is available for this ever-growing sector in our community, the elderly. Every dollar spent in that industry is well spent. If we could get another \$4 million to spend on that industry, which is a growth industry by any measure, it would be well spent.

The Opposition is proposing two amendments, which have been circulated. I apologise for their late circulation but they will take only a matter of moments for anyone to read. An amendment will be moved to allow the application already lodged with WorkCover by Aged Care Employers Mutual to proceed. That amendment is about procedural fairness. Aged Care Employers Mutual has spent two years and approximately \$1.9 million on its application. WorkCover has accepted its money and asked Aged Care Employers Mutual Limited to provide additional support information. The Legislation Review Committee reported on this legislation as follows:

The proposed amendments could have an adverse impact on licence applicants who have applied before the commencement of the section and also, have an adverse impact on those who have a licence granted under the current legislation except for the proposed section 176 (4) when after the date the Bill was introduced into the Legislative Assembly, yet before the passing of the Bill or commencement of the amendment Act, would make their licence ineffective through the retrospective application of the amending section.

The report goes on to say:

The Committee considers this would cause loss and adverse impact to persons who have acted on the basis of the current legislation. The Committee notes the retrospective effect of revoking a licence duly made under current law trespasses on a person's right to order his or her affairs in accordance with the current law, and refers this to Parliament.

The second amendment will provide a 30-day grace period to allow the submission of applications by industry associations. It is important to note that this amendment does not impose on WorkCover a compulsory requirement to issue an insurance licence as a result of industry association applications. It simply allows those industries, whose submission of their application was imminent before the Minister's announcement on 18 March, the opportunity to do so and to have it considered on its appropriate merits. As was pointed out earlier, a small number of industries had expended considerable financial and administrative resources in preparing their applications for lodgement. Just, fair and good governance principles should have allowed industry associations an appropriate period of time to submit their application before the program was shut off.

If this amendment is passed WorkCover should contact those industries that have been in the process of lodging their application and advise them of this amendment that will allow them a window of opportunity to lodge their applications. It is then up to the industries to determine whether to do so. Once an application is lodged WorkCover should consider it on its appropriate merits and the guidelines that applied to all other successful applicants beforehand. This is not about special consideration; it is about just consideration.

The Hon. ROBERT BROWN [6.20 p.m.]: The Shooters Party supports the main thrust of the bill. However, I will make some comments on the amendments presented by the Opposition. We agree with the Opposition sentiments; we agree with the sentiments expressed by the Regulatory Review Committee. Surely acceptance of these amendments will not make all that much difference to the Government's intention in regard to the bill. I do not think they will destroy one of the main workers' compensation insurer's business. They will deliver, in what is otherwise a good bill, some sense of natural justice to those people who will be affected by the retrospectivity aspects that the Leader of the Opposition raised. Whilst we are inclined to support the bill, we also urge the Government to please think seriously about the Opposition's amendments. We think that they are reasonable.

Ms LEE RHIANNON [6.21 p.m.]: The Greens do not oppose this legislation, but you would have to say that the phrase "labour and workers compensation" does have an unfortunate ring these days following the events of 2002. Every time workers compensation legislation comes before this House it brings back bad memories. Many of us would remember the former Premier Bob Carr standing on the parliamentary veranda giving a rude sign to workers who were gathered outside. I think if young people gave that sign, he would probably have been ready to bring legislation in to outlaw it.

I can remember in the lead-up to that legislation being briefed by the Hon. John Della Bosca—this was in the days when there were large numbers of crossbenchers—and he was running through tables, outlining the mounting financial disaster that was about to descend on the workers compensation scheme that could at any moment collapse, and it was really like doom and gloom. I can remember many of my colleagues being understandably alarmed by someone in such an important position as the Hon. John Della Bosca outlining the case, but the disaster lies with the workers compensation that we passed on the combined vote of the Government and the Opposition. The disaster has been formed by injured workers who do not qualify for fair and decent compensation. The hardship it brings to people and their families is simply unacceptable. It was ugly legislation, which delivered a shameful legacy.

The legacy before us today also has some shortcomings. There is the issue of the onus of proof, in proposed section 156B. It effectively reverses the onus of proof that requires the authority to prove all elements of an offence. This is clearly inconsistent with the presumption of innocence. I understand how it is argued that this is justified under certain circumstances where knowledge of the factual circumstances lies with one party, but I argue that we need to be very wary of allowing the presumption of innocence to be watered down.

Over the years many members have expressed real concern about passing any legislation that has an element of retrospectivity. The proposed amendments could have an adverse impact on licence applicants who applied before the commencement of the section, and also on those who have a licence granted under current legislation. Retrospective legislation would cause loss and have an adverse impact on persons who have acted on the basis of the current legislation. There is also an issue of absolute liability, about which I know concern has been expressed.

The Greens are considering their position with regard to the amendments. We will consider the debate. We certainly understand how many of the schemes that could be disadvantaged by the present legislation do provide a valuable service in assisting injured workers to get back on the job as quickly as possible. That has an enormous advantage and I have always believed that that is where we have common ground in our approach to workers compensation. Clearly there needs to be financial backup, but assisting workers to get back on the job is an absolute priority. I am also aware that there is a concern—and we are mindful of it—that specialised schemes can result in an effective cherry-picking of the overall workers compensation scheme and in a weakening of the scheme. That is what we are weighing up and we will be listening to the debate.

The Hon. PENNY SHARPE (Parliamentary Secretary) [6.26 p.m.], in reply: There have been some issues raised in this debate that I think the Government is going to agree to consider further.

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

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Order of the Day No. 16 postponed on motion by the Hon. Ian Macdonald.

SNOWY MOUNTAINS CLOUD SEEDING TRIAL AMENDMENT (EXTENSION) BILL 2008

Second Reading

The Hon. IAN MACDONALD (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [6.27 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have my speech incorporated in *Hansard*.

Leave granted.

I move that this bill be now agreed to in principle.

The Snowy Mountains Cloud Seeding Trial Amendment (Extension) Bill authorises Snowy Hydro Limited to undertake further cloud seeding research over a larger geographical area.

The aim of the research project is to increase snowfall from clouds passing over the Snowy Mountains and to assess the effectiveness and reliability of precipitation enhancement technology in the region.

The bill will amend the 2004 Act to expand the geographical area and duration of the study.

The trial area will be extended eighty-seven kilometres from the Kiandra region in the north to the Ramshead Range in the south and forty kilometres from the Jagumba Range in the west to Eucumbene and Jindabyne in the east.

The total size will be approximately 2,250km², which is about double the size of the current target area. This area covers the main catchments of the Snowy scheme.

However, no cloud seeding equipment such as cloud seeding generators will be deployed by Snowy Hydro in wilderness areas.

The trial will be extended in duration for a further 5 years to the current project, that is to April 2015. This additional time will allow Snowy Hydro time to build, set up and test the new equipment, and incorporate the new area into the experimental design.

The increased duration will also mean that the precipitation data Snowy Hydro analyses is statistically significant and that it will integrate with the data and analysis already underway.

In other words, continuation of the research project, with an expanded trial area, will assist Snowy Hydro to determine with increased certainty the effectiveness of cloud seeding for supplementing natural snowfalls and increasing inflows to storages of the Snowy Mountains Scheme.

The experimental design developed by Snowy Hydro relies on replication in time rather than in space to statistically demonstrate the impact of cloud seeding. The longer the trial runs the greater would be the chance to reliably demonstrate if cloud seeding has increased snowfall.

The amending bill presents an opportunity for the Government to further encourage and facilitate a project that will yield substantial benefits to the Snowy Mountains, rural irrigators, businesses and the environment.

This bill also has the potential to provide stronger rural and regional economies, which is a goal of the NSW Government and is outlined in the NSW State Plan.

With expansion of the trial area, there is potential to more than double the amount of extra precipitation produced than the trial is currently approved for.

