

# LEGISLATIVE COUNCIL

Wednesday 25 March 2009

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

**The President** read the Prayers.

## **PARKING SPACE LEVY BILL 2009**

**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. John Della Bosca.**

**Motion by the Hon. Tony Kelly agreed:**

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 ordered to stand as an order of the day for a later hour.**

## **BUSINESS OF THE HOUSE**

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

**Business of the House Notice of Motion No. 1 objected to as being taken as formal business.**

**Business of the House Notice of Motion No. 2 objected to as being taken as formal business.**

**Business of the House Notice of Motion No. 3 objected to as being taken as formal business.**

**Business of the House Notice of Motion No. 4 objected to as being taken as formal business.**

**Private Members' Business item No. 168 outside the Order of Precedence objected to as being taken as formal business.**

**Private Members' Business item No. 190 outside the Order of Precedence objected to as being taken as formal business.**

## **LAW ENFORCEMENT (POWERS AND RESPONSIBILITIES) AMENDMENT (SEARCH POWERS) BILL 2009**

### **Protest (Standing Order 161)**

**The President** announced the receipt of the following protest under Standing Order 161 against the passing of the Law Enforcement (Powers and Responsibilities) Amendment (Search Powers) Bill 2009:

Protest against the passing of the bill titled "An Act to amend the Law Enforcement (Powers and Responsibilities) Act 2002 with respect to search powers; and for other purposes."

Dissentient:

1. Because the bill, which allows police officers secretly to enter premises and seize items, is a gross invasion of privacy, a threat to the civil liberties of the citizens of New South Wales and may lead to unsafe convictions of innocent people.
2. Because the government has a responsibility not only to protect the community, but also to ensure that police powers are not excessive, are not unduly intrusive, and are subject to proper judicial oversight and, with this bill, the government has failed to meet this responsibility.

3. Because the bill exposes the residents of New South Wales to invasion of privacy, undue and unwarranted intrusion into their homes, increased potential for police corruption and lacks effective judicial oversight of police actions under these new powers.

LEE RHIANNON  
SYLVIA HALE  
JOHN KAYE  
IAN COHEN

Legislative Council Chamber  
25 March 2009

**Pursuant to standing orders a copy of the protest was forwarded to Her Excellency the Governor.**

## **BUSINESS OF THE HOUSE**

### **Postponement of Business**

**Business of the House Notices of Motion Nos 1 to 4 postponed on motion by the Hon. Tony Kelly.**

## **CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT (CHILDREN'S EMPLOYMENT) BILL 2009**

### **Second Reading**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [11.06 a.m.], on behalf of the Hon. Ian Macdonald: I move:

That this bill be now read a second time.

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

### **Leave granted.**

The bill before the House will amend the Children and Young Persons (Care and Protection) Act 1998 to make the existing child employment provisions of the Act applicable to children up to 16 years of age who are employed as models.

The existing child employment provisions in the Act apply to, children up to the age of 15 years who are employed for still photography, entertainment or exhibition work. Exhibition work includes modelling before a live audience, for photographs and for film, TV or video recording.

The effect of the age amendment in this bill will be to extend the application of those provisions to children between the ages of 15 and 16 who are employed for modelling.

This bill will also make a consequential amendment to the Code of Practice in the Children and Young Persons (Care and Protection—Child Employment) Regulation 2005.

That amendment will extend the daily time restrictions on the employment of children to include children between the ages of 15 and 16 years who are employed for modelling.

Importantly, the bill will also increase the penalty for employment of a child in contravention of the child employment provisions of the Children and Young Persons (Care and Protection) Act 1998.

The existing maximum penalty for which the Act provides is 10 penalty units, which currently means \$1,100. This bill will increase the maximum penalty for that offence to 100 penalty units.

Employment is defined in the legislation as work by a child for which payment is made or some other material benefit is conferred on the child or another person. The Act requires all employers of children for still photography, entertainment, modelling or other exhibition work to hold an employer's authority and to comply with the mandatory Code of Practice in the Children and Young Persons (Care and Protection—Child Employment) Regulation 2005.

It is acknowledged in the provisions of the mandatory Code of Practice that child employees may be less capable than adults of negotiating conditions of their employment.

For that reason the Code of Practice contains specific requirements in relation to matters such as working hours, travel time, amenities, supervision and the effect of work on the child's education.

There are additional sets of requirements relating to the employment of children under 3 years of age and babies less than 12 weeks old.

The Children's Guardian has delegated authority to permit variations to the limits in the Code of Practice. That authority is only exercised when an assessment shows the welfare of employed children would not be compromised.

The Code of Practice prohibits casting of a child in a role or situation that is inappropriate in view of his or her age, maturity, emotional or psychological development and sensitivity.

The Code of Practice requires that details about each proposed instance of employment are notified in advance to the Children's Guardian. That notification provides an opportunity for the Children's Guardian to assess whether each proposal is likely to comply with the "appropriateness" test in the code of practice for each child involved.

One effect of this bill will be to give models between the ages of 15 and 16 years the benefits of the safeguards that the legislation already provides for models below the age of 15.

I believe that is appropriate in view of the concern expressed in our community about the dangers for young people who are drawn into an adult world at an age when they are more mature physically than they are emotionally.

It is difficult to define a precise age at which models are likely to be able to look after themselves in the workplace, but there is a broad consensus that it is older than 15 years for most children.

The extension of the legislative safeguards in New South Wales to apply to models up to 16 years of age is consistent with community opinion in New South Wales and elsewhere.

For example, in the cities of London, Milan and Sao Paolo the fashion industry peak bodies have responded to community views by making a voluntary commitment not to engage models under the age of 16 years.

The legislative scheme in New South Wales recognises that children do work as models and is designed to regulate the activities of employers to promote the welfare of the children for whom they are responsible.

I am sure all Members would agree that it is preferable to extend the existing legislative protection to children between the ages of 15 and 16 who are employed as models, rather than leave them to fend for themselves.

The other significant effect of this bill will be to increase the maximum penalty that a court may impose on an employer for failure to comply with this legislation in relation to any child it is intended to protect.

Failure to comply with the legislation is already an offence for which the maximum penalty prescribed in the Children and Young Persons (Care and Protection) Act 1998 is currently 10 penalty units.

Non compliance could occur in a range of ways, including failure to obtain an employer's authority from the Children's Guardian or to notify the Children's Guardian about a proposed instance of employment. The most extreme form of an offence under this provision would be for an employer to proceed with an employment proposal in defiance of a notification from the Children's Guardian that it would contravene the code of practice.

The maximum penalty prescribed for a comparable offence under the Industrial Relations (Child Employment) Act 2006 is 100 penalty units. That provision applies where an employer fails to comply with requirements contained in a compliance notice.

This bill will increase the existing maximum penalty under the Children and Young Persons (Care and Protection) Act 1998 to match the corresponding provision in the Industrial Relations (Child Employment) Act 2006. That would enable the Courts to impose similar fines on employers who deliberately flout either of these laws.

I commend the bill to the House.

**The Hon. ROBYN PARKER** [11.07 a.m.]: On behalf of the Liberal-Nationals Coalition I speak to the Children and Young Persons (Care and Protection) Amendment (Children's Employment) Bill 2009. The Opposition supports this bill, which seeks to amend the legislation regarding the employment of children. This bill deals specifically with the public's point of view about young children undertaking modelling, and more specifically its concerns about young men and women who undertake modelling in adult fashion. There are great concerns about children modelling adults' clothes, but the concern is more about image, projection and age appropriateness for young people modelling in a world that presents an image that can be misinterpreted. They need adult guidance and support when they are modelling to look like adults or portraying an inappropriate image. The bill will extend the existing safeguards relating to the employment of children aged under 15 years to children aged 15 years and over, but under 16 years, who are employed as models, and will increase the maximum penalty for certain offences in relation to the employment of children from 10 penalty units to 100 penalty units, which is currently \$11,000.

The child provisions in the Act apply to children up to 15 years who are employed for still photography, entertainment and exhibition work such as modelling for a live audience, photographs, films, television or video recordings. By way of background, it is important to discuss the debate that led to this legislation. Last year the editor of *Vogue Australia*, Kirstie Clements, refused to go ahead with an editorial and cover shoot of a Polish model who came to Sydney for Australian Fashion Week after discovering that the model was just 14 years of age. Kirstie Clements is to be commended for her stance on that occasion, and also

for her stance on a number of issues regarding the image of young women, and women generally as portrayed in the media. She has taken a courageous stance on body image, and what is perceived to be normal weight and appearance. She is quite a leader in giving Australians a more realistic attitude. At that time Kirstie Clements said:

What are we doing to our girls? When will casting agents think that, maybe because a 10-year-old looks beautiful, that it's OK to have her representing a woman of 30 or more. I think as women we need to make a stand.

That stand saw the organisers, the International Management Group, follow suit by issuing this statement:

Effect immediately, both male and female models participating in Rosemount Australian Fashion Week will need to be at least 16 years of age and must be represented by a model agency.

Even *Vogue* has published photographs of girls under the age of 16. The United States of America publication of *Vogue* famously had Brooke Shields, at the age of 14, on its cover in 1980. Recently in the *Australian*, Kirstie Clements said:

We had shot girls that were younger than 16 but I started to feel uneasy about it. Nothing actually untoward happened ... I just started to think it was ridiculous that we could only find 15-year-olds to fulfil our idea of feminine beauty, when we are a magazine for grown-ups.

Not long after Australian Fashion Week last year, David Jones announced that it would ban underage models from its fashion parades. David Jones' new policy means that models have to be 18 years or over and identification would be required at castings. Responsible people in the modelling and fashion industry are leading the way with their own guidelines and regulations. This bill is catching up with that. It is often the case that responsible operators, in effect, show leadership; perhaps we should have taken the lead sooner, but nevertheless it is important that we are doing so today.

David Jones' parades have shown a more age-appropriate demographic for its customers. That move was welcomed by modelling agencies such as Chic Management, which described the decision as a positive step and good for the industry. This debate raises some very important issues affecting girls and young women. It concerns the sexualisation of young women and it involves making a clear difference between what is physical and emotional maturity. Questions were raised about the weight of models and pressure on them to attain thinness. The debate raises also the exposure of girls to an adult model environment that they may not be socially able to cope with, and without adult supervision.

**The PRESIDENT:** Order! There is too much audible conversation. Members who wish to engage in conversations should do so outside the Chamber.

**The Hon. ROBYN PARKER:** Another issue raised was the fashion industry's tendency to use young models whose youthful looks are unattainable by older consumers. As a mother of a teenage daughter and teenage sons, I am acutely aware of the pressure directed at teenagers, particularly young women, to have a certain look—as other members would be aware—a look that is defined by advertisers and marketers. It is important that we do not make this an issue for women only to deal with. It is a rare occurrence for a product to be sold to women purely on the basis of that product and not on the basis that it can make a woman look like a teenage model if she uses this or that advertised wrinkle cream or whatever.

Too often advertisements use younger models, implying that "you too could look like a 16-year-old" if the advertised product is used. We are saturated by mainstream media images that are aimed at creating an idealised version of a woman to which women are meant to aspire and to whom men are meant to be attracted. This is an important debate; it is not a new debate. Honourable members may remember the rise of Kate Moss in the 1990s. At that time she was described as having the new androgenous waif look—an extremely slight frame. In what was a new era in modelling during a grunge period of pop culture, models were horrifically thin, gaunt, unsmiling and unhappy in photographs. They were described by some feminists as de-sexualised, with flat chests, no hips, no curves. Feminist author Naomi Wolfe in her book *The Beauty Myth* wrote:

The gaunt youthful model has supplanted the happy housewife as the arbiter of successful womanhood.

The question of how young is too young to be a model also made headlines in 2007 when 12-year-old Maddison Gabriel was named as the face of Gold Coast Fashion Week. Kristy Hinze, a successful model who is currently mentioned in the media for other reasons, is the face of Sportscraft. In her twenties she was considered a veteran of the business. She has commented on the appropriate age of models. She said:

I think it's awful. I was a baby at 15 when I started, but 12? That's taking it to a whole new level. I don't care what she looks like. It is an adult's world and adult products she is selling ... that is quite sick actually.

Kristy Hinze was photographed for the cover of *Vogue Australia* in 1994 at the age of 14. Platform Models Managing Director Gordon Charles, who said that 12 years of age was always considered too young, echoed her concerns. He said:

There are no exceptions. No Sydney agency would have considered this girl. The Gold Coast seems to have gone out on a limb for this event.

Although many agree that girls mature more quickly than boys, particularly from 16 years of age, the use of models who are still children to sell women's products and clothes has an impact on the model's development. Many young models have been caught up in a glamorous world of parties, travel, promotional activities, alcohol and sex. While there are those who go on to have successful careers, the childhoods of others are gone forever. In recent years several cases have been reported of young models from overseas literally dying of starvation to stay in the profession. Some are completely starving themselves to fulfil their dream of walking down a catwalk and being a model. But no modelling job is worth that.

The lure of large sums of money and a glamorous lifestyle can be inviting for models and their families. Why should young people not have the opportunity of a successful modelling career similar to the successful sporting careers that many of our young sports stars enjoy when they perform well, particularly on the international stage? This debate is not about curbing that opportunity; it is about providing some restrictions and regulations to protect young people. The bill puts safeguards in place for such children. The bill does not constrain employment opportunities or provide that people under the age of 16 can no longer model. Rather, it provides additional safeguards for both girls and boys in the modelling industry. These amendments will ensure that the code of practice on work times, supervision, travel, and balance between work and school are applied to girls aged 15 going on 16.

The code of practice includes work directions, the appropriateness of the role a child has been placed in, and the child's age, emotional security, psychological development and sensitivity. Shortly we will be debating the age at which a child should leave school for full-time employment. I guess we are trying make sure that we have not only safeguards when they are in employment but also the appropriate age at which they should move from an educational environment into a working environment, and that they are protected and supported along the way.

Australia is not unique in its discussion about the welfare of models. The British Fashion Council, for example, established a model health inquiry in 2007 and its chief executive, Hilary Riva, said at the time:

The British Fashion Council has established this panel to review current practice and issue clear guidance on the important issues of model health and age so that, as an industry, we can ensure that we are behaving responsibly and in the interest of those models who work in this country.

Although we are yet to see recommendations from the inquiry implemented, the industry has given a voluntary commitment not to hire girls under the age of 16 in London and Milan.

A State-by-State comparison of legislation shows that there is a common theme in all regulatory regimes that the employment of children as models should not have an unreasonable effect on the education of the child who attends school. The New South Wales legislation goes further, as provisions are intended to address the vulnerability of children who are employed as models because they are working in an adult environment. It is fantastic to see that this issue is being taken up not only through this legislation and by the modelling industry but also by role models in the music industry who are pushing for an acceptance of women's appearance and shape.

We are about to undertake an inquiry into bullying. Many issues arise for young people, particularly with cyber bullying, relating to self-confidence and appearance. We are sending a strong message with this legislation. I note that the music industry is picking up on some of these things, which is really commendable. Lily Allen is controversial in a number of ways, but sings songs such as *Everything's Just Wonderful* and an Australian band called Little Birdy sings a song called *Bodies*. Both songs highlight the guilt women feel for having normal healthy bodies that are not of model size and the wish for acceptance of women just as they are. Their lyrics are humorous and honest. In *Everything's Just Wonderful* Lily Allen sings:

Why can't I sleep at night,  
Don't say it's gonna be alright,  
I wanna be able to eat spaghetti bolognaise,  
and not feel bad about it for days and days and days.

In the magazines they talk about weight loss,  
If I buy those jeans I can look like Kate Moss,  
Oh no it's not the life I chose,  
But I guess that's the way that things go.

Lily Allen is articulating some of the issues. Making them appealing to young people sends a good message, and we should commend them. Little Birdy's song *Bodies* has the following lines:

I'm sick of feeling this way  
My body's ok  
You only give what you can  
To my emotions.

The song refers to emotions and feelings on the inside and appearances on the outside. We can go further in this debate and I look forward to the broader community discussing it. We are seeing media programs currently where stereotypical images of women are being broken down. Slowly but surely there is a movement to demonstrate that physical appearance should not be a barrier in any way. There is a long way to go and this legislation is but one of a number of measures we need to take. I give credit to all in the modelling industry, those in the media and the role models who are projecting a good image for women and men. They are putting the right safeguards behind young women and young men in the fashion industry in particular as well as projecting those images so that we do not have inappropriate sexualisation of young people.

I know other members will want to comment on this bill and that the Hon. Greg Donnelly has a great interest in this field. I welcome this bill and the debate. It is a positive step. I hope that we continue to have this debate so that we can represent young women and men in a healthy way, so that our society respects people for the individuals they are regardless of their appearance, and so that the fashion industry can be age appropriate and have all of the protections needed to make it a safe and regulated environment while still maintaining its core business. I commend the bill to the House.

**Reverend the Hon. Dr GORDON MOYES** [11.25 a.m.]: I speak as member of the exiled centre-left faction of the Christian Democratic Party to the Children and Young Persons (Care and Protection) Amendment (Children's Employment) Bill 2009. The purpose of this bill is to amend the Children and Young Persons (Care and Protection) Act 1998 to extend the safeguards relating to the employment of children under 15 years to children up to 16 years who are employed as models, and to increase the maximum penalties for particular offences in relation to the employment of children from 10 penalty units to 100 penalty units.

This legislation is long overdue and the argument just presented by the Hon. Robyn Parker is very clear and succinct, and does not require me to elaborate. It is in response to intense community concern about the dangers for young people who are participating in the adult world of entertainment and fashion without sufficient safeguards, and it extends the current legislative protections to under 16-year-olds. By all means let us have that if it is needed, but maybe it should really be 18 or even 21-year-olds. The competitive, dog-eat-dog world of modelling is brutal, no matter what your age. Although we usually think of models as girls and women, this is not solely a gender issue because boys and men model also.

However, the dangers may be worse for young women, and certainly proportionally more girls and women seek to be models than boys and men. It is often the merely attractive ones who never make it onto the catwalk or in front of the camera that are most at risk, because they are the most desperate. They are all so easily taken advantage of because their dreams can blind them to people's real intentions and their own limitations. Last week the casting call for auditions for *America's Next Top Model* reality television show saw thousands of girls standing in line overnight, some for up to 10 hours, for a chance to be in the limelight. Then some disorderly conduct on the part of three people who were later arrested triggered a stampede that injured a large number of girls. This sounds like a scene from some kind of nightmare, yet it illustrates the widespread desire of young women hoping for a shot at stardom.

Age is not necessarily the issue either. I believe personal vulnerability is the real issue. The temptation of fame, popularity, riches, travel, glory, wealthy suitors, and working in glamorous surroundings is immense. The wedding on Monday of a Queensland woman to a very wealthy suitor is a good example. These are all elements of social power, and who alive does not want some aspect of that? Money, sex and power are the intoxicating rewards that society promises to lavish upon the favoured. For the truly talented, beautiful and brilliant the world beckons and each one has to cope with their success with whatever character and inner resources they have. Many people do not have the resources to cope successfully and they end up seeking obliteration of consciousness in alcohol, drugs or other addictions in an attempt to control the complexities of their lives.

Many top models such as Kate Moss are well-known drug addicts. Being addicted is one way they stay so skinny. "Heroin chic" is the term used to describe the emaciated look so admired in the fashion industry—until recently. Moves are now underway in the industry to make body images more realistic. In the late 1980s I became quite concerned about the number of girls presenting to the psychiatric hospital being run by Wesley Mission. Eventually, in 1995, I established the Wesley Eating Disorders Unit at Wesley Hospital—the first unit of its type to be established in Australia. Incidentally, it won the gold medal of the 2005 International Psychiatrists Convention for outstanding programs for treating anorexia nervosa and bulimia, and it was the role model for subsequent eating disorders units that, fortunately, have now been established at hospitals such as Westmead.

For every successful model there is a horde of would-be models who compete intensely in their quest to succeed but who eventually fail because they do not have what it takes. They can be lured into doing almost anything if the right person promises them what they want to hear. They are easy pickings for those intending to exploit naivety and who know how to push the right buttons. During the years of operation of the Wesley Eating Disorders Unit it was one of the saddest places I visited of all the 500 centres operated by Wesley Mission. An entire industry orbits around young talent and wannabes: talent scouts, modelling agencies, photographers, magazines and websites. Many of the people involved are not from professional organisations with guidelines and standards in place; they are poseurs with flashy business cards who drop names and deliver a persuasive story to take advantage of vulnerable youth and, just as frequently, their hopeful parents.

This is not a new story; it is an old one. If one were to read any of the Hollywood memoirs by the successes and failures on Hollywood directors' casting couches one would discover all the sleazy elements that prey upon innocence and dreams. Last week there was a news article about a Sydney woman being lured by a self-proclaimed talent scout from a major lingerie company who got her into his office and assaulted her. He was not what he claimed to be—he was a con man—and this trusting lady was over the age of 21. Gullibility does not diminish with the growing number of candles on one's birthday cake. Many modelling agency scams exist only to rip off people who have dreams of their photographs appearing in magazines. They lure the victims by advertising in local newspapers or online, encouraging potential models to meet company representatives for group screenings.

The advertisements usually state that there is no fee, but those who pass the screening—and everybody does—are asked to sign a contract agreeing to attend classes and to pay for a portfolio of photographs that can cost well over \$1,000. Then the company vanishes, leaving the would-be models without any training, job leads or even a portfolio. This scam, or a variation of it, is popular worldwide because the number of gullible and vain people is unlimited and it always pays off handsomely. For those people who are successful in the legitimate world of modelling, being in the public eye can mean relentless pressure, and many people buckle under it. In the past year we have seen the public meltdowns of seasoned entertainers such as Britney Spears, Lindsay Lohan and Joaquin Phoenix, amongst others from many generations. As with Judy Garland, none of these people were teenagers when they fell apart emotionally and psychologically. Obviously, we cannot legislate to protect everybody who is lured into modelling, even though that is what I would prefer to be doing. However, at least we can do that for children under the age of 16. I commend the Government for introducing this bill, which I support.

**Mr IAN COHEN** [11.34 a.m.]: On behalf of the Greens I indicate that the Greens do not oppose the Children and Young Persons (Care and Protection) Amendment (Children's Employment) Bill 2009. I compliment the Hon. Robyn Parker and Reverend the Hon. Dr Gordon Moyes on their contributions to debate on this bill. The Hon. Robyn Parker, who has a lot of experience in parenting, gave us a thoughtful dissertation on the issue and Reverend the Hon. Dr Gordon Moyes has immense experience in this area. It is heartening that organisations in our State are deeply concerned about these issues and act accordingly to protect our young people. Under the current legislation employers of children engaging in particular employment activities, including entertainment industry activities or door-to-door selling, are required to obtain an employer's authority from the New South Wales Children's Guardian.

If children under 15 years are employed to undertake modelling work the employer is required to obtain an employment authority. This bill seeks to change the definition of "child" in section 221 of the Children and Young Persons (Care and Protection) Act for the purpose of requiring employers of child models under 16 years to seek the permission of the New South Wales Children's Guardian to employ a child model. In other words, the bill extends the requirement of an employer authority for child models to persons aged 16 years. This conservative and reasonable amendment would go a long way towards protecting young and vulnerable people from a rapacious and dangerous industry that plays on the sensitivities of impressionable young people.

Other members have alluded to the problems that beset our youth, such as anorexia and other health problems, when they are desperate to achieve their dreams. I am sure that in their youth many members would have had yearnings and wants. That, compounded with the mass media's penchant for a certain perfect body type, is extremely devastating in many levels of society. The fashion modelling industry has got it dreadfully wrong. In some circumstances fashion modelling is to sensuality what the pronouncements of the *Daily Telegraph* are to news. It is a perversion of ideals—people expressing their views about what is beautiful and what is regarded as appropriate. The industry should be far more sensitive of, and appreciate the differences in, people, accept them for what they are and give young people some sense of worth as they are growing up rather than thrust down their throats this extremely destructive, shallow and damaging stereotype of the perfect body.

The real impetus for the bill is the desire to extend the requirement for an employer to obtain the necessary authority from the New South Wales Children's Guardian, which requires that employers abide by the code of practice contained in schedule 1 to the Children and Young Persons (Care and Protection—Child Employment) Regulation 2005. Community sentiment appears to be that children under 16 should be covered by existing protections afforded to children aged 15. As has been noted, there is no definition of "modelling" in the bill and it will be at the discretion of the New South Wales Children's Guardian as to what constitutes modelling and what might constitute acting or theatre. There may be grey areas when a particular form of employment may not fit neatly into a particular entertainment category. When novel situations arise I am sure that the Children's Guardian will exercise common sense.

I also hope that Kerry Boland, the New South Wales Children's Guardian, will work with parents and children in a cooperative fashion to help all those in the decision-making process and to identify clearly the best interests of the child. Reflecting community concern over the vulnerability of young models in the fashion industry, penalties for employers who use child models without obtaining the required authority from the Children's Guardian have increased from \$1,100 to \$11,000. Last year the Senate Environment, Communications and Arts Committee delivered a report on the sexualisation of children in the contemporary media. Although the recommendations do not touch directly upon the employment of child models, the inquiry evidenced the magnitude of concern in all strata of Australian society about the increasing sexualisation of children in the media.

The spectacle surrounding the Bill Henson exhibition further thrust this issue into the public arena. I do not think this bill presents any significant incursion into or curtailment of the rights of children. Weighing up the potential dangers to and vulnerabilities of child models working in the fashion industry against the restriction and additional requirements for models aged between 15 and 16, I believe the legislation is a measured response to community concerns. I commend the bill to the House.

**Reverend the Hon. FRED NILE** [11.39 a.m.]: The Christian Democratic Party supports the Children and Young Persons (Care and Protection) Amendment (Children's Employment) Bill 2009. The bill will amend section 221 of the Children and Young Persons (Care and Protection) Act 1998 to extend the applicability of the children's employment chapter to children between the ages of 15 and 16 years who take part in modelling. It will also amend section 223 of the Act to increase the maximum penalty for employment of a child in contravention of the Act from 10 penalty units to 100 penalty units. As other members have indicated, our society has widespread concern about the effects of forcing children into early modelling situations and about children who may be abused in the fashion industry or by photographers, as seen in the controversy over the Bill Henson photographs of nude 13-year-old children he used as models.

The Act requires all employers of still photography, entertainment, modelling or other exhibition work to hold an employer's authority and to comply with the mandatory Code of Practice in the Children and Young Persons (Care and Protection—Child Employment) Regulation 2005. It is good to have those requirements, but one must ask how strictly will they be enforced by inspectors ensuring that the requirements are carried out as stipulated by the legislation? The code of practice contains specific requirements on matters such as working hours, travel time, amenities, supervision and the effect of work on the child's education. However, I believe another factor should be the welfare of the child both morally and physically in how they are employed, used or even abused.

This bill will give models between the ages of 15 and 16 years the benefit of the safeguards the legislation already provides for models below the age of 15. Perhaps we should monitor the situation to determine whether 16 years is the correct cut-off age or whether it should be up to 18 years of age. Because of widespread concern about the sexualisation of children, particularly young girls, a number of inquiries have been held. In fact, the British Government has just announced an investigation into the sexualisation of young



girls. The review forms part of Together We Can and the Violence against Women and Girls Strategy, and will investigate also whether aggressive attitudes towards women in videos and song lyrics are linked to sexual abuse. British Home Secretary, Jacqui Smith, said:

... while some might see items such as *Playboy* T-shirts designed for 11-year-olds on sale in major chain stores as a "bit of a laugh," many parents were concerned that their daughters were being encouraged to appear sexually available at an inappropriately young age.

The American Psychological Association [APA] released an important report in March 2008 on the sexualisation of girls. The document details the detrimental impact of sexualisation of girls' development from childhood to pre-adolescence, and investigated the effects of sexualised media on girls. According to the study, "media images of sexy girls and adults posing as adolescents 'sexualises' girls, harming them both physically and psychologically". The association's report defines "sexualisation" as "when a person's value comes only from his or her sexual appeal or behaviour, sexuality is inappropriately imposed, or a person is sexually objectified". The report indicated:

... girls' contact with sexual imagery from an early age has a devastating effect on mental and physical health. Possible ongoing effects identified by the research include: low self-esteem, poor academic performance, depression, and eating disorders ...

The report also warns that sexualisation may contribute to the prevalence of paedophilia. It went on to state the causes of sexualisation:

The proliferation of sexualised imagery in television, toys, on the internet and particularly in advertising poses a major risk to girls and young adolescents because "their sense of self is still being formed".

One member of the American Psychological Association Task Force, Dr Eileen Zurbriggen, said:

The consequences of the sexualization of girls in media today are very real and are likely to be a negative influence on girls' healthy development.

As a society, we need to replace all these sexualized images with ones showing girls in positive settings.

Bravehearts, an organisation set up by Hetty Johnston, obviously has been making its major issue protecting children from sexual abuse. It presented a very good submission in April 2008 to the Senate Standing Committee on Environment, Communications and the Arts. The submission repeated some of the results of the American Psychological Association's study. Bravehearts submission of 18 April 2008 covered a number of these issues. It stated:

For a long time the adage "sex sells" has been common place in the marketing industry. While this is an accepted strategy in terms of targeting adults, there has been a disturbing trend that has seen this message move over to marketing to children. Over a number of years there has been an increased sexualisation of children in the media and an increased acceptance of this as the norm by those in the industry. There appears to be a desensitisation that has occurred, with those working in the media normalising the sexual imagery ever present in various aspects of our popular and media culture.

It also expressed in the submission concern about advertising and stated:

There are two major issues here: the use of young girls to model adult clothes and the sexualisation of young girls in advertising children's products.

There has been an explosion of sexualisation of children in advertising with the fashion industry using younger and younger models to sell clothes to adult women. [In April 2008] the Australian Fashion Week organisers backed down after complaints that [a] 14 year old girl was to be the face of the event. They have since revised their industry policy to ensure that all models participating in the event must be at least 16 years of age. Employing children to model adult clothes and portraying these young girls as women is irresponsible.

Bravehearts also was critical about the use of clothing and cosmetics and stated:

Children tend to want to be more mature and sophisticated and when they see their idols dressing in a certain way they want to mimic them. In response to this, clothing companies are marketing clearly adult clothing to children: bra and underwear sets, g-string underwear, provocative clothing and clothing with inappropriate, sexually suggestive slogans.

While makeup has been available for young girls for many years, there has been a shift in the marketing and presentation of these products. No longer seen as "fun" accessories, these items are being marketed to children to make them glamorous and sexy.

I commend the Bravehearts submission to all members of the House and I am able to provide copies if they wish to read them. I am pleased to support the bill because it is a small step in the right direction. The Government should monitor very carefully the implementation of the bill to ascertain what further legislation is needed to protect children in our society.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [11.49 a.m.], in reply: I thank honourable members for their contribution to the debate and support of the bill. This amending legislation is aimed at strengthening safeguards for our young people, male as well as female, who work as models. Specifically, it extends by one year—to the age of 15 years—the protection that is currently provided to models. The threshold age of 16 years aligns with voluntary codes of practice increasingly being put into place by the Australian and international fashion industries. It recognises that there can be a critical difference between a young person's physical maturity and their emotional maturity and ability to fend for themselves. As someone who took four screaming 10-year-olds to *So You Think You Can Dance* this week, I can definitely confirm that.

**The Hon. Catherine Cusack:** Did you win, Penny?

**The Hon. PENNY SHARPE:** The first argument was about the length of the skirt, but I did win—albeit with much sulking. As other speakers have noted, last year the proposed appearance of a 14-year-old model from overseas on the catwalks of Australian Fashion Week led to a great deal of community and fashion industry concern. The concern is not that a 14-year-old was modelling but rather that she would be modelling adult clothing in an adult way. While her scheduled runway appearance was cancelled, it is important to make clear that this bill is not about banning young people from modelling. It is not aimed at restricting employment opportunities or career development. Instead the bill will ensure that employers of young models to the age of 16 are authorised by the New South Wales Children's Guardian. Most importantly, employers must adhere to a code of practice that specifies working hours, travel time, amenities, supervision and the effect of work on the young person's education.

The bill also will deliver increased penalties for employers who are in contravention of the child employment provisions of the Children and Young Persons (Care and Protection) Act 1998. The increase from an existing maximum penalty of 10 penalty units, or \$1,100, to 100 penalty units, or \$11,000, is far more realistic and in line with current industrial relations penalties. The bill strengthens the protection of vulnerable young people who are working in a fast-paced, adult industry. I thank all members for their thoughtful contributions to this debate. We had a good discussion of this issue today and we have taken some of the issues a bit further than has been discussed in the past. I am pleased to support the bill and commend it to the Chamber.

**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**

**General Business Orders of the Day Nos 2 to 4 postponed on motion by the Hon. Penny Sharpe.**

## **BARANGAROO DELIVERY AUTHORITY BILL 2009**

### **Second Reading**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [11.53 a.m.], on behalf of the Hon. Tony Kelly: I move:

That this bill be now read a second time.

The Barangaroo Delivery Authority Bill 2009 provides for the establishment of a dedicated delivery agency for the Government's major foreshore urban renewal program at Barangaroo. The Barangaroo Delivery Authority will have the task of renewing a vacant 22-hectare slab to become a new quarter of our city with new foreshore access for its people and a new headland park on our harbour. In delivering this outcome, the authority will seek a new world benchmark in urban waterfront renewal in terms of environmental protection, design excellence and community building. Sydney is facing challenges from changes to land use, commerce and demographics. These challenges are being experienced in port cities all over the world, and are being driven by international movements of labour, technology and commerce.

Responses to the challenges that have been created have varied from city to city, as have the quality and success of the results. Sydney's response, when seen in an international context, is exemplary. Management of significant parts of the foreshore by the State Government has seen protection, renewal and reuse of the post-industrial foreshore carried out with benefits that most cities can only dream of. It has created legacies of which we can be proud—the preservation and activation of The Rocks as one of the most intact and attractive heritage precincts in the world, the renewal of Darling Harbour into Sydney's playground giving an integrated part of Sydney life for both visitors and locals alike, the re-emergence of Pymont from an abandoned suburb to a modern media and technology hub as well as an enviable living environment, the creation of hectare upon hectare of new foreshore parkland, the completion soon of a 14-kilometre urban foreshore walk, and the remediation of Homebush Bay into Sydney Olympic Park, which was home to the greatest ever Olympic Games and a welcome open space asset for western Sydney—indeed all of New South Wales.

It is a legacy of change that we are proud of and that Barangaroo will build upon. I provide this context because, like all cities, Sydney is in a constant state of reinvention at the push and pull of international external forces. It is our ability to respond positively and proactively to make the most of change that will be critical to Sydney's future. Fortunately for Sydney, the State Government has a clear vision that is guiding the renewal of Barangaroo to unlock a large section of the Sydney foreshore that has been isolated from public use for over a century. We will transform it into a new working central business district precinct that is set in a generous and dignified public domain to secure Sydney's growing financial role in the highly competitive Asia-Pacific region, attracting new global players, investment, knowledge and jobs growth. It will create a new western face of the city, transforming an isolated part of town into a precinct of buildings and parkland that mirrors the city's much-celebrated eastern face.

The project will include the building of 11 hectares of new parks, community and cultural facilities and completion of the State Government's 14-kilometre Sydney Foreshore Walk. It will be a public walkway that is unprecedented in harbour cities worldwide, and it will leverage development of transport infrastructure at this under-served part of Sydney. Barangaroo will tap into the Sydney Metro with pedestrian links to Wynyard and a new station to specifically service the site. There also will be a new ferry terminal, which is being explored to open new access to the harbour. Barangaroo is not the largest urban renewal project in Australia, but undoubtedly is the most prominent and the most important. The position of the site at the foot of the central business district allows a unique nexus between Sydney's environmental, economic and social advantages. No other site is so poised to leverage the future growth of our city, and no other project presents such a public opportunity to provide leadership in sustainable development.

The entire harbour headland is to be transformed. For the first time in over a century the public will have access to the 1.4 kilometres of foreshore land at Barangaroo that has been locked away, physically and psychologically, from our city. We will return this area to a bustling and peopled waterline, activated by living, recreational and working activities and shared by both locals and regional visitors. Supporting the recreational side of this equation will be 11 hectares of foreshore promenade, a public domain and park, not the least of which will be the headland park at the northern end of the site. This aspect of the renewal is nothing less than restoring to Sydney Harbour an entire headland that previously had been razed for industrial use.

**The PRESIDENT:** Order! At the risk of interrupting a number of conversations, I remind members that they are in the Chamber of the Legislative Council of the Parliament of New South Wales, which has before it important legislation for debate. The Parliamentary Secretary, who is contributing to that debate, should be allowed to continue to do so without having to compete with the audible conversations of members. Members wishing to engage in audible conversation will do so outside the Chamber.

**The Hon. PENNY SHARPE:** Barangaroo will reinstate, with Balls Head, Blues Point and Ballast Point, the archipelago of green headlands that once defined the western harbour. Centred on Goat Island and reflected in its indigenous name, "Mel-Mel", or "The Eye", this project is one of the most ambitious and

significant greening projects in any harbour anywhere in the world—and of course there is a long way to go. The next stage in the design process will articulate both the built and non-built elements of the headland park and the other public spaces at Barangaroo. It will create public spaces not only of beauty but also of usefulness and relevance to the people of Sydney, none more so than the local residents of Millers Point.

The historic suburb of Millers Point will see its historic headland returned and its street and residents reconnected to the water line. Residents will be able to walk directly into this new parkland and down to the water line, just as they would have a century ago. We are returning Millers Point to the Millers Point community. I acknowledge the support, advice and intellectual rigour that former Prime Minister Keating has provided on this visionary endeavour. Mr Keating is currently the chair of the Barangaroo Public Domain Design Review Panel but his involvement with this project goes back much further.

As a member of the competition jury and a strong public advocate for the project, Mr Keating has helped draw attention, from both within and outside the Government, to the unique opportunity that the renewal of the Barangaroo headland provides to Sydney. That is unsurprising, given Mr Keating's previous integral involvement in securing the protection of Ballast Point and his longstanding public advocacy for the improved planning and development of Sydney harbour. The Government notes and is sincerely grateful for Mr Keating's involvement. This recreational role is balanced with and supported by Barangaroo's emergence as a new financial centre.

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

## QUESTIONS WITHOUT NOTICE

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### HIGHWAY PATROL OFFICERS REDEPLOYMENT TO STRIKE FORCE RAPTOR

**The Hon. MICHAEL GALLACHER:** My question without notice is addressed to the Minister for Police. Will the Minister tell the House how many highway patrol officers are being redeployed from Operation Taipan to Strike Force Raptor? Given that the Minister has previously claimed that highway patrol officers were quarantined from being deployed for non-road safety duties, why has he approved this redeployment, especially in light of his statements yesterday that in many cases those who will be targeted by Strike Force Raptor do not even own motorcycles?

**The Hon. TONY KELLY:** On the second point first, I think the Leader of the Opposition will find that yesterday I said that one particular group does not have motorcycles, not those who will be targeted by Strike Force Raptor. I also said that except in exceptional circumstances highway patrol officers would not be diverted. A small number of highway patrol officers will be diverted.

**The Hon. Michael Gallacher:** How many?

**The Hon. TONY KELLY:** A small number.

**The Hon. Michael Gallacher:** What is that?

**The Hon. TONY KELLY:** These 75 are coming from five or six different groups, so it is a small number. If the Leader of the Opposition does not think that we are going through exceptional circumstances now, then the Police Association should no longer support him.

### AMBULANCE HELICOPTER PERFORMANCE

**The Hon. CHRISTINE ROBERTSON:** My question is addressed to the Minister for Health. Will the Minister inform the House about any performance data relating to ambulance helicopters?

**The Hon. JOHN DELLA BOSCA:** The first of the new Agusta 139 helicopters was delivered to the Illawarra in the second half of last year. The three Agusta helicopters deliver improved reliability, a longer range and more space to treat patients, and they convey patients to hospitals 25 per cent faster than the helicopters they replaced. The new operator delivering the service has had an excellent first year. The big winners have been the

patients. The company is required to provide helicopter availability 88 per cent of the time. Under the previous arrangements, helicopters had to be available only 77 per cent of the time in Sydney, with no performance requirements in Orange or the Illawarra.

Performance under the new contract has significantly improved. Helicopters have been available 97 per cent of the time. Under the previous arrangements, helicopters were available 93 per cent of the time. That is 16 hours a month down time versus 50 hours a month down time. The difference in the first year of the contract meant an additional 118 helicopter missions to rescue and treat injured people were made possible. The new helicopters are more reliable and have logged more than 800 hours of service. Earlier this month there were reports that one of the helicopters experienced difficulty landing at Westmead Children's Hospital in a severe storm. On this occasion the helicopter was required to fly on a stormy night, with low level rain, to Baradine in the west of the State and transport two children with traumatic injuries who had been in a car accident. One of the children was in a critical condition.

The capacity of the Agusta helicopter meant that it could take both children, not one. Additionally, because of the capacity of this helicopter, the children's mother was able to accompany them on the journey. The Agusta is one of the few helicopters in the world that could operate at high speed and across a long distance in rain and deliver two sick children, their mother and the paramedic and medical staff on board. When the helicopter attempted to land at Westmead Children's Hospital weather conditions were very poor. Under ambulance operating procedures, if the pilot cannot see the ground at 500 feet he will not land. The aircraft made two descents and at the decision point on each occasion the pilot was unable to safely visualise the ground. If the helicopter were unsuccessful on the third attempt the aircraft would be diverted to use the landing assistance systems at Sydney airport.

On the third and final descent the aircraft lost one of its three sets of navigation instruments and the pilot switched to the first of two back-up or redundant systems. However, because he could not see the ground, the pilot diverted to Sydney, as per the protocol on the third descent. The Ambulance Service advises that this was due to the weather, not the instruments. I reiterate that the mission was possible in these conditions only because of the cutting-edge capabilities of the Agusta helicopter. All incidents that occur on our aircraft are fully investigated and the lessons learnt are put into practice and communicated to other operators to improve the safety systems for all. The helicopter was taken out of service briefly, and a fault with a computer chip was identified and repaired. The aircraft returned to service and has since completed many missions. These aircraft are more reliable, faster and more capable, and they are delivering more missions for New South Wales patients.

### EXCEPTIONAL CIRCUMSTANCES ASSISTANCE

**The Hon. DUNCAN GAY:** My question is directed to the Minister for Primary Industries. Is the Minister aware that, following the Federal Government announcement in February, a number of areas will no longer be able to access exceptional circumstances support after 31 March 2009? Is he also aware that continuing dry conditions are limiting farmers' ability to recover from the drought? Given that transitional income support in New South Wales is limited in its scope, what transitional arrangements have been put in place for those farmers who will receive no assistance after 31 March? Given these concerns and the urgency of this matter, with the 31 March deadline, what submissions has the Minister already made to the Federal Government to review these inequitable boundaries? If he has not done so, will he give a guarantee that he will do so?

**The Hon. IAN MACDONALD:** On 12 February 2009 the Australian Government announced the extension of exceptional circumstances assistance in many New South Wales areas where the assistance was due to expire on 31 March 2009. Twelve areas, predominantly in the north and north-west of the State, including Condobolin, Forbes, Goulburn-Yass, Hay, the Riverina and the majority of the western division, which remain severely drought affected, have been extended—

**The Hon. Duncan Gay:** That's the south and south west. It's not the north and north west.

**The Hon. IAN MACDONALD:** Yes, it is the south and south-west. Those areas have been extended for a further 12 months, until 31 March 2010. Parts of the Dubbo, Molong and Nyngan areas have also been extended until 31 March 2010. In the Cooma-Bombala area exceptional circumstances assistance has been extended until 30 April 2010. Parts of the Northern Tablelands around Ashford, Bonshaw and Emmaville were also extended until 15 June 2009, when the status of drought recovery will again be assessed. However, eight exceptional circumstances areas were not extended on the basis that conditions have improved. These areas

include Mudgee-Merriwa, the Central Tablelands, Hunter-Maitland, north-east northern New England, northern New England, and Walgett-Coonamble, as well as the remaining parts of Dubbo, Molong and Nyngan, which I mentioned previously.

The announcement of extensions to exceptional circumstances assistance followed the Australian Government's review of 26 New South Wales areas during the period from October 2008 to February 2009. The review covered all of the New South Wales exceptional circumstances areas apart from the Bourke district, where exceptional circumstances are currently due to expire on 15 June 2009. A review of the Bourke district and the recently extended Northern Tablelands areas will take place during April 2009. On 24 March 2009 the Australian Government made a decision not to extend exceptional circumstances assistance in two areas of the former Central North-North West exceptional circumstances area past 30 April 2009. These areas include the districts of Coonabarabran, Binnaway, Yetman, Warialda, Bingara and Barraba.

**The Hon. Rick Colless:** It's Bingara, dopey!

**The Hon. IAN MACDONALD:** The Hon. Rick Colless will get a PhD in place names. He would not get a PhD in anything else! This decision was made based on improved crop and pasture conditions in the majority of the areas following rainfall over the past few months. Overall, these decisions mean that drought-affected farmers and communities in 56 per cent of the State will continue to receive exceptional circumstances assistance for at least another 12 months.

**The Hon. Duncan Gay:** What about the transitional arrangements?

**The Hon. IAN MACDONALD:** Let me finish first. Exceptional circumstances reviews are undertaken by the Australian Government's National Rural Advisory Council, which assesses areas nearing the end of their assistance period and advises the Australian Government on whether conditions have deteriorated or improved. The Australian Government has sole responsibility for all determinations concerning exceptional circumstances declarations, periods of support and eligibility criteria. This includes extensions to exceptional circumstances assistance under the streamlined rollover process, which was introduced by the Australian Government in 2004. While the New South Wales Government has no formal role in the Australian Government's exceptional circumstances rollover review process, the New South Wales Department of Primary Industries provides support for National Rural Advisory Council inspection tours and provides updated local area information on the status of drought recovery. As this current drought has now extended to become the worst in the history of Australia since white settlement, the need for an adequate period of recovery has become paramount. As I said yesterday in the House, I have written to the Minister about the situation in Bega Valley and I will write to him about these other decisions.

**The Hon. Duncan Gay:** Is that a promise?

**The Hon. IAN MACDONALD:** Yes.

#### **DEPARTMENT OF CORRECTIVE SERVICES NEWCASTLE LAUNDRY ARRANGEMENTS**

**Ms SYLVIA HALE:** My question is directed to the Minister for Corrective Services. Is dirty linen collected from the Newcastle holding cells each morning and delivered by taxi or hire car to the St Heliers Correctional Centre at Muswellbrook for laundering and then returned to Newcastle each evening—a round trip of some 156 kilometres? Is Singleton Taxi Service paid \$1,760 each week for that service? Minister, who approved the contract between the Department of Corrective Services and the Singleton Taxi Service?

**The Hon. JOHN ROBERTSON:** I will take that question on notice and get back to the member.

#### **FORCED PROPERTY SALES**

**The Hon. PENNY SHARPE:** My question is addressed to the Minister for Police. What action is the Government taking to protect homeowners and families in these difficult financial times from fraudulent practices and unfair property sales?

**The Hon. TONY KELLY:** This Government continues to be upfront with the people of New South Wales about the impact of the current global financial crisis on New South Wales. We are working with the Rudd Federal Government to stimulate the economy and help ease the pain for working families. The

Government is investing in a better future with a massive infrastructure program underway, delivering investment and jobs where they are most needed. But it knows that economic conditions will get worse before they get better. The Government is determined to do everything it can to protect working families cope with the difficult situations brought about by the current financial crisis.

It is a sad reality that in the current economic climate many homeowners have fallen behind in their mortgage payments and face the forced sale of their home through foreclosure. But it is immoral that these homeowners have been exposed to the risk of unscrupulous lenders seeking to force through a fire sale of their property selling it for well below market value to recover their debt and leaving the home owner with nothing. That is why the Government is introducing new laws to make sure that in any forced property sale by a mortgagee the home will be sold at not less than market value. The Government's new laws in the Real Property and Conveyancing Amendment Bill will provide comprehensive protection to working families in difficult times. No matter what legal device a mortgagee uses to sell the property the market value should be achieved.

The Real Property and Conveyancing Amendment bill also protects the rights that property owners have to their land. A home and the land it sits on is the only substantial asset many people own. The Department of Lands registers about 3,000 land dealings every working day representing billions of dollars worth of transactions within New South Wales every year. The laws that will come before Parliament this week will further protect security of land title to ensure that the assets of homeowners are secure. Land transactions in New South Wales go back to the time of early settlement with a long and often confusing history. But the Torrens Title system in New South Wales provides for certainty of title to land. It allows people to rely on the accuracy of the Torrens register kept by the Registrar General within the Department of Lands.

Once registered an interest in land cannot be set aside because of some defect in the history of the title. This principle of indefeasibility brings stability to the land market and simplifies the conveyancing process. This Government is taking steps to strengthen that protection. The Department of Lands is enhancing the security features built in to certificates of land title to minimise the likelihood of the documents being fraudulently used. The Government is cracking down on identity fraud to give further protection to landowners and to make sure they cannot lose their home due to property fraud. The Government will be tightening the obligation on lenders to make sure they properly identify the parties to a mortgage and other land dealings. If those obligations are not met the forged mortgage will not be enforceable against an innocent landowner.

Investing in the future of New South Wales is about securing jobs which provides the financial security needed to give hardworking families the best chance to overcome mortgage stress. These new laws show the Government is using every lever at its disposal to shelter the people of New South Wales against mortgage stress by strengthening the State guarantee of title against fraud and the impact of global financial crisis.

### **ELECTRICITY INDUSTRY PRIVATISATION**

**Dr JOHN KAYE:** My question is directed to the Minister for Energy. Will the Minister rule out selling the State-owned electricity retailers to Origin Energy or AGL Energy, given that in a recent *Choice* survey of customer satisfaction of 11 existing electricity retailers they came respectively second last and last? If not, what consideration will the Government give to the track record of customer satisfaction of bidders in determining who will buy the retailers under his model of electricity privatisation?

**The Hon. IAN MACDONALD:** This matter falls under the province of the Minister for Finance and the Treasurer and I will refer it to them.

### **CROWN ROAD ENCLOSURE PERMITS**

**The Hon. GREG PEARCE:** My question is directed to the Minister for Lands. What is the current performance of the Department of Lands in the sale of Crown road enclosure permits that are not required and the sale of perpetual leases to landlords that have applied to convert to freehold? Are there any backlogs? If so, what are their details? What are the operational costs of accelerating the sale of surplus Crown lands which are estimated in the mini-budget as \$4 million over two years and of funding the sale of perpetual leases which are estimated at \$2.1 million over two years? Why are the additional costs necessary, given the department's budget for 2008-09 was increased by \$5.2 million or nearly 9 per cent?

**The Hon. TONY KELLY:** I thank the member for this very good question. The Crown Lands Act requires me to charge market rent for any tenure of Crown land to ensure an appropriate return on public assets.

In relation to the sale of enclosure permits and perpetual leases, my memory is that the department has received and is dealing with something like 8,000 applications for perpetual leases out of about 10,000, which is a job it did not have before. As the Treasurer is not present, I cannot congratulate him on his allocation in the mini-budget of an additional \$2 million to accelerate those perpetual lease sales, plus something like 35,000 enclosure permits in the State for which a significant number of applications have been received. As many people have an interest in them, the department has to carry out significant investigations. It is a big job because the department wants to make sure that the environmental issues are catered for properly and that neighbours and councils are advised. From my recollection, the additional \$2 million a year quoted by the Hon. Greg Pearce is correct. I believe that the return on that \$2 million a year, or \$4 million in a couple of years, will be in the order of about \$20 million.

### SEAFOOD EXCELLENCE AWARDS

**The Hon. IAN WEST:** My question is addressed to the Minister for Primary Industries. Will the Minister update the House on the achievements of the State's seafood industry as recently recognised at the annual Seafood Excellence Awards?

**The Hon. IAN MACDONALD:** The Sydney Fish Market Seafood Excellence Awards event was held earlier this month in the grand ballroom at Star City Casino.

**The Hon. Michael Gallacher:** You were forced to go!

**The Hon. IAN MACDONALD:** No, unfortunately I was not there. I am proud to say that the New South Wales Department of Primary Industries was a proud sponsor of this prestigious event, which recognises the outstanding talent and achievements of the State's seafood industry—an industry that is respected as being world class. From growers and retailers to suppliers and restaurants the Seafood Excellence Awards are recognised as the industry's night of nights, and it was certainly that. Fourteen award categories were presented covering the full gamut of this vast and dynamic industry. I will briefly acknowledge each of the winners and congratulate them on being leaders in their field. Time does not permit me to go through all the winners today but I would like to note at least some of them.

The Best Supplier Award—New South Wales, sponsored by the New South Wales Department of Primary Industries, went to the Coffs Harbour Fishermen's Co-operative. The Inspired by Seafood Award went to Annie Watt of Universal Restaurant. The Best Seafood Retailer Award—Suburban and Regional, went to Costi's at Westpoint. The Best Seafood Retailer Award—Sydney Fish Market, went to De Costi Seafoods, Sydney Fish Market. The Best Fish and Chips Award—Regional, was won by Bub's Fish and Chips in Nelson Bay. The Best Seafood Restaurant Award—Regional, was won by Fins Seafood Restaurant and Bar, Byron Bay. The Best Seafood Restaurant Award—Sydney, was awarded to Yoshii Restaurant. The Best Seafood Business Award went to De Costi Seafoods.

Finally, the highly prestigious Star of the Sea Award was presented to Mr Graeme Byrnes. The Star of the Sea Award is given to an individual who has made a significant contribution to the development of the seafood industry, who is a role model to the industry and has earned the respect of others in the business. Mr Byrnes is such a figure. As the Deputy Chair of the Seafood Industry Advisory Council, Mr Byrnes is a highly respected and admired leader of the industry and rightly deserves such prestigious recognition. His contributions and insights are highly valued. And I am sure the Deputy Leader of the Opposition would agree.

**The Hon. Duncan Gay:** I do.

**The Hon. IAN MACDONALD:** In his speech after winning the award, Mr Byrnes said:

New South Wales has had a variety of fisheries Ministers over the years, but this one is by far the best.

I thank the Deputy Leader of the Opposition for agreeing with me.

**The Hon. Melinda Pavey:** That is not what he said privately.

**The Hon. IAN MACDONALD:** That is exactly what he said publicly. This year, for the first time, the Seafood Excellence Awards were opened beyond industry to the general public—a fact that reflects the esteem with which the people of this State hold the seafood industry and the value it brings to New South Wales, and



their loyalty to it. The seafood industry, which includes aquaculture and oyster farmers, is indeed a vibrant industry that generates over half a billion dollars of economic activity each year and employs more than 4,000 people. Of this, the wild harvest commercial fishing managed under the New South Wales jurisdiction is worth more than \$90 million dollars at first point of sale. The New South Wales wild harvest commercial fishing industry is a dynamic network of skilled businesses.

Commercial fishers, wholesalers, processors and retailers work together with the restaurant and catering industry to supply fresh seafood to communities across the State, as well as to interstate and overseas markets. The industry underpins the economy of many coastal towns providing wealth and employment in places, and at times of the year, where there is little other economic activity. We cannot underestimate the importance of the fishing industry's contribution to the New South Wales economy through production and employment. Our seafood industry enjoys a reputation of excellence in quality and value right across the world and events such as the Sydney Fish Market Seafood Excellence Awards are an important way of recognising that achievement. I also note that the New South Wales commercial fisheries are carefully managed. The resource is shared amongst over 1,000 commercial fishers.

### CESSNOCK ECONOMY AND JOBS

**Reverend the Hon. Dr GORDON MOYES:** My question without notice is directed to the Minister for Corrective Services. Is the Minister aware that the unemployment level in Cessnock is currently at 7 per cent, compared to the New South Wales unemployment average of 4.2 per cent? Is the Minister aware that the Cessnock Local Government Association is the most disadvantaged local government association when compared to neighbouring councils in the Hunter region and that this situation has been recently exacerbated by the announcement by Pacific Brands to close down its Cessnock factory?

In particular, is the Minister aware that a high percentage of staff at the Cessnock Correctional Centre are approaching retirement age and that the correctional officers have a high average length of service? Given the proposed plans to privatise the Cessnock Correctional Centre, will the Minister give assurances that correctional officers who will not be transferred to the new private facility will be given adequate training for new employment and that strategic policies focusing on the creation of jobs will be established to develop the local economy of Cessnock? *[Time expired.]*

**The Hon. JOHN ROBERTSON:** I will deal with all those issues, but firstly I will correct the record. The Government is not privatising jails; we are involving the private sector in the operation of only two jails, as part of "The Way Forward" reforms. The reforms deal with a range of issues including entrenched work practices and static officer locations. The Government will address entrenched workplace practices and also the overtime budget blow-out of \$43 million. Three employment options are available for Cessnock correctional officers. First, they have been offered voluntary redundancies, if they desire to go. Second, they have been offered relocation elsewhere throughout New South Wales with the Department of Corrective Services. Third, they have been offered, and will be offered as part of the tender process, preference of employment with the new operators if they desire to go across.

One of the first issues that I discussed with the commissioner when I was given this portfolio was what would happen to their jobs? This is a very important area and the Government takes jobs very seriously. We want to make sure that workers, particularly those in a regional location, are looked after. In fact, the Government proposes to expand Cessnock by another 250 beds. That will mean increased staffing numbers of prison officers in Cessnock. There is no risk about a loss of jobs as a result of private sector involvement and the operation of the Cessnock facility. Those jobs will be there if the workers wish to stay in the Cessnock area.

### RAIL FREIGHT CONCESSIONS AND JOBS

**The Hon. TREVOR KHAN:** My question without notice is directed to the Minister for Primary Industries. Has the Government considered the impact of the removal of rail freight concessions on mining jobs in Lithgow, Bathurst and other regional centres? Will the Minister advise how many of the 350 existing jobs in Gunnedah mining operations and the existing mining jobs at Werris Creek will be put at risk by the removal of the rail freight concessions? What implications does the removal of the rail freight concessions have for proposed new mines west of the Dividing Range?

**The Hon. IAN MACDONALD:** That is a very good question, one that I will detail slightly.

**The Hon. Michael Gallacher:** Detail slightly?

**The Hon. IAN MACDONALD:** I will not go on at length, but I will take my full four minutes doing so. During the mini-budget process, some changes were made to royalties and arrangements or offsets that are associated with the royalty regime in New South Wales. One change was the removal of the rail freight deduction. I have met with a number of the companies.

**The Hon. Duncan Gay:** They say you have no ticker.

**The Hon. IAN MACDONALD:** I have a lot of ticker. The royalty regime in New South Wales is very good indeed for the Government and for the provision of services in New South Wales for the next couple of years. Those transport deductions were removed in the mini-budget. I have met with many of the companies involved, including companies representing the Gunnedah Basin—it is good that there is an active interest in the mining sector in the Gunnedah Basin from a member opposite—as well as mining interests from the Lithgow area, the western mines. I have met also with the unions that have an interest in this issue as well as local members including Gerard Martin. I have undertaken to have this proposal reviewed. Shortly I will make appropriate submissions in relation to it. If the honourable member wants to check on this—

**The Hon. Greg Pearce:** Submissions to whom?

**The Hon. IAN MACDONALD:** To Cabinet, of course.

**The Hon. Duncan Gay:** How did you get rolled in the first place?

**The Hon. IAN MACDONALD:** I was not rolled. If members had listened to *Country Hour* yesterday, they would have heard me say then all that I have said today.

#### MOBILE PHONE DETECTION IN PRISONS

**The Hon. AMANDA FAZIO:** My question is directed to the Minister for Corrective Services. What action is the Government taking to keep mobile phones out of New South Wales prisons?

**The Hon. JOHN ROBERTSON:** I thank the honourable member for her question and her interest in this matter. The Government is committed to ensuring that the hardworking men and women of the Department of Corrective Services are equipped with the resources necessary to maintain security within our prisons. We all use mobile phones every day but in the hands of a dangerous and violent criminal a mobile phone can be a murder weapon. Inmates can potentially use mobile phones for a number of purposes, including to plan and carry out escapes from custody; to intimidate witnesses whilst offenders are in custody awaiting trial; to continue their criminal activities whilst in custody by contacting their former criminal associates still in the community; and to take and forward photographs.

It is clear that mobile telephones in the possession of inmates pose a considerable threat to the safety of prison staff and the community at large. That is why the department devotes a considerable amount of its resources to stopping them entering our corrections system. For example, metal detectors, intelligence-based targeted searches of inmates and contraband searches of prison visitors are some of the existing strategies to keep prisons mobile phone free. The department ensures that any person caught trafficking mobile phones is dealt with to the full extent of the law. The trafficking of mobile telephones into a correctional centre is an offence under the Summary Offences Act 1988, punishable by a two-year custodial sentence, a \$2,200 fine or both.

However, as we have seen in the past and despite these tough penalties, inmates are willing to employ a number of ingenious and cunning ways of smuggling mobile phones into prison as well as hiding them from detection. In an era of smaller and more sophisticated communication devices the challenge of detecting and tracking mobile phones is becoming even more difficult. It is therefore vitally important that the Department of Corrective Services is proactively seeking to stay ahead of the challenge to keep mobile phones out of prisons.

I am pleased to report to the House on a new trial project to be run by the Department of Corrective Services. The Corrective Services Drug Dog Detection Unit is commencing training with a canine team dedicated to finding mobile phones in and around correctional centres. The dogs will be trained to detect a trace scent of lithium, which is a chemical found in mobile phone batteries. However, it should be noted that this is a

significant challenge as lithium is also found in watch batteries and other technological devices. The dogs must be taught to isolate the particular scent of a mobile phone in order to train them to detect it. Therefore, it is important to emphasise that we are still in the early stages of development. Similar teams have been introduced overseas and the early results are encouraging, hence our intention to expand our existing operations to include this strategy. It is also important to note that when dealing with new and emerging technologies there is often an element of trial and error.

The first trainees in the mobile phone detection school will be Jedda, a black labrador, and Boe, a border collie. Boe is one of the more experienced dogs in the New South Wales Corrective Services K9 Unit, and her trainer, Troy Seychelles, has done amazing work to develop her detection skills over many years. Jedda on the other hand is a relatively new addition to the canine team and the hope is that she will lead the way in this new training technique as she is what we call a blank slate.

It is clear that keeping mobile phones out of all correctional centres requires a multifaceted approach. Mobile phone jamming is a concept that we have been looking into, however it may not be suitable for all correctional facilities. The great thing about dogs is that they can be moved around and are suitable for large, small, regional and metropolitan correctional facilities. The message is clear— *[Time expired.]*

### RETAIL TRADING ON RESTRICTED DAYS

**Reverend the Hon. FRED NILE:** I wish to ask the Attorney General, and Minister for Industrial Relations a question without notice. A large number of retailers have sought to trade on one of the most holy days in the Christian calendar, Easter Sunday. What is the result of those applications? What is the Government's position with regard to trading on sacred Christian holy days such as Good Friday, Easter Sunday, Christmas Day, and Sundays, and the national sacred day, Anzac Day?

**The Hon. JOHN HATZISTERGOS:** I thank the honourable member for his question. Easter Sunday is a day of significance. It is a day of reverence and reflection for many people in our community and I think the community rightly expects to be able to observe it whether for religious purposes or by spending time with family and friends. That is why the Government introduced the Shop Trading Act 2008 to restrict retail trading on Easter Sunday and other important days, including those referred to by the honourable member—Good Friday, Anzac Day, Christmas Day and Boxing Day. On all other days of the year, 360½ days, there are no restrictions on shops opening to trade. The fact that we have deregulated Sunday trading strengthens the case for treating these 4½ days with some level of sanctity. They should be regarded as days of reverence and reflection. Retailers may only trade on these 4½ days if they meet the criteria in the legislation, such as the need for a shop to be opened on one of those days and the likely effect on employees. The threshold is high and rightly so.