Inflows remained significantly below average, with Lake Jindabyne around 50% capacity, Eucumbene about 17% capacity and Tantangara Reservoir around 7% (as at beginning May 2008). This is a serious concern.

At these levels, the threat to down stream communities and agricultural production, the environment and electricity generation continue.

The storages will remain vulnerable to further drought until prolonged above average inflows are received and water levels return to those seen prior to the start of the current dry sequence.

By replenishing water storages in the Snowy scheme, the additional water will increase certainty of releases for irrigators. Increased precipitation through cloud seeding will partially offset the impacts of the forecasted worsening drought conditions for New South Wales irrigators in the Murray and Murrumbidgee valleys.

Additional water is urgently needed to support down stream rural and regional communities.

The increased snowfall from the research project will also benefit tourism operators and communities in the Snowy Mountains. Improved snow depth and the length of the ski season are both expected outcomes from the research project.

Continuation and expansion of the project therefore has the support of the Snowy Mountains ski industry and the local chambers of commerce.

Alpine recreation makes a significant contribution to the economy. Many businesses in the region depend on a regular and good snowfall to provide a good ski season.

Good snowfall also provides incentive for future business investment in the region. In the past 10 or 15 years there has been a noticeable decline in annual snowfall.

Therefore maintaining good snowfall will assist the area to continue to provide substantial benefit to the New South Wales economy.

Research has indicated that snowfalls in the Snowy Mountains region have been decreasing on an average of 1 per cent per year for the past 50 years.

The decline in snowfalls, if continued, may lead to the extinction, within 70 years, of between 15 to 40 of the 200 alpine plant species.

Additionally, the research project has the ability to potentially benefit other species and ecological communities in the Snowy alpine regions.

In particular, species vulnerable to shallow or declining snow, such as the mountain pygmy possum, the endangered northern and southern corroboree frog, the alpine tree frog, the broad-toothed rat and the alpine herb fields may all benefit directly from the increased snowfall.

The research project also provides much needed relief to freshwater environments on the Snowy and Murray Rivers.

The research project will assist to avert the adverse effects of long term climate change on the alpine region of New South Wales.

It is important to register that the project is not simply about providing snow for skiers and water for irrigators, but also about looking after the national parks and wildlife of the area and the riverine environment of the Snowy and Murray Rivers.

The research project will also provide environmental benefits by increasing the capability of Snowy Hydro to produce clean, renewable energy.

The estimated additional water from the research trial will allow Snowy Hydro to produce an amount of hydroelectricity per annum that, if produced by a New South Wales coal plant, would emit over 200,000 tonnes of carbon dioxide or CO₂ emissions.

Not only does cloud seeding present an opportunity to achieve all these benefits, it also does it with what the Government understands to be no significant adverse environmental impacts.

The environmental monitoring of the cloud seeding trials to date supports the conclusion of the Snowy Hydro Expert Panel that cloud seeding has no significant adverse environmental impacts.

Also, there has been no scientific evidence of adverse environmental impact produced.

The provisions in the 2004 Act relating to environment controls have not been altered.

The Act provides that cloud seeding may be suspended or terminated if the Minister for Planning and the Minister for Climate Change and the Environment are satisfied that one of several circumstances applies.

These circumstances include: the cloud seeding operations are having, or will have, a significant adverse environmental impact; or Snowy Hydro has not complied with any requirements with respect to the cloud seeding operations that have been imposed by the Ministers to minimise environmental impact.

The Ministers may also suspend or terminate the research project if Snowy Hydro fails to provide information concerning the environmental impact of the cloud-seeding activities.

It is important to note that none of these powers have been used in the cloud seeding trial so far.

In addition, the Act also provides that the Natural Resources Commission supervises the environmental impact of authorised cloud-seeding operations and report on the environmental impact of those operations to the relevant Ministers.

In approving the extension and expansion of the trial, Snowy Hydro will be required to prepare a revised Environmental Management Plan.

Snowy Hydro has committed \$20 million over the life of the trial and is responsible for extensive monitoring and reporting requirements based on trial design and risk assessment advice from Monash University.

The Snowy Mountains community and the community on the Murray River are supportive of the extension of the program. The Snowy Mountains community has also expressed satisfaction and confidence in the operational procedures implemented to minimise risk of impacts on the environment.

The Snowy Mountains Cloud Seeding Trial Amendment (Extension) Bill will enable Snowy Hydro Limited to carry out cloud seeding operations for a total of 11 years and extend the area to double the size of the current trial.

The extension and expansion of the research project will lead to increased snowfalls and inflows to storages in the Snowy Mountains generating further significant public and environmental benefit.

The bill will enable the NSW Government to provide for stronger rural and regional communities.

I commend the bill to the House.

The Hon. RICK COLLESS [6.28 p.m.]: I move to put the Coalition's position on the Snowy Mountains Cloud Seeding Trial Amendment (Extension) Bill 2008. At the outset I say that we will not oppose the bill. In fact we have a great deal of general support for cloud seeding. The bill authorises Snowy Hydro Limited to undertake further cloud seeding research for an extended duration over a greater geographical area. I think it is worth pointing out that cloud seeding is defined as a procedure to artificially generate precipitation from clouds. It may attempt to produce rain or snow when none would fall naturally or it may attempt to increase the amount of rain or snow which falls over a particular area. The Snowy Hydro Limited trial currently underway commenced in 2004 for a five-year period funded by Snowy Hydro Limited.

The aim of that trial was specifically to increase snowfall over the Snowy Mountains area. The extension of this trial until 2014 has the new aim of reducing the impact of the drought in the area. Over the past few years some of the local storage facilities, including Lake Jindabyne, Lake Eucumbene and Tantangara Reservoir, have recorded low inflows and their capacities are down—I think around 50 per cent for Lake Jindabyne, 17 per cent for Lake Eucumbene, and about 7 per cent for Tantangara. Over a number years there have been lower than average snowfalls and precipitation generally, with the result that those storages have seriously low capacities. That will have a great impact on a wide region of New South Wales.

Initially, these lower storage levels will impact on our potential to generate electricity. There has been an extended period of drought in the western irrigation areas to which the Snowy Mountain Hydro Scheme supplies water. The extension of this trial will provide additional benefits to the mountains, to the environment, and to rural businesses and irrigators that use water from the scheme. Cloud seeding is not new technology; it has been used in Tasmania for the past 46 years; it has been used in the United States of America for the past

56 years; and it has been used in New South Wales since 1958. The first cloud seeding trial that occurred in New South Wales was in the New England area where the CSIRO operated a trial from 1958 to 1963.

As a very young person I recall aircraft flying around our home in those years in the New England area. Going back that far there was a lot of talk by local farmers about the likelihood of the cloud seeding process increasing rainfall during the dry years. The second trial that occurred in New South Wales was also in the New England area. That trial occurred over a 12-week period in the summer of 1994-95, authorised by the then Minister for Water Resources, the Hon. George Souris. I was fortunate enough to participate in that trial as a member of the referees panel. There are some substantial differences in the way in which those early trials were carried out, including the 1994-95 trial, and the way in which the process will now occur in the Snowy Mountains.

Basically, the process involves the distribution of silver iodide into the atmosphere. The silver iodide crystallises as it is distributed. That provides the seeding effect for the water vapour to amalgamate on the ice crystals, or the silver iodide crystals, and start the precipitation process. Concern has been expressed by some people about the silver iodide being distributed over the landscape, but in the trial carried out in 1994-95 in the Northern Tablelands and New England area the aircraft that was dispersing it, which was flying at 500 kilometres an hour, dispersed about 250 grams per hour. Anyone working that out would establish that that is about half a gram per kilometre distributed from 14,000 feet in the air. So the concentration of silver iodide that is put out is extremely low—lower than the background levels of the silver and iodine elements in the soil itself. There is little potential for pollution from silver iodide.