The Director General of the Department of Commerce assesses all such applications and makes a determination. If an applicant is unhappy with the outcome, it can appeal to the Administrative Decisions Tribunal. I note that one group, Bunnings, which was recently refused permission to trade on Easter Sunday, has decided to take its case to the Administrative Decisions Tribunal. I am advised that this morning the Administrative Decisions Tribunal dismissed the appeal. In making its decision the tribunal noted:

Easter Sunday is one of only four and a half days in the year on which Parliament has determined, after a recent review, that most shops must be closed. The reason for Parliament so determining ... is the special significance of these days in the Australian calendar.

This is a win for the community. It is in keeping with the intent of the legislation that these 4½ days are restricted days. I am advised that the director general has thus far finalised a total of 25 applications by retailers to trade on Easter Sunday, all of which have been rejected. I also note that in a press release on 20 March the secretary of the Shop, Distributive and Allied Employees Association stated, "As a result, tens of thousands of retail employees and their families across New South Wales will see their Easter long weekend preserved." I am also advised that six applications have been made to trade on Anzac Day, and would you believe two on Good Friday and one on Christmas Day. They have all been refused.

The Office of Industrial Relations has been liaising with stakeholders to assess the impact of the legislation so far. The Act is intended to provide an appropriate balance between the interests of consumers, retailers and retail workers and indeed the broader community, and we will continue to work with the various stakeholder groups to ensure that we get this balance right. I note that this position has some bipartisan support with the Leader of the Opposition making the observation on 17 March that we do not need to ensure that our shopping centres are open every day of the year because that would have a huge impact on families whose

members staff such facilities. I concur with those remarks. I congratulate the Director General of the Department of Commerce on his wise decision and look forward to Easter Sunday being an occasion that can be enjoyed by as many people in the community as possible, including retail workers.

### **SHELLHARBOUR HOSPITAL SURGICAL RESOURCES**

**The Hon. JOHN AJAKA:** My question without notice is directed to the Minister for Health. Does Shellharbour Hospital currently have the resources to conduct ophthalmological and/or orthopaedic surgery? If not, how much will it cost to properly resource Shellharbour Hospital to perform such surgery? Can the Minister guarantee the average waiting times for the 573 patients currently waiting for ophthalmological and orthopaedic surgery at Bulli Hospital will not increase? Can he guarantee the average waiting times for surgery at Shellharbour Hospital will not increase as a result of Bulli Hospital's waiting list being transferred to Shellharbour Hospital?

**The Hon. JOHN DELLA BOSCA:** The member has asked a good question. The guarantee I can give in general terms about elective surgery waiting lists is that public hospitals in New South Wales are the best performing hospitals of all jurisdictions. I have said to people on other occasions—and the Hon. John Ajaka does not have to take my word for this as it is the opinion of the Australian Medical Association's 2009 report card on public health—that New South Wales has been shown to be the leading State in the areas of elective surgery and emergency department waiting times. In four of the seven criteria for determining the excellence of public hospitals New South Wales is the lead State. The Government is committed to further improving waiting times for all patients in hospitals.

The most recent waiting list data, which is published on the NSW Health website, indicates that at the end of December 59,996 ready-for-care patients were waiting for elective surgery. This figure has remained fairly constant over the past 12 months or so and I would expect it to continue to remain relatively constant. While it is important to manage the total number on the list, it is more important for us to treat more patients over a shorter period. Waiting times for surgery must be reduced and more patients must be able to move through to undergo elective surgery procedures.

As at December the average waiting time for surgery in New South Wales was 2.2 months. That figure has also remained fairly constant over the past 12 months. Opposition members continue to focus on raw waiting list numbers but they fail to acknowledge why the total ready-for-care list has grown. New South Wales has experienced an ageing population and improved diagnostic testing relating to cancer requiring surgery and cardiac and neurological disorders. In case Opposition members have forgotten, in the time of this Labor Government the New South Wales population has also increased and health system outcomes have improved. Every year almost 260,000 major surgical operations are performed in public hospitals in New South Wales.

**The Hon. Michael Gallacher:** Have you mentioned Bulli yet?

**The Hon. JOHN DELLA BOSCA:** I thank the Leader of the Opposition for his introduction. Bulli Hospital currently performs low-risk, primarily day-only, elective surgery in a number of specialties—those specified by the Hon. John Ajaka in his question. Late last year at my request Dr Andrew McDonald, the Parliamentary Secretary for Health, reviewed the area's plans for consolidation of surgical services from Bulli. Dr McDonald noted in his findings that it was clear that elective surgery should be consolidated across the Illawarra region and that surgical services could not continue indefinitely at the Bulli Hospital site. After consultation with local doctors it was agreed that ear, nose and throat day-surgery procedures would continue at Bulli Hospital and orthopaedic and ophthalmological surgery would transfer to Shellharbour Hospital.

### **STATE NURSING HOME TRANSFER PROJECT**

**The Hon. KAYEE GRIFFIN:** My question without notice is addressed to the Minister for Health. What is the State Nursing Home Transfer Project and what action is the Government taking to maintain quality care for residents and employment conditions for staff?

**The Hon. JOHN DELLA BOSCA:** In Australia the majority of aged care facilities are operated by the non-government sector, predominantly with funds from the Commonwealth. Although aged care is a Commonwealth responsibility the State, in the case of New South Wales, still runs a small number of aged care services. The State Nursing Home Transfer Project is a budget initiative that proposes the transfer of

11 state-managed aged care facilities. The project is driven by two important principles: identifying providers that are best placed to deliver quality services, and ensuring that State health resources are directed to the health services that predominantly are a State responsibility.

The State Nursing Home Transfer Project will ensure that any transfer maintains local access to existing residential aged care places and continuity of aged care services. The Government is determined to minimise any disruption of services to residents, with particular reference to those who have special care needs. The Government has commenced with calls for an expression of interest. If there are suitable applicants, there will be a request for detailed proposals from selected service providers who have submitted an expression of interest that meets all the quality criteria. Expressions of interest from the non-government sector will be assessed on a range of factors, including the operator's record in providing quality aged care, in accordance with Federal and State legislative requirements, as well as the capacity of operators to meet any special care requirements of current or intended residents.

Keeping aged care services and places within the local area is a significant priority for the New South Wales Government. Staff-to-resident ratios will be determined in accordance with resident care needs and in compliance with the Australian Government's aged care accreditation standards. The State Nursing Home Transfer Project has a strong commitment to recognising the unique nature of each of these facilities. Great importance has been placed on local conditions and to ensure that any transfer is undertaken in a way that delivers appropriate outcomes in each community. Staff can also be confident about this process as the State Government Nursing Home Framework Agreement applies to this project.

There will be employment protections and guarantees for permanent aged care facility staff that wish to transfer their employment to any new aged care provider. Members of staff who transfer to a new provider will retain all their entitlements, including superannuation. Area health services will be providing information via their websites, and local announcements will be made to ensure that the community is kept advised. Details will also be available on the website of the Department of Health. The bottom line is that the New South Wales Government is committed to ensuring that its policies and initiatives enhance the quality of life of residents in New South Wales.

If the proposals do not deliver positive outcomes for residents, their families, staff, the health system and the community as a whole, they will not be accepted. The State Nursing Home Transfer Project is a mini-budget initiative that will identify providers best placed to deliver quality services and ensure that State health resources are directed to areas where they should be directed—supporting health care services in New South Wales.

#### **JUNEE CORRECTIONAL CENTRE OFFICER ENTITLEMENTS**

**Ms SYLVIA HALE:** I address my question to the Minister for Corrective Services. Do corrective services officers at the privately run Junee Correctional Centre receive an annual salary of about \$10,000 per year less than a similarly qualified and experienced officer working in a public correctional centre? Do they also receive lower entitlements to penalty rates, annual leave, parental leave, carers leave, sick leave and long service leave? Will the privatisation of the Parklea and Cessnock correctional centres—

**The Hon. Greg Donnelly:** Point of order: Mr President, I am seeking some direction—

**The Hon. Michael Gallacher:** That is not a point of order.

**The PRESIDENT:** What is the member's point of order?

**The Hon. Greg Donnelly:** The member knows full well that this matter is currently before an upper House committee, of which she is a member. On that basis the question is inappropriate. That committee is currently hearing evidence.

**The PRESIDENT:** Order! There is no point of order. The member has not referred to unreported reports of the committee. The member's time for asking her question has expired. The Minister for Corrective Services has the call.

**The Hon. JOHN ROBERTSON:** Correctional officers at Junee are covered by a collective agreement that was negotiated by the Liquor, Hospitality and Miscellaneous Workers Union [LHMWU]. When I was in

June last Thursday I inspected June jail and spoke to two delegates and the union organisers from the union about industrial arrangements at that jail. They advised me that they have just negotiated a new collective agreement, and that correctional officers will receive wage increases of well over 4 per cent each year for the next three years. These workers advised me that they are happy with the arrangements under which they operate in June and are happy with the collective agreements that are in place.

Telling evidence of that is that one of the delegates with whom I spoke told me that he has been at June jail since it opened 16 years ago. During my working life I have spent a fair bit of time talking to workers and I know that if workers are not happy where they work, they leave. Workers at June jail have said that they are happy with their rates of pay and they are staying at June jail. In this labour market people have options available to them if they are not happy with their conditions. But these workers are happy. They are not only happy with their employment; they are also happy with their union-negotiated collective agreement. That agreement has to satisfy a no-disadvantage test in the Federal jurisdiction to ensure that workers are not being ripped off. All the officers I spoke with at June jail were satisfied with the rates of pay and with the other conditions that they enjoyed.

No doubt workers at Parklea and Cessnock also will have collective agreements and, again, they will have a no-disadvantage test to ensure they are not ripped off. The Government's policy supports collective agreements and people being represented by unions. We expect that Parklea and Cessnock workers will have collective agreements that will be negotiated with the relevant union and tested against the no-disadvantage test, and that those workers will not be ripped off in any way, shape or form.

**Ms SYLVIA HALE:** I ask a supplementary question. In his answer the Minister referred to a pay increase of 4 per cent. Can the Minister inform the House whether this will make the rate of pay for those officers comparable with that of officers of the Department of Corrective Services? Will their conditions relating to annual leave, parental leave, carers leave, sick leave and long service leave be improved on those of the Department of Corrective Services?

**The Hon. JOHN ROBERTSON:** The wage increases are well above market. In fact, if my memory serves me correctly, in the first year the workers will receive an increase of 4.8 per cent, and in the second and third years they will receive a wage increase of 4.4 per cent. Those wage increases are well above market, and I have been advised that they will get those wage increases without having to trade-off anything.

#### **RAYMOND TERRACE POLICE STATION CONSTRUCTION PROJECT**

**The Hon. ROBYN PARKER:** My question without notice is directed to the Minister for Police, Minister for Lands, and Minister for Rural Affairs. Given that approval has been granted by Port Stephens Council for a new police station at Raymond Terrace, can the Minister advise when construction of this station will be completed? What interim arrangements have been made for accommodating police and staff? Where will the additional 43 staff vehicles park while the station is being built? Will the council and ratepayers be reimbursed for over \$700,000 in associated roadworks and parking costs?

**The Hon. TONY KELLY:** I am advised that the total project budget for the Raymond Terrace police station is \$13 million. The new police station for Port Stephens will be built on the current site at Raymond Terrace. The project was delayed for a while because at one stage the council wanted to sell its chambers in order for them to become the police station, but after a change of council there was a change of mind. Master planning has been completed with a principal design consultant now engaged to complete the design process. The development application was lodged at Port Stephens Council in December 2008. We currently are negotiating the submitted design proposal with council. I understand the matter went before council yesterday, Tuesday 24 March. I have received advice that, contrary to media speculation, the development application was approved. I will seek urgent confirmation of the exact status of the development application.

Following development application approval I am advised that the next phase of designing, documenting, tendering and awarding the contract will take between five and six months with a construction phase of 12 to 13 months. Of course, this is dependent on the condition of the site. I am advised further that the old police residence on the existing Raymond Terrace police station site has been listed by Port Stephens Council as a locally listed heritage item, but it is not recognised as such outside Port Stephens Council's internal register. The New South Wales Police Force has offered the building to Port Stephens Council free of charge should it deem the building to be of significant value to relocate it to another site, if it so chooses.

**The Hon. Robyn Parker:** Point of order: The Minister is not answering the question. The question gave more up-to-date information than the Minister's answer. The question specifically was about costs—

**The PRESIDENT:** Order! There is no point of order. The member has achieved her purpose.

### GOVERNMENT APPRENTICESHIPS

**The Hon. HENRY TSANG:** My question without notice is addressed to the Minister for Energy. Can the Minister update the House on the efforts by the New South Wales Government to boost government apprenticeships?

**The Hon. IAN MACDONALD:** I thank the member for his question, and commend him for his knowledge and interest in this matter. As we have said on many occasions, we are facing unparalleled times: a global financial crisis unlike anything we have seen since the Great Depression. As the Treasurer told this place earlier this month, because the bulk of the New South Wales economy is service based, we are particularly exposed to the global economic crisis. That is why the New South Wales Government is pumping much-needed investment into the economy through major infrastructure spending—some \$56.9 billion over the next four years and beyond. This infrastructure spending will support 150,000 jobs.

One growing area of investment is the electricity industry. Energy businesses are investing billions of dollars to upgrade essential infrastructure to ensure families and businesses have the power to grow. In these uncertain economic times it is reassuring that there is scope for a lifelong and prosperous career in the electricity industry. Integral Energy expects to invest \$4.2 billion over the next four years—its largest network investment plan ever. This is vital work not only in replacing and upgrading electricity assets, but also in meeting an expected growth in peak demand. To help deliver this massive capital works program, Integral Energy will continue to recruit people, in particular young workers, through its apprenticeship program.

This year it will welcome 59 new apprentices, taking the number of apprentices training at Integral Energy today to 239. That is a record for Integral Energy and demonstrates its commitment to training the new front line—the next generation of electricity workers. Many of these apprentices are fresh out of school. However, a number have joined the program in a bid to change their career direction and learn new skills. One member of the 2009 class is 47 years old, proving the adage that it is never too late. Integral Energy is achieving another important milestone today. As we speak, Integral Energy chairman, Mike McLeod, is formally opening the \$14 million state-of-the-art Hoxton Park Technical Training Centre in Sydney's west.

The training centre will train 300 Integral Energy apprentices over the next five years, complementing their TAFE studies at nearby Miller TAFE. I am advised that the Hoxton Park facility boasts many features unavailable in other technical training centres throughout Australia, such as the all-weather pole training area. The centre boasts a simulated substation, covered electrical safety training area, seven lecture rooms and four workshops, and an outdoor power pole training area, including cables capable of being energised safely to give apprentices an understanding of working on live electrical equipment.

The centre also incorporates the latest in energy and water-efficient design, including a 180,000 litre water tank to store rainwater collected from the roof for use in bathrooms and gardens, and on sensor-controlled air conditioning and lighting. I congratulate all those involved, especially past and present trainers, who have dedicated many hours providing wise counsel to the next generation of electricity workers. The New South Wales Government supports efforts by its electricity businesses like Integral Energy to invest in young people. Young people fresh out of school are among the most vulnerable in times of rising unemployment.

Last month the Premier announced a \$370 million investment in government apprenticeships, tripling the number of government apprentices by an additional 1,000 every year in the next four years. In more good news on this front, Country Energy has announced a drive to recruit 60 new electrical workers across regional and rural New South Wales. It is good to see Country Energy investing in jobs that will boost service levels in this essential industry. The new recruits will work out of 40 field service centres across the State, strengthening Country Energy's already strong field-based workforce. Close to 1,700 are currently working on government projects, including power generation and supply, water supply, transport and health. We will continue to support these efforts, and we applaud Integral Energy for doing its part in securing a future for young people.

### BELL MINER ASSOCIATED DIEBACK

**Mr IAN COHEN:** My question is directed to the Minister for Primary Industries. Given that the bell miner associated dieback has been reported by the Bell Miner Associated Dieback Working Group and the New

South Wales Scientific Committee as seriously impacting thousands of hectares of forest in northern New South Wales, how much funding has been invested by the Department of Primary Industries this financial year for research or control of the problem? Does the Ecologically Sustainable Forest Management Plan for State Forests in New South Wales state that the bell miner associated dieback will be managed by thinning operations? If that is the case, is this practice consistent with the practices recommended by the New South Wales Scientific Committee on managing and reducing the bell miner associated dieback?

**The Hon. IAN MACDONALD:** I thank the honourable member for his fairly detailed question. For quite some time the department has been concerned about dieback and its impact on our forestry. I will take the question on notice and obtain a detailed answer.

#### **NEW SOUTH WALES CRIME COMMISSION STAFFING**

**The Hon. CHARLIE LYNN:** My question is directed to the Minister for Police, Minister for Lands, and Minister for Rural Affairs. Why was a referral of outlaw motorcycle gangs to the New South Wales Crime Commission not made before his announcement yesterday, given the history of escalating violence and crime by these gangs? Is he aware that the New South Wales Crime Commission has only 27 staff projected for the current financial year? Given that, will he consider increasing staff levels at the New South Wales Crime Commission to manage increased workload following the attack last Sunday at Sydney Airport?

**The Hon. TONY KELLY:** I really do not intend to make public the internal discussions that I, as chair of the management committee, have with the New South Wales Crime Commission. I also do not intend to unnecessarily give any outsiders any knowledge of the commission's operations.

**The Hon. JOHN DELLA BOSCA:** I suggest that if members have further questions, they place them on notice.

#### **CROWN ROAD ENCLOSURE PERMITS**

**The Hon. TONY KELLY:** I wish to provide more information in response to a question asked earlier today by the Hon. Greg Pearce regarding perpetual leases. Of the 10,720 perpetual leases on our books, the Department of Lands has received 8,564 applications, or applications for 80 per cent of them, and 4,892 leases have been converted to freehold, which means that we have already finalised 57 per cent of the applications.

The Government makes no apology for taking time to ensure that environmental values are protected and that landholders are able to get on with the job of managing properties. The time for lodgement of applications has been extended until 30 June this year. I implore the approximately 2,000 people who either have not responded or have not applied to submit an application before 30 June.

In relation to other road closures, I point out that there are 33,315 roads on our books. The Department of Lands has received 11,246 applications for road closure. Of those, 640 will not proceed because the roads in question are required for essential purposes or the application has been withdrawn. I advise, however, that 3,509 have been approved for closure. Of those, 1,614 applicants have successfully had their roads approved for purchase.

**Questions without notice concluded.**

#### **CHILDREN LEGISLATION AMENDMENT (WOOD INQUIRY RECOMMENDATIONS) BILL 2009**

**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.**

*[The President left the chair at 1.03 p.m. The House resumed at 2.30 p.m.]*



**GENERAL PURPOSE STANDING COMMITTEE NO. 2****Report: The Management and Operations of the Ambulance Service of NSW**

**Debate resumed from 21 October 2008.**

**The Hon. ROBYN PARKER** [2.30 p.m.]: I speak as the Chair of General Purpose Standing Committee No. 2 in relation to the inquiry into the management and operations of the Ambulance Service of New South Wales. I say at the outset that the report is worth reading, and members who have not yet picked up a copy of it should do so. We do not have the Government response yet, and members need to be familiar with the report's contents to see how well the Government responds to a number of the issues raised. The Ambulance Service of New South Wales has been under the spotlight numerous times over the past decade and, as a result, there have been various reviews and inquiries into the operational aspects of the service. There have been many inquiries; however, none of the reviews focussed on the key issues that were brought to light during this inquiry—namely, the service's management and culture and, in particular, the occurrence of bullying and harassment within the organisation.

This inquiry was undertaken because of an overwhelming level of concern raised with members of Parliament and the media by ambulance officers, staff and community members. The establishment of the inquiry had broad-ranging support. That support was due to a range of factors but primarily because the terms of reference addressed specifically the bullying and harassment issues, and the inquiry was to be conducted by a committee that was seen not to be controlled by the Government. A great deal of faith, evidenced by the large number of submissions, was placed in the committee to come up with recommendations that were strong and unambiguous. As the chair of the committee I feel that that faith was well placed. The committee was distressed to hear about the depths of despair experienced by some paramedics as a result of bullying and harassment by their colleagues and managers, which in numerous cases had contributed to depression, anxiety, self-harm and, sadly, suicide.

Of significant concern is the way management handled, or indeed failed to handle, these matters over the years. The drawn-out process of grievance and complaints handling within the service has exacerbated many of these situations, which has resulted in some becoming almost irreconcilable. The fragile psychological state demonstrated by some participants during the inquiry prompted the committee to establish a mental health support plan, in consultation with an independent clinical psychologist, to offer appropriate support to some of the more aggrieved participants. This was a groundbreaking but absolutely vital move. So poor was the trust in the management and the Department of Health by many of the witnesses that the independence of this process was paramount.

The committee has suggested that further investigation into establishing plans such as this be undertaken to establish protocols that other committees may adopt in future inquiries. I thank Stephen Reynolds for his dedication, considered advice and contribution to this process, along with Beverley Duffy, the committee director, and other secretariat staff. The committee was supported throughout this inquiry by a secretariat of outstanding quality. I have already mentioned the leadership of committee director Beverley Duffy. The team of Teresa Robinson, Sam Griffith, Cathryn Cummins, Christine Nguyen and Merrin Thompson dealt with the witnesses in a highly professional manner at all times. This was an extraordinary inquiry in so many ways, and on behalf of the committee I thank the entire committee staff for their dedication.

We should be proud of our staff in this Parliament. We are undertaking a number of training programs with other nations, particularly Pacific nations. I am proud of the level of support we receive from our staff and the way they resource members of Parliament so well, so professionally and in an unbiased way. They then pass on their skills to other parliaments. While it is clear that paramedics love their work, the joy of helping people and saving lives has been clouded by the indifference of some ambulance managers towards their employees and their inability to foster a safe and healthy work environment. This has resulted in high levels of unresolved conflict within the service and a level of morale so low that it appeared that it could not get any worse.

There are extremely serious cultural problems within the Ambulance Service. This was demonstrated by the fact that the majority of the authors of the 261 submissions received by the committee requested that their submissions remain confidential or partially confidential for fear of negative repercussions from management should their participation in the inquiry be revealed. The performance of the senior executive team, particularly that of the current chief executive, was criticised by a substantial number of inquiry participants, who further

condemned the nepotistic old-boys club culture that pervades the organisation. This report makes a number of key recommendations designed to address these issues and to shift the focus of management from budgets and performance indicators to its key asset—its people.

The committee has made recommendations to strengthen accountability within the service, and has emphasised that it is the responsibility of the Minister for Health and the Director General of New South Wales Health to ensure that the service's senior executives are completely fulfilling their duties. While many inquiry participants acknowledged that stress was part of the job, they suggested that management was largely responsible for creating a difficult working environment. The committee was told that some managers are inept and uncaring, that staff and Ambulance Service problems are ignored and that more focus is placed on budgets and performance indicators than employees. A significant number of managers have been appointed to their positions more because of their length of service rather than their ability to manage people. This is one of the key factors contributing to the service's problems.

The service and the Government have known about the way in which ambulance officers are managed and how unhappy these officers have been about their workplaces for many years—at least eight years—through Auditor-General reports, culture and attrition surveys and the Performance Review of the Ambulance Service of New South Wales. The chief executive of the service has failed to implement much-needed reforms to solve fundamental cultural and management problems, although he has been aware of these problems for nearly a decade. The inaction of the senior executive team has also played a significant role in the state of the service's affairs. The Minister for Health and the Director General of New South Wales Health have a key role to play in ensuring that the Ambulance Service fulfils its duties. I look forward to their response to our recommendations, which should be received by the end of April at the latest.

One of the committee's key recommendations is that the Minister and the director general meet with the chief executive on a regular basis to review the chief executive's position and to report back to Parliament, as well as that all senior executive managers undergo rigorous performance assessments. The incidence and mismanagement of bullying and harassment were a major impetus for this inquiry. The committee was distressed by the evidence regarding the level of bullying and harassment that has been allowed to persist within the Ambulance Service. Major changes must occur as a matter of urgency to address these serious concerns. I must add that there are still concerns. As the committee chair I am still receiving calls—other committee members may also be receiving them—from distressed ambulance officers some months after the inquiry concluded. People are more likely to behave inappropriately towards each other if they are under stress.

Improving ambulance officers' working conditions is critical to reducing the level of bullying and harassment within the service. Management at all levels in the service needs to take responsibility for these problems. Significant concerns were raised regarding the professional standards and conduct unit, which ambulance officers perceive to be biased and unaccountable. The committee has therefore recommended that an independent process be established to enable the Ambulance Service staff to appeal against decisions by the unit. Evidence was provided to the committee not only of suicides but also of officers who had attempted, or were contemplating, suicide. Many thought that support services were not encouraged properly by managers due to inadequate staffing or a lack of skills and managers to deal with such situations. A common theme among most submissions to this inquiry was that of inadequate staff levels, dissatisfaction with pay rates and outdated and inflexible award conditions.

I note that simultaneous with this committee's inquiry, a case was being heard in the Industrial Relations Commission for better pay and conditions—something that is reflected in the final report. Many participants in the inquiry, particularly the Health Services Union, demanded that the head of the service should be a uniformed commissioner. Whilst that has been promoted as a solution to the problems in the service, the committee maintains that it will not change the culture of the service. In fact, it may further entrench the damaging boys-club culture that exists today. The effective management of the service is dependent upon the individual who fills the leadership position rather than on whether they wear a uniform. However, it is critical that the head of the service is held accountable for their decisions and performance, and the committee has made a number of recommendations to facilitate that.

The committee has recommended that, in addition to the Minister for Health and the Director General of New South Wales Health regularly reviewing the performance of the chief executive officer, particular focus be given to reviewing the progress in reducing bullying and harassment in the service, which is essential to ensure that psychological distress experienced by ambulance officers who have been subjected to this behaviour

is addressed. To further improve accountability, the committee also made key recommendations to establish a direct reporting line to the Minister for Health and to create a new board of directors to provide checks and balances on executive decisions.

Overall, these recommendations are designed to ensure that the Ambulance Service has an executive that recognises the value of its people, listens to its employees and is held accountable for its actions and inactions. The Minister for Health has a key role in ensuring that those duties are fulfilled and the responsibilities are met. New South Wales is the only jurisdiction in Australia without its own ambulance Act. The committee has recommended changes so that the current deficient, confusing and outdated regulations are amended. The committee recommends establishing a new Ambulance Service Act for New South Wales to enshrine many of the recommendation it has made throughout the report.

The committee expects the Government to take immediate and decisive action. In fact, I wonder why it has not taken action sooner rather than waiting for the full six months in response to the committee's recommendations, starting with senior management, to bring about cultural change. The committee is not prepared to have this report swept under the rug. For that reason, in October 2009 the committee will institute a review of the recommendations contained in this report when we will focus on the service's progress in breaking down the culture of bullying and harassment.

I know that other committee members who participated in this inquiry with a great deal of goodwill and consensus will want to make comments. Time does not permit me to go into great detail; however, I was very disappointed—and my children say that when I say I am disappointed it is the worst criticism—that the whole of the committee was not able to support a draft recommendation against paramedics from the Ambulance Rescue Service going across to the fire service. As chair and as an individual member of the committee I could not see any justification for that move. Another motion to be debated may enable that matter to be discussed further. There was no justification for that function being moved. There must be another agenda for the move, and I am disappointed that the Government has taken that action at this time.

Ambulance officers in New South Wales are outstanding individuals on whom we rely during times of crisis. They need all the help and support we can give them. I look forward to the Government's response to this report. I hope that it will adopt all the committee's recommendations in relation to this important inquiry. I thank all participants in this inquiry for sharing their experiences with the committee. I know that for some it was very personal and emotional, and I am sincerely grateful for their contributions. I am grateful to my fellow committee members, and particularly to the secretariat staff for their hard work during this inquiry. I recommend this report.

**The Hon. CHRISTINE ROBERTSON** [2.44 p.m.]: In speaking to this report I add to the statements of the Hon. Robyn Parker in relation to the value of paramedic services within New South Wales. The general public and members of this House recognise that without such a magnificent service our health services would be nowhere near as good as they are. However, I found the process of this inquiry personally distressing. I believe that upper House inquiries have an incredible ability to add value to the policy processes within the Government of New South Wales. I and other members of the committee believe that other agendas were involved in the process of this inquiry. It was most unfortunate that the inquiry was undertaken during industrial disputation. I do not believe there was a particular political agenda but there was certainly an industrial agenda, which meant that often the messages the committee was looking for, and the terms of reference, became confused.

Fortunately for the committee, at about the time the report was handed down rulings were also handed down from the industrial court on those particular issues. But in the meantime there was some frenetic gathering of evidence, not by any particular individual on the committee but certainly by some people from outside, and that meant there were very confused messages. The outcome is that the report somehow managed to ignore much of the information that the committee received about the changed management processes that had been instituted within the Ambulance Service of New South Wales during the past 10 years or so. I do not have the proper figures in my head but particularly in recent times there was questioning within the Ambulance Service. Health department policy processes in relation to specific issues brought forward in our inquiry previously had been dealt with but I do not think the committee dealt with them appropriately in this report.

I believe the report contains very healthy recommendations for the future of the Ambulance Service and paramedics. Certainly the deliberative meeting of the committee was a very long and heated affair that resulted in a consensus on some issues, despite the massive dissenting report at the end of the report.

I congratulate the work of individual committee members in that regard. However, in the long run other agendas were running and the committee certainly did not reach assent on every issue in relation to the report. Unfortunately—or fortunately, whichever way it is looked at—the Ambulance Service in New South Wales is one of the most audited and reviewed government services. Whether that is good or bad is questionable but it means there is a constant culture of questioning. Another inquiry from the Premier's office was being held simultaneously and its report fed this committee's report. In 2007, following an audit in 2001, the Auditor-General said:

We commend the service for extensive changes it's made to implement the recommendations of the 2001 Audit Report for its new initiatives and for the improvements in range and accuracy of data and performance indicators.

The committee was given evidence that the work that has gone into delivering performance indicators to work with paramedics in order to ensure that they could prove the value of the individual parts of their work, and how they were operating, was very extensive and was something from which the committee gleaned a lot of information. However, a lot of that information was unable to be delivered. I found the academic evidence of an expert about harassment and bullying fascinating. The witness informed the committee that it was very difficult for people and organisations to agree on the difference between harassment and bullying. He gave us very tight definitions, which are not in my head at the moment. It was fascinating that as he described the definition of a bully, almost all in the room looked up and registered that bullying is often part of our daily experience.

It must be recognised that many workplaces have issues with harassment and bullying. Policies within the health service are fairly well defined. If the entire health service, not just the Ambulance Service, and those who operate the policies within the service read the submissions, transcripts and information received by the committee on bullying and harassment, all government departments could add value to their services. Fortunately, committee members obtained incredibly good information about defining exactly what harassment and bullying mean.

I will not address each individual item on which the committee members dissented; members can read those arguments in the report. I recognise that the Hon. Robyn Parker is distressed about a certain issue in relation to the ambulance and emergency services first-response process. I believe very strongly—and this is not part of the dissenting report—that in an emergency it is essential that paramedics be on site as soon as possible. My strong belief about this emanates from a major car accident that I experienced. I have not recorded the details of that accident, but will do so now. The Ambulance Service person was not available as fast as the State Emergency Service person. The triple-0 operator informed the State Emergency Service of the accident—I have a form of evidence from the Ambulance Service that establishes that—and the State Emergency Service personnel decided to wrench me from the car urgently, causing amazing things to happen to my legs. The Ambulance Service person was incredibly disturbed when he arrived. He was too late: I had been wrenched from the car. The State Emergency Service person said that the car was on fire. My passenger, who remained conscious, said that my car was not on fire; the other car was on fire. In that incredible situation the person who should have been responsible for the health of a human being was not on site at the time. This problem will not be fixed by having our incredibly valuable paramedics, who are trained in extra emergency services, in a special van to enable them to be first on site for an emergency rescue. That does not solve the individual problems.