Some of other environmental concerns that were expressed—they were also expressed in 1994-95 when I was involved in the New England trial—relate to the environmental impacts of increased rainfall intensity, possibly causing soil erosion, and other environmental issues. It is important to understand that we can control any trial or any process that has the potential deliberately to increase rainfall. We can limit it to those periods when there is good groundcover and when environmental conditions are suitable to enable it to proceed. I understand that this bill will give the Minister the power to halt a trial if there is any deleterious impact on the environment.

It is worth pointing out that cloud seeding will not be a panacea for increased precipitation—either snowfall or rainfall. To put it simply, the clouds must be in a suitable condition before they can be seeded. There is no point in saying that we will do cloud seeding and that that will solve the drought. If no clouds are around, the process cannot occur. The conditions have to be right and, when the conditions are right, it can be a beneficial process. I read again today the report that was produced in 1994-95. It is worth pointing out that in the area that was seeded in that 12-week period back in 1994-95, the average increase in rainfall was 120 per cent of average across the whole area and it was as high as 160 per cent of average in more specific areas.

It is also worth pointing out that when the government changed in 1995 this trial was one of the first things that the current Government hit on the head. It has admitted its mistake and it is continuing with the trial in the Snowy Mountains. It is also worth pointing out that in the run-up to the last election the New South Wales Opposition had a policy of widespread cloud seeding trials across New South Wales—across the northern and southern tablelands as well as the Snowy Mountains. If the Opposition had won office at that election that process would be two or three years down the track. The Opposition supports this very small bill, which simply extends the trial period to 2011 and extends the geographical area from Kiandra in the north down to the Thredbo and Rams Head Range area in the south, and from Khancoban in the west almost across to Jindabyne in the east, which is a fairly big area. It gives me a great deal of pleasure to be able to support this bill.

Mr IAN COHEN [6.38 p.m.]: I oppose the Snowy Mountains Cloud Seeding Trial Amendment (Extension) Bill 2008. I am surprised we are debating the bill so hurriedly tonight as I would have liked a bit more time to organise myself. Nevertheless, this is a trip down memory lane. I remember the last occasion we debated legislation concerning the original cloud seeding trial. I still have strong reservations about that legislation. I understand that some members are keen to see a utilitarian approach to the environment. They want to be able to increase precipitation rates in certain areas and reap benefits that are similar to the benefits that were reaped as a result of the original Snowy Mountains scheme. However, these projects have had their day and we should have moved beyond this type of activity.

Many things can and should be done to establish how to deal with the scarce amount of rain that falls in many places in Australia. No-one would deny that we are experiencing a drought. This Snowy Mountains Cloud Seeding Trial Amendment (Extension) Bill 2008 will carry on the work of the original trial bill, which I opposed

at the time. This Minister is saying, "Whacky-do, this will work; it will generate more water. It does not matter whether it falls as snow or rain, but let us hope that it has a beneficial impact on the skiing industry." Let us hope the seeded rain puts more water into the reservoirs and does not run away and end up pouring out elsewhere, much to the concern of the owners of land that might be inundated. How much rain will be lost over the ocean? How much will fall as precipitation appropriate for the many threatened species in the Snowy Mountains? How much will land as rain that causes serious impact on the many endangered species there?

This is a classic 1950s engineering solution to an intricate and strategic problem. This Minister takes great delight in finding the instant scientific solution. Once again he is missing the point, given that this legislation will allow the continuation and expansion of the so-called trial. It is no longer a trial; it is a utilitarian activity that provides little assessment of other competing issues. The bill requires the suppression of the Environmental Planning and Assessment Act 1979, the National Parks and Wildlife Act 1974, the Protection of the Environment Operations Act 1997, the Threatened Species Conservation Act 1995, the Fisheries Management Act 1994 and the Local Government Act 1993. The trial will not comply with existing environmental laws, firstly because approvals have not been obtained, nor sought, from New South Wales Fisheries, the Department of Environment and Conservation [DEC], or the Department of Infrastructure, Planning and Natural Resources.

The bill overrides the many other issues that should be given proper attention before this activity is allowed to be extended. The bill extends the duration and area of the trial cloud seeding research project. Specifically, the bill proposes to extend the research project until the winter of 2014. Cloud seeding experiments have been conducted by the CSIRO in Australia since 1947. Of all the experimental cloud seeding projects, only two have the potential to be labelled a qualified success in augmenting precipitation. The Snowy Mountains and Tasmanian studies produced statistically significant increases in rainfall. However, the Natural Resource Commission's "Progress Report on the Snowy Mountains Cloud Seeding Trial (2007)" challenges the success of the project. The commission's report stated:

Snowy Hydro has publicly claimed that cloud seeding is successfully increasing snowfall but has not made available evidence to substantiate these claims. Snowy Hydro has been collecting data designed to enable evaluation of the trial and has analysed at least some of this data. Snowy Hydro has stated that it does not plan to report this data until the end of the trial in 2009. It is vital that any decision to continue or expand cloud seeding operations beyond the trial is informed by evidence about the effectiveness of cloud seeding in the Snowy Mountains. Hence the NRC recommends that the Ministers consider requiring Snowy Hydro to enhance the annual reporting requirements of the EMP to include data and information assessing the effectiveness of cloud seeding.

The same report considered also whether cloud seeding is causing an environmental impact. The report stated:

The information available from the trial is insufficient to determine if cloud seeding is causing an environmental impact. While Snowy Hydro has complied with most requirements of the trial's EMP, the NRC still considers that the environmental monitoring being undertaken is inadequate to allow a balanced assessment across a broad enough range of potential environmental impacts from cloud seeding.

More concerning is the following statement in the report:

The NRC considers that the EMP is inadequate and this report highlights continuing concerns regarding:

- the lack of analysis and reporting of data collected to assess the effectiveness of cloud seeding
- the unsuitably narrow focus (notwithstanding that it meets the requirements of the EMP) of the environmental monitoring
- the limited annual reporting of data, analysis and information concerning the environmental impacts of the trial.

The bill does not adopt any of the recommendations of the NRC report. The report recommended specifically:

- widening environmental monitoring
- strengthening current environmental monitoring
- enhancing annual reporting
- enhancing end-of-trial devaluation and reporting

The report does not end there. It states further:

The NRC believes the trial may not meet the expectations of the NSW Government and the community, as:

- the effectiveness of the trial is not being progressively demonstrated
- current monitoring is insufficient to scientifically prove that the trial is not causing any significant adverse environmental impacts

The report shatters the fairly floss veneer proffered by Minister Macdonald on the outcomes achieved by this experimental research project. The NRC report stated:

The reporting does not provide any evidence to support claims of increased snowfall caused by cloud seeding, or any statistical evidence that cloud seeding increased snowpack depth during either the 2005 or 2006 seasons.

The Natural Resource Commission report highlights a litany of reporting failures, yet this Government wants to extend this project. How can the Minister confidently dismiss concerns over environmental impacts when the Natural Resource Commission considers that the results from sampling at so few sites are insufficient to assess whether cloud seeding is causing an ecotoxic impact over the entire target area? This is a commercial project to understandably benefit water users downstream, but many questions need to be asked, particularly when we consider the long-term viability of our national park areas; even the ski industry does not guarantee that precipitation will fall as snow from cloud seeding.

It is likely that we will see a massive increase in precipitation in the form of sleet and rain. That could have a significant detrimental effect on the habitat of the pygmy possum, corroboree frog and others. This will mean that the veneer of environmentalism covering the commercial advantage the Government seeks will fall in a wet, muddy hole. This could have a detrimental effect on Australia's far too many threatened species. Australia is an advanced nation of significant affluence; it is one of the few areas in the world with massive areas of sensitive environment under threat.

It has been pointed out that the Kosciuszko National Park includes alpine areas of international significance. It serves to protect 204 species of alpine flowering plants, including at least 21 endemic species and 33 that are rare. Kosciuszko National Park includes some alpine ecosystems that provide habitat for a number of rare animal species—for example, the corroboree frog—and includes populations of 13 vertebrates listed by the World Conservation Union as threatened or near threatened, including the endangered mountain pygmy possum. It is argued that Kosciuszko National Park probably has the most outstanding development of the subalpine treeless flats and valleys in the world.

During the last debate I recall that the Minister assured the House that much of this precipitation was wasted over the ocean, but I would like proof of that. Giving to one area robs another. The Montana Legislature passed a law requiring an environmental study and a \$10 million bond before any cloud seeding could take place. This effectively put a stop to cloud seeding in 1993. Snowy Hydro Limited admitted in a media release dated 1 December 2003 that "the atmosphere is a dynamic system and does not behave in a simplistic manner". Many people in the park region would have serious questions about what this trial means for them and their livelihood, particularly those in existing rain shadow areas.

The United States of America has concluded that careful attention should be paid to negative effects on the mountain and aquatic environment, long-term effects on the macroclimate, flooding and erosion. Some sensitive areas have required suspension of the activity. It is recognised that large protected areas such as Kosciuszko will become increasingly important as a refuge for endangered species. The Snowy Hydro cloud seeding plan seeks to increase snowfall, but it is unlikely that this will favour snow-dependent species because the major pressure on such species is in lower, marginal snow areas. In these areas cloud seeding may fall as rain, thereby reducing rather than an enhancing snow cover.

For the mountain pygmy possum—*burrhamys parvus*—the main threat in New South Wales is loss and fragmentation of habitat, mostly associated with the ski resort industry; for example, winter snow grooming, building and road construction. More effective and more certain methods exist if we want to increase the chances for species such as *burrhamys* to survive. It is easier to reduce the impact of the ski resorts. The ecological footprint of the ski resorts needs to be reduced. In regard to possible impacts of elevated levels of silver due to cloud seeding, there are problems with silver iodide that have not yet been canvassed in debate. The silver iodide used in cloud seeding causes elevations in atmospheric silver concentrations. Silver concentrations in precipitation resulting from seeding clouds with silver iodide were 10 to 4,500 nanograms per litre, compared with concentrations of zero to 20 nanograms per litre without cloud seeding.

Silver is one of the most toxic heavy metals to freshwater micro-organisms, both plants and animals. Silver becomes absorbed onto humic complexes and suspended particulates, and incorporated into, or absorbed

onto, aquatic plants and animals. The most sensitive organisms are phytoplankton, and the embryos and larvae of animals, including the tadpole stage of the frog life cycle. Any increased silver in the region is of serious concern for the endangered southern corroboree frog, because of the frog's high sensitivity to toxins. It is well established that all frogs have that sensitivity. Silver is a genotoxin; that is, it is capable of forming genetic mutations. It binds with DNA and can cause DNA strands to break and affect replication.

Silver is more bio-available under conditions of low anion concentrations, low levels of reactive sulphide or sulphur-containing ligands, low concentrations of organic ligands—humates—lower suspended sediment and lower pH. A number of these conditions apply to at least the Kosciuszko alpine lakes and it is therefore of concern that silver will impact on plants and animals in the lakes. This is a heavy-handed engineering solution to a significant problem in our environment. The Government is seeking to maximise the profits of particular industries.

A significant number of issues would affect surrounding farming communities. The Greens have real concerns about yet another engineering solution to natural problems created by human activity. However, I fear that we will end up with unforeseen problems because of the rush to pass this legislation to expand and continue the so-called trial. Those problems will not be dissimilar to the impacts we have seen in the past from the Snowy Mountains Hydro-electric Authority and the Hydroelectric Commission in Tasmania.

Many massive industrial fixes and impacts on the local environment have unforeseen consequences. Once again, we are attempting to modify the environment significantly. One would think that many consequences could be ameliorated by demand management and care in delivery of our precious water resources downstream from the snow areas to both the Snowy and Murray rivers. I ask members to take note of the legitimate issues that I have raised as a Greens member of this House and the heartfelt concerns expressed by many members in the conservation movement who are justifiably horrified by the continuation of an engineering project in extremely sensitive areas.

Once again, I feel reasonably comfortable that my views may be flying in the face of the general understanding of the vast majority of members of this House. I believe it is a heavy-handed project, not scientifically well based—although I am sure that the Minister will attempt to ridicule my assessments. Has the Minister read the Natural Resources Commission progress report on the Snowy Mountains cloud seeding trial? It is certainly not the glowing report that one would expect if one were thinking of expanding the trial to the degree that the Minister has in mind, which is in keeping with what I believe to be a very narrow focused scientific assessment of complex ecological issues. Accordingly, I oppose the bill.

The Hon. MATTHEW MASON-COX [6.54 p.m.]: I support the Snowy Mountains Cloud Seeding Trial Amendment (Extension) Bill 2008. As a resident of Queanbeyan who is very interested in the future of the Snowy Mountains, I spend quite a deal of time in the Snowy Mountains enjoying all the wonderful facilities, climate and picturesque scenery that they have to offer. I note the significant contribution of the Hon. Rick Colless and his enthusiastic support for the bill, which I share. The economic benefits to the Snowy communities are quite obvious. The bill authorises Snowy Hydro Limited to undertake further cloud-seeding research over a much larger geographical area. Naturally, the aim of that research is to increase rainfall from clouds passing over the Snowy Mountains and to assess the effectiveness and reliability of precipitation enhancement technology in the region.

I note that the trial area will be extended from the Kiandra region in the north to the Ramshead Range in the south, and 40 kilometres from the Jagumba Range in the west to Eucumbene and Jindabyne in the east. That extension will double the current area in which the trial is conducted. Importantly the area covers the main catchments of the Snowy Mountains scheme. That scheme is critical, not only to the water that is stored in the scheme but also to the electricity that is generated—clean renewable electricity, which I am sure is of interest to the Greens. The trial will be extended in duration for a further five years up to and including the winter of 2014.

The obvious economic benefits to the Snowy communities from that extension are to the ski resorts, trout fishing and tourism facilities that are dependent on snow and, indeed, water flows. Of course, there are the multiplier effects on many small businesses that rely on tourism in the Snowy area. They are very supportive of an extension of the trial. The less obvious impacts relate to downstream water flows that impact on the agricultural wealth of the communities to the west. That is the Murrumbidgee Irrigation Area and other irrigation areas downstream that rely on the yearly flow of water from the Snowy Mountains Scheme. The scheme is a wonder of the last century, a magnificent engineering project that was the melting pot that brought together considerable skills and expertise and many post-war migrants to build the iconic structure of which we should all be proud.

The water flows into the Snowy Mountains Scheme are important to the production of electricity, and a significant part of the catchment area has been under stress for some time due to the lack of rain. The Lake Jindabyne capacity is at about 50 per cent at the moment, and Lake Eucumbene is at about 15 per cent. Indeed, a few months ago, Lake Eucumbene was down to just a few per cent, and there were grave fears that there would be inadequate volumes of water in the scheme to reliably generate electricity. It is worth noting that generation of electricity from the Snowy Mountains Hydro-electric Scheme is critical to the New South Wales grid; it provides a very significant proportion of our power. It is a clean, renewable source of power. The extension of the trial will result in more certainty and reliability in rainfall. Given that that is the case, I am very surprised that the Greens seek to oppose the bill on environmental grounds.

It is ironic, particularly in the wider debate about energy privatisation, that the Greens on the one hand so valiantly leapt to the defence of Snowy Hydro when the New South Wales Government attempted to sell it more than a year ago, and on the other hand the Greens are now looking to pull the rug from under Snowy Hydro, whose business it is, of course, to provide a reliable source of clean, green, renewable energy to the people of New South Wales. It is a critical source of clean, green renewable energy for the people of New South Wales. As with many things with the Greens, the hypocrisy is breathtaking. I am reminded of that famous analogy by the Hon. Charlie Lynn that if the Greens had their way, we would still be on the boats of the First Fleet, considering an environmental impact statement and committee after committee deciding what the implications might be if we actually went ashore.