In order to ensure that a paramedic is on site, that provision must be written into the emergency response procedure: an Ambulance Service person or paramedic must be available when a rescue of a human being is performed in order that medical services are applied. Paramedic services are an incredibly important component of health services. I would argue very strongly that rather than have a few specific vehicles set up for the rescue service we must ensure that the paramedics are involved in general emergency services. I stress that because recently I saw a paper that referred to certain other emergency services that were awaiting training to become first-response medical teams. That is not an appropriate reaction to the recommendations contained in the report. I encourage members to watch what is going on with that and to ensure that we have paramedics on site when rescue programs are undertaken for human beings who require a medical service.

**The Hon. MARIE FICARRA** [2.54 p.m.]: It was with great honour that I served as a Coalition member on the General Purpose Standing Committee No. 2 inquiry into the continuing problems within our highly valued and respected New South Wales Ambulance Service. There is no denying that the nature of ambulance officers' work has changed dramatically over the past decade, with increased expectations and correspondingly increased demand. Staffing resources have failed to match this demand. Much more needs to be done in educating the public in the most effective use of such acute care services, such as has happened in the United Kingdom.

The Ambulance Service of New South Wales has been the subject of 11 inquiries since 2001, and eight years of Auditor-General's reports, but still the chief executive officer and senior executives continue to ignore the glaring problems for which they are responsible. In doing so, they devalue the enormous goodwill, professionalism and dedication of our ambos. This inquiry was established to examine the alarming increase in reported incidents of bullying, abuse and harassment that tragically played a significant role in many cases of suicides and the taking out of apprehended violence orders by people in the service, as well as related incidents of depression, stress, self-harm, and family and relationship breakdowns. That is all indicative of an unhealthy workplace and a demoralised workforce. Clearly, this is a matter of urgency for us all.

The Ambulance Service chief executive officer and fellow executives, along with the Department of Health and successive health Ministers, have repeatedly ignored the serious problems within the service, increasing the pain and frustration of our ambulance officers. Surveys show that 75 per cent of paramedics are unhappy. Understandably, they are inquiry fatigued and inquired out. A bleak picture was painted of low staff morale, unresolved conflict and a nepotistic old-boys club. There are too many uncaring and inept senior and middle managers with no human resource skilling, no conflict resolution training and poor people-management skills. They care more about their budget and their individual performance indicators than they do about their primary asset, their staff. A submission, representative of so many, stated:

Today's senior managers are so budget focused that they seem to have forgotten that the road staff are a group of caring human beings, working in difficult circumstances, to provide care to a growing number of sick, infirm and injured people.

Management training will now be compulsory for all current managers, with 400 operational managers to be trained by the end of 2009 and a regional expansion to follow. Significant concerns were raised regarding the Professional Standards and Conduct Unit [PSCU] as being biased, unaccountable and under-resourced. Mr Cyril Brown, a solicitor who worked within the unit, said:

I am convinced the PSCU is actually more a tool of abuse by the CEO rather than a responsible professional unit. The PSCU holds a biased attitude and arrogance that imposes mounting and prolonged pressure on investigated officers.

Another submission stated:

... by the time the PSCU becomes involved, the number of parties has increased, positions have become entrenched, staff have become factionalised, memories have become eroded and the evidence is compromised.

The committee recommended an independent process be established to enable staff to appeal against decisions of the unit. Inadequate staffing often leads to related stress and fatigue, with officers attending major traumatic incidents rostered for duty before they have had time to be properly counselled or receive psychological attention. Managers are often short-staffed and may lack the empathy or skills to handle their workforce. Recently the Industrial Relations Commission handed down a decision that improved rates of pay for paramedics and front-line managers, which better regulates the length of their shifts and mandates paid rest breaks and gives great employment flexibility—all steps in the right direction, but there is still much improvement to be implemented.

The Minister for Health and his director general must now ensure that the chief executive officer, Mr Greg Rochford, and his senior executive team fulfil their duties. The public expect the inquiry recommendations to be adopted by the Government and implemented all the way down the line with the public reporting back to Parliament; that is, quarterly performance reviews of the chief executive officer along with his senior managers undergoing rigorous assessments to determine their suitability for their current positions.

New South Wales Health is to amend its grievance resolution policy to put greater emphasis on confidentiality provisions. Selection panel members will have clear guidelines based on merit selection, and breaches of conflict of interest and corrupt conduct will result in disciplinary action. Paramedic training requirements for clinical training officers will be uninterrupted and regularly scheduled. We have recommended that the Minister for Health initiate discussions with the Council of Australian Governments to achieve national registration of paramedics. Inadequate operational numbers on the Central Coast and the Hunter are to be reviewed and the results made public. All "on duty" crews in the Hunter are to be two-man crews by June 2009. Satellite navigation units and portable radios are to be supplied at the end of 2009.

New South Wales is the only State without a dedicated ambulance Act. Accordingly, we recommend that such an Act be introduced as soon as possible to enshrine the recommendations of this report, to provide more protection for ambulance officers in relation to disciplinary and professional conduct issues, and to ensure more accountability of the chief executive officer. It is to be hoped that the creation of a board of directors will

provide accountability and monitoring of senior management of the service, with at least one director elected by members of the service. It is to be hoped that a healthy work environment for ambulance officers can grow from all this harrowing self-reflection. There is no place for bullying, abuse and harassment within any workplace. It must be emphasised that most paramedics we spoke to stated that they loved being a paramedic, and it is our duty to support them.

I wish to thank the chair of the committee, the Hon. Robyn Parker, and my cross-party colleagues for their support and dedication to the welfare of New South Wales ambulance officers. Importantly, I wish to thank our resourceful and professional parliamentary clerks who enabled witnesses to feel valued and comfortable with our investigative processes. Most of all I wish to congratulate and thank the many courageous New South Wales ambulance officers who provided the inquiry with a balanced and accurate assessment of their workplace. We clearly need to improve the culture, recruitment, management and working conditions within the service so that we can achieve a supportive and healthy workplace for all ambulance officers as they live up to their service motto, "Excellence in Care".

**The Hon. TONY CATANZARITI** [3.03 p.m.]: I appreciate the opportunity to speak to this report. I think that this inquiry is one of the sadder examples of the committee process of this Chamber in that it has not given the valuable service to the community that our committees so often provide. While there are problems within the Ambulance Service of New South Wales—and the report in places reflects this, especially when quoting evidence given by senior management of the service; and New South Wales Health confirms the existence of those problems—a great deal of the material used in the report is one-sided, untested and unsubstantiated. I acknowledge that evidence contained in the submissions and received from witnesses was disturbing. I acknowledge also that senior officers and bureaucrats supported some of this evidence. I contend, however, that the general tenor of the report paints a picture of the Ambulance Service that is not honest and is not correct, and could seriously undermine, without it being warranted, the public's confidence in the valuable work of our ambulance officers and paramedics.

I remind fellow committee members that when an inquiry of this nature occurs, in which so many of the submissions are confidential, the committee should not just simply accept such submissions *prima facie*; it has a responsibility to apply a greater level of scrutiny to the evidence and conduct stronger tests of its validity. The committee failed to do that in this instance. Even when the department and its senior officers were given the full details of complaints contained within the submissions the committee deliberately, in my opinion, failed to take into account the answers provided and to properly record those answers. Instead a great deal of material is simply taken untested from submissions and presented in the pages of this report as cold, hard fact.

I am saddened that the committee took that approach, and I think that had a majority of the members applied a little more rational thought and shown more interest in adopting a balanced approach, this report could have been much better. For example, I believe the committee failed to note that the level of bullying in the Ambulance Service is no higher than in any other arm of the public service. It failed to note also that evidence, in the form of claims to WorkCover, shows that the level of bullying in the service has remained stable. While we all hope to provide workplaces in which there is no bullying—and there are programs in place to achieve this—it is clear, at least in my mind, that the Ambulance Service is not suffering from problems that are dissimilar to those evident in other services.

It is clear in my mind also that the Ambulance Service is going through significant reform in this regard, and that people such as the Auditor-General have recommended reform. Such reform processes always bring stress into an organisation. Some believe that such reform goes too far, too fast, while others believe that it is neither far-reaching enough nor progressing as quickly as they would like. As we all know, change management is a difficult process that leads to conflict within and outside organisations, and parliamentarians should be careful how they react to the various interest groups within those organisations.

I am not happy with this report. However, despite its underlying intention to merely embarrass the Government, a number of its recommendations will help to improve the Ambulance Service. The work of the Ambulance Service is by its very nature stressful, and the report contains some good recommendations relating to the way in which individuals as well as systems and procedures can better manage that stress. Unfortunately, occasionally ambulance officers and paramedics are attacked and abused by members of the public. Consequently, the procedures and safeguards to deal with such issues should always be under review to improve working conditions and responses to the traumatic nature of the work they do in our community. I hope that members of the service who have problems, whether they relate to bullying, low morale or concerns with certain

procedures, will find that things improve as a result of the recommendations of this report. I say this because it is important that the work done by the Ambulance Service and its staff is recognised and valued in the community.

Despite my misgivings with the politics underlying the report, I look forward to seeing the Government's response as I believe that the report and its recommendations will be seen by the Government as a further opportunity to continue improving this valuable service, not just for members of the public, who will from time to time rely on it to save their lives, but also for the important people who work in the New South Wales Ambulance Service.

**The Hon. JENNIFER GARDINER** [3.08 p.m.]: I commend General Purpose Standing Committee No. 2 for its report into the management and operations of the Ambulance Service of New South Wales. I will focus on some of the issues that have been raised in this inquiry, particularly from a rural point of view, but before doing so I make this introductory comment: I would love to know who wrote the Hon. Tony Catanzariti's speech! There are many parallels between the findings in the report on the culture of the New South Wales Ambulance Service and remarks made in the Garling report—which, no doubt, we will hear more about next week—on New South Wales hospitals. Mr Garling said the culture of hospitals has to change so that it is patient focused. Here we have a report that recommends that the Ambulance Service shift its focus from just budgets and performance to people, particularly to the splendid people who work in the service.

I refer to a few of the committee's recommendations. The committee acknowledges that many management issues have been raised and references have been made to previous inquiries that have made the same recommendation—that the Government seriously address the many management problems that have been left unresolved for a long time. Many ambulance officers are concerned about their workplaces and their managers. The committee noted that the chief executive team of the Ambulance Service had failed to implement much-needed reforms to solve those fundamental cultural management problems, even though it had been aware of them for nearly 10 years. According to the committee, the inaction of the senior executive team played a significant role in the current state of the affairs of the service, which generated the inquiry.

Urgent reform is necessary for the service to regain the confidence of its employees. Some initial recommendations refer to those needs, including those that will ensure that the senior executive team is held fully accountable for its performance, and that the Minister for Health and Director General of Health are kept abreast of much-needed action relating to bullying and harassment. Much of the focus of the Royal North Shore Hospital inquiry was also on bullying and harassment. It is a sad state of affairs but one that must be confronted by Government and Opposition members.

From a rural perspective, the committee recommended that the Ambulance Service of New South Wales should look at the feasibility of conducting rural recruitment drives. The committee pointed to a number of issues regarding postings, relief and on-call duties in rural areas that were raised in the inquiry. The lack of incentives to work in rural and remote areas was criticised by a number of participants who also criticised the inconsistent and unaccountable transfer system of the Ambulance Service. Paramedics told the inquiry about the limited training and clinical progression of opportunities in some rural areas, and throughout the inquiry ambulance officers raised a number of issues relating to rural postings. One of those issues related to the lack of support provided by the Ambulance Service to assist officers in relocating, including providing support for their families.

One of the submitters said, "When other officers in my class asked for assistance they were told that the Ambulance Service of New South Wales had employed them and not their family, and that they had to deal with it." That attitude should not be paramount when recruiting personnel to the health sector in some parts of this State. We have to look at members of a family as a package and make it appealing for people to work in particular locations. Inquiry participants criticised the Ambulance Service for not providing incentives for working in rural areas. Another submitter said, "Why is it that the police have incentives? Why is it that the Fire Brigade has a waiting list for its members to go to the country, yet the Ambulance Service has a big revolving door in rural and remote New South Wales?"

Several inquiry participants suggested that many of the problems relating to rural postings and transfers could be overcome if the service recruited locally. That theme is evident in many inquiries seeking to improve the critical mass of people such as doctors, nurses, paramedics and other allied health professionals. Another rural issue related to training. The committee found that the opportunity to advance to intensive care paramedics level was available only to officers who lived in metropolitan areas or in a small number of rural areas, and that

caused many ambulance officers considerable consternation. The Ambulance Service acknowledged that it was slowly starting to evolve the training to be more inclusive of country officers—an amazing statement in itself—but that country officers were still disadvantaged compared with their city counterparts by virtue of the fact that it is so much harder to become qualified as a full paramedic in the country.

The committee believes that the lack of availability of intensive care paramedic training in rural areas places both rural paramedics and rural communities at a significant disadvantage. The committee noted that the training that is currently available in Dubbo and Wollongong should be extended to more rural areas. That is a very good recommendation. The committee noted that there was need for increased capital works for the upgrade and repair of ambulance services across the State. The North Coast ambulance sub-branch, which is part of the Health Services Union, noted that many stations on the North Coast alone required long-overdue maintenance.

Ambulance stations need to be repaired to address occupational health and safety hazards and aesthetic and comfort issues such as the replacement of station roofing and painting, plumbing and drainage maintenance, and some other minor but important works. For example, ambulance stations at Maclean, Bonalbo, Urbenville, Murwillumbah, Byron Bay, Evans Head, Kingscliff, Mullumbimby and Kyogle all require that sort of work—a reflection of years of a Labor Government that has failed to invest in basic infrastructure right across the board. Ambulance infrastructure is just another unfortunate example of that.

There was another interesting parallel in the findings of the Garling report into the hospital system—that is, the difficulty experienced by people who come into contact with others in the health service, such as paramedics in hospitals, to identify the personnel who are there to help them. Patients did not know what role paramedics were playing or how paramedics might be able to help them because they were unable to identify the uniform that was being worn by paramedics. Concern was expressed that the new ambulance officer uniforms bore a striking resemblance to the uniforms worn by police. It was suggested that in certain situations that could add to the confusion.

**The Hon. Robyn Parker:** Where are they made?

**The Hon. JENNIFER GARDINER:** They are not made in Cessnock. One paramedic said:

It may seem a fairly insignificant thing to some but I have noticed since we changed uniform, going from a white shirt and blue pants to a dark blue uniform, the number of people have commented in public that we look a lot like police.

Paramedics believe that in some cases that could put their lives in danger. An important recommendation of the committee was that a New South Wales board of directors should be established, as existed in past years. That lack of governance and accountability and lack of a better reporting system, which is evident right across the health and hospital system, will see the demise of this Government. The final recommendation to which I refer deals with the provision of a specific ambulance services Act to bring New South Wales more into line with other jurisdictions. I pay tribute to the committee for its important work and I place on record my great admiration for the work of Ambulance Service employees throughout New South Wales.

**Reverend the Hon. Dr GORDON MOYES** [3.18 p.m.]: I participate in this debate as a member of General Purpose Standing Committee No. 2, which inquired into the New South Wales Ambulance Service. The inquiry was one of the most difficult of those in which I have been involved as a member of Parliament, as a high degree of emotional commitment was required to deal with the many distressing stories that were related to us by many ambulance officers, and the members of the committee had to deal with internal conflicts that often were politically based. There is no question that citizens in our community hold the New South Wales Ambulance Service in high regard. If a poll were taken to discover who are the most trustworthy and reliable people in our community, I am sure that paramedics would be among those most favoured. Our visits to ambulance stations, the taking of evidence from individuals, and the personal inquiries that we conducted revealed an environment of tension and conflict. As was mentioned earlier by others in this debate, the New South Wales Ambulance Service has been under scrutiny for a long time. In fact, for the past 10 years or more a constant stream of inquiries has been held into the service.

It is axiomatic that the holding of a significant number of inquiries and an investigation by the Auditor-General year after year is an indication that something is inherently wrong within the service. The Auditor-General said in 2007 that despite a number of the 2001 recommendations being put in place, the fundamental culture and unhappiness of paramedics had not changed. The committee heard evidence from a



large number of individuals, having received 261 submissions. As other members have mentioned, the large majority of the submissions were anonymous because people felt so emotionally tied up with the whole situation.

Committee members also conducted a number of personal interviews with ambulance officers away from the inquiry. For example, I recall an occasion when I took a relative who was suffering a heart attack to Gosford Hospital emergency ward. I remained with him all night because no beds were available at the time. Standing around with me were about 10 ambulance officers all of whom were waiting for their patients to be processed through triage and have a bed found for them. They too remained there all night. While standing with them I took the opportunity to conduct personal interviews to ascertain their feelings about the service with regards leadership, management, culture and bullying. From that random selection of approximately 10 officers I heard exactly the same stories as those given in evidence to the committee.

As a result, I encouraged some of the officers to give evidence to the inquiry, and some did. I did not realise in doing so, however, that I was exposing myself to receiving private telephone calls at my home from ambulance officers and paramedics to make reports or complaints to me rather than to the committee by way of evidence. The reason they would not give evidence was the complications inherent in whistleblowing; they felt they would be victimised in the workplace and that they could not be open and honest even to a parliamentary inquiry. The officers who contacted me, and those who gave evidence in the inquiry, painted a very clear picture of their workplace conditions. In addition to their work environment being, by its very nature, often demanding, emotional and stressful—caring for and taking people suffering strokes and heart attacks to hospital, or pulling victims from car crash wreckages and the like—they also felt that they were not being supported by their management teams.

One female paramedic related to me an occasion when, after a particularly distressing experience in her workplace, she went to her manager upon her return to her station to unload her feelings and to seek some support from him as a manager. She said that it seemed to her that the main concern of the manager was that she get back on the road and working again. Such a managerial attitude results in low staff morale and delays the successful return to work of staff, and most managers reject it as belonging to the old culture that one has to be tough to work in this particular field. Some officers picked up on the strong hints that were being made to them that to survive as a paramedic one had to belong to the old-boys club and culture. I suspect also, although the committee's report does not address this matter, that sexism is very much alive within the Ambulance Service. Female paramedics do not receive the kind of support they need, particularly in harrowing and emotional situations. The committee's report does not indicate as much, but after hearing comments of that nature time and again, I believe it to be the case.

I remember speaking to some senior ambulance officers from Penrith and some inner-city areas about the system of promotion and the way that officers manage to go through the network. To my mind the promotion system within the Ambulance Service is very unsatisfactory. Many have been promoted simply because of their length of service or because of whom they know, while others who may have superior clinical skills as paramedics do not receive the recognition, by way of promotion, that they deserve. The whole cultural issue within the Ambulance Service must be addressed.

Honourable members have referred to cases of bullying and harassment. I do not doubt that the Ambulance Service has a much higher rate of bullying and harassment than is found in other similar services. Although the committee heard evidence that the Ambulance Service is no worse than any other service in this regard, there were repeated reports to the contrary by those who gave evidence. The fact that this issue was raised repeatedly is evidence of its existence. Certainly, there was no evidence of any effective methodology to handle the bullying and harassment, or to resolve conflicts and other simmering problems. South Coast paramedics spoke about incidents of bullying and harassment under not only one manager but under numerous managers. This systemic problem within the Ambulance Service must be wiped out.

I turn now to the particular role of the chief executive. Unfortunately, given the emotional nature and pressure of the work of paramedics, the sad end to most bullying and harassment episodes is suicide. A few isolated suicides are in themselves distressing, but suicides in the numbers related to the committee in evidence is suggestive of a system lacking services or networking resources to help resolve conflicts and to provide mental, emotional and psychological support for those who feel they just cannot continue under the pressures. When staff members become extremely distraught, they need specialised attention and care. It is quite obvious that geographic pockets exist within this service in which that kind of care has not been provided by senior management.

I do not approach this issue from a political perspective, suggesting that all the bad things have occurred in the past 10 years and that, therefore, it is the fault of the Labor Government. This problem has existed for a significantly long period without any correction. For more than a decade there has been no satisfactory resolution to some of the systemic problems within the New South Wales Ambulance Service. This brings me to my final point, which is a reflection on the chief executive. I spent time alone talking with the chief executive— [*Time expired.*]

**The Hon. ROBYN PARKER** [3.28 p.m.], in reply: I thank members for their contributions to the debate. I have already thanked the committee members, but I should like to comment on some of the comments made by the Hon. Jennifer Gardiner and others about their experiences with rural care and the Ambulance Service. Ambulance officer is our most trusted profession. Indeed, the Department of Health advertises this fact on its ambulances: "Join the most trusted profession".

The New South Wales Ambulance Service has a motto of excellence and care. The quality of care offered by New South Wales ambulance officers to those of us who need their services is outstanding. But often that care is provided under circumstances of extreme emotional difficulty for the officers who provide it. Who knew? The Government knew. Lots of players have known about that for many years. As a member of the committee, I find the suggestions by the Hon. Tony Catanzariti that much of the evidence was untested quite surprising. I completely reject his comments—indeed the Hon. Tony Catanzariti seems to be operating in a parallel universe—because they do not reflect my experience.

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

## **BUDGET ESTIMATES AND RELATED PAPERS**

### **Financial Year 2008-2009**

**Debate resumed from 4 March 2009.**

**The PRESIDENT:** Order! There being no further speakers, I propose to put the question.

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

**Motion agreed to.**

## **BUSINESS OF THE HOUSE**

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

**Ms LEE RHIANNON** [3.31 p.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. 65 outside the Order of Precedence, relating to the Iron Cove Bridge duplication plan, be called on forthwith.

This is a matter of urgency because the New South Wales Government is pressing ahead with its plan to duplicate the Iron Cove Bridge. The matter warrants the attention of the House before the project is progressed any further. The motion should be debated today because if the project goes ahead it will tie up public funds that are urgently needed for essential services and because it is vital for the Government to consider whether this project is the best way of using its money.

Considering that the Canada Bay and Leichhardt councils study indicated that the benefits of this project are precarious, surely it is incumbent on members to consider the issue. The motion calls on the Government to suspend the Iron Cove Bridge upgrade and to conduct a rigorous cost-benefit analysis of different transport options in Sydney's inner west. The Government should ensure that any such analysis includes a detailed examination of the costs of induced traffic and congestion, poor air quality, carbon dioxide emissions, environmental damage, lost open space, and the imminent effect on peak oil. That is all the Greens are asking for. The motion is urgent because the Government has turned its back on the need for that analysis.

The Government is in a position to indicate how much economic benefit goes to private motorists and how much goes to public transport from the Iron Cove Bridge duplication project. That cost-benefit analysis should be released publicly, and that should be done now, today, before the Government progresses with its plan any further. That is precisely why this matter is urgent and why it is before the House today.

**The Hon. Penny Sharpe:** Point of order: I understand why the member is attempting to discuss the substantive issues of the motion, but it is the urgency of the motion that she should focus on. She should place on record why she believes this particular motion, as is the case with all of the Green's motions apparently, is urgent.

**The PRESIDENT:** Order! Consistent with previous rulings on this point, I urge Ms Lee Rhiannon to address why the matter is urgent, not its substance.

**Ms LEE RHIANNON:** This matter is urgent because the environmental impact statement waters down the cumulative impact of the project by limiting the assessment to separate assessments of land and sea environments. Clearly it is a matter of urgency that no disclosure of the key performance indicators used in the cost-benefit analysis have been made, despite repeated requests to the Roads and Traffic Authority. Another reason why this matter is urgent is that despite the request having been made, the information has not been forthcoming whereas the project is being pushed forward. The failure to release the key performance indicators places considerable difficulties in the way of the public making a comprehensive empirical judgement of the proposal. If this matter is not debated today, there will be no opportunity, or no meaningful chance, for the public to provide input.

This matter is urgent because there is increasing information about higher levels of contaminants in the Parramatta River and parts of Sydney Harbour. It should be stated on the record whether the cost of the bridge has taken into account the extent of contamination, the costs of contamination, and remediation. The public has a right to know if those factors will change the results of the cost-benefit analysis. This is a matter of urgency because, if we do not do that right now, it will be meaningless while the Government pushes ahead with the project as I speak.

While the Government pushes ahead with the project, someone has to make a meaningful assessment and that task falls to members of this House. A debate on the Greens motion will provide an opportunity to assess whether the project should go ahead and, if it does, what action should be taken to determine the need for soundproofing of homes adjacent to the works, the lease of parklands for building works, the relocation of parklands, and the impact of the project on sailing and rowing clubs. I put it to members that we have a responsibility to recognise the urgency of the matter. The environmental impact statement identifies a 30-month occupation of King George Park, and that occupation has already commenced—which is another reason why this matter is urgent.

It is also a matter of urgency because Baulderstone Hornibrook has erected a fence to take control of a section of council-owned parkland in advance of the decision by the Minister for Planning on the environmental impact statement for the Iron Cove Bridge duplication and in advance of a lease agreement with Leichhardt council. Members of the House have a responsibility to consider the matter. Debate on this matter is urgent because the current bridge configuration will render the existing 2,000-metre rowing course in the Iron Cove Bridge area unusable. I understand that in Sydney this course is the only straight stretch of water two kilometres long and that both novice and elite rowers use it. New South Wales Maritime should be congratulated because it has been working with the rowing community—

**The Hon. Amanda Fazio:** Point of order: I believe the member may have concluded her contribution.

**The Hon. Don Harwin:** She certainly has now.

**The Hon. Amanda Fazio:** Yes—that is good. This is so typical of the Greens, who always say a matter is urgent and then debate the substantive motion. It really is becoming a joke.

**The PRESIDENT:** Order! Had the member not concluded her speech, I would have reminded her of rulings that former Presidents and I have made on this point.

**Ms SYLVIA HALE** [3.37 p.m.]: Clearly, this motion is urgent. The issue is one that constantly preoccupies the residents of the inner west where it features consistently in local newspapers. More particularly, concern has focused on the potential loss of the rowing course and the loss of open space. The motion is urgent also because of the potential impact of the project on public transport.

**The Hon. Amanda Fazio:** Point of order: My point of order is the same as the point of order I took on the contribution made by Ms Lee Rhiannon. Both members have argued the substantive merits of the issue after merely prefacing their comments with saying that the matter is urgent. Clearly they are not establishing why the matter is urgent and should be dealt with today ahead of formal proceedings on the business paper.

**The Hon. Greg Pearce:** To the point of order: I would not normally engage in argument, but I was listening closely to Ms Sylvia Hale who was putting forward arguments relating to why she thinks the matter is urgent. Whether members agree with her contention that those matters establish urgency is what the whole debate is about. On this occasion the member, albeit perhaps erroneously and perhaps while advancing arguments with which the House will not agree, was putting forward what she thought were the reasons for urgency.

**The PRESIDENT:** Order! I take up no more of Ms Sylvia Hale's time than is necessary to again remind her that President Johnson ruled on 26 February 1987:

In debating a procedural motion, members should restrict their comments to the terms of the motion and not the substance of the matter.

Ms Sylvia Hale should bear that in mind as she proceeds.

**Ms SYLVIA HALE:** We should debate this motion today as a matter of urgency as there is much evidence to indicate that the Government has misrepresented the situation and those misrepresentations must be corrected urgently. Among those misrepresentations is the assertion that the project is manifestly of benefit to the public. Indeed, the contrary is the case. Some people believe that it has been clearly demonstrated that the project is not of benefit to public transport, compared with the benefit that will be bestowed upon private motorists. The matter is urgent because, as I said, there are questions about the occupation of King George Park, the barricades currently being erected and the failure to enter into any lease agreement with Leichhardt council. The issue that is close to the hearts of many residents of Drummoyne, Leichhardt and Balmain is the potential disappearance of the rowing course. Clearly, it is urgent to debate that the upgrade be suspended because if it proceeds the whole point of the substantive motion will be lost.

**The PRESIDENT:** Order! Arguing the importance of a matter is not the same as arguing its urgency relative to that of other items of business on the *Notice Paper*. Ms Sylvia Hale will bear that in mind as she proceeds.

**Ms SYLVIA HALE:** The reasons why the issue is urgent have been outlined. The substantive motion is simply calling for suspension of the Iron Cove Bridge upgrade and a detailed examination of the costs of induced traffic and congestion, poor air quality, carbon dioxide emissions, environmental damage, lost open space and the imminent effects of peak oil.

**The Hon. Amanda Fazio:** That is not urgent so sit down.

**Ms SYLVIA HALE:** I am merely quoting the substance of the motion. I believe the substantive motion deserves to be debated urgently, therefore I support the motion of my colleague Ms Lee Rhiannon.

**Reverend the Hon. FRED NILE** [3.41 p.m.]: What is urgent is that the Government be allowed to proceed with building the new Iron Cove Bridge as quickly as possible, without any more hindrances or obstacles.

**The Hon. DON HARWIN** [3.41 p.m.]: Reverend the Hon. Fred Nile couched his urgency in terms of the fact that he believes the project is urgent and needs to go ahead. I argue that the matter is urgent because it involves an unbelievable waste of money—\$156 million—and there are few sitting days left on which the House can proffer a view; as we are close to the State Government's budgetary processes and the setting of spending priorities for the State's limited funds, this is the ideal opportunity to debate the matter. I am only sorry that my colleague the Deputy Leader of the Opposition is not here—he has another commitment—because no doubt he would have reminded the House of his comments in June 2008, when he said that a simpler and better way is to address the pinch points at Darling Street and Lyons Road and to examine converting the existing—

**The Hon. Amanda Fazio:** Point of order: The Hon. Don Harwin has just indicated why this matter is not urgent. If it is so urgent, why is he quoting something the Deputy Leader of the Opposition said in 1998?

**The Hon. DON HARWIN:** No, 2008.

**The Hon. Amanda Fazio:** In June 2008. If the then Opposition spokesman on roads spoke on the issue in June 2008, I cannot see how the Hon. Don Harwin can construe that as a reason for saying that the matter is so urgent that it must be jumped up the order of business today.

**The Hon. DON HARWIN:** To the point of order: If the Hon. Amanda Fazio wants to make that point, I could talk about the comments of the Leader of the Opposition, Mr O'Farrell, in February 2009 when he said the project was a disaster for people in this region.

**The PRESIDENT:** Order! I am pleased that the Hon. Don Harwin is not making debating points.

**Ms Lee Rhiannon:** Further to the point of order: President Willis made an important ruling on 15 September 1993, in which he said, "it is necessary to give some indication of the substance of the debate".

**The Hon. Greg Donnelly:** What page?

**Ms Lee Rhiannon:** It is at page 3123 of the *Parliamentary Debates*. The ruling, which relates to Standing Order 200, states:

When moving for the discussion of a matter of public interest, members are required to establish a degree of urgency sufficient for the House to agree to the motion. Often in matters of this nature it is necessary to give some indication of the substance of the debate to follow in order to establish the degree of urgency necessary. In putting their case members should make statements that bear on the question of urgency rather than the substantive issue.

That gives us some advice about why we should be able to develop our arguments.

**The PRESIDENT:** Order! I make the same observation as that which I made when the member raised this point on a previous occasion. The ruling to which she refers relates to Standing Order 200, not to Standing Order 198, which is relevant to this point of order. As an experienced member of this House the Opposition Whip would be well aware of the rulings of former Presidents, and he should bear them in mind as he continues.

**The Hon. DON HARWIN:** Thank you, Mr President. I accept your ruling.

**The Hon. Amanda Fazio:** Good on you! It wasn't optional.

**The Hon. DON HARWIN:** I thank the Hon. Amanda Fazio for her prompting. In the limited time left I place on record that the Opposition supports the establishment of urgency on this motion. Shadow Ministers Berejiklian and Gay, and Leader of the Opposition O'Farrell are extensively on the record opposing this project, which is a waste of money. Before the budget is finalised we need this opportunity to tell the Government why the project is a waste of money, because clearly the Government needs some guidance.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [3.46 p.m.]: This matter is not urgent. It is not urgent because we have had two weeks of private members' business and during that time no-one decided that the matter was urgent. We have also had extensive debate, both in the media and through the mini-budget process, and there have been numerous community consultations and discussions about the duplication of the bridge. There is no need for the House to consider the matter at this time, given the other business on the *Notice Paper*. Members opposite and the Greens have decided that this matter is urgent simply because they want to be able to stand up at a rally on Sunday and say that they tried hard to stop the project. They have ignored the matter since the beginning of the year, but time is running out and the matter must be sorted out. That is why they are arguing that the matter is urgent.