The risks to the environment of increasing the snowfall in the Snowy Mountains area, as outlined by Mr Ian Cohen, are at best overstated and dubious. I am sure the Minister will have something to say about that in his reply to the debate. From the Opposition's perspective, it is the precautionary principle gone crazy. That communities that rely on reliable water flows, both in the Snowy area and out west in important irrigation farming areas, would in some way be beholden to the Greens to allow the trial to go ahead is a scary prospect. I note the strong support of the local communities in the Snowy area, which welcome the extension of this important cloud seeding trial in the manner contemplated by this bill.

Finally, I call on the Government to clarify the future of Snowy Hydro. It is important that the Government is open and transparent with the communities of the Snowy region with regard to a major employer in that region. I call on the Government to be consultative and include the communities of the Snowy in the decision-making process, unlike the fiasco of a year or so ago when the Government decided to sell Snowy Hydro and went against the communities' wishes. I still remember attending a meeting at the Cooma RSL club and witnessing the charade of the Hon. John Della Bosca trying to explain to the Cooma community the reason that Snowy Hydro must be sold. On the stage next to him was Steve Whan, who was strutting the stage, telling us all that he opposed the sale of Snowy Hydro and would cross the floor and ensure that the Government was held accountable if it attempted the sale. That was a complete farce. The people of Cooma were not fooled by that bravado. Indeed, they started a campaign that saw not only the people of New South Wales—

The Hon. Greg Donnelly: Point of order: We have all been patiently listening to the honourable member's contribution to the debate. Although it has been informative, he is now, in gratuitous fashion, referring to matters that are clearly outside the leave of the bill. I respectfully ask you to draw him back to focus on the objectives of the bill and complete his contribution.

The Hon. MATTHEW MASON-COX: To the point of order: Clearly the bill contemplates Snowy Hydro as being the party that will conduct and extend the trial. These issues extend to the general business of Snowy Hydro, and it is important that a wider explanation be given.

The PRESIDENT: Order! It is traditional in this House of review that second reading debates be wide-ranging. However, I ask the Hon. Matthew Mason-Cox to confine his remarks to the leave of the bill and not canvass matters outside that leave.

The Hon. MATTHEW MASON-COX: To finish my point: The campaign was successful and Snowy Hydro is still in Government hands, and we want the Government to clarify the future of Snowy Hydro. I reiterate the Opposition's support for the bill. I compliment the Government on ensuring that the trial will happen in a speedy fashion. Again I condemn the Greens for their hypocrisy.

Ms SYLVIA HALE [7.04 p.m.]: I refute the assertions by Mr Mason-Cox that the Greens are remotely hypocritical on this matter. We believe that cloud seeding may well produce unintended consequences. We also suggest that cloud seeding is a stop-gap, short-term measure that does not address the problem of significant

changes in weather patterns and persisting drought over south-eastern Australia as rain patterns move further south and off the continent. The primary cause of that is undisputed; it can be attributed to the climate change that is currently occurring. If we want to address the problems of the absence of rain over the Snowy Mountains and drought over significant portions of Australia, we must address the problems of climate change and the increased emissions of greenhouse gases that promote climate change.

That can only be done by reducing carbon dioxide, methane and greenhouse gas emissions. To do that we need to reduce processes that promote climate change, namely, the burning of fossil fuel, which is at the forefront of those processes. Yet both the Government and the Opposition are committed to not addressing the problem in any meaningful way. They trumpet carbon sequestration as a possible answer, although it is totally unproved and, I suggest, discredited technology. So it is not the Greens who are being hypocritical. We are saying that this is simply a stop-gap measure that may produce unintended consequences. If the Parliament were genuinely interested in doing something to improve the fortunes of Snowy Hydro, it would be tackling the problems of climate change in a meaningful way.

The Hon. ROBERT BROWN [7.07 p.m.]: The Shooters Party supports this important bill. Go for it! In relation to the Greens contribution, on the one hand Ms Sylvia Hale berated us for our ignorance in relation to global warming and about our support for coal-fired power stations; on the other hand she argued against a bill that could possibly increase a clean, non-carbon method of producing electricity. Hypocrisy? Confusing? We support the bill.

The Hon. IAN MACDONALD (Minister for Primary Industries, Minister for Energy, Minister for Mineral Resources, and Minister for State Development) [7.07 p.m.], in reply: As much as I am tempted to get stuck into Mr Ian Cohen's contribution, I remind members that essentially it was the same speech he gave when the bill was first introduced, with much of the same old extremist approach by the Greens to this matter. I note that the member said that cloud seeding is an engineering solution to climate change. I ask the member: What is a solar panel if not an engineering solution to our energy needs?

The Hon. Matthew Mason-Cox: Or a wind turbine.

The Hon. IAN MACDONALD: I was about to say a wind turbine. Wind turbines and solar panels use modern metals and modern technology, and are produced in high-tech plants. Most of the so-called solutions to the world's crises being touted by the Greens are high-tech and high-energy and are often emissions-intensive in their production and, in the end, other forms of human engineering to deal with environmental factors. This has been going on since people invented fire, the wheel and the knife. Unfortunately, Mr Ian Cohen and the Greens have forgotten the essence of human activity—that is, we look for technology to solve problems. Whatever problems exist, we use technology to solve them. In fact, every member of this House, other than the four Greens members, agrees with me.

I will not address Mr Ian Cohen's arguments in great detail; I have addressed them many times in the past. Suffice it to say that the cloud seeding proposal has been the subject of rigorous discussion between the various Ministers and the relevant agencies. We are satisfied that all environmental criteria have been met in relation to the proposal. The Greens suggestion about silver iodide being released over the area is absolute nonsense. It is as though we pour tonnes of silver iodide over the environment each year! In fact, the tests show that silver iodide is undetectable against the background levels. This extremist, alarmist approach of Mr Ian Cohen is an anti-science and unrealistic approach to these issues.

We believe there is evidence that cloud seeding assists to create water. Tasmanians certainly say that that is the case. Tasmania has been carrying out cloud seeding for 50 years, albeit using a different type of strategy, and has produced many reports on it. I believe that the signatures we have seen in relation to the chemical marker indium sesquioxide and its ratio to sodium iodine give us a pretty good idea that cloud seeding has great potential. The proposed study over this area will give us a great handle on that.

I want to conclude by addressing a further misnomer on the part of Mr Ian Cohen. Cloud seeding will not produce rain; it is designed to produce snow. In fact, the system is only put in place when the temperature gauge reaches minus 5 degrees at 1,500 metres, which is the snow-producing level. Obviously, the ski fields operators would not want a big dump of rain on their nicely groomed slopes. But they are confident that this system works. Many people have told me that they have been in the ski fields when the generators have been operating and that they now get powder snow in those mountains. That means extra water as well. Three speakers in this debate have made some great comments. However, the other two speakers reflect the Greens substandard behaviour and substandard thinking. I commend the bill to the House.

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

The House divided.

Ayes, 27

Mr Ajaka	Mr Kelly	Mr Tsang
Mr Brown	Mr Khan	Mr Veitch
Mr Catanzariti	Mr Lynn	Ms Voltz
Mr Clarke	Mr Macdonald	Mr West
Mr Colless	Mr Mason-Cox	Ms Westwood
Mr Costa	Reverend Dr Moyes	
Ms Fazio	Mr Obeid	
Ms Ficarra	Ms Parker	<i>Tellers,</i>
Miss Gardiner	Mrs Pavey	Mr Donnelly
Ms Griffin	Ms Sharpe	Mr Harwin

Noes, 4

Mr Cohen
Ms Rhiannon
Tellers,
Ms Hale
Dr Kaye

Question resolved in the affirmative.

Bill read a second time.

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

Third Reading

Motion by the Hon. Ian Macdonald agreed to:

That this bill be now read a third time.

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

ADJOURNMENT

The Hon. TONY KELLY (Minister for Lands, Minister for Rural Affairs, Minister for Regional Development, and Vice-President of the Executive Council) [7.21 p.m.]: I move:

That this House do now adjourn.

LANYON DRIVE UPGRADE

The Hon. MATTHEW MASON-COX [7.21 p.m.]: Tonight I wish to bring to the attention of the House the ongoing story of Lanyon Drive, a critical Australian Capital Territory-New South Wales cross-border road. Lanyon Drive carries in excess of 20,000 vehicles a day, including many heavy vehicles accessing the Hume industrial area and Queanbeyan. It is the prime access point to Canberra for the growing community of Jerrabomberra and is used by many Queanbeyan residents who work in parts of Canberra, such as Tuggeranong, Woden or Western Creek. Lanyon Drive is, despite its heavy traffic load, a one-lane road between Tompsett Drive roundabout and the Monaro Highway in the Australian Capital Territory, and has been in dire need of duplication and upgrade for the past five years.

The Lanyon Drive connection to the Monaro Highway has long been the subject of election promises from Labor's State and Federal candidates, but progress has been tortuously slow. The victims of this inaction are the residents of Queanbeyan and Jerrabomberra, who spend hours each week locked in traffic rather than at home with their families. At the last Federal election we were promised a second-rate solution to this ongoing

problem by the Labor candidate, now member, Mike Kelly. At the time Mike Kelly promised to commit \$7.5 million to the upgrade of Lanyon Drive to supplement the \$8 million already committed by the New South Wales Government and the \$7.5 million contribution from the Australian Capital Territory Government. This adds up to a total project cost of \$23 million, with the project to be jointly managed by Roads ACT and the New South Wales Roads and Traffic Authority. It was proclaimed as a new benchmark in intergovernmental cooperation and an end to the blame game—soaring rhetoric indeed.

The Lanyon Drive-Monaro Highway upgrade will include a duplication of Lanyon Drive, an upgrade of the railway bridge at the Australian Capital Territory-New South Wales border, plus another set of traffic lights. However, nothing will be done to improve traffic access to the Monaro Highway, which—surprise, surprise—is the main cause of the daily traffic congestion. It is typical of Labor to rush to be seen to be doing something yet fail to address the heart of the problem. More spin, but very little substance! In contrast the Liberal Party committed to not only duplicating Lanyon Drive to the Monaro Highway but also, and most importantly, to building a flyover of the Monaro Highway so that motorists could avoid the existing traffic lights and peak hour gridlock. Labor's plan fails to do this and this is why it is at best only a second best solution. As a result very little will change and the communities of Queanbeyan and Jerrabomberra will continue to suffer from the daily gridlock.

I note that the Australian Capital Territory Government committed to start construction of the first stage of upgrading the Monaro Highway to Sheppard Street, a key part of the Australian Capital Territory's contribution to this project, in November 2007. I drove past this area last weekend and could not see any physical evidence that this construction had commenced. It has been over six months and we are still waiting. The more critical stage of this project from the perspective of Queanbeyan and Jerrabomberra residents is the duplication of Lanyon Drive from the Tomsitt Drive roundabout to the Monaro Highway. The Australian Capital Territory's role in this stage is critical as this section passes through the Australian Capital Territory, yet again we find their commitment lacking.

The 2008-09 Australian Capital Territory budget announced last Tuesday made no provision for stage 2 of this critical cross-border infrastructure project. So much for this new era of Labor intergovernmental cooperation. Indeed, one would think the cross-border areas would be prime beneficiaries of wall-to-wall Labor Governments but this has not proved to be the case. Self-interest still rules, Jon Stanhope and the Australian Capital Territory Labor Government still exist, so the cross-border region continues to suffer. We can only hope that the Australian Capital Territory has the wisdom to reject Stanhope and his civil marriage groupies at the next Australian Capital Territory election in September this year. Perhaps we could rely on the new Labor Federal member, Mike Kelly, to intervene to get this critical project back on track.

He is Eden-Monaro's self-proclaimed commander in chief, but is about as effective as Colonel Klink from *Hogan's Heroes*. Just ask the plethora of community groups whom he refuses to meet. "Colonel Klink" is otherwise engaged with important matters of state, so take a ticket and get in line! Perhaps we could also rely on the State member for Monaro to come to the rescue. Good luck! Last time we heard, Jon Stanhope referred to him as the marginal member for Monaro—marginal in every sense of the word. The challenge for our three musketeers—or should I say our three amigos—Stanhope, Kelly and Whan, is to deliver on this critical infrastructure for the residents of Queanbeyan and Jerrabomberra. We are all watching and waiting and, sadly, I suspect we will continue to do so for some time yet. Perhaps the lure of a media opportunity will tempt one, two or three of our heroic amigos to strut the stage once more. Another courageous announcement on the status of this important project maybe or just a robust rebuttal of my brief remarks tonight. Time will tell.

ILLAWARRA RIDGE GOLF RESORT

Ms SYLVIA HALE [7.25 p.m.]: In 2006 Wollongong City Council rejected the Illawarra Ridge Golf Resort development as being unsuitably sited in a highly sensitive area of the Illawarra Escarpment and Woronora Plateau. The developers, Links Living, have, however, made minor semantic changes to the original proposal and resubmitted a so-called "concept plan" to the Department of Planning for approval as a part 3A major project under the Environmental Planning and Assessment Act. Wollongong City Council originally rejected the development application on the grounds that it was not in the public interest to approve such a large development of permanent residences in an environmentally fragile area of high conservation value. It deemed the development constituted a large incursion of "urbanisation" into an isolated area lacking the infrastructure to support it.

The Department of Planning has described the area as "visually stunning" and Sir David Attenborough has described it as "the Kakadu of New South Wales". The project does not comply with the current 7C zoning

and is contrary to the intent of the Illawarra Escarpment Strategic Management Plan, the Illawarra Escarpment Land Use Review Strategy and the Illawarra Regional Plan, all of which emphasise the importance of not clearing native vegetation. The area is a conservation corridor between the Royal National Park to the north and the Illawarra Escarpment to the south and has been recognised as a major wildlife corridor for the last 30 years.

The Illawarra Escarpment is one of the most biodiverse regions in New South Wales, containing upland swamps, sedgeland heath, creek-centred wetlands and various forms of native forest. Over 500 plant species occur in the adjacent Dharawal Nature Reserve area and the O'Hare Creek catchment alone is home to 17 species listed as vulnerable, rare or threatened. The animal life is equally diverse with the adjacent Dharawal Nature Reserve supporting broad-headed snakes, koalas, long-nosed potoroos and rare frog species. The swamplands are home to swamp wallabies, eastern wallaroos, marsupial mice, New Holland honeyeaters, rare frogs and crayfish, to name a few. Both Maddens and O'Hare creeks and the surrounding wetlands are home to over a dozen different species of native frogs, which are a measure of the environmental health of the area.

The impact of such a huge development on the natural environment will be enormous, and it is duplicitous to suggest otherwise. The developers claim that the creation of a 20-metre riparian buffer zone along Maddens Creek is adequate to protect the creek and its flow into the nature reserve, but this is surely inadequate when we consider that Liverpool Council, for example, demanded a 100-metre buffer zone at Voyager Point in a far less environmentally sensitive area. The whole presentation of this development has been disingenuous to say the least. The project has barely altered since it was first proposed. The most significant change is to redescribe "permanent" residences as "short-stay tourist" accommodation. This is a patently semantic ruse because the buildings will be permanent and the numbers of people, estimated to be 1,660, to be housed at the resort will not vary even if their stay is only temporary.