**The Hon. Greg Pearce:** There is public interest in this. The Parliamentary Secretary has made the public interest argument. Well done!

**The Hon. PENNY SHARPE:** It is not urgent. We have a long list of Government business. For two weeks the House has dealt with private members' business. There were plenty of opportunities for members to raise this matter. It is simply not urgent, and the Government does not support urgency.

**Question—That the motion be agreed to—put.**

**The House divided.****Ayes, 17**

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

**Noes, 20**

Mr Brown	Reverend Dr Moyes	Mr Tsang
Mr Catanzariti	Reverend Nile	Ms Voltz
Mr Della Bosca	Mr Obeid	Mr West
Ms Fazio	Mr Robertson	Ms Westwood
Ms Griffin	Ms Robertson	<i>Tellers,</i>
Mr Hatzistergos	Ms Sharpe	Mr Donnelly
Mr Kelly	Mr Smith	Mr Veitch

**Pairs**

Ms Cusack	Mr Macdonald
Mr Gay	Mr Roozendaal

**Question resolved in the negative.****Motion negatived.****BARANGAROO DELIVERY AUTHORITY BILL 2009****Second Reading****Debate resumed from an earlier hour.**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [3.55 p.m.]: I seek leave to incorporate the remainder of the second reading speech in *Hansard*.

**Leave granted.**

This recreational role is balanced with and supported by Barangaroo's emergence as a new financial centre, supporting Sydney's competitive position in our global region. Originally the gateway to a colonial then State economy, Sydney is now the inbound gateway to our national economy and our outward gateway to the global economy. With this increased economic role has come the greater diversity in exchange of people, culture and ideas that have enriched and now help define the character of Sydney.

The Barangaroo project will renew attention on Sydney and convert it into investment and jobs for New South Wales. This is most obvious during the construction phase, where an estimated \$3 billion injection will flow into our economy, creating around 4,000 jobs over the project cycle. In the long term Barangaroo will play a key role in attracting new regional and global headquarters to Sydney that may otherwise locate elsewhere. This, in turn, generates long-term financial, skills and cultural investment in Sydney well beyond the life cycle of the project itself.

With this aspect of renewal in mind, I note the advantages of having the Lord Mayor of Sydney, Clover Moore, on the board of the new Barangaroo Delivery Authority. Like all urban renewals, Barangaroo will present significant socioeconomic and cultural development opportunities for the renewal area. "Value capture" from the financial input of an urban renewal can be targeted to deliver long-term benefits that flow well beyond the renewal site.

Housing, transport, cultural facilities, community services and training are just some of the benefits that can be redistributed when an urban renewal program works in an integrated manner with the local community. As both the Lord Mayor and as a long time champion of local communities in Sydney, Clover Moore's work on the authority board will ensure that both "global Sydney" and "local Sydney" are well served by this renewal program.

The Minister for Planning recently announced that the new chief executive officer of the Barangaroo Delivery Authority will be Mr John Tabart. He was selected from a field of 55 candidates for the position because of his extensive experience including:

managing the London-based United Kingdom property development and investment subsidiary of Laing O'Rourke, the largest privately owned construction group in the United Kingdom; and 10 years at the helm of Vic Urban, the master developer that delivered the \$16 billion, 200-hectare Melbourne Docklands project, adjacent to that city's central business district.

We are putting the organisation and people in place to work across Government, with the community and with the private sector to deliver the most significant urban renewal project Sydney has seen in decades.

This Government's vision for Barangaroo has been public, and consistent, since 2005. The vision was explored through an international design competition in 2005 and 2006. This competition attracted more interest than any other Australian design competition bar the one for the Sydney Opera House. Two public exhibitions were held with thousands of Sydneysiders expressing their interest in this new precinct. It was then expanded and tested through concept plan development, public exhibitions, environmental assessments and approvals, and it continues to be refined in response to stakeholder feedback and the Government's determination to pursue a project of excellence. Recently exhibited amendments to the Headland Park design are a case in point.

There is no doubt that the planning phase of this renewal has met the Government's desire to work at benchmark standards, and credit is due to the Department of Planning, the Sydney Harbour Foreshore Authority and the numerous other agencies and stakeholders that have worked together to achieve this. As we now turn to the delivery phase of this project, the Government will continue to pursue the benchmark standard, creating a specialised delivery vehicle—a governance model that is common to successful renewal programs internationally.

I now turn to the specific provisions of the bill. The bill provides for the establishment of the Barangaroo Delivery Authority. It specifies the Authority's functions and provides for other matters related to the development, use and management of Barangaroo. The objects of the bill are:

- to encourage the development of Barangaroo as an active, vibrant and sustainable community and as a location for national and global business;
- to create a high-quality commercial and mixed use precinct connected to and supporting the economic development of Sydney to facilitate the establishment of Barangaroo Headland Park and public domain;
- to promote the orderly and sustainable development of Barangaroo, balancing social economic and environmental outcomes;
- and to encourage design excellence outcomes in architecture and public domain design in Barangaroo.

The Authority's board will include the chief executive officer of the Authority, the Secretary of the Treasury, a nominee of the City of Sydney Council, and up to four other appointed members. The authority will be subject to the usual accountability mechanisms, with board members and staff being subject to the Independent Commission Against Corruption and the Ombudsman. The authority will have annual reporting requirements and will be subject to annual audit by the New South Wales Auditor General. The bill includes requirements relating to disclosure and misuse of information and management of pecuniary and other interests. Board members will also be required to comply with a code of conduct.

The functions of the Authority will be to

- manage the orderly and economic development and use of Barangaroo including the provision and management of infrastructure;
- to promote, provide and manage cultural, educational, residential, commercial, transport, tourist and recreational activities and facilities at Barangaroo;
- to develop and manage the Headland Park and other public domain areas and to encourage the public's use of those areas;
- to facilitate appropriate commercial activities within the Headland Park and public domain areas consistent with their use and enjoyment by the public;
- to promote development in Barangaroo that accords with best practice environmental planning standards and which applies innovative environmental building and public domain design;
- and to liaise with Government agencies with respect to the coordination and provision of infrastructure, including transport infrastructure, associated with Barangaroo.

The authority will have all necessary ancillary and consequential powers to ensure the delivery of its core functions. In particular, the authority will have powers to acquire and dispose of land. These powers are necessary to ensure the delivery of essential infrastructure including, for example, the proposed new pedestrian link to Wynyard.

The bill includes limitations on the authority's powers to dispose of land vested in it. The authority will have no power to dispose of the fee simple estate in such land. This is appropriate given Barangaroo's foreshore location and, indeed, this was always the Government's intention with respect land vested in the authority. I note, however, that an amendment was moved by the Government, and approved in the other place, to clarify this policy intention.

As I have already mentioned, the creation of the Headland Park is a key feature of the Barangaroo project. It will be the jewel in the crown of Barangaroo. With this in mind, the bill includes special protections for the headland park to ensure it always

remains available for use and enjoyment by the public. The bill prohibits the authority from disposing of fee simple estate of the land identified for the headland park, and the boundaries of the park can only be altered by regulation thereby ensuring parliamentary oversight of any such changes which might be thought necessary in the future management of the park.

I note that the Minister has also clarified in the other place that leasing and licensing provisions that apply to the Headland Park exist to allow for commercial activities that support the role and use of the public domain.

Quite simply, the Government, as landowner, is not in the business of directly running cafes, car parks or the numerous sporting or cultural facilities that may activate and enliven Barangaroo, and commercial agreements will be reached accordingly. Similar arrangements apply in other State significant public spaces such as the Royal Botanic Gardens, Domain, Centennial Park and so forth.

The bill also provides for the ongoing management of the Barangaroo Headland Park. In particular, the bill allows for the Headland Park and public domain areas, once established, to be managed on behalf of the authority by the Sydney Harbour Foreshore Authority. This is appropriate given Sydney Harbour Foreshore Authority's expertise in this area and its role in managing open space in adjoining foreshore areas.

The success of the Barangaroo project depends on ensuring necessary infrastructure to support development is delivered in an efficient and timely manner. It is appropriate that a contribution towards the costs of this infrastructure be made by those who will benefit from the improvements to Barangaroo.

With this in mind, the bill provides for a 1 per cent levy to be imposed on development in Barangaroo. These contributions will be used for the provision of local, State and regional infrastructure. This will apply in lieu of the developer contributions that would otherwise have applied to development under the Environmental Planning and Assessment Act and the City of Sydney Act.

The bill requires the authority to prepare a contributions plan detailing the infrastructure to be provided from these contributions and the timing for delivery of the infrastructure. This will include provision of the new pedestrian link to Wynyard, crucial to the success of the transport strategy for Barangaroo.

Barangaroo provides an opportunity to conduct a focused and considered renewal process aimed at generating a new urban precinct in Australia's premier international city. This is the last significant area adjacent to the Sydney central business district to be developed, certainly the last with a harbour frontage. It is essential therefore that it be carried out with expertise, sensitivity and focus, and it is for this reason that a dedicated delivery agency will be established.

World Youth Day gave most Sydneysiders their first taste of the potential of Barangaroo's scale, spectacular location and immense potential for Sydney. Barangaroo will create a nexus between Sydney's competitive work culture, its enviable lifestyle and its unique natural environment. During construction it will generate thousands of jobs. The companies, industries and individuals it will ultimately attract will contribute to the financial and intellectual capital of Sydney for generations to come.

Whilst all harbour cities are facing the challenges of change, few, if any, would be positioned to respond with a plan that offers a green gift to future generations whilst simultaneously fostering the economy and jobs of those generations. This is the opportunity that Barangaroo presents. This is what the Barangaroo Delivery Authority will deliver.

Accordingly, I commend the bill to the House.

**The Hon. DON HARWIN** [3.55 p.m.]: The Barangaroo Delivery Authority Bill 2009 seeks to establish the Barangaroo Delivery Authority to coordinate and manage the development of Barangaroo, a 22 hectare site in East Darling Harbour owned by the State Government and currently under the auspices of the Sydney Harbour Foreshore Authority. Often referred to as a new twenty-first century window to the world for Sydney, Barangaroo is the biggest development site left in Sydney and has arguably the greatest potential for iconic building design.

According to the bill, the principal function of the Barangaroo Delivery Authority includes "promoting, procuring, facilitating and managing the orderly and economic development and use of Barangaroo and the provision and management of infrastructure". The State Labor Government has an appalling record when it comes to managing major infrastructure projects. Over the past 14 years we have witnessed numerous projects suffer delays and budget blowouts while others have been severely curtailed or unceremoniously scrapped, shelved and abandoned. This has been the result of chronic economic mismanagement and a dysfunctional planning process in which different government departments operate without appropriate coordination. As with the Nation Building and Jobs Plan (State Infrastructure Delivery) Bill introduced earlier this month, this bill is an acknowledgement of the need to cut through the State's flawed planning system to deliver infrastructure projects efficiently and expeditiously.

The Coalition strongly supports an appropriate development of the Barangaroo site and welcomes the establishment of an oversight authority that will have the capacity to facilitate a more cohesive and coordinated approach to infrastructure delivery involving government departments and private sector development consortia. The Coalition wants the area developed in a manner that complements existing sites around the harbour foreshore and is suitably integrated with the central business district and the city's public transport networks. It



is also important that the Barangaroo development is environmentally and aesthetically appropriate. Finally, the Coalition wants the private sector's enthusiasm for the site harnessed to ensure that private investment is well leveraged to secure the biggest return from initial public funding.

With its ability to overcome the Government's notoriously slow infrastructure and development assessment and delivery processes, the Barangaroo Development Authority appears to be a significant positive step towards the kind of development at Barangaroo that the Coalition favours. The authority is modelled on an appropriate precedent, that of the docklands authority in Melbourne. Subsequently known as VicUrban, the docklands authority was responsible for the \$16 billion redevelopment of 200 hectares of former Melbourne docks into a vibrant cultural, sporting, commercial and residential suburb. Recently the Rees Government pursued the Melbourne precedent even further by appointing the former head of VicUrban, John Tabart, as the chief executive of the Barangaroo Delivery Authority. The selection of Mr Tabart has been met with considerable praise, but also an important and troubling warning for the Rees Labor Government. For example, the former Victorian Premier, Jeff Kennett, commended Mr Tabart. He said:

... his strength was that he was able to work well with a government that had a clear view of what they wanted to deliver ... We created the vision, we knew what we wanted to achieve, John Tabart drove the private sector hard to achieve it.

However, a vitally important question is one that was posed earlier this month by Robert Harley in the *Australian Financial Review*. He asked:

Does the Rees Government have the same single-minded determination as the Kennett Government?

Even the Hon. Christine Robertson is laughing at that. Frustratingly, the answer would appear to be that it does not. When the former Premier Morris Iemma launched the Government's advertising pitch for the precinct's redevelopment nearly a year ago the *Sydney Morning Herald* editorial mocked the "whirling vortex of clichés and a hurricane of hyperbole", and slammed the Government for its lack of clear direction. The editorial was titled simply "Still hungry for vision". In the months since then the Government has adopted a secretive, disjointed approach. It has been unforthcoming about remediation, taken no firm position on transport infrastructure, and flip-flopped on public funding for the headland park—all of which I will address later.

In summary, the Government lacks the sort of clear vision for Barangaroo that is necessary for the best possible development of the site. While the Melbourne docklands development offers a positive precedent to such oversight and coordination authorities as the Barangaroo Delivery Authority, the docklands redevelopment in London demonstrates the problems and compromises that can beset this kind of project when it is undertaken at a time of economic difficulty and without a clear vision from the government of the day. The London Docklands Development Corporation [LDDC] was established in 1981 as a statutory body with wide powers to acquire and dispose of land in the docklands area, and with the necessary development planning authority. The following year the Government designated an enterprise zone within the docklands, an area in which businesses were exempt from property taxes and enjoyed other investment incentives.

While that made investing in the area an attractive proposition for the private sector, the London Docklands Development Corporation struggled with key aspects of the area's rejuvenation, due to a lack of clear government vision. The London docklands project was poorly coordinated with the nearby Heron Quays, a low-density commercial redevelopment that was already underway, and was undermined by the Government's refusal to integrate the area into the public transport network. The corporation pressed for an extension of the London Underground system to service the redevelopment, but the Government would not fund it. While the corporation was able to construct the Docklands Light Railway at reasonable expense by utilising derelict railway infrastructure and vacant land, the area remained without a proper London Tube connection until the opening of the Jubilee Line extension in 1999.

Frustratingly, the Rees Government appears to be repeating much of the London experience rather than the Melbourne model. There is uncertainty about remediation, transport and funding and there are signs that the Premier lacks the necessary commitment for the scheme to advance smoothly and quickly. When the Government confirmed plans to redevelop Barangaroo in April of last year it promised to fast-track the building of a headland park at the northern end of the site, designed to provide important green-space for the city and to return a sizeable portion of prime foreshore land to public access, for recreation. At the start of October the Minister for Planning was interviewed by the ABC, and said:

The park itself is not subject to the mini-budget. Barangaroo is designed to be cost-neutral to the Government, the funding for the park comes from the development at the commercial end of the precinct, the southern end.

However, just a month later Minister Keneally contradicted herself as to the park's cost-neutral status and broke the Government's fast-tracking promise. In a bid to save in interest payments on upfront funding for the park she acknowledged that development of the headland park would be delayed for three years as part of the mini-budget cuts. In a *Daily Telegraph* article she said:

Given the current economic climate and demand on portfolios like health and transport, the Government cannot and will not outlay \$150 million, plus up to \$25 million in interest, for the sake of having a park.

The mini-budget has, of course, been widely condemned for increasing taxes and charges and scrapping infrastructure spending while other governments have been trying to stimulate the economy by lowering the burden on business and encouraging spending on infrastructure. The Government's back-flip on the Barangaroo headland park is yet another example of the false economies of the Rees-Roozendaal mini-budget. The project had attracted considerable interest, but the private sector investment that could have been secured has now been deferred along with construction. One consultant, whose team had done initial work on the park, told the *Australian Financial Review* at the time of the delay that the decision was "another disgrace from an incompetent New South Wales Government".

There is a case for proceeding with the headland park project, one that former Prime Minister Paul Keating has advocated quite strongly in the media. Development of the headland park at the northern end of the site may increase the value and attractiveness of the southern precinct for investors. However, that sort of logic escapes this business unfriendly Government. Consequently, the Coalition believes that the Government should meet its promise to fund the park and expedite the project. The work would, of course, also serve as an immediate economic stimulus, create jobs, and also clearly and decisively signal that the Government has the vision and commitment necessary to make the redevelopment a success despite the global financial situation.

Funding is also an issue in relation to the remediation work that is necessary at Barangaroo. The area between the northern and southern precincts requires significant remediation as the groundwater is contaminated with dangerous levels of cyanide and carcinogenic chemicals. The Government is yet to make it clear whether it is going to assume responsibility for that work or whether it intends to shift the burden of funding the work onto the successful tenderer. Such uncertainty does not generate confidence in the business sector about the Government's handling of the development. An open and transparent approach is necessary if the private sector is going to be fully engaged.

There is also a considerable amount of uncertainty and doubt about the public transport infrastructure for servicing the development. In the Minister's agreement in principle speech in the other place she made brief mention of the Government's intention "to leverage development of transport infrastructure. Barangaroo will tap into the Sydney Metro—with pedestrian links to Wynyard and a new station to service the site—and a new ferry terminal is being explored to open new access from the harbour". The development of a second major ferry hub on the western side of the central business district has long been identified as necessary in order to relieve the capacity issues at Circular Quay and allow for the introduction of new ferry services for areas such as the inner west where commuters are often left stranded because vessels are already full when they arrive at the wharf.

The Walker report into Sydney Ferries strongly advocated the construction of such a secondary hub in its recommendations, for example. And there can be no question that Sydney's rail network needs improvement. Unfortunately, this Labor Government's poor track record on delivering transport infrastructure means that many view the hurriedly announced plans for a central business district metro with scepticism and uncertainty. Business remembers all too well how New South Wales Labor announced grand plans for such links at a north-west metro and a south-west metro, only to backtrack and scupper those plans within 12 months. The sudden and hurried announcement of the CBD Metro does not inspire confidence that the line is any more likely to eventuate or to materialise in a reasonable time frame especially as the project still lacks proper details, a time line and secure funding.

RailCorp and the New South Wales Property Council have cast further doubt on the line's future. The Chief Executive Officer of RailCorp, Rob Mason, warned in January that the Government risked permanently crippling CityRail if the CBD Metro assumed the route earmarked for a CityRail network expansion aimed at relieving the capacity problems at Town Hall and Wynyard. Senior bureaucrats at RailCorp believe that if the CBD Metro proceeds the CityRail network will be condemned to decades of unreliable services.

The New South Wales Property Council meanwhile has described as "pure folly" plans to allow the CBD Metro to take over the underground heavy rail reservation. The head of the Property Council, Ken Morrison, said that corridors reserved for a second harbour crossing and north-west and south-west lines had to

be preserved. He told 2GB radio, "The fact that short-term decisions were made in the mini-budget not to proceed with these projects at this time does not mean they are not critical projects which will be required in future. It would be pure folly to throw away our capacity to expand our rail system into the future by releasing these rail corridor reservations."

Finally, just this week the Ministry of Transport has expressed concerns about the CBD Metro plan and the lack of any examination of how the new link would integrate with the controversial Victoria Road upgrade and Iron Cove Bridge duplication. The Ministry expressed concerns about "potentially competing objectives". So much for the previous discussion not being urgent. With such opinions being expressed by bureaucrats and stakeholders it is understandable that the private sector has misgivings about whether the Government will actually deliver the public transport infrastructure to the Barangaroo development that it is currently promising. Such uncertainty and doubt diminishes the enthusiasm of the business community for the project and thus places limitations on the level of investment likely to be forthcoming.

The London docklands experience demonstrates the dangers of a lack of government willingness to provide public transport infrastructure for this kind of major redevelopment. By hurriedly announcing the CBD Metro without a serious feasibility study, demand analysis or review of how it will integrate with other projects, the Rees Labor Government has not given the Barangaroo development a positive start.

If the Barangaroo development is to be a success and meet its enormous potential then the State Government must have a clear and detailed vision for the site. It must be open and transparent about its plans and must demonstrate its confidence in the project through the provision of funds and proper planning for transport infrastructure. The announcement of superficial plans for a metro line, secrecy about remediation works and backflipping on earlier commitments to up-front public funding of green space are not the right way to get this project started in the right direction.

The Coalition believes that Barangaroo can be an iconic development for Sydney that can stand at the forefront of our financial services and business sector into the future. The establishment of the Barangaroo Delivery Authority with its ability to overcome the State Government's flawed and dysfunctional planning processes is an appropriate measure and so the Coalition will not oppose the bill. But for the authority to be able to work well with the private sector and deliver everything that the redevelopment has the potential to become, the New South Wales Labor Government needs to get its house in order and develop a clear, strong vision for Barangaroo.

**Ms SYLVIA HALE** [4.13 p.m.]: I lead for the Greens on the Barangaroo Delivery Authority Bill 2009. The Greens do have some concerns about this bill and I will be seeking to move an amendment, which I will outline in due course. The Greens are pleased that the East Darling Harbour site has been named after Barangaroo, an important Gadigal woman of the Eora nation who lived in the area before and during European settlement. We are also pleased that consideration is being given to naming a section of Hickson Road the Hungry Mile to reflect the significance of Australia's maritime and stevedoring workers in the history of this area. The area has enormous historical, cultural and environmental significance for Sydney and for Australia. It is imperative that the redevelopment of the area acknowledges and enhances that significance.

The record of the Government in relation to urban renewal projects in Sydney has been less than impressive. We have many significant concerns about how the Government has handled projects at Redfern-Waterloo, the Carlton and United Brewery site in Chippendale and the Olympic precinct. The early signs from the Barangaroo project have also been less than promising. Since the initial design competition the Government has insisted on meddling on behalf of developers to increase the bulk of the commercial development. The Premier's announcement earlier this month that an additional 120,000 square metres of office space has been approved shows the level of political interference in the project. The pressure on the Government to make further concessions to developers at a time of economic downturn is also worrying. That is why we think it is important to put some distance between the politicians and the project. The creation of the Barangaroo Delivery Authority will go some way to meeting that objective and to providing a more coherent approach to the overall development of the site.

The issue of public transport for the Barangaroo site and its surrounds is also a significant concern. The Government is proposing a combination of a walkway from Wynyard, a stop on the new metro line and a new ferry wharf to cope with the thousands of new residents and workers expected for the site. While we welcome the walkway and ferry wharf, too many grand transport plans have been announced and then shelved by this

Government for anyone to take the half-baked metro plan seriously. The public has every right to be sceptical about the metro proposal. The Government should be moving to expand the city's light rail network into the Hickson Road and Barangaroo areas. It is a more achievable and more realistic option.

The Greens support the creation of the new headland park at Barangaroo. We think it is a project worthy of Government investment and it should not be delayed by the economic downturn, which may delay the development of the rest of the site. The headland park has the potential to become a key part of the fabric of Sydney. It has the potential to greatly enhance the natural beauty of the harbour, and provide an important civic, cultural and recreational asset for the people of Sydney and a wonderful piece of open space for those who live and work nearby.

Unfortunately that potential will not necessarily save it from inappropriate development. The Government has a record of seeking to overdevelop iconic parkland sites. Whether it is turning Callan Park into a university campus or turning Killalea State Park into an upmarket private resort, this Government has shown that if it can turn a quid out of a public park it will try to do so. It is for that reason that the Greens are concerned about the provisions of clause 18, which allows for the leasing of all or part of the park for up to 99 years. I will move an amendment in Committee to bring this into line with the rules that apply to a local council that is leasing out community land—that is, to limit the lease term to no more than 21 years.

Overall, the Greens support the establishment of the Barangaroo Delivery Authority. We note the comments of the Lord Mayor and member for Sydney that the State Government has pledged to work with the Council of the City of Sydney in the development of the site. We urge the Government to properly engage with the community and to make the necessary public investment to ensure that the development proceeds in a way that delivers maximum benefit to the community rather than to the companies that undertake the development.

**The Hon. HELEN WESTWOOD** [4.18 p.m.]: I support the Barangaroo Delivery Authority Bill 2009. An opportunity such as this occurs genuinely once in a generation and I think it is unique worldwide. The Government's Barangaroo renewal will create new parks, sporting, community and cultural facilities right on the water at the city's edge. It will create a new western face of the city, transforming an isolated and neglected part of town into a precinct of city buildings, headlands and gardens, which at long last will match the city's much-celebrated eastern face.

It will open up to members of the public a massive foreshore site that has been isolated from them for over a century due to its industrial use, and it will turn a giant concrete slab into the greatest green addition to the harbour in generations. It will create a grid for the well-planned growth of the city's financial centre located at the nexus of its public transport routes. It provides commitments relating to energy and resource use that will set new benchmarks in sustainable design and maximise the rare opportunity to plan an entire city precinct from the ground up. Amazingly, it does all that at no cost to the public and without freehold sale of any public land. Let us pause and ask ourselves: How many of the world's cities in 2009 would be offered such an incredible opportunity?

With master planning of this renewal now completed it is appropriate that the issue of delivery is proactively addressed. The Government has chosen the dedicated delivery agency model that has been integral to successful renewal programs both in Australia and overseas. Mr John Tabart, who has been chosen to be the chief executive officer of the Barangaroo Delivery Authority, is one of the most respected and experienced minds worldwide within the renewal industry. He will spearhead this new and focused team. With careful and diligent planning now completed it is time for construction of this incredible new precinct of Sydney to commence—a project that will deliver 4,000 or more new jobs to Sydney during the construction period alone.

Barangaroo is the latest example in Sydney's fortunate history of having nineteenth and early twentieth century industrial sites become available at convenient stages to be rejuvenated for community uses in the twenty-first century. Earlier examples include Darling Harbour in the 1980s and Homebush Bay and Redfern-Waterloo in the 1990s. I have the privilege of living in the Homebush Bay precinct and I can attest to the quality planning and the opportunities it provides in the sustainable development and re-use of old industrial sites. East Darling Harbour, or Barangaroo as we now know it, has become available to be redeveloped for public open space and commercial activities because of the changing nature of maritime port activities.

Barangaroo is an interesting historical area. Its historical roots go back to the earliest days of white settlement in this nation. Maritime uses of that land by the early settlers of Sydney Town involved the movement off that land of the first peoples—the Gadigal people of the Eora nation. Barangaroo, the name

chosen for the locality, recognises the historical attachment of the Gadigal people to the site. Barangaroo was a Gadigal woman who married Bennelong, who as all members know was an Aboriginal man whose name has been given to the home of the Sydney Opera House. Bennelong became famous because of his relationship with the first white settlers. Bennelong's wife, Barangaroo, was less amenable to the Europeans and extremely proud of her own culture.

First introduced to the settlers in 1790, Barangaroo has been described as a determined, independent and feisty woman who struck out at soldiers for beating a convict. As a feminist I am delighted that we are naming this significant site after a woman with such great qualities. Barangaroo refused to conform to European standards of dress and behaviour and was determined to maintain her connection with the land. It is fitting, therefore, that the Government decided to choose as the locality name for this important new part of Sydney the name of an important indigenous person. Barangaroo's name complements the use of her husband's name at nearby Bennelong Point, reminding all Australians that indigenous people have long been present at Sydney Harbour.

The bill sets up a government agency with specific functions to deliver an outcome for the people of New South Wales that will provide enhanced public open space on Sydney Harbour, along with buildings and facilities that will increase commercial activities in the area. The Barangaroo project will renew attention on Sydney and convert it into investment and jobs for New South Wales. This will be most obvious during the construction phase when an estimated \$3 billion injection will flow into our economy, creating around 4,000 jobs over the cycle of the project. In the long term Barangaroo will play a key role in attracting new regional and global headquarters to Sydney that might otherwise have been located elsewhere. That, in turn, will generate long-term financial skills and cultural investment in Sydney, well beyond the lifecycle of the project.

The economic stimulus that the Barangaroo development project will deliver would have brought a smile to the faces of the wharfies of the 1930s who walked the Hungry Mile—Hickson Road—in the Great Depression. Like many Labor Party members, I know many wharfies who worked on the wharves in that area. Barangaroo fronts Hickson Road, which became known as the Hungry Mile to early maritime industry workers. The name was made famous by wharfie Ernest Antony in the 1930s poem *The Hungry Mile*. A proposal to acknowledge the site's historical significance to waterside workers by identifying part of Hickson Road as the Hungry Mile is currently being considered by the Geographical Names Board. The task that has been given to the Barangaroo Delivery Authority is one of great importance for Sydney, New South Wales and Australia. I commend the bill to the House.

**Reverend the Hon. FRED NILE** [4.26 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Barangaroo Delivery Authority Bill 2009, which will establish the Barangaroo Delivery Authority, specify its functions and provide for other matters relating to the development, use and management of Barangaroo. Barangaroo, a 22-hectare site, is adjacent to the Sydney central business district at East Darling Harbour. Over half that area will be dedicated to a headland park. It is necessary to establish an authority to develop such a large project—a practice of this Government over recent years in relation to a number of developments.

The Barangaroo Delivery Authority will have a board comprising three ex-officio members and four appointed members. John Tabart, the newly appointed chief executive officer, has the skills necessary for the successful completion of this project. John Tabart was at the helm of VicUrban, the master developer that delivered the \$16 billion, 200-hectare Melbourne Docklands project adjacent to that city's central business district. John Tabart has the qualifications and experience that are necessary for the completion of this large project. The project will unlock a large section of the city foreshore that has been isolated from public use for over a century and transform it into a new working central business district.

Over the months I am sure all members have read or seen newspaper articles depicting potential layouts of attractive buildings, accommodation units and parkland. Barangaroo will secure Sydney's growing financial role in the highly competitive Asia-Pacific region, attracting new investment and creating important job growth. It will create a new western face of the city, transforming an isolated part of the town into a precinct of buildings and parkland that mirrors the city's much-celebrated eastern face; build 11 hectares of new park, community and cultural facilities; and complete the State Government's 14 million Sydney foreshore wharf—an exciting project. headland park will include a number of features that will be used by those living in the new development and by other city residents.

Of course, one of the most important achievements of this project will be job creation. With all the current various programs to stimulate the economy, it could be said that this is a gilt-edged project to stimulate

the New South Wales economy and provide jobs, particularly during the construction stage, with an estimated \$3 billion injection to flow into the economy, creating over 4,000 jobs for the project cycle. As I have said, the project will play a key role also in attracting new regional and global businesses to Sydney that might otherwise have gone elsewhere.

I am pleased to support this bill and I look forward with other members at some future date to visiting headland park to look across the harbour to the Sydney Harbour Bridge and the Opera House. This park, of course, will be available for the use and enjoyment of the public. The legislation will prohibit the authority from disposing of fee simple estate of the land identified for headland park, but will provide for some activities to be held at that location. I imagine specialty events will be held similar to those that are held in the Domain, and the park will incorporate some kiosk-type buildings from which the public can purchase refreshments. We remember the great success of World Youth Day, which brought this unique area to the attention of Sydney, Australia and the world. I am sure it will continue to play an important part in Sydney's future development.

**The Hon. KAYEE GRIFFIN** [4.31 p.m.]: I support the Barangaroo Delivery Authority Bill 2009. Through Barangaroo, Sydney is reacting positively to ensure its commercial and maritime futures. Shipping is changing and maritime cities must meet those changes. Accordingly, the Government is expanding regional port roles in the State economy to meet this challenge. This is a tried and tested response to the challenges of contemporary shipping and follows the lead of great port cities such as Rotterdam, San Francisco and New York. Each of those cities has pursued this same strategy, generating new economic, employment and environmental opportunities in the process; each remains a great harbour city, a city of character and a city of economic relevance and prosperity.