Even the advertising produced by Links Living is misleading. It shows the area as it is now rather than what it will be should the development proceed. The company claims that the development is low impact, but it takes an enormous stretch of the imagination to conceive of 100 serviced apartments, 200 resort villas, a 100-room hotel and clubhouse, and recreation and conference facilities contained in two-storey to four-storey buildings in an environmentally sensitive area as low impact. It does not end there, however. In the aftermath of the 2001 firestorm, the Rural Bush Fire Service designated the whole area extreme high risk. The plans moreover make no provision for the impacts of climate change, yet this is an area of unpredictable major storm activity such as last year's destructive hailstorms.

It is surely delinquent of the developers not to even take these issues into consideration. There are many other concerns, including the estimated 3,400 additional traffic movements each day, and the matter of who will pay for the construction of new roadworks. There are problems with water and sewage runoff and the contamination of the creeks and major waterways downstream. The developer now seeks to have the project approved as a major project under part 3A of the Environmental Planning and Assessment Act on the grounds that it meets the requisite criteria. One such condition is that the estimated capital investment value is at least \$100 million, excluding goods and services tax.

What has Links Living done? It simply has upped the earlier estimated cost of the buildings from \$97,934,000 to \$107,934,000, thereby conveniently bestowing on the project part 3A status. The project was so outrageous that even Wollongong City Council felt compelled to reject it two years ago. Community opposition to it has not abated in that time. I trust that the Minister for Planning will do what he so often asserts—that is, judge the project on its merits, and reject it accordingly.

JACK GIBSON TRIBUTE

The Hon. LYNDIA VOLTZ [7.30 p.m.]: Tonight I pay my respects to one of the greats of Australian Rugby League who was buried today in Sydney. Named only last month as coach of the Team of the Century, Jack Gibson won a total of five premierships, guiding Eastern Suburbs to back-to-back grand final triumphs in 1974 and 1975 and then steering Parramatta to a rare hat-trick between 1981 and 1983. No team since has won three successive grand finals. Hailed as the original super coach, Jack Gibson was born in Kiama and later moved to Sydney. He played third grade rugby league for St George and then in the Eastern Suburbs A Grade competition. At the time, he was working as a bouncer for Joe Taylor at the sly drinking and gambling outlet Thommo's Two-up School. Not only did Gibson go on to become a first grade player, he made his debut in first grade and for New South Wales in the same year. He also played first grade cricket for the Waverley Club. He was an all-round athlete and, some might say, a very ferocious player. He later played for Newtown and ended his playing career at Wests.

However, it is his coaching techniques that set Jack Gibson apart. He was an innovator who looked to other codes, in particular, American football, to improve the modern game. He became a coach at a time when first grade rugby was still played and coached at a semi-professional level. His innovations as a coach included: the first to use a computer to evaluate player performance; training in other codes such as soccer and AFL; weight and skin fold tests; and the use of video and integrated coaching, including rehabilitation. He began his first grade coaching at Eastern Suburbs in 1967. It is no surprise that the most prestigious medal at the club, the Jack Gibson Medal, was named in his honour.

Gibson's tactics of a mobile, hardworking forward pack with a fast-moving defensive line took the team from wooden spooners with no wins in 1966 to semi-finalists the next two years. He joined St George and in 1971 took all three grades at the club to the grand finals. He moved to Newtown Jets, before rejoining the now glamour club, Eastern Suburbs Leagues Club, at Bondi. With an experienced and talented team that included Artie Beetson, Ron Coote and rugby union international Russell Fairfax, he took them to the premiership in 1974 and a back-to-back premiership in 1975. In 1981 Jack Gibson linked up with Parramatta, leading them to their most successful period by taking out three consecutive premierships from 1981 to 1983. Players such as Peter Sterling, Brett Kenny, Steve Ella and Eric Grothe became household names under his tutelage.

In 1989 he took over as coach of the New South Wales State of Origin team, which had lost five consecutive games in a row. Despite losing 3-0 to his former charge Artie Beetson, he took his revenge in 1990 and beat Artie's Queenslanders 2-1. Referees fondly remember Jack Gibson, I am sure, as they were often on the receiving end of his technique of blaming the referee when his side lost. His tactic proved particularly effective in 1981 when he dared the referees to give Greg "Hollywood" Hartley another Eels match to referee. He is particularly well remembered for his one-liners that filled his coaching—"Kick it to the goals"—and for instilling in players if they doubted themselves they did not belong on the field. But I think this is one of his greatest quotes:

The day that God invented rugby league he didn't do anything else but sit around and feel good.

Jack was a caring individual and a tireless worker in support of charities, particularly those relating to the neurosciences, schizophrenia and drug addiction. He suffered great tragedy when his son Luke, who suffered from schizophrenia, died of a drug overdose. He is one of the truly great characters of the game and is a great loss to the rugby league world.

KIDNEY DIALYSIS

The Hon. MELINDA PAVEY [7.34 p.m.]: Chronic kidney disease is a significant and growing public health problem, responsible for the substantial burden of illness and premature mortality. In Australia one in three adults has an increased risk of developing chronic kidney disease, one in seven adults has at least one clinical sign of existing chronic kidney disease, approximately two million Australians may be affected by early stage kidney disease and do not know it, more than 40 Australians die of kidney failure each day and 11.3 per cent of all deaths in Australia are due to or associated with kidney failure. Every day six Australians commence expensive dialysis or transplantation to stay alive, and most people with chronic kidney disease will die from cardiovascular causes before requiring dialysis or transplantation. It costs approximately \$60,000 per annum to keep a person alive on dialysis. There is no cure. Dialysis or transplant are the only options once kidneys fail.

In particular, I draw the attention of the House to these two facts: deaths from kidney failure have doubled in the past 20 years and the dialysis-dependent population has risen by an average of 8 per cent per year over the past decade and is being fuelled by the ageing population. Currently, about one million people in New South Wales are aged 65 years and older, representing 14 per cent of the population. By 2026 that figure is expected to increase to over 1.5 million people, representing 20 per cent of the population. With such figures, one would assume that the Government had plans to provide kidney dialysis treatment in our smaller communities. However, the Government has no plans and is taking no action.

The local Labor members are not doing their job in the electorate of Monaro. Over the past five years the New South Wales Labor Government has almost doubled payments made to the Australian Capital Territory health system for the provision of kidney dialysis services to New South Wales patients. In 2002-03 New South Wales Labor paid the Australian Capital Territory Government \$1.89 million for kidney dialysis procedures. However, four years later, in 2005-06 the cost had blown out to \$3.233 million—almost double. That reflects the downwards spiral of the New South Wales health infrastructure inadequacies. In questions on notice I sought information on the postcodes of people who live in the electorate of Monaro and travel to the Australian Capital Territory to receive dialysis treatment. The Government would not provide the answers.

Given the statistics on our ageing population, New South Wales Health should be bolstering local services in anticipation of the ever-increasing demands in the foreseeable future. However, the local member and the Greater Southern Area Health Service would rather throw up their hands and say it is too difficult to staff Cooma hospital to provide dialysis treatment. That is not the case. There are options, but the Government and the local member are too lazy to seek them.

The Hon. Greg Donnelly: Point of order: I have been patiently resisting taking a point of order. I understand that in adjournment debates members have the opportunity to speak on a range of issues in the way they see fit. However, the Hon. Melinda Pavey is clearly flouting the standing orders. The standing orders are very clear in relation to imputations against a member of this House and the other House. If the member wants to raise an issue, she can bring a substantive motion. She is not entitled to give a member of the other House a spray. I ask that the member be reminded of the standing orders and her obligation to observe them.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Hon. Melinda Pavey should be mindful of Standing Order 91 (3). The member may continue provided she does not make imputations against members of this House or the other House.

The Hon. MELINDA PAVEY: The level of funding that is being leached from the local health system and paid to the Australian Capital Territory is growing exponentially. Under the Iemma Government's own resource distribution funding formula, the Greater Southern Area Health Service has a funding shortfall of \$27.23 million. Yet we pay more and more to the Australian Capital Territory for dialysis services. A person told me today that she travels three times a week from Cooma to Canberra for dialysis treatment. She travels twice a week in an ambulance to and from Canberra and on Saturday travels in a private vehicle that is paid for by the State Government. The Government will spend an enormous amount of money for treatment in the Australian Capital Territory rather than provide dialysis treatment within local communities. Bega, through its local member, has achieved extra dialysis services. The local Labor member should work harder to achieve dialysis treatment for the people of Monaro and Cooma.

MINING COMPANIES AND ABORIGINAL COMMUNITIES MEMORANDUM OF UNDERSTANDING

Ms LEE RHIANNON [7.39 p.m.]: I express my appreciation to Laurie and Victor Perry for sending me information about indigenous communities and mining in the Hunter region. These brothers are associated with the company Yunaga Mines Services. Victor is a member of the advisory committee of the Department of Environment and Climate Change.

In June 2005 the Minerals Council of Australia signed a memorandum of understanding with the Australian Government, which states that mining companies and the Government will work together with indigenous people to build sustainable, prosperous communities. Clearly integral to achieving that objective is providing indigenous people with employment and business opportunities in mining areas. The Greens position of no new coal projects is well known, but what goes hand in hand with that policy is our commitment, where there are existing mines, to work with coalminers to ensure they have decent working conditions and to work with indigenous communities to ensure that they get a fair share of mining jobs.

We are concerned to learn that mining companies involved in this process have signed off on this memorandum of understanding and given no commitment, let alone earmarked jobs for indigenous communities in the Hunter Valley. I am presently trying to ascertain if this memorandum of understanding has been honoured anywhere in New South Wales. While Aboriginal communities lose out on mining jobs because of inaction by mining companies, they also are losing out because mining companies disregard their heritage and significant sites.

It is a sad commentary that about the only time mining companies build relationships with Aboriginal communities in the Hunter Valley is when they want to ensure that they get their mine approved. Currently the National Parks and Wildlife Act 1974 is the primary legislation regulating the protection of Aboriginal heritage through the administration of part 6 of that Act. I understand that traditional owners believe that archaeologists are controlling their heritage. There is a misuse of the Act in many instances. I remain concerned that we could be in the dubious position in Australia of the very service that is responsible for protection of our natural and cultural heritage being the same body that gives consent to the wholesale destruction of Aboriginal significant sites, Aboriginal artefacts and other key aspects of Aboriginal heritage.

Ironically, archaeology also is a field in which Aborigines can pick up some work—two weeks work here, or a day there. It all depends on the approvals that are needed, and the aspects of Aboriginal heritage have to be surveyed. Once the process is complete the archaeologist—usually a consultant—will be paid handsomely, the mining company will be secure in the knowledge that its mine application has all the paperwork in place, and the Aboriginal community is left with a bit of pocket money, but there is no employment, training, capacity building, economic development, cross-cultural communication, recognition of traditional owners or community outcomes. That reflects very poorly on the mining industry and governments in this country.

Much of the land in the Hunter has been impacted upon in many ways since white settlement, particularly through agriculture and mining. The large-scale open-cut mining processes have caused irreparable damage to significant tracts of land with which the Wonnarua people of the Hunter share cultural affiliations. I understand that over the past 20 years more than 2,500 Aboriginal sites in the Hunter Valley have been destroyed by mining. The mining industry spends big money on archaeology to get the reports it needs—more than \$12 million could have been spent on archaeological investigation in the last 20 years—and what is the result? Destruction of Aboriginal sites and no money being spent on Aboriginal communities!

There are issues associated with the Department of Planning that bring us back to the problem that we know so well in this House—part 3A—which adds to the problems of Aboriginal communities in mine-affected areas. As we know, many mines are now approved as part 3A and that means Aboriginal issues do not get a look-in. Big open-cut mine extensions often come under part 3A and the result is that significant cultural places are being destroyed. I understand that the Department of Environment and Climate Change part 6A guidelines allow anyone within the community a voice on the management of Aboriginal culture. The guidelines are not clear and are causing friction and uncertainty about Aboriginal heritage. The memorandum of understanding is in place and should be enacted by mining companies. They gain benefit in terms of public relations exercises and should be putting their good words into practice.

TUMUT FESTIVAL OF THE FALLING LEAF

The Hon. MICHAEL VEITCH [7.44 p.m.]: I wish to address the House on the Festival of the Falling Leaf, which is held in Tumut over the Anzac Day weekend. There is nothing more Australian than a long weekend, and there is no more a scenic place to spend a long weekend than in Tumut. I admit that I grew up in Tumut, so I may be a bit biased, but the region is spectacular. Tumut, Adelong and Batlow are situated in the foothills of the Snowy Mountains. The mountains frame the rolling valleys, while the Tumut River snakes its way around the region.

The region enjoys four distinct seasons, and, unlike Sydney, which is just humid and hot or rainy and cold so it has only two seasons, the Tumut region enjoys cool crisp winters with sunlit valleys and snow-capped mountains in the winter months, beautiful blooms and flowing streams as the snow melts in spring, sun-drenched mountains with breathtaking lakes, rivers and streams by which to cool down during the summer months, and finally, the most impressive of seasons, autumn. According to the festival organisers—and I do not doubt them—there is a widely accepted view that autumn in Tumut offers the most spectacular display of colours anywhere in New South Wales. The autumn colours and crisp clear weather of the Tumut region make the timing of the festival perfect. It certainly fosters a great appreciation of the colours of nature and the colours of the community—and let me tell members there are some colourful characters in the region, as well as colourful leaves.

The Festival of the Falling Leaf has a range of activities and events for all tastes, budgets and ages. Some of the standout events on the program during the long weekend were the gala dinner with scrumptious food, fine wine and probably some not-so-fine dancing. There was a huge parade. I think all good festivals in the country have a good street parade—straight up the roped-off main street with an eclectic array of floats representing myriad community organisations. It cannot be beaten! Like other country towns with festival parades, it is as though the town of Tumut comes alive. If people are not participating in the parade, they are on the footpath watching it. It creates amazing energy.

I stood with my family and grandchildren on the footpath in Wynyard Street outside the Oriental hotel, which is better known as the "Orrie". It was fantastic to see students from the Tumut Public School marching proudly, the antique and vintage cars—the Cadillacs were just brilliant—children with smiles on their faces, and parents giving an acknowledging nod to a familiar face in the parade or the crowd. The Gala Day in the Park, with market stalls, Aboriginal art and craft, dancing displays, bluegrass performances, youth activities such as bungee trampolines, farm animals, jumping castles, pony rides and face painting, ended with a fireworks display. What better way than that could there be to spend a Saturday with the family?

My children were enthralled with the Snake Man—a great educational experience that provided an invaluable lesson about our diverse range of reptiles. This great exhibition travels to most rural shows and country festivals. I would urge all members to take the opportunity to learn the lessons provided by this excellent exhibition. The mountain bike endurance race in the State forest again attracted a large number of thrill seekers. I was not one of them, but I hear it was thoroughly enjoyed by participants.

The Festival of the Falling Leaf is a cracker festival. It is well organised in a spectacular location with a range of events and activities for everyone. It is my belief that such festivals offer rural communities a chance to focus on the positives of their community and share their talents with visitors. Festivals offer visitors the chance to see something different and see something unique to a community.

The festival also brought out the dignitaries. The hardworking mayor of Tumut, Councillor Gene Vanzella, met all people with very obvious enthusiasm for his community. Mike Kelly, the newly elected Federal Labor member for Eden-Monaro, addressed the very large crowd at the Gala Day in the Park. I keenly recommend the Tumut region as a great place to visit any time of the year, but would suggest that the Festival of the Falling Leaf is an ideal opportunity to see colourful displays of community pride and an opportunity to meet some colourful characters. I encourage all members to visit Tumut and, in particular, attend the wonderful Festival of the Falling Leaf.

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

Motion agreed to.

The House adjourned at 7.49 p.m. until Thursday 15 May 2008 at 11.00 a.m.