Sydney Harbour's character is defined by many factors but, undoubtedly, the greatest are its geographic beauty, the high level of green space we have retained and what I suspect is an unparalleled level of public access. Sydney has some four million people and is the centre of the national economy, yet we have preserved such levels of public access to our foreshore that the State Government now is on the cusp of completing a 14-kilometre continuous foreshore walkway through the city—14 kilometres of unbroken public foreshore access running right through the heart of the city. Does any other major city in the world retain such democratic access to its foreshore? This plan adds greatly to that public access. We will build a genuinely sustainable city precinct, including new public transport routes, ferry terminals and connection to the Metro rail.

The renewal offers an incredible green gift to us and to our future generations, and does so without burdening those generations. Barangaroo heals the western edge of the city and completes the New South Wales Government's foreshore walk from Anzac Bridge to Woolloomooloo. The renewal plan provides work and recreational space in Sydney and will deliver all this at the foot of our central business district. Barangaroo will connect with and support the central business district; it extends the financial quarter that already is emerging strongly at the western side of our city, and consolidates this precinct as a premier location for global companies within the Asian region. Sydney has tremendous natural advantages in attracting investment and employment. Make no mistake, cities compete against each other and must constantly lift their game to remain at the top.

Barangaroo sends a powerful message to the world about Sydney's global competitiveness and how we see our role in the twenty-first century. It demonstrates that we know more commercial space is needed in Sydney, that we know more companies and more employers of choice want to be here, and that we are acting to accommodate them. In doing so, we are securing our position as the business services centre of our region, attracting long-term investment and jobs for this and the next generation of workers. As my colleagues previously noted, this opportunity perhaps is unique within the world today: a \$3 billion investment, 4,000 construction jobs, 20,000 workers housed permanently, new public transport, new public parks, new public foreshore access and investment in future generations at no cost to those generations. Accordingly, I commend the bill to the House.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [4.34 p.m.], in reply: I thank members for their contributions to this debate. I indicate at this point that the Government will not support the amendment that has been circulated by the Greens, but I will elaborate on that in Committee. 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.**

**Clauses 6 to 13 agreed to.**

**Clauses 14 and 15 agreed to.**

**Clauses 16 and 17 agreed to.**

**Ms SYLVIA HALE** [4.37 p.m.]: I move:

Page 9, clause 18 (4), line 16. Omit "99". Insert instead "21".

Clause 18 (4) states:

- (4) A lease or licence granted under this section must not have a term that, together with the term of any further lease or licence that may be granted under an option in respect of it, exceeds 99 years.

The Greens seek to reduce the period specified to 21 years, to fall in line with the Local Government Act. It is important for the protection of community land that the authority does not enter into leases that extend for 99 years. Community perception is that a 99-year lease is as good as permanent ownership or sale of the land. For example, 99-year leases such as those entered into by Housing New South Wales for heritage properties in Millers Point are designed to attract buyers rather than lessees, and give the applicant the feeling of permanence and the right to make changes to the property. The Greens do not believe that that practice should apply to this important headland park because it could lead to significant changes in the use of public parklands. The public will have no guarantee of how the parkland will be used in the future. There are no controls over what might happen in 20, 30 or 50 years when this Government is long gone.

The Greens believe it would be more appropriate for such an important public harbourside park to be in line with council practice in releasing community lands. It is precisely for that reason that section 46 (3) of the Local Government Act provides that council leases of community land have a term of no more than 21 years. A 21-year lease puts a limited time line in place that discourages major developments on community parkland and ensures that lessees know the land is not their personal property.

In the recent past there have been attempts by the Government to build residential development, an aged care facility and a university campus on Callan Park. The Government continues to try to put a private resort on the Killalea State Park under a 52-year lease granted to the developer. We do not want Barangaroo parkland to be subjected to the type of commercial exploitation that the Government has attempted to perpetrate at both Callan Park and the Killalea State Park. This amendment will discourage that type of commercial exploitation, and I commend it to the Committee.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [4.40 p.m.]: For reasons I have outlined previously, the Government opposes the amendment. I understand the issues raised by the Greens, and some debate on those issues occurred in the other place, but as the Minister explained in the other place, the bill provides that the authority will have no power to alienate any open space that is identified as headland park. However, obviously there are options around short-term and long-term leases. For the longer-term leases, the power is subject to ministerial conditions and approval.

The bill provides that the authority may enter into shorter-term leases of less than 10 years without ministerial approval. Examples of short-term leases are for premises such as cafés, restaurants and kiosks as well as sporting, entertainment, recreational and other cultural facilities. The Government is very keen to ensure that any dealing with the headland park is consistent with the public's ongoing use and enjoyment of the parklands. The examples of longer-term leases the Government has in mind relate to facilities such as underground car parking and water treatment and co-generation facilities that may be sited underneath the headland park. This may be appropriate and necessary to support the Barangaroo project as a whole. Such facilities will support the public's use and enjoyment of the headland park as well as contribute to Barangaroo achieving world-class sustainable development outcomes.

As previously indicated, longer-term leases will appropriately be subject to the Minister's approval and any conditions that the Minister thinks is appropriate in each individual circumstance. There are similar

examples of longer-term leasing arrangements in other parklands. I draw the Committee's attention to the Royal Botanic Gardens and Domain Trust Act 1980, which allows leasing for periods well in excess of 21 years. The purposes to which those leases apply are facilities such as the Domain car park, the Andrew (Boy) Charlton Swimming Pool and land within the Cook and Phillip Park. Similarly the Parramatta Park Trust Act 2001 allows leasing for periods that are well in excess of 21 years, and leases also apply to facilities such as the Parramatta War Memorial Swimming Centre. The nature of the Barangaroo development as a whole, including the Barangaroo headland park, is an essential component of the project. It necessitates the authority having the types of leasing and licensing powers I have described.

In this regard I advise the Committee that the Sydney Harbour Foreshore Authority Act includes similar leasing and licensing powers in respect of the Sydney Harbour Foreshore Authority's core land. I also note the appropriate safeguards for the headland park contained in the bill. Clause 14 of the bill, which sets out the functions of the authority, makes it clear that the authority is to facilitate only appropriate commercial activities that are consistent with the headland park's use as a sustainable cultural, educational and recreational centrepiece for Barangaroo and the use and enjoyment of the headland park by the public. The Government understands the issues raised by the Greens, but believes that a 99-year lease is appropriate for the type of facilities that the Government is considering for inclusion in the headland park.

**The Hon. DON HARWIN** [4.44 p.m.]: The Parliamentary Secretary has put the position very well. The Opposition does not support the amendment.

**Ms SYLVIA HALE** [4.44 p.m.]: If one was ignorant of the Government's recent history, one might be inclined to say, "Right, we will give the Government the benefit of the doubt that everything done in the park will be clearly in the public interest, and the park will be used only for swimming pools, co-generation projects and the like." But given the appalling history of the Government, we have no such assurance. I cite Callan Park during the past three or four years as an example. The proposal was to lease the site for 99 years. It was only community outrage and sustained opposition that prevented that arrangement from proceeding. It was similarly the case with Killalea. Even this weekend a rally is being organised over Killalea because people are appalled at the determination of the Government to use public parklands for private profit. Killalea is controlled by a trust.

**The Hon. Don Harwin**: Have you taken a stroll in the Royal Botanic Gardens lately?

**Ms SYLVIA HALE**: I acknowledge the interjection, but I make the point that restaurants and coffee shops can be accommodated by leases with a duration of no longer than 21 years. The Greens have no problem with leases that are for 21 years or less, but we do have a problem with giving the Government carte blanche for 99 years to possibly alienate what is essentially public parkland.

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

**Ms SYLVIA HALE**: The situation with Killalea State Park was different from that at Barangaroo. In relation to Killalea, the Government proposed to lease a portion of that State park for 52 years—a period that is well in excess of 21 years—to the consortium of Babcock and Brown and Mariner Financial. It now appears that Babcock and Brown has gone to the wall, but Mariner Financial is persisting with the project, which has become a part 3A application. No doubt the Minister will do the right thing by her Labor mates and approve that part 3A application. That is just one example of how the Labor Government is prepared quite shamelessly to sell off public land while pretending it is not a sale, by describing it as a long-term lease. The Government is pretending it is not disposing of public land, but everybody knows that a 99-year lease effectively is a sale of the property. The Greens believe that this is a restriction.

**The Hon. Greg Donnelly**: Point of order: My point of order relates to imputations of improper motives being attributed to members of the other place. If I understood Ms Sylvia Hale, she made comments on the motivations of the Minister for Planning and impugned her actions in terms of what she may do for "Labor mates". Standing Order 91 (3) makes it very clear that all imputations of improper motives are offensive. I consider the member's remarks offensive. I believe the member is in breach of the rules of debates. Clearly the member is in breach of the standing orders. I invite you to direct her to observe her obligation to confine her remarks to what is permitted by the standing orders.

**The Hon. Don Harwin**: Did she name a member of Parliament? If she did not name a member, she cannot possibly have offended the standing order.



**Ms Lee Rhiannon:** To the point of order: Standing Order 91 (3) is clear. However, if the purpose of the point of order were to require Ms Hale to restrict her comments, it would clearly be seen as an attempt to gag the debate. When one is debating an issue—in this case the relevant issue is development—one needs to speak about the Minister and how she operates. It would be a poor reflection on debate in this Chamber, particularly when it is traditionally wide ranging, if Standing 91 (3) were to be misused in this way.

**The Hon. Greg Donnelly:** Further to the point of order: Unfortunately we do not have Ms Sylvia Hale's comments in front of us, because she just made them. However, she made a direct comment about an honourable member in the other place, the Minister for Planning, and her association "with Labor mates". That remark clearly impugned the Minister.

**The Hon. Rick Colless:** You haven't got any mates.

**The Hon. Greg Donnelly:** Does that refer to me or to Ms Sylvia Hale? Clearly, the comment was about the Minister; it impugned her reputation and motives, which is what it was intended to do.

**The CHAIR (The Hon. Amanda Fazio):** Order! I uphold the point of order. Standing Order 91 (3) states:

A member may not use offensive words against either House of the Legislature, or any member of either House, and all imputations of improper motives and all personal reflections on either House, members or officers will be considered disorderly.

Ms Sylvia Hale was referring to matters that would only be dealt with by the planning Minister, and for that reason I uphold the point of order. The member may continue her contribution to the debate so long as she refrains from making comments that contravene Standing Order 91 (3).

**Ms SYLVIA HALE:** When it comes to doing favours, the Government's actions speak louder than words. The Government will be judged on its actions. All those who have been associated with part 3 and the decisions made under it have brought themselves into an enormous—

**The CHAIR (The Hon. Amanda Fazio):** Order! Ms Sylvia Hale must not canvass a ruling of the Chair. I call the member to order for the first time for that flagrant challenge to my ruling.

**The Hon. Don Harwin:** Has Ms Sylvia Hale finished?

**Ms SYLVIA HALE:** No, I had not finished.

**The CHAIR (The Hon. Amanda Fazio):** Order! The member may proceed with caution.

**Ms SYLVIA HALE:** I will endeavour to make my remarks about the Minister for Lands more temperate. So determined has the Minister for Lands been to remove any opposition to the basic sell-off of Killalea State Park that, despite ongoing and extraordinarily intense community opposition, he removed—

**The CHAIR (The Hon. Amanda Fazio):** Order! The amendment being considered relates to the Barangaroo Delivery Authority Bill 2009. It is not appropriate for members, when speaking to the amendment, to refer at length to another development that is not associated with Barangaroo headland park. The member's comments may have been appropriate during the second reading debate but they are not appropriate in the consideration of this amendment.

**Ms SYLVIA HALE:** The point of this amendment is to reduce the period by which a lease or licence over Barangaroo headland park may be granted from 99 years to 21 years. My argument is that the Government cannot be trusted. Its actions, particularly and specifically in relation to Callan Park recently and Killalea State Park more recently suggest—

**The Hon. Penny Sharpe:** Point of order: Ms Sylvia Hale is again canvassing your ruling. The member is referring to other bills and Acts that have absolutely nothing to do with the matter before us. I ask you to call her to order for the second time.

**Ms SYLVIA HALE:** To the point of order: It is perfectly appropriate and legitimate to raise in debate issues about the length of leases that have been entered into in comparable situations. The point I am trying to make is that the length of a lease is a critical consideration, and what the Government has done in other instances is relevant to this consideration.

**The CHAIR (The Hon. Amanda Fazio):** Order! I uphold the point of order. I draw the attention of Ms Sylvia Hale to Standing Order 92 (1), which states:

A member may not digress from the subject matter of any question under discussion ...

Ms Sylvia Hale will confine her remarks to the amendment that is before the Committee. I make the observation also that the member's comments in relation to extraneous matters are bordering on repetitious.

**Ms SYLVIA HALE:** In that case I will conclude my remarks with the observation that I do not believe a 99-year lease is in the public interest. Restrictions on entering into lengthy leases are imposed on councils for good reasons. Councils should not be allowed to sign leases or licences for such extraordinary periods that, effectively, result in the public land, the community land, being alienated. What is good for the goose is good for the gander. If there is concern about the ability of local councils to alienate community land, there should be more concern about the Government's ability to alienate land for such a long period, given the Government's appalling record of doing favours for its mates.

**The Hon. DON HARWIN** [4.56 p.m.]: Before Ms Sylvia Hale and other members were sidetracked into a lengthy interchange on what can or cannot be debated when considering an amendment in Committee, the honourable member was talking about whether the bill should contain a provision of 21 years or 99 years. Earlier, I made a number of interjections. Rather than keep making interjections, which are disorderly, I thought I would put them on the record. In my view Ms Sylvia Hale was completely missing the point. The Minister correctly spoke about other Acts that contained provisions for lease periods that are much longer than 21 years. For example, I am familiar with the Botanic Gardens Act because I was a policy adviser in that area under the previous Government. This bill deals with a totally new park, the headland park, which includes a wharf.

I am sure Ms Sylvia Hale is not suggesting that there should not be a restaurant in the botanic gardens. Frankly, when I heard her comments about alienating public parkland for private profit I could not help but get the impression that she did not favour community access facilities such as catering outlets for visitors to the botanic gardens. What an incredible suggestion. In any case, Barangaroo is an empty piece of land with a wharf. A beautiful harbour side park will be built on it. To suggest that there will not be an eating outlet in the Barangaroo headland park is nonsense. Obviously, there will be such an outlet. What sort of park would it be if there was no facility from which members of the public could purchase a bottle of water or something similar? I am sure there will be provision for at least a kiosk, if not a restaurant.

Given that the headland park is being built from the ground up—there is nothing on the land at present—is Ms Sylvia Hale suggesting that the operator of a food outlet could be expected to recoup the capital cost of building an eating outlet in 21 years? That is clearly nonsense. Therefore, she must be suggesting that the Government would have to provide such facilities and lease them out. I am not sure that that is what we should be doing. Indeed, I am certain that that is not what we should be doing. The new Barangaroo Delivery Authority should have available to it the capacity to enter into a public-private partnership to offer such facilities in the new Barangaroo headland park. In my view it is a patent nonsense to reduce the lease period from 99 years to 21 years.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.00 p.m.]: I will respond to some of the issues raised by Ms Sylvia Hale. This site is a one-off. It is a greenfield site. It is a site of State significance. Strict provisions within the bill outline how the headland park will be used. I draw the attention of the Greens to Part 3, clauses 14 (1) (c) and (d) of the bill in relation to the function of the authority:

- (c) to develop and manage the Barangaroo Headland Park and public domain so as to encourage its use by the public and to regulate the use of those areas.
- (d) to facilitate and provide for appropriate commercial activities within the Barangaroo Headland Park and public domain that are consistent with their use for cultural, educational and recreational activities and the use and enjoyment of those areas by the public.

A 21-year lease does not provide the Government with the flexibility it needs to attract partners in innovative environmental programs such as cogeneration and water treatment, and parking options around the capital that will enhance the use of the park for the public generally. The Government does not support a 21-year lease and completely rejects the Greens alleged motives behind it. The Government believes that 99 years is an appropriate term. The Government will not support this amendment.

**Ms LEE RHIANNON** [5.01 p.m.]: The Parliamentary Secretary, the Hon. Penny Sharpe, said that this is a one-off project. That might be so, but offering a 99-year lease for a project is a tactic used by the

Government and the Opposition—champing at the bit to be in government—because they know they will be howled down by the public if they sell off great public assets. Using a so-called leasing system is not a one-off. Who will around in 99 years? It will not be anybody who is in this Chamber at the moment.

**The Hon. Penny Sharpe:** Are you the only font of wisdom at this time?

**Ms LEE RHIANNON:** I acknowledge the interjection, whatever it means. No-one in this Chamber will be around in 99 years. This is effectively a sell-off. The Government and Opposition have learned that if they say they will sell off a heritage building there will be a huge outcry by the public, which is exactly what happened about a decade ago when the Chief Secretary's Building was sold. The Government and the Opposition learned that lesson and this is how they now present these big projects to keep the public's anger at bay. People are understandably concerned when they lose public assets. A 99-year lease is code for "That's yours, and yours completely". We will not be around in 99 years to check on how it is going.

**The Hon. Penny Sharpe:** The Parliament is not going to be here?

**The Hon. Rick Colless:** Crown leases were given 99 years ago and they are coming to fruition now.

**Ms LEE RHIANNON:** I acknowledge the interjections, but they do not refute the fact that this is a tactic to deliver for the big developers. Once again the Opposition and the Government are singing from the same song sheet. The Government is using similar tactics and language to those used by Mr Egan, Mr Carr and then Mr Iemma when they spoke about privatising power stations. What does Mr Tripodi say? "No, we are not privatising. We just want to lease it out". The Government uses such language to try to pass legislation to push through projects that are unpopular with the public. Neither the Government nor the Opposition is being honest about their tactics. Twenty-one years is a long period to build up a profitable business. A contract can easily be re-tendered or provisions can be built into contracts. It is the responsible thing to do, but the Government is using a cheap trick to seek a 99-year lease. I am reminded of discount shops that mark down \$1, \$10 or \$100 items to 99¢, \$9 or \$99 so that they do not seem so expensive. This is a con job that effectively hands over land to developers. The developers are happy. The Government and the Opposition are happy, and the public is being duded.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.04 p.m.]: I do not wish to prolong debate, but it is important to note that there is general public support for a large headland park at the edge of the harbour. The contribution by Ms Lee Rhiannon was, frankly, outrageous and irrelevant to the matter that is before the Committee. The Minister will oversight the 99-year lease, which will only be granted if it fits in with the educational, cultural and recreational aims of the headland park. The Government is not alienating green space but is looking for opportunities that will actually allow the public to use the park in a variety of different ways.

**Question—That the Greens amendment be agreed to—put.**

**The Committee divided.**

**Ayes, 4**

Mr Cohen  
Ms Rhiannon

*Tellers,*  
Ms Hale  
Dr Kaye

**Noes, 22**

Mr Ajaka  
Mr Catanzariti  
Mr Clarke  
Mr Colless  
Ms Ficarra  
Ms Griffin  
Mr Khan  
Mr Lynn

Mr Mason-Cox  
Reverend Dr Moyes  
Reverend Nile  
Ms Parker  
Mr Primrose  
Ms Robertson  
Ms Sharpe  
Mr Tsang

Mr Veitch  
Ms Voltz  
Mr West  
Ms Westwood

*Tellers,*  
Mr Donnelly  
Mr Harwin

**Question resolved in the negative.**

**Greens amendment negatived.**

**Clause 18 agreed to.**

**Clauses 19 to 24 agreed to.**

**Clauses 25 to 30 agreed to.**

**Clauses 31 to 38 agreed to.**

**Clauses 39 to 51 agreed to.**

**Schedules 1 to 4 agreed to.**

**Title agreed to.**

**Bill reported from Committee without amendment.**

### **Adoption of Report**

**Motion by the Hon. Penny Sharpe agreed to:**

That the report be adopted.

**Report adopted.**

### **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.**

## **CRIMES (APPEAL AND REVIEW) AMENDMENT BILL 2009**

### **Second Reading**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.15 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

A report on the operation of the Crimes (Appeal and Review) Act 2001 was tabled in Parliament in August 2008. The report was prepared in accordance with section 120 of the Act, which required the Attorney General to examine whether the Act remains appropriate for securing its objective. The objective of the Act is to provide a streamlined and simple appeal process while still affording an appropriate opportunity for aggrieved parties to seek redress against decisions of the court. Public consultation was undertaken during the course of the review. The report concludes that the Act is largely effective in achieving its objectives. The report contains 17 recommendations, 16 of which involve legislative amendment. The bill will give effect to the majority of those recommendations. There are two recommendations that are not addressed in this bill. The report recommended that further consultation be undertaken with respect to two matters. First, recommendation 8 proposes that an appeal against a sentence in the Local Court to the District Court should be determined primarily on the transcripts and material that was before the Local Court.

At present, an appeal against a sentence is a de novo appeal in which the parties are entitled to produce new evidence on appeal that was not before the Local Court. Secondly, recommendation 9 proposes that an appeal against a sentence imposed by a Local Court should not be set aside unless the sentence was manifestly excessive or, in the case of an appeal by the prosecution, manifestly inadequate. The Attorney General's

Department is undertaking further consultation in relation to these matters. The reforms in this bill have the objective of clarifying and improving the appeal and review processes from the Local Court and Children's Court to the District Court, Land and Environment Court and Supreme Court. I will refer to some of the more significant amendments contained in the bill.

The first two items of schedule 1 to the bill amend the definition of the terms "conviction" and "sentence" in the Act to make it clear that a court is authorised to quash the recording of a conviction when dealing with an appeal against the severity of a sentence. The amendment overcomes the problem raised in a line of authority in the Land and Environment Court, most recently expounded in *Advanced Arbor Service Pty Ltd v Strathfield Municipal Council* [2006] New South Wales LEC 485, in which the court held that in relation to appeals against sentence it was precluded from quashing the conviction and imposing a sentencing order that did not include a conviction. The bill amends section 3 to make it clear that a court when dealing with a severity appeal may set aside the conviction imposed to make a non-conviction sentencing order.

Item [4] rectifies a technical issue referred to in recommendation 14 of the report. Section 11 of the Crimes (Appeal and Review) Act 2001 allows a defendant to lodge an appeal against either the conviction or the sentence. Section 11 does not make specific provision for a single appeal to be lodged against both the conviction and the sentence. Where an appeal against the conviction is unsuccessful, technically a defendant may be precluded from challenging the sentence. I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

### **Leave granted.**

This amendment makes it clear that an appeal may be made against both the conviction and sentence.

Items [5], [6], [7] and [10] of schedule 1 of the bill give effect to Recommendation 2 of the Report. This Recommendation achieves two objectives.

Firstly, it ensures that the District Court is not placed in the position of conducting an original summary defended hearing in circumstances where there has been no defended hearing in the Local Court. It does this by creating a right for the District Court to set aside a conviction that has been recorded in the absence of the defendant or where the defendant initially entered a guilty plea and remit the matter to the Local Court for a defended hearing.

Secondly, the Recommendation streamlines the appeal process by providing that if a sentence is imposed in the absence of the defendant then, if a magistrate declines to annul the sentence, the defendant cannot appeal that refusal but may lodge a severity appeal against the sentence in the normal manner. This allows the District Court to bring the matter to finality on appeal without requiring the District Court to remit the case to the Local Court to further exercise its sentencing discretion.

Item [17] gives effect to Recommendation 11 of the Report by reinstating during the appeal period any suspension of licence that was in place immediately prior to the determination of proceedings. When a person is charged with a serious driving offence such as driving with the middle or high range prescribed concentration of alcohol or street racing a police officer may suspend the person's licence immediately upon laying charges against the person. The suspension then remains in force until the court determines the charge. If the court finds the offence proven then periods of licence disqualification apply. The underlying purpose of these provisions is to ensure that a person who is charged with a serious traffic offence is immediately taken off the road for the protection of the community.

Section 63 of the Crimes (Appeal and Review) Act stays the execution of certain sentences during an appeal period. The stay ensures that a party is able to seek the reconsideration of the sentence before the District Court before it takes effect. In relation to serious traffic offences, the operation of this provision means that a defendant who has had his licence suspended leading up to the determination of the case in the Local Court is able to drive during the stay of execution during the appeal period. This acts contrary to the intention of removing serious traffic offenders immediately off the road and protecting the community. Item [17] creates an exception to the stay provision so that the licence sanction remains in force during the appeal period subject to any order of the appeal court. This provision will commence once the Roads and Traffic Authority has made adjustments to their systems to record these outcomes.

Schedule 2.1 of the bill makes amendments to give effect to recommendations 4 and 6 of the Report. The purpose of these amendments is to improve the protection afforded to victims of domestic violence when either an appeal or review is made against an apprehended violence order under the Crimes (Domestic and Personal Violence) Act 2007. If an appeal under section 11A is granted by the District Court then the apprehended violence order that is in place is annulled and the proceedings are remitted to the Local Court for a further hearing. During the period between the annulment and the further hearing in the Local Court the victim is not protected by an interim apprehended violence order. This potential gap in protection of victims is addressed by placing an obligation upon the District Court to make an interim order in favour of the victim unless it is satisfied that it is not necessary to do so.

The second amendment will create a right for a person to who is seeking an apprehended violence order to apply for an annulment of an order dismissing the application if that dismissal was made in their absence. The change is intended to ensure that a person in need of protection is not prevented from seeking an apprehended violence order if the case is dismissed in their absence and their failure to attend was due to illness or misadventure.

The remaining provisions in this bill address a number of other minor technical and procedural issues identified in the Report. They improve the operation of the Crimes (Appeal and Review) Act by clarifying provisions that were uncertain and modernizing and streamlining provisions that are historic vestiges of the former appeals regime under the Justices Act 1902.

The Crimes (Appeal and Review) Act provides an effective and efficient framework for parties aggrieved by decisions of magistrates to seek redress. The District Court finalises over 90% of all grounds appeals within 12 months of lodgement and 90% of sentencing appeal within 6 months of lodgement. The provisions in this bill will fine-tune the operation of the Act to ensure that it continues to provide an effective system for appeals.

I commend the bill to the House.

**The Hon. JOHN AJAKA** [5.20 p.m.]: The Crimes (Appeal and Review) Amendment Bill 2009 seeks to amend the Crimes (Appeal and Review) Act 2001, the Crimes (Domestic and Personal Violence) Act 2007, the Criminal Procedure Act 1986, the Local Courts Act 1982 and the Local Court Act 2007. The Opposition does not oppose the bill. The bill follows a statutory review of the Crimes (Appeal and Review) Act 2001, pursuant to section 120 of the Act. The review conducted by the Attorney General's department sought to ensure that the Act continues to operate in accordance with its objective "to provide a streamlined and simple appeal process while still affording an appropriate opportunity for aggrieved parties to seek redress against decisions of the court".

The bill seeks to enact the majority of the recommendations made in the report on the operation of the Crimes (Appeal and Review) Act 2001. The two recommendations containing substantive reform issues, transcripts on appeal matters and manifest inadequacy or excess, are not dealt with in this bill. Implementation of recommendation 9, for instance, would generally mean, in relation to severity appeals, that one would need to prove an error of law by the magistrate. I am advised the Attorney General's Department is consulting further on these recommendations and we will no doubt be informed of the outcome of that consultation in due course, hopefully prior to any legislation being put before the House.

The object of this bill is to clarify the appeal and review processes from the Local Court, Children's Court, District Court, Land and Environment Court and Supreme Court. The bill amends the Crimes (Appeal and Review) Act 2001 in the following ways: Firstly, by amending section 3 to clarify that a court has the authority to quash both the sentence and conviction in a severity appeal. This amendment seeks to overcome the difficulties raised in a series of cases before the Land and Environment Court, including, most recently, the case of *Advanced Arbor Service Pty Ltd v Strathfield Municipal Council* (2006) New South Wales LEC 485.

The court held that in relation to appeals against sentence, it was unable to quash the conviction and impose a sentencing order that did not include a conviction. Indeed, a colleague of mine Brett Thomas, a solicitor, appeared in the matter of *Sidhom v Robinson* (2007) New South Wales LEC 408 on behalf of the Department of Environment and Climate Change, being an appeal matter from a Nowra Local Court prosecution by the Department of Environment and Climate Change for an infringement fine issued for fishing in the Marine Park at Jervis Bay. The Chief Judge of the Land and Environment Court held that it was necessary first to prove an error of law and have the conviction quashed before being permitted to argue for a section 10 order on appeal.

Second, the bill seeks to amend section 11 to clarify that an individual can appeal against conviction and sentence. At present, section 11A allows a person who is sentenced while absent from the court to apply for the annulment of the sentence and, if the annulment is not granted, to appeal to the District Court against the refusal to grant the annulment of the sentence. Section 11 does not, at present, explicitly provide for a single appeal against both the conviction and sentence. If an appeal against the conviction is unsuccessful, there is a possibility that a defendant may be precluded from challenging the sentence.

Third, the bill amends section 11 so that a person who has an application for the annulment of a sentence dismissed by the Local Court under section 4 may appeal to the District Court against the sentence, rather than appeal against the refusal to grant the annulment. Fourth, the bill amends section 18 of the principal Act such that rehearings will no longer be by transcripts of evidence but by rehearing of the evidence—in other words a hearing de nova. It also removes the certification requirement for transcripts used in the proceedings.

At present, section 20 provides that the District Court may determine an appeal against conviction by setting aside the conviction or by dismissing the appeal. As the Legislation Review Committee commented, the proposed amendments ensure "that the District Court is not placed in the position of conducting an original summary defended hearing in circumstances where there has been no defended hearing in the Local Court". The bill achieves this in two respects—by allowing the District Court finality on appeals that were originally

sentenced at the Local Court in the absence of the defendant, making the appeal a proper severity appeal; and by enabling the District Court to determine such an appeal by remitting the matter to the original Local Court for re-determination where the conviction was made in the accused person's absence. The District Court may issue directions in relation to the re-determination of the matter by the Local Court.

Fifth, the bill provides that an appeal against certain suspensions and disqualifications of a drivers licence does not automatically result in the stay of the suspensions or disqualifications. The bill creates an exception to the section 63 stay provision so that the licence sanction remains in force during the appeal period, subject to any order of the appeal court. That is, a drivers licence will not be stayed in matters where a suspension was already in existence before the appeal process, such as a high-range offence where a person would have their licence removed immediately. The suspension will remain in force until the court determines the charge. If the court finds the offence proven, periods of licence disqualification apply. These changes will ensure that serious traffic offenders will be removed from the roads without delay.

Sixth, the bill removes the current requirement that an appeal court direct that costs be paid to the registrar of a local court under a section 72 order for costs. Seventh, the bill requires appeals made to the Land and Environment Court to be lodged with the registrar of that court rather than with the registrar of a Local Court. The bill also amends the Crimes (Domestic and Personal Violence) Act 2007 to strengthen the protection that the law provides to victims of domestic violence. Accordingly, it amends the Act so that, firstly, a person absent from an initial hearing may seek an annulment of the original dismissal of the apprehended violence order [AVO] if they can show that their absence was due to sickness or misadventure. This will ensure that an individual in need of protection is not prevented from seeking an AVO under circumstances beyond their control, such as sickness. Second, an interim AVO may be made in matters that are remitted to the Local Court for hearing following a section 11 appeal. As the Legislation Review Committee commented, under the current law, during the period between the annulment and the further hearing in the Local Court, the victim is not protected by an interim apprehended violence order. The committee said:

This potential gap in protection of victims is addressed by placing an obligation upon the District Court to make an interim order in favour of the victim unless it is satisfied that it is not necessary to do so.

Finally, the bill also seeks to amend the Criminal Procedure Act 1986 to enable certain accused persons to rely on written pleas instead of attending personally at certain local court hearings, and to amend the Crimes (Domestic and Personal Violence) Act 2007, the Local Courts Act 1982 and the Local Court Act 2007 to ensure legislative consistency by clarifying that the provisions of the principal Act relating to appeals against conviction apply to certain appeals under those Acts.

I note that the bill implements a number of the recommendations of the statutory review and seeks to ensure that the operation of the principal Act is more efficient for those in practice. Unfortunately some of the terminology in the bill is convoluted and may give rise to the possibility of future confusion in the operation and interpretation of the Act. I strongly recommend that the Attorney General monitor this. However, I acknowledge also that many of the changes seek to facilitate greater cooperation between the different courts in the jurisdiction and hopefully the changes effected by the bill will result in increased time and resource savings, and streamline the appeals process. As previously indicated, the Opposition does not oppose the bill.

**Reverend the Hon. FRED NILE** [5.28 p.m.]: On behalf of the Christian Democratic Party I support the Crimes (Appeal and Review) Amendment Bill 2009. This bill will implement recommendations contained in the report on the review of the Crimes (Appeal and Review) Act 2001, which was tabled in the Parliament in August 2008. The bill amends the Crimes (Appeal and Review) Act 2001 and other Acts to ensure that the Crimes (Appeal and Review) Act meets its objective of providing a streamlined and simple appeal process while still affording an appropriate opportunity for aggrieved parties to seek redress against decisions of magistrates.

The legislation is based on the review of the Crimes Appeal and Review Act 2001, which concluded that the Act was largely successful in meeting its objectives. However, it contained 17 recommendations, 14 of which are implemented by this bill, and the Attorney General is studying the remaining three. The bill clarifies that an appeal against a sentence allows the appellate court to review whether on sentence a conviction should be recorded against a person. The legislation amends the terms "conviction" and "sentence" in the Act to make it clear that a court is authorised to quash the recording of a conviction when dealing with an appeal against the severity of a sentence.

The amendment overcomes a problem raised in the line of authority in the Land and Environment Court, in which the court held that in relation to appeals against sentence it was precluded from quashing the

conviction and imposing a sentencing order that did not include a conviction. The bill will amend section 3 to make it clear that a court, when dealing with a severity appeal, may set aside the conviction imposed to make a non-conviction sentencing order. The other important aspect of this bill relates to domestic violence victims. The amendments will ensure that those victims will be able to be protected by an interim order if the District Court quashes an apprehended violence order and remits the case to the Local Court for a further hearing.

It was found that during the period between the annulment and the future hearing in the Local Court the victim was not protected by an interim apprehended violence order. This potential gap in the protection of victims is now addressed by placing an obligation upon the District Court to make an interim order in favour of the victim, unless it is satisfied that it is not necessary to do so. It will also create a right for a person who is seeking an apprehended violence order to apply for an annulment of an order dismissing the application if that dismissal was made in his or her absence. This change is intended to ensure that a person in need of protection is not prevented from seeking an apprehended violence order if a case is dismissed in his or her absence and a failure to attend was due to illness or misadventure. The recommendations in the review have been incorporated in this legislation to meet that need. I am pleased to support the bill.

**The Hon. AMANDA FAZIO** [5.32 p.m.]: I support the Crimes (Appeal and Review) Amendment Bill 2009. In August 2008 a statutory review of the operation of the Crimes (Appeal and Review) Act was tabled in Parliament. In undertaking the review, the Attorney General's Department invited and received submissions from a number of stakeholders, including heads of jurisdictions, legal stakeholders and other interested parties. The review recommended a number of mostly technical amendments to the Act. This bill implements a number of these recommendations. While many of the amendments are technical in nature, the Act is an important instrument for the administration of criminal justice in this State as it provides a statutory regime for the review of decisions of local courts.

Statutory rights for appeals against Local Court decisions have their origin in appeals against Courts of Petty Sessions created in 1835. Although the legislation has been substantially modified to meet the needs of a modern court system, many of the recommendations made in the review relate to matters that are historic vestiges of the former appeal rights under the Justices Act 1902. This bill continues the process of modernising legislation surrounding such appeal rights. To that extent I draw the attention of the House to two elements in the bill. As members would be aware, over the past several decades public attitudes towards domestic violence have changed for the better. Accordingly, while incidents of domestic violence occur far too often, our society now deems domestic violence a serious crime and recognises that victims are entitled to and deserve appropriate support and protection.

The Government is committed to providing such support and protection wherever possible and that is why the bill contains several important amendments that increase rights for victims of domestic violence. First, the bill creates a new right for an applicant in apprehended violence proceedings to apply to the Local Court to annul a decision to dismiss the application if that decision was made in his or her absence. Currently a defendant is able to apply to the court for an annulment if he or she was prevented by illness or misadventure from attending court and an apprehended violence order was made in his or her absence. However, an applicant for an apprehended violence order who is similarly prevented from making it to court does not have such a right in respect of an order to dismiss the application.

The bill introduces new provisions into the Crimes (Domestic and Personal Violence) Act to rectify this anomaly. This will ensure that if an applicant for an apprehended violence order is prevented from attending court due to illness or misadventure he or she may apply to annul an order to dismiss an application that was made in his or her absence. The bill also contains provisions relating to licence sanctions for serious traffic offences under the Roads Transport (General) Act 2005, including high-level drink driving, street racing and excessive speeding.

Currently police are able immediately to suspend a person's driving licence when laying charges for these offences. This reflects the fact that people who commit such offences are an immediate danger to the community. It is therefore appropriate that they be suspended from driving until the court determines the proceedings. As such, the suspension applies until the matter comes before the Local Court and if the person is found guilty the court may impose a permanent licence suspension or disqualification as a penalty. However, if the person seeks to appeal against the court's decision section 63 of the Crimes (Appeal and Review) Act has the effect of staying the execution of the sentence. This means that the person gets his or her licence back and is able to keep it and continue to drive until his or her appeal is heard in the District Court.



It goes without saying that this anomaly can undermine the overarching need to protect the community from unsafe drivers. The bill will therefore address this anomaly and make it clear that a person who appeals against a licence suspension or disqualification from the Local Court arising from a serious traffic offence may not have his or her licence while the appeal is pending. This will ensure that a licence sanction continues to have effect during the appeal period unless the appellate court is satisfied that a stay is appropriate. The bill also seeks to address another anomaly surrounding domestic violence laws. The bill addresses a problem that might arise when the District Court dealing with an appeal quashes an apprehended violence order and remits the case to the Local Court for a rehearing.

When this occurs at present a victim of violence would not be subject to any protective orders until such time as the matter comes back before the Local Court. The bill addresses this gap in protection by requiring the District Court to make an interim apprehended violence order. While the Crimes (Appeal and Review) Amendment Bill is largely technical in nature, it includes some important reforms. Such changes reflect the Government's determination to protect victims of domestic violence and keep our roads safe. I commend the bill to the House.

**Ms LEE RHIANNON** [5.36 p.m.]: The Greens do not oppose the Crimes (Appeal and Review) Amendment Bill 2009. We believe that the right to a fair hearing is an essential aspect of the judicial process and is indispensable to the protection of other human rights. Clearly, having a fair and functional appeal and review process is an important part of that right. Other members said that the bill was introduced in response to a statutory review by the Attorney General of the operation of the 2001 Act. The report of that useful review was tabled in this place in 2008. I understand that many of the recommendations in that review have been incorporated in this bill. The review stated that the Act provides an effective framework for parties aggrieved by decisions of magistrates and local courts to seek redress—an important part of the judicial process.

For the most part the amendments in this bill are minor and procedural in nature. The Greens support the amendments in this bill, including amendments to the Crimes (Domestic and Personal Violence) Act to enable a person who had an application for an apprehended violence order dismissed in his or her absence to apply for the annulment of that dismissal. That small but important step will strengthen the way in which apprehended violence orders work. It has added importance because of the unfortunate incident that occurred last year. In a forward piece of legislation on domestic violence the Government did an extraordinary deal with the Shooters Party, which weakened the whole issue of apprehended violence orders and made it easier for those under an order who had a firearm to get their firearms back.

**Reverend the Hon. Dr Gordon Moyes:** Hear! Hear!

**Ms LEE RHIANNON:** I acknowledge the comment of Reverend the Hon. Dr Gordon Moyes. This is a small but important measure. Sometimes small measures result in great safety when we are attempting to improve our legislation. The Greens support the amendments in this bill, including amendments to allow an appeal court to set aside a conviction for the purpose of making an order under section 10 of the Crimes (Sentencing and Procedures) Act. I understand that the Law Society also supports these amendments. In summary, those are the Greens thoughts on this legislation. It is worth putting on the record the comments of the Legislation Review Committee, which reviewed the provisions of this legislation.

Periodically the issue of the non-proclamation of legislation arises, so it is good that the Legislation Review Committee pays attention to it. Dr Arthur Chesterfield-Evans, a former member of this place, did a lot of work in relation to that issue. It concerns many members when the Government introduces good legislation but it is not proclaimed. I place on record the comments made on 10 March 2009 in paragraphs 10 and 11 on page 35 of the second report of the Legislation Review Committee. The committee states:

Although there may be good reasons why such discretion is required such as allowing time for appropriate administrative arrangements to be made, the Committee has concerns about commencement by proclamation and asks Parliament to consider whether the Bill commencing by proclamation rather than on assent, is an appropriate delegation of legislative power.

It should be remembered that the Legislation Review Committee comprises members of the Labor Party, members of the Coalition parties and some crossbench members, including my colleague Ms Sylvia Hale. I ask the Parliamentary Secretary to respond to that specific issue raised by the Legislation Review Committee regarding the Crimes (Appeal and Review) Amendment Bill. She may not feel that it is within her scope to state how the Government is handling this issue about proclamation in general. If she does, I would welcome her comments. A response on that matter regarding this legislation is relevant.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.41 p.m.], in reply: I thank members for their contributions to this debate. The bill has received wide support. The detail of the bill was examined quite considerably during the debate. 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 Order of the Day No. 6 postponed on motion by the Hon. Penny Sharpe, on behalf of the Hon. John Robertson.**

**Government Business Order of the Day No. 7 postponed on motion by the Hon. Penny Sharpe, on behalf of the Hon. John Hatzistergos.**

## **PARKING SPACE LEVY BILL 2009**

### **Second Reading**

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.42 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 speech incorporated into *Hansard*.

**Leave granted.**

I am pleased to bring before the House the Parking Space Levy Bill 2009. The bill seeks to update the Parking Space Levy Act 1992 to ensure that its policy objectives and provisions remain relevant.

The Parking Space Levy was introduced with the support of both sides of this House in 1992. The object of the Parking Space Levy Act is to discourage car use in business districts and to use the revenue raised to provide facilities and services that encourage the use of public transport. The object of this legislation remains relevant today. The community wants this Government to focus on reducing congestion on our roads and to provide public transport services that effectively support our transport needs.

The Levy applies to part of the City of Sydney and North Sydney/Milsons Point (Category 1), and the CBD areas of Bondi Junction, Chatswood, St Leonards and Parramatta (Category 2). These are areas that already have a good network of public transport services.

The levy is currently the sole source of income for the Public Transport Fund. It is the principal source of on-going capital funding for multi-use 1 interchanges for rail/bus/ferry/taxi services, and for commuter car parking facilities at transport interchanges in the urban transport network. Since its inception, the Parking Space Levy has funded a number of major and minor projects. Significant among these are the Parramatta Bus Interchange, interchanges on the Transitway network, and the extension of the light rail system to Lilyfield, in addition to numerous interchanges, commuter car parks and wharf upgrades.

Current projects being funded by the levy include the Holsworthy, Wentworthville and Woy Woy Commuter Car Parks; Morisset, Windsor and Tuggerah interchanges and car parks; Hurstville Interchange; Bundeena and Cronulla Wharf upgrades, along with the ongoing maintenance work required on some of the previously constructed facilities.

In addition, the Government has also announced a further \$56 million over three years for more commuter car parks. I have already announced as part of this program additional commuter car parks for Wollongong, Emu Plains and Quakers Hill.

The Parking Space Levy program had not been subject to a comprehensive review since its inception in 1992. In light of this and consistent with the Government's commitment to periodically review regulations, a review of the Act and Regulation.

The result of the review process was that the Act and Regulation were found to be generally meeting their objectives.

However, opportunities for improvements were identified in a number of areas. These included: clarifying the boundaries of the Levy areas; freeing up the restrictions that limit the way the Levy proceeds are used; and simplifying the administration by clarifying a few rules and definitions.

The changes identified would not result in the addition of any new spaces that had not been intended to be captured by the original Act, or add to a general increase in revenue.

However there may be some minor impact on owners of spaces that have relied on loose definitions to seek exemptions and thus avoid their obligations to the community in reducing congestion and its impact on the environment.

It was clear that legislative amendments were essential to: provide more certainty for parking space owners, and enhance administrative efficiency of the Parking Space Levy legislation.

In addition, a number of the provisions under the Parking Space Levy legislation had to be amended or removed to ensure coherent application of the legislative obligations in conjunction with the provisions of the Taxation Administration Act 1996.

The resultant changes are detailed in the new bill and associated Regulation.

#### **Clarifying the boundaries**

Under the current Act, the Category 1 area "City of Sydney" is defined by the local government area.

With the boundary alterations on 8 May 2003 and amalgamation with South Sydney Council on 6 February 2004 a number of suburbs were added to the original "City of Sydney" Levy area.

A temporary solution was implemented which grants an exemption for these areas on an annual basis, but creates uncertainty for property owners in the extended area of the City of Sydney.

Re-defining the "City of Sydney" area was a key issue of the review. The Government proposes to adopt the review recommendation that the "City Of Sydney" area be defined by map based on the pre May 2003 Council area.

The bill before this House now defines the "City of Sydney" as demarcated by a map like all the other Levy areas. All Category 1 and Category 2 areas that are subject to the Parking Space Levy have now been prescribed by the Regulation.

#### **Freeing up the limitations**

To best match the objective of the Parking Space Levy legislation revenue, should be available for projects that best enhance the use of public transport.

This is supported by the responses at public forums and public submissions during the review of the Act.

The current limitation on using Levy revenue only for infrastructure and maintenance should be removed from the Act and Regulation.

It was noted that this could mean the inclusion of initiatives such as public information, utilising new technologies to communicate with commuters, and funding to assist with the on-going management of transport infrastructure.

To confirm this change in the broader application of the Levy, the name of the fund has been amended to the "Public Transport Fund".

As can be seen from our recent announcements concerning \$56 million in new infrastructure from the Levy, our commitment to use these funds predominately for infrastructure continues, but there are other initiatives that should also be able to be pursued if they also lead to the goal of encouraging the use of public transport.

#### **Simplifying the administration**

The current legislation suffers from a lack of substantive definitions, instances of ambiguity and drafting inconsistencies.

This has resulted in an increase in administration costs, a number of levy owners incorrectly claiming exemptions and thus a potential revenue leakage.

The addition or further refinement of definitions for terms used in the legislation simplifies the administration of the legislation while providing certainty to parking space owners.

The legislative amendments incorporated into this bill are relatively minor and are recommended so as to confirm current operational practices. The particular amendments are:

#### **Owner**

The lack of a definition has created difficulties about who is ultimately responsible for payment and lodgement of the return.

This confusion is especially pronounced where a property is subject to a long-term lease or the owner is an overseas or shelf company.

Defining "Owner" and making interested parties (lessees, licensees and sublessees) jointly and severably liable will ensure that the administration of the Parking Space Levy is more efficient.

The efficiencies are gained by removing the Office of State Revenue from any disputes between interested parties about who is liable and any objections between the various parties (as all parties are jointly and severably liable).

### **Parking Space**

The definition of "a parking space" has been clarified to address the emerging practice where more than one vehicle is parked in a designated space—either by the use of mechanical stacking devices or marking spaces so as to allow two cars to park in the one space.

### **Exemptions**

Currently a parking space is exempt if the space is either "set aside" or "used exclusively for" an identified purpose listed under the Act or Regulation.

The existence of the term "set aside" allows the abuse of exemptions that would undermine the spirit of the legislation.

For example a parking space owner could claim that a parking space is "set aside" for services on a casual basis, but then use that space for other purposes.

Enforcement by the Office of State Revenue is impracticable.

Therefore, in keeping with the intention of the legislation, exemptions will only be allowed where a parking space is "used exclusively for" a listed exemption and the term "set aside" is removed.

In keeping with the refinement of the Act to simplify the administration of the Parking Space Levy legislation, all exemptions are now prescribed together under the Regulation.

Importantly, this bill does not alter the existing arrangements concerning exemptions from the Levy.

### **Definition of "loading/unloading" zone**

Currently this exemption is being claimed for on grounds that are not in keeping with the original intent of the exemption.

For example, claims for an exemption are being lodged to load minor items whilst substantially using the space for a non-exempt purpose.

Removal of the term "set aside" will assist with minimising the abuse of this exemption.

However, the exemption is also being defined to clarify that an exemption will only be granted if the vehicle immediately vacates the parking space once the loading or unloading has been completed.

### **Services on a "casual" basis**

The original intention of this exemption was to allow parking spaces designated for use when providing services for the maintenance and improvement of a building or facility, such as air conditioning maintenance and electricians.

However, claims are being made on the grounds that the parking space is used for casual employees, contractors and consultants.

A new definition for this exemption IS included In the Regulation to minimise this practice.

### **Assessment of Liability**

Under the Act, Parking Space Levy liability is assessed once per year (on 1st July) for parking spaces that existed during the previous financial year.

The period for which the levy assessment is issued has been misinterpreted and misapplied by parking space owners when assessing their liability for the Levy.

The calculation and liability of the levy is based on actuals and not estimates.

Section 9 and 13 have been removed from the Act and redrafted in the Regulation so as to clarify the relationship between the liability date and assessment period.

### **Unmarked parking spaces**

Under clause 7(3) where parking spaces are not formally delineated a formula is used where the total area is divided by 25 square metres to determine the number of spaces.

However the Office of State Revenue's audit program has identified that more motor vehicles are being parked into a space than the 25 square metres formula estimates.

Accordingly, the formula is revised to 18 square metres, a value that reflects what is actually occurring.

#### **Leviable Areas**

Currently the six leviable areas are either prescribed under the Act or under the Regulation.

These amendments simplify the situation by removing references in the Act and prescribing all areas under the Regulation.

In conclusion, I need to say that the bill before this House is necessary to ensure the effective administration of the Parking Space Levy and to enable Government to deliver on its policy directions for public transport.

I commend this bill to the House.

**The Hon. MICHAEL GALLACHER** (Leader of the Opposition) [5.42 p.m.]: I am pleased to lead for the Opposition on the Parking Space Levy Bill 2009. I indicate that my colleague the Hon. John Ajaka also will contribute to the debate on this bill. At the outset I indicate that the Opposition will seek to refer this bill to General Purpose Standing Committee No. 4 before the conclusion of the second reading debate. We do not take this decision lightly; it results from consultation with affected parties, something the Government failed to do before announcing its significant increase in the levy. We want to make sure that the issues raised by this levy and the policy outcomes being implemented through it are addressed appropriately. We believe the structure of General Purpose Standing Committee No. 4, and its ability to efficiently inquire into and report to this House on the impacts of the policy, are the best options available to members.

As my colleague the shadow Minister for Transport outlined in the other place yesterday, the State Government failed to address a number of outstanding issues arising from this bill and failed to respond to comments made by the Auditor-General regarding the processes involved. The Minister for Transport yesterday failed also to tell the other place whether he would support the referral of this bill to General Purpose Standing Committee No. 4. Perhaps the Parliamentary Secretary can enlighten the House about that. The Opposition opposed the bill in the other place and today seeks to refer it to a committee for review because, as my colleague in the other place indicated yesterday, the levy collection process lacks transparency. This is supported by the Auditor-General's report entitled "Connecting with Public Transport" released in 2007, which states:

There are no criteria for how the funds available from the *Parking Space Levy* are allocated in aggregate to interchanges, car parks, bus ways, bus layovers, transitways and the like.

The Auditor-General also said:

... the Ministry of Transport now needs] to improve transparency in how *Parking Space Levy* funds are allocated to infrastructure projects by the use of criteria (including extent of achievement of the object of the PSL legislation) and evaluation of the relative merits of alternatives.

Yet again the Government has not responded to the Auditor-General's warnings and improved transparency in the allocation of funds raised by the parking space levy. The Opposition believes that the Auditor-General and other stakeholders should have the opportunity to outline their concerns in relation to this levy in a public forum. This Government has increased the levy for the Sydney central business district [CBD] and category one spaces from \$950 a year to \$2,000 a year for each space. That represents a 110 per cent increase in just one year. This sets a dangerous precedent that, no doubt, the Government will seek to use over the next two years for what it believes is acceptable for an annual increase.

The Opposition does not oppose the levy per se or appropriate increases in the levy—after all, it was a Coalition Government that introduced the levy—but we object to what amounts to a grab for cash by the Government with little transparency about the way it raises the funds and the way those funds are spent. The Government has increased the levy in areas other than the CBD: the levies for Chatswood, Parramatta, Bondi Junction and St Leonards will increase from \$470 to \$710 per space. The increases not only will impact on drivers but also will impact on car parking station operators. Some operators have indicated to the Opposition that these increases will make some of their businesses unviable.

Many drivers rely on parking in major commercial centres, such as the city, for their work or they may need casual parking at major commercial centres. These drivers will be severely impacted at a time when family budgets are under greater than usual pressure due to the global financial crisis. It is important for the Greens to note that nowhere in this bill are there exemptions for organised car-pooling cooperatives, those who drive

hybrid vehicles or those using other green technologies. This Government has not thought creatively when drafting this legislation. General Purpose Standing Committee No. 4 can investigate these specific areas. Why should the committee, if it resolves to do so, not examine whether exemptions or concessions can be given to groups of drivers doing the right thing and reducing congestion and/or pollution in our community?

The Government claims that the additional \$58 million it will collect each year from this levy will be spent on public transport, particularly transport interchanges—projects I am sure all members in this House would support. As my colleague in the other place pointed out, clause 11 (3) (c) gives authority to the Government to expend "money to finance initiatives for the communication of information to commuters, including initiatives that make use of new technologies". The Government is giving itself the ability to bombard the community with advertisements about how good the public transport network is—just as it did in the lead-up to the last State election; why it is so wonderful in the job; and the often announced and never delivered new rail lines. Perhaps the Government will set up a Twitter account and bombard people with messages about how good it is rather than how late the trains and buses actually run. Quite simply, this is not on. Concerns have been expressed to the Opposition about the way the Government has categorised the regions and the areas to be levied.

Small businesses will be hit hard by the increases in the parking space levy. The Opposition has been contacted by a number of stakeholders affected by this legislation. As I am sure is the case with most members, I have received letters from several parties outlining their concerns. I indicate to the House that the NRMA opposes the levy increase and has raised issues over the process followed by the Government. The Parking Operators Association has indicated:

We see this as having a devastating impact in these uncertain economic times leading to further unemployment both directly to our industry and a 'knock on effect' to businesses dependent upon parking for their own employees and customers.

The association goes on to state, "We ask that you put the increase on hold until a full and proper review of its impact can be undertaken." The Property Council states:

The proposed doubling of the parking space levy will unfairly target workers and business who are poorly serviced by public transport. We are urging you to oppose the bill and support a full review of the parking space levy.

The Sydney Chamber of Commerce wrote to me stating:

I am writing on behalf of the Sydney Chamber of Commerce ... to express concern about the Parking Space Levy Bill and urge that the bill be referred to ... [General Purpose Standing Committee No.] 4 for urgent review.

The imposition of a 110 percent increase on the existing parking levy could not come at a worse time for business big or small and in particular in the CBD of the City of Sydney where job losses have been significant.

The increased levy will make a number of city parking stations unviable. For example many that open early with 'early bird' savings may choose not to do so because at best the impact of 'early bird' prices is marginal for operations. Currently about one third of regular users of CBD parking stations take advantage of 'early bird' savings. In view of the introduction of time of day tolling on the Sydney Harbour Bridge and Sydney Harbour Tunnel the impact of the increased parking levy may be that fewer stations are open thus discouraging early arrival.

The effect of the increased levy will be to undermine the policy of the City of Sydney to make the CBD a vibrant, lively place seven days a week.

If the purpose of the bill is a congestion measure, consideration should be given to applying the exemptions in category 2 to category 1 at weekends, or only applying the levy on a Monday to Friday basis only. The retail sector in the CBD needs the support of Government to ensure that it remains an attractive destination, particularly at the weekend when it faces strong competition from major suburban shopping centres.

The ... [Sydney Chamber of Commerce] understands that the purpose of the bill is to discourage car use and encourage public transport use in certain key centres. The ... [Sydney Chamber of Commerce] does not oppose the principle but we ask that it be recognised that for some businesses, such as those with representatives in the field, driving a car is integral to doing a job.

The ... [Sydney Chamber of Commerce] contends that the decision to grant a number of exemptions to the levy in category 2 is evidence that the Government acknowledges that at times use of a motor car is practical and acceptable.

A 110 percent increase will have a significant impact on the costs of all businesses impacted by the levy. Rather than a review at some point in the future the ... [Sydney Chamber of Commerce] urges that the bill be referred to ... [General Purpose Standing Committee No.] 4 for immediate review.

Yours sincerely

THE HON. PATRICIA FORSYTHE  
Executive Director

**The Hon. Robyn Parker:** An excellent letter.

**The Hon. MICHAEL GALLACHER:** It is an excellent letter. I am mindful that it is the committee's role to determine its own terms of reference for such an inquiry. However, the Opposition will propose that the committee include clauses relating to the collection of the parking space levy, the level at which it is set, the expenditure of the levy, the impact of environmentally sustainable concessions such as hybrid vehicles or car-pooling, and other concessions such as emergency vehicles and hire car vehicle parking, to name just a few areas that the committee may regard as beneficial in examining this legislation. I move:

That the question be amended by omitting the words "now read a second time" and inserting instead:

"referred to General Purpose Standing Committee No. 4 for inquiry and report, and

2. That this House instructs General Purpose Standing Committee No. 4, during the course of its inquiry, to consult with the Auditor-General regarding the provisions of the bill."

If the motion fails to gain approval of the House the Opposition will oppose the legislation. The Opposition wants an open and accountable inquiry to be conducted into the parking space levy and its objectives. That will give the Auditor-General an opportunity to identify the issues associated with the way in which the levy currently is being implemented. There is no doubt that the Auditor-General has expressed concerns as far back as 2007, and those concerns are relevant today. The Auditor-General's report into the levy found that no criteria are applied to how the funds are allocated to improving public transport, which was the reason for the introduction of the levy in 1992.

The Government has set great store in linking the levy to a 1999 initiative of the Greiner Government, but has not told the complete story by outlining the rationale for introduction of the levy. I believe the Government has walked away from those facts. Members of the House should be clear that no consultation was undertaken with industry before the changes in the bill were introduced. There has been little consideration afforded to the impact of the changes. The increase of up to 110 per cent in the levy sets a dangerous precedent that will be used by the Government to justify all sorts of increases in the future. Over the past 14 years the Government has consistently failed to provide a public transport system that meets the needs of its users and provides a viable alternative to the use of private motor vehicles. This legislation will not fix those issues. I commend the amendment to the House.

*[Business interrupted.]*

## DISTINGUISHED VISITOR

**The PRESIDENT:** Order! I acknowledge the presence in the public gallery of a former member of the Legislative Council, Patricia Forsythe.

## PARKING SPACE LEVY BILL 2009

### Second Reading

*[Business resumed.]*

**The Hon. HENRY TSANG** (Parliamentary Secretary) [5.56 p.m.]: The Parking Space Levy Bill 2009 gives effect to administrative changes necessary to effectively manage the legislation. Let me make clear from the beginning that this bill does not seek to increase parking space levy rates: the House passed an increase to this levy in the State Revenue And Other Legislation Amendment (Budget) Bill 2008 on 4 December 2008. Through the Parking Space Levy Bill the Government seeks to address housekeeping issues to provide more certainty to parking space levy operators and enhance administrative efficiency of the original 1992 legislation.

In reviewing the legislation it was concluded that the Act and regulations generally are meeting their objectives. However, opportunities for improvements were identified to enhance the administrative efficiency of the legislation. The bill implements a number of recommendations from the parking space levy review. The legislative amendments incorporated in the bill are relatively minor. In essence, by introducing this legislation the Government intends to: clarify the boundaries of parking space levy legislation for residents affected by the amalgamation of the city of Sydney and South Sydney; consolidate all standard exemptions in one place in the regulation so interpretation of the legislation is no longer convoluted by the fact that exemptions are listed in the

Act and the regulation; ensure that the parking space levy legislation is coherent with the Taxation Administration Act 1996; clarify a number of definitions in the legislation; and extend the application of parking space levy revenue so that funds can be used for proposals that best enhance the use of public transport instead of being restricted to construction and maintenance.

I now turn to the major provisions of the bill, where changes to the original 1992 legislation, as amended, have been made. The City of Sydney is defined by a council boundary in the existing Act. Following amalgamation with South Sydney Council in 2003 it has been necessary to exempt new areas from the levy on an annual basis, thereby creating uncertainty for property owners in these areas. The new bill will now define all areas by maps that will maintain the pre-2003 levy areas. The existing requirements of the Parking Space Levy Act envisage commuter car parks, bike lockers and other transport infrastructure as the main use of parking space levy funds.

This is still intended to be the case, as demonstrated by the mini-budget decision to invest a further \$56 million in commuter car parks. The changes in this area will also allow for use of the funds in other areas that promote the use of public transport, such as passenger information technology and new services. The expectations of commuters in a modern communication age is that public transport providers will utilise the latest advances in communication technology to convey timely information to passengers and information on services, travel options, travel planning across modes, commuter parking options, service disruptions and incidents.

The amendment to the uses of the Parking Space Levy Act will allow the Government to use the levy to take up these new technologies and processes. Improved information to commuters will clearly be a significant contributor to the promotion of public transport use. As the Act has developed, concessions and exemptions have occurred both in the Act and the regulation, making the understanding of the Act more complex for property owners. To simplify the reading of the Act, exemptions and concessions are brought together in the regulation. A number of minor amendments and clarifications are included to reflect changes in the way parking occurs and how exemptions are applied. Firstly, the Act will allow the Chief Commissioner of the Office of State Revenue to issue guidelines on the application of concessions and exemptions and what is or is not a parking space.

Other definitions allow for stacked parking, where by means of a hoist or other device owners can park more than one car in a single space; loading zones being for the normal understanding of loading and unloading and not for all-day parking; casual parking concession being for the original intention, such as tradespersons doing temporary work, rather than employees, contractors or consultants; reducing the space per car to 18 square metres when calculating the leviable spaces in a car park where no individual spaces are marked more accurately to reflect what actually occurs; and clarifying the obligation to pay if the space was owned for part of the previous financial year. The bill requires the Minister to review the Act five years after it receives assent to determine whether the policy objectives of the Act remain valid. Parking space levy funds make an important contribution to providing facilities for regular commuters and encourage the use of public transport. In summary, the bill provides a number of initiatives necessary to effectively manage the legislation. I support this bill.

**The Hon. GREG PEARCE** [6.03 p.m.]: I support the comments of the Leader of the Opposition. Obviously the measure to increase the parking levy, which was included in the mini-budget last year, is intended to raise an extra \$58 million a year for the next three years, commencing next year. The Opposition is concerned that this is yet another example of the Government making policy on the run, particularly in terms of financial management. The Government's financial mismanagement for well over a decade now has led to the calamitous situation that the State's credit rating is on watch and New South Wales is virtually the slowest-growing State or Territory in Australia. New South Wales has now become an impediment to Australia's future growth and recovery from the current world financial crisis.

This parking levy measure is another unfortunate example of the Government making decisions without proper analysis, without the rigour one would expect when making fiscal management decisions, and probably without any modelling. We are being asked to accept, without any real justification, that the measure to increase the parking levy is sensible. As I said, the measure was introduced in the mini-budget. Unfortunately, because of the circumstances late last year, when budget estimates hearings were still underway, we did not have an opportunity to properly scrutinise the mini-budget through the committees of this House, which would normally have been the case. I remind honourable members that an inquiry was established to review the provisions and measures in the mini-budget in 2004. General Purpose Standing Committee No. 1, ably chaired by Reverend the Hon. Fred Nile, conducted that mini-budget review.



One issue addressed on that occasion was the vendor tax. That was another example of the Government introducing a revenue measure without thinking about or understanding the implications of that revenue measure for the State's economy. Honourable members will remember that the effect of the vendor tax, and the land tax changes that took place at the time, was effectively to stop the property market in its tracks and create a great deal of mischief for the State. The inquiry that took place at the time established that Treasury did not do any modelling for the vendor tax and the land tax changes. There was no analysis and no rigour in the Government's decisions at the time. In this case the Government has increased the parking levy without understanding its potential impact on jobs in the city and in major suburban areas that are impacted by this measure. There may be other measures as well, which is why the Opposition has recommended a short, sharp inquiry by a general purpose standing committee. The inquiry into the 2004 mini-budget set a precedent.

I remind honourable members that the mini-budget was brought about because of the Government's poor management of its own affairs and those of the State. I refer briefly to the comments by Mr John Pierce, the former Secretary to the Treasury, who told another committee of this House that one reason for the mini-budget was the lack of parliamentary approval for the Government's electricity reform package. We all remember that. Unfortunately the Hon. John Robertson is not here to participate in the debate. However, we remember that part of the problem, and its impact on the State's triple-A credit rating, arose directly from the Government's failure to deal with electricity reform. The second issue identified by Mr Pierce was the emerging risk to the budget operating result due to pressure on revenues and expenses. Again, I do not want to dwell on that. Clearly we want to see exactly what was in front of Treasury and the Treasurer in terms of potential revenues and expenses for the State when the decision was made to introduce this particular revenue measure.

The third reason for the mini-budget identified by Mr Pierce was the fact that Standard and Poor's had already downgraded the State's credit rating from stable to negative. That occurred last year before the current international financial crisis became apparent. That occurred because of mismanagement of this Government and its inability to manage its own affairs, the economy and the budget of this State. One has only to look at recent reports of Standard and Poor's on the management of the economy by this Government. In September 2006 Standard and Poor's stated that "the biggest risk to the rating on New South Wales is the State's operating performance". At that time Standard and Poor's pointed out that the Government had a trend expense growth of about 6 per cent compared with the trend revenue growth of about 5 per cent. That problem has existed for the past five or six years, during which time this Government had let its expenses run faster than revenues, and as a result its excesses are now coming home to roost.

I have spoken at length on that issue many times in this House. We still do not have any confidence that the Government can deliver a change to the way it manages the finances of the State. The ratings agencies put New South Wales on negative watch last year before the implications of the world economic crisis became fully evident, and Standard and Poor's report of 23 September 2008 stated that it had a concern about whether the Government has the political will or ability to deliver on the mini-budget and on economic management. The concern about whether this Government has the political will and managerial ability to deliver remains a major concern. All the evidence over the period since the mini-budget is that the necessary political will and ability do not exist. I support my leader in proposing that this matter be forwarded to a general purpose standing committee for inquiry.

**Ms LEE RHIANNON** [6.12 p.m.]: The Greens support the Parking Space Levy Bill 2009. As we face the enormous challenges of climate change and peak oil, governments need to use the strongest measures possible to break our reliance on the car and road transport, to create more sustainable and environmentally friendly transport systems. The current Labor Government and previous Coalition governments have neglected public transport infrastructure in New South Wales for decades. The cost of works to upgrade and maintain our existing transport infrastructure alone is staggering. Add to this the cost to expand the State's public transport network with new infrastructure works, and the challenge of finding the money to fix the transport mess in New South Wales is overwhelming.

The Government's obsession with motorway and tunnel building has saddled New South Wales with an ailing public transport system and a frightening level of oil dependence. CityRail has stagnated, CountryLink services have been pruned, rural rail is in decay, our roads are clogged and our air quality is worsening. The parking space levy makes a small but significant contribution to addressing those problems. It acts as a deterrent. It will help us to discourage people from driving to major commercial centres and to park for the day. The scheme is simple and effective and the Greens will continue to support it. We have considered the arguments and concerns of the Opposition, the property industry and the business sector. We note that their objections to the scheme have not measured up against the urgent need to change the behaviour of people and expectation about commuting to and from commercial centres.

As a society we have known for many years that oil supplies are running out, that industrialisation, pollution from cars and trucks and coal-fired power are causing dangerous climate change. But this knowledge has not been enough to change our behaviour. Convenience so often wins out over public good and people continue to drive to work even though many of us know it is causing harm. The parking space levy presents a strong incentive for individuals and businesses to rethink the way they travel, the way their business transport needs are structured and to find alternatives that reduce their reliance on car travel.

I now turn to the new provision in this bill relating to the potential uses for parking space levy revenue. While the Greens do not have any objections to the Government's plans to develop commuter communication tools so that people can access timetable information via their mobile phones, for example, we want the potential uses for funds raised by the levy to remain restricted to infrastructure spending. I understand that the Government has given an assurance that it will not move to further expand the potential uses for the fund and will stick to funding much-needed public transport infrastructure. I ask the Parliamentary Secretary, the Hon. Penny Sharpe, to detail that in her speech in reply. This is the most important part of this debate. The list of projects that have been completed using parking space levy funds is substantial—transitways, bus rail interchanges, commuter car parks, wharves and bicycle lockers at stations. Today the Greens were impressed by the list and had not realised how diverse it is.

Given the enormity of the transport problems facing Sydney and the need for better public transport in regional commercial centres across New South Wales, these projects play a key role in developing a more integrated transport network that makes travel by public transport faster, easier and more attractive. There is an urgent need to do much more to reduce the overall vehicle kilometres travelled in New South Wales by shifting more people out of their cars and onto public transport to try to turn around our worsening air quality. Moving freight on rail is the other big missing piece of the puzzle. A draft version of the Government report entitled "Action for Air 2009" was recently leaked to the Greens. The report prepared by the Department of Environment and Climate Change reports on measures to reduce emissions from transport and from industrial, commercial and domestic sources. I understand the report is due to be released publicly in May this year.

The report shows that the Government continues to miss its targets for reducing photochemical smog and particle pollution and links this failure to the lack of success in providing adequate public transport, integrating urban planning with transport and shifting more freight onto rail. It indicates that some pollution types will most likely increase over the next decade due to climate change impacts and population increases. If these trends are allowed to play out, the future economic, environmental and health costs of air pollution will be enormous. Vehicles and fuels might be getting cleaner, but the Government has not done nearly enough to reduce our reliance on vehicles. It is worrying that not one new pollution-reduction initiative is announced in this leaked report, nor any time frames for turning around the pollution problem. We have seen a host of rail and other public transport initiatives designed to reduce vehicle use get the axe by the Government in the past year. north-western Sydney suburbs have been deprived of public transport because of poor leadership from successive Labor Government leaders.

We know that Sydney's population is going to continue to grow, increasing the demand for transport. The Government's failure to place integrated public transport infrastructure at the top of the list of planning priorities and budgetary priorities will have very significant implications for State development. We note that there are parking initiatives in the Metropolitan Strategy to reduce parking in centres with good public transport services, and that the Government has committed to spend \$56 million on 3,000 new car parking spaces at CityRail stations. But the budget for those works needs to be far higher if we are going to make real reductions in the overall number of vehicle kilometres travelled in New South Wales in order to reduce air pollution, greenhouse gas emissions and oil dependency.

Greens councillors across New South Wales have lobbied their councils to introduce local initiatives to increase commuter access to public transport such as dedicated bicycle routes and secure bicycle parking and storage at train stations and bus terminals, bus shuttle services, kiss-and-ride facilities and local website or mobile phone text services to arrange share rides to public transport, as well as complementary initiatives such as bike-share schemes in town centres. The Government, in conjunction with local councils, should be eager to fund many more such projects. They would make a huge contribution to meeting the Government's objectives of integrating air quality goals with urban transport planning and providing more and better transport choices, and clearly they would fit within the provisions of this bill. For example, bike-share schemes are gaining in popularity around the world. They complement the public transport system, they assist in building sustainability in towns and cities, they provide an affordable transport option for low-income commuters and they provide for a healthier lifestyle through exercise.

Bike-sharing programs commenced in the late 1960s, but generally failed because of theft, vandalism and poor accountability. They have gradually evolved to become fully viable and successful programs, operating in cities such as Paris, Washington, Salt Lake City, Zaragoza, Sevilla, Barcelona, Lyon, Peking, Vienna, Berlin, Helsinki and Munich. So why not Sydney? The answer lies with governments that lack imagination and innovation, and have been captured by road lobbies. For so many in government, cycling facilities mean nothing more than a bike stencil on a road—which in many cases can actually be dangerous.

Typically, bike facility programs operate from hubs, either supervised or with automatic coin operation. Bike hire is generally limited to a short period, although long-term hire also exists. Paris has 750 bike-share locations with 10,648 bicycles. That city plans to expand the operation to 1,450 locations supported by more than 20,000 bikes, thus providing a bike hub every 300 metres. The city claims that the Paris-based share-bike scheme has been an enormous success, reducing traffic congestion by up to 40 per cent, encouraging incidental exercise and its associated health benefits, as well as decreasing air pollution in the city.

A share-bike scheme is viable for the city of Sydney. Given the sophistication of bikes these days—with gears, et cetera—it would be easy to manage such a scheme in a city like Sydney, even with the hilly terrain in some areas. It would be quite feasible, given that the majority of trips that people undertake are quite short. Why do we not have a publicly run share-bike system in Sydney, based on the Paris model? It could achieve the same results with the same number of share bikes.

**The Hon. John Ajaka:** That is something the committee could look at.

**Ms LEE RHIANNON:** Yes, and I am about to propose that the member's colleagues in the business community could move on such a scheme immediately. A bike-share system could operate in every commercial centre in New South Wales. The Greens have argued that a bike-share system should be included in the Metropolitan Strategy. The parking space levy could fund the scheme. Obviously, that is a very clear and sensible proposal. I note the criticisms of the Opposition on behalf of some parking station operators about problems they will confront if this bill is passed, because they realise that though fewer parking spaces will be used, they will still have to pay for them. Parking station operators do not have to pay for parking spaces if the spaces are locked so that vehicles cannot park in them. The Greens have an excellent suggestion to put to car park operators and the owners of buildings that have many car spaces in them. We suggest that they convert their car spaces into bike pods.

**The Hon. Penny Sharpe:** Fantastic!

**Ms LEE RHIANNON:** I acknowledge the interjection. Hopefully the Parliamentary Secretary will refer to bike pods in her reply to this debate. Bike pods would so easily fit into the provision in the legislation regarding the use of revenue raised from the parking levy. I will explain how bike pods work. Generally, two car parking spaces are modified to resemble a shipping container in which space is allocated at one end to lock up the bikes and the remainder of the space is used to accommodate lockers for the storage of personal belongings and for showers, so that when people arrive at the bike pod they can have a shower and prepare to go to work. One Melbourne commentator said that the showers avoid the problem of the "stinky commuter cyclists". I thought that comment was a bit rude, but obviously some regard that as a problem. The pods provide showers for cyclists, security for the bikes and storage for people's personal paraphernalia.

That is an option for car park spaces that have been identified as not in use. The Greens strongly urge car parking operators and owners of buildings with many car parking spaces to consider converting those spaces into bike pods, because if they do so, they will not be charged for them. Such a conversion will immediately reduce their costs and they will make an enormous contribution to travel—clean air, good exercise and the many other delights that go with bicycling.

The legislation offers many opportunities to sensibly increase opportunities for much more environmentally friendly transport. The Greens continue to support the parking space levy and welcome the move to increase the levy to fund vital public transport infrastructure—including, hopefully, some innovative bike programs.

*[The President left the chair at 6.25 p.m. The House resumed at 8.00 p.m.]*

**The Hon. LYNDIA VOLTZ** [8.00 p.m.]: I support the Parking Space Levy Bill 2009, which is necessary to ensure that the parking space levy legislation remains effective. If we are serious about reducing

congestion on our roads we must continue to provide sufficient public transport. The revenue collected from the levy is an important source of funding for the development of infrastructure to encourage the use of public transport to and from the business districts of Sydney, North Sydney, Chatswood, St Leonards, Bondi Junction and Parramatta.

This bill is important to enable the Government to deliver effectively the intent of the legislation and it brings into effect a number of issues that arose from a review of parking space levy legislation. These included clarifying the boundaries of the levy in the City of Sydney, freeing up the restrictions that limit the way the levy proceeds are used, and simplifying the administration by clarifying a few rules and definitions.

Things do not stand still. In the same way that advances are made in the quality of cars and in communication technology, public transport service providers need to keep pace. Better transport facilities are needed to meet the ever-growing demand for public transport, an issue being addressed by the Government, through the levy funds, by the provision of additional commuter car parks. Furthermore, transport providers need to keep pace with the new and emerging technologies that improve communication and information, and therefore the travel experience of passengers. The change in the use of the parking space levy funds allows the funds to be used in other ways that encourage the use of public transport.

The amendments proposed by this Government will ensure that the parking space levy legislation reflects current practices and, more importantly, that the existing legislation remains relevant. It is clear that these legislative amendments are also essential to provide more certainty for parking space owners and to enhance the administrative efficiency of the parking space levy legislation.

The Transport Data Centre published the journey-to-work statistics in December 2008. The statistics indicate that all central Sydney locations—North Sydney, Bondi Junction, Chatswood and Parramatta—have the highest public transport journey-to-work mode for commuting across the metropolitan areas. This is good news and indicates that the transport services provided, combined with the parking space levy, are working to encourage the use of public transport to these congested areas. However, this Government is committed to doing even better by increasing public transport use. The New South Wales Government is committed to a target of increasing the public transport share of trips to and from the Sydney central business district [CBD] to 75 per cent.

The types of projects funded by the parking space levy, such as car parks at railway stations and new transport interchanges, can make a great difference in achieving this goal by improving public transport services and facilities to attract people to public transport. We must make car users aware of the costs they impose on the environment by using their cars to travel to the most densely developed and congested business districts, which are serviced by public transport networks. By introducing this legislation this Government confirms its commitment to encouraging greater use of public transport.

I note the comments earlier by the Hon. Greg Pearce when he talked at great length about the mini-budget and the triple-A credit rating. I remind him that the purpose of this legislation is to discourage car use in leviable districts by imposing a levy on parking spaces, including spaces in parking stations, and using the revenue to encourage the use of public transport. While it may be appropriate to talk about the fiscal budget that is not what this bill is aimed at. This bill is aimed in particular at reducing the use of private cars in congested areas of the city and increasing the use of public transport in those areas. I support the bill.

**Reverend the Hon. Dr GORDON MOYES** [8.05 p.m.]: I speak to the Parking Space Levy Bill 2009 as a member of the Christian Democratic Party. The parking space levy was introduced by legislation through the Parking Space Levy Act 1992. The object of the Act is to discourage car use in business districts by imposing a levy on off-street commercial and office parking, and to use the revenue raised to finance the development of infrastructure to encourage the use of public transport to and from those districts. It redirects funds from car parking in areas of high traffic congestion to public transport projects rather than to consolidated revenue.

Under this bill the levy applies to part of the City of Sydney and to North Sydney and Milsons Point, known as category one, and the central business district [CBD] areas of Bondi Junction, Chatswood, St Leonards and Parramatta, known as category two. The levy is currently the sole source of income for the Public Transport Fund and the principal source of ongoing capital funding for multi-use interchanges for rail, bus, ferry and taxi services, and for commuter car parking facilities at transport interchanges in the urban transport network.

Current projects being funded by the levy include the Holsworthy, Wentworthville and Woy Woy commuter car parks; Morisset, Windsor and Tuggerah interchanges and car parks; Hurstville interchange; and Bundeena and Cronulla wharf upgrades, along with the ongoing maintenance work required on some of the previously constructed facilities. In addition, the Government has also announced a further \$56 million over three years for more commuter car parks. Already announced as part of this program are additional commuter car parks for Wollongong, Emu Plains and Quakers Hill.

I acknowledge and commend the New South Wales Government's continued commitment to build key infrastructure necessary to encourage the increased use of public transport. However, the people who will be most affected by the proposed increases in the levy are those who drive to work and are required to park in the central business district, North Sydney, Bondi Junction, Parramatta, St Leonards and Chatswood, and many commuters who do not have access to public transport or do not live in close proximity to public transport. The people who use the car park spaces in the Sydney central business district do so out of necessity rather than by choice because there are no viable public transport alternatives. The 2007 Auditor-General's performance audit on "Connecting with Public Transport", states:

There are no criteria for how the funds available from the Parking Space Levy are allocated in aggregate to interchanges, car parks, bus ways, bus layovers, transitways and the like. We noticed no evaluations of how this expenditure furthered the object of discouraging car use in those business districts bearing the tax.

The Auditor-General recommended:

The Government continue to improve transparency in how Parking Space Levy funds are allocated to infrastructure projects by the use of criteria (including extent of achievement of the object of the PSL legislation) and evaluation of the relative merits of alternatives.

I believe there are several reasons why this bill should be referred to General Purpose Standing Committee No. 4 for complete investigation and inquiry. The first is the economic conditions and the impact of the parking levy on the central business district business areas.

In 2007-08 the City of Sydney local government area generated approximately \$74 billion, which represents more than 8 per cent of the total Australian economy, almost one-quarter of New South Wales gross domestic product. Sydney is the gateway to the world and more than two-thirds of international business visitors come to the State's capital. The deterioration of the economy has placed a considerable hindrance on businesses in the central business district—from large organisations to small retailers—that are operated by mothers and fathers. This increased levy will make a number of city parking stations unviable. For example, many that open early with early-bird savings might choose not to do so because, at best, the impact of early-bird prices would be marginal for operations.

Currently, about one-third of regular users of central business district parking stations take advantage of early-bird savings. The potential closure of several parking stations in the central business district as a result of the levy would be counterproductive to the State's struggling economy. That, in turn, would cause additional unemployment directly in the parking industry and consequently to businesses in the levied areas. The effect of the increased levy would be to undermine the policy of the City of Sydney to make the central business district a vibrant, lively place seven days a week. The central business district of Sydney, especially its retail district, is a dead zone during weekends as it struggles to compete with major suburban shopping centres. Moreover, Sydney's recreation, tourism and leisure industry will be greatly affected by this levy, as people will be less inclined to use parking operators.

Second, the increase in the parking space levy is bad for working families. A strong feature of the parking industry in the central business district is the heavy reliance on parking by the general public. Approximately 33 per cent of all central business district parking patronage comprises customers using shops in arcades and so on who use low-cost early-bird parking products. Fat cats are not using early-bird parking; it is mainly mothers and fathers who want to go to work early in the morning to avoid traffic congestion. In fact, so tight are their budgets that with the extra toll on the Sydney Harbour Bridge many of them go to work early simply to save a dollar. Increased parking costs mean a further strain on the budgets of working families in a time of financial uncertainty, and place an excessive burden on current and planned public transport alternatives, as the State's public transport service is already functioning beyond capacity. The impost of a levy is the last thing that these mothers and fathers need at a time of uneconomic uncertainty.

Third, there is a decline in car park users in the central business district switching to public transport. In 2008 we saw an upward trend in the number of cancellations in permanent and monthly parkers. For instance, in

December there were 260 per cent more cancellations than there were in the month of January. That trend continued early this year, with more and more people no longer in full-time employment. According to research conducted by the Parking Operators Association through exit interviews, 79 per cent of people left permanent parking because they were moving out of the city, they had either left their employment or their contract had ended, and the parking was now too expensive. Only 1 per cent of car park users are switching to public transport.

Fourth, I believe that the increased levy will cause increased unemployment. The increased levy will cause unemployment in the industry itself. It is estimated that 3,000 people are employed in the industry and that between 10 per cent and 15 per cent of them will have to be laid off if this levy is increased. This bill will lead to more job cuts and more unemployed people at a time when the State's unemployment level stands at 4.2 per cent. Members of this House would be aware that I spent a lot of my life seeking to redevelop and then to rebuild a large enterprise between Pitt Street and Castlereagh Street. That project was commenced in 1979 and it occupied me almost full-time for 10 years. I fought for the right of Wesley Mission to build an underground car park, which would go underground for seven storeys; cover an area of two acres, multiplied by seven stories; and enable 500 cars to be parked between Pitt Street and Castlereagh Street.

I was opposed in this development by Sydney council, until it was found to be corrupt and it was replaced. I had to fight for this project in the Land and Environment Court and in general court, and eventually I won. In 1992 the car park and the Wesley Centre in Piccadilly, which cost \$300 million, were opened. I am pleased to say that we opened that car park and the centre debt free. Today, Piccadilly car parking station is one of the most successful assets of the central business district. Such a levy on that asset would make it more difficult for all those who want to use it. I support the proposed amendment that this issue should be referred to General Purpose Standing Committee No. 4 for further research.

**The Hon. JOHN AJAKA** [8.15 p.m.]: I endorse fully the comments of the Leader of the Opposition, the Hon. Michael Gallacher, and the shadow Minister for Finance, the Hon. Greg Pearce. I will confine my contribution to debate on the Parking Space Levy Bill 2009 to three main issues that have been raised in correspondence I have received from key stakeholders on this matter, including the Parking Operators Association and local businesspeople. The first issue is the effectiveness of the model put forward by the Government for the parking space levy increase; the second issue is the impact of the parking space levy increase on the people of New South Wales; and the third issue is the need for review and proper consultation.

Referring to the first of those three issues, the Government has proposed a model for the coming financial year under which there will be, first, a 110 per cent increase for category one spaces, that is, within the City of Sydney and North Sydney region; and, second, an increase of approximately 50 per cent for category two spaces, that is, within Bondi Junction, Chatswood and Parramatta. The Government also seeks to free up the restrictions that limit the way in which levy proceeds are used. It will remove the current limitation on using levy revenue only for infrastructure maintenance, and include initiatives such as public information—a matter that I will deal with later. As I understand it, the rationale underlying the proposed increases is threefold: first, to reduce congestion on our roads; second, to encourage the use of public transport; and, third, to loosen restrictions on the use of the levy revenue.

I will address each aspect of the model, starting with the quantum of the increase. I note at the outset that the Opposition is not opposed to the levy per se; rather, the issue in contention is the justification for exorbitant and seemingly inequitable increases across category one and two regions. Increases in line with the consumer price index are to be expected so that the levy keeps pace with inflation. However, the proposed 110 per cent increase for category one spaces represents an increase of 30 times the consumer price index. If a private practice or a landlord were to do what the Government is currently doing, that is, increase rentals by 30 times the consumer price index, imagine the types of prosecutions that would occur and the complaints that would be directed at landlords. However, the Government believes it is all right for it to do exactly the same thing.

It is difficult to see how such an increase, far outpacing the increase in the cost of living, would do anything other than highlight the Government's relentless pursuit of a quick fix for the State's abysmal financial position—a position created as a result of the incompetence of this Government. How effective will these significant increases be in reducing traffic congestion? Commonsense and basic fundamental economics suggest that the average individual who drives into the central business district on a regular basis for work or for other commitments will continue that practice until he or she reaches a point when the time taken for him or her to earn the dollar amount of the parking fee will exceed the time that would be saved from driving rather than relying on the woeful current public transport system.

Perhaps the Government should focus on fixing the woeful public transport system to encourage the public to use that system. For many workers demand for a parking space in the City of Sydney is required because they might not have a readily accessible and alternative means of transport, and they might have no option other than to drive into the city.

For some professionals who work late in the city the perception is that driving is the only safe means of moving to and from work after normal business hours. For these individuals parking fees are factored into the cost of doing business in the city. A price increase largely does not affect the demand for parking for this group of workers. The countervailing view is that the current economic climate and the significant pressures on the household budget will push regular drivers to public transport alternatives.

This brings me to the second major rationale underlying the Government's model. The idea is that the levy revenue will be used to improve public transport facilities, which in turn will reduce the demand for parking spaces. However, the Government has a long history of broken transport promises, and its claim warrants a certain degree of cynicism. Indeed, it would be fair to say that people's confidence in the Government's rationale of taking with one hand and giving back with the other has somewhat diminished over the past 13 years, particularly in relation to the New South Wales public transport system. The Auditor-General's 2007 report entitled "Connecting with Public Transport" casts doubt on the transparency of the levy collection process. The report stated, *inter alia*:

There are no criteria for how the funds available from the *Parking Space Levy* are allocated in aggregate to interchanges, car parks, bus ways, bus layovers, transitways and the like. We noticed no evaluations of how this expenditure furthered the object of discouraging car use in those business districts bearing the tax.

The third limb of the rationale is the real sweetener for the Government: loosening the restrictions on the use of the levy revenue. Under clause 11 (3) (c) the Government will be empowered to use the Public Transport Fund "to finance initiatives for the communication of information to commuters, including initiatives that make use of new technologies". This is an insult to the intelligence of the people of New South Wales, who will be significantly out of pocket not so that the trains can run on time but so that the Government's public relations machine—its spin doctors—can promise commuters that their train will not be as late tomorrow as it was today or the previous day.

I refer now to the impact of the Government's model on key stakeholders, that is, the business people, the parking operator industry and the ordinary worker—those in whom this Government seems to have no interest. Some industry operators have estimated that the parking space levy may force them to make approximately 10 per cent to 15 per cent of their employees redundant in order to remain a going concern; this is in the vicinity of between 300 and 500 job losses. The Government is uncertain what measures it will take to allay fears of job losses. Job losses again are something in which this Government does not seem to take an interest. The Parking Operators Association estimates that monthly parking is split approximately 50:50 between private vehicles and business fleets. An increase in parking prices will force the cost of doing business in the city even higher, particularly for small businesses locked into providing on-site or nearby parking for their employees.

Indeed, as my colleague the shadow Minister for Transport pointed out in the other place, the Property Council, the Sydney Chamber of Commerce and the Parking Operators Association have raised concerns that this bill could not come at a worse time for the ailing business community. I understand those concerns. Certainly it is difficult to ask hardworking businessmen to weather the storm on two fronts: from the current economic climate and from the Government's seemingly relentless pursuit of a quick buck. When will this Government finally realise that such quick grabs for cash only go towards destroying any chance for business to survive in New South Wales? We should be stimulating the business economy of New South Wales, not hindering it.

My final point is that there is a clear need for a thorough review of and proper consultation on the effects of this bill. Many factors seem not to have been fully explored, such as creating exemptions for new technologies to encourage people to use hybrid vehicles, even car pooling or early-bird parking. Even more so, no consideration has been given to car spaces for the handicapped. These key stakeholders feel they have not been properly consulted on the Government's levy increase model. I would have thought that this would be something for which the Greens would fight. I am surprised that they are not interested in factoring in these aspects when one considers the Opposition recommendation to refer the matter to General Purpose Standing Committee No. 4 to maintain an appropriate standard of public consultation and transparency in the legislative process. If the Greens expressed as much concern about this bill as they have about other matters, such as bipods, one would have assumed that they would have pushed for a committee hearing to examine all of the aspects they have raised.

**Reverend the Hon. FRED NILE** [8.24 p.m.]: On behalf of the Christian Democratic Party I speak to the Parking Space Levy Bill 2009. This bill will replace the existing Parking Space Levy Act 1992 and the Public Parking Space Levy Regulation 1997. The Parking Space Levy Act commenced in 1992. I remember when the Act came into effect that I expressed my reservations about the levy, which I regarded as a tax; I still have that reservation. I do not believe in principle that such a levy or tax on parking spaces can be justified.

The Greiner Coalition Government introduced the levy and, obviously, the State Labor Government is happy to continue with it. As we see, the bill provides that the levy will increase dramatically by 100 per cent. I am concerned by the way the Government has slipped the regulation into the bill. Normally regulations are treated separately, but not in this case. The Legislation Review Committee was critical of the inclusion because it enabled the Government to avoid certain requirements. Section 5 (1) of the Subordinate Legislation Act 1989 provides:

Before a principal statutory rule is made, the responsible Minister is required to ensure that ... a regulatory impact statement is prepared ...

This bill includes the regulation; therefore, I assume that a regulatory impact statement has not been prepared. If that is not so, I ask the Parliamentary Secretary, the Hon. Penny Sharpe, to table the regulatory impact statement in the House. In summary the impact statement would include the objectives sought to be achieved and the reasons for them, identification of options, an assessment of the costs and benefits of the proposed rule, the assessment of costs and benefits of each option, an assessment as to which of the options involves the greatest net benefit or the least net cost to the community, and a statement of the consultation program to be undertaken or that was undertaken. In its report the Regulation Review Committee stated:

The Committee is concerned that, as the Regulation has been included within the Bill, it is not subject to the requirements of Section 5 of the Subordinate Legislation Act 1989 and as such a Regulatory Impact Statement has not been prepared. The Committee is concerned that the Regulation has therefore not been subject to cost benefit analysis and stakeholder scrutiny and consultation. The Committee resolves to write to the Minister and ask why the standard regulation making processes have not been followed in this instance.

Because that process has not been undertaken, stakeholders have reacted strongly to the legislation. As far as we can tell from submissions and briefings of concerned stakeholders, no consultation was undertaken. This has resulted in quite strong criticism of this bill from the main stakeholders. Today I had a discussion with the Hon. Patricia Forsythe, the Executive Director of the Sydney Chamber of Commerce. She also put her consent in writing and stated:

I am writing on behalf of the Sydney Chamber of Commerce ... to express concern about the Parking Space Levy Bill and urge that the bill be referred to GPSC [General Purpose Standing Committee No.] 4 for urgent review.

The imposition of a 110 percent on the existing parking levy could not come at a worse time for business big or small and in particular in the CBD of the City of Sydney where job losses have been significant.

The increased levy will make a number of city parking stations unviable. For example many that open early with 'early bird' savings may choose not to do so because at best the impact of 'early bird' prices is marginal for operations. Currently about one third of regular users of CBD parking stations take advantage of 'early bird' savings. In view of the introduction of time of day tolling on the Sydney Harbour Bridge and Sydney Harbour Tunnel the impact of the increased parking levy may be that fewer stations are open thus discouraging early arrival.

One Government policy is in conflict with another. The executive director goes on to state:

The effect of the increased levy will be to undermine the policy of the City of Sydney to make the CBD a vibrant, lively place seven days a week.

She goes on to question whether the levy, or tax, as I prefer to describe it, is discouraging people from bringing their cars to the city and is reducing traffic congestion. I believe most people who come into the city do so only because they have to. No-one would park all day in the city just for fun. In many cases cars in the city are related to business use.

Sadly, because of inadequate and inefficient public transport as well as the cancellation of government infrastructure projects that were intended to provide additional public transport facilities, such as rail lines in the north-western part of Sydney—and there is no sign in the next five or 10 years that there will be any improvement—people are forced to use their cars, particularly in certain suburbs of Sydney that are not well served by public transport. The Property Council of Australia also indicated its concern about the bill and stated in a letter dated 17 March 2009, " ... [we] support a full review of its effectiveness in addressing congestion." In



other words, strong doubts are being expressed about whether the Government's goal justifying the tax, the reduction of congestion, is being achieved. I contend that the levy is not having a major impact on reducing traffic congestion at all. The letter from the Property Council also states:

The Bill puts into effect a measure from last year's mini-budget to increase the current parking space levy by over 110%. This is expected to raise an additional \$58 million a year.

The letter also states that the Property Council has no objection to increased investment in public transport infrastructure, and states further:

The object of this levy is to discourage car use in business districts by imposing a levy on off-street commercial and office parking, using this revenue to finance public transport infrastructure. However, the levy has increased six times since 1992 and to date there has been little evidence to suggest that it has actually reduced congestion.

An Auditor-General's report in 2007 supported this finding and in addition noted that there was no criteria for how the funds available from the levy were allocated to improving public transport.

The proposed doubling of the parking space levy will unfairly target workers and business who are poorly serviced by public transport. We are urging you to oppose the Bill and support a full review of the Parking Space Levy.

I also received a very detailed submission from the Parking Operators Association. I met association members on two occasions when they expressed strong concerns about the parking space levy. They have provided a position paper of some 19 pages in length. I seek leave to table the document headed "Parking Space Levy", dated March 2009.

**Leave granted.**

**Document tabled.**

The association's letter dated 13 March 2009 included an executive summary of the position paper. The letter states:

As an industry, we are extremely concerned that the Government's proposed 110% increase to the Parking Space Levy increasing to \$2,000.00 per bay in Sydney and North Sydney and \$710.00 per bay in the Metropolitan Regions – Parramatta, St Leonards, Bondi Junction and Chatswood.

We see this as having a devastating impact in these uncertain economic times leading to further unemployment both directly to our Industry and a "knock on effect" to businesses dependent upon parking for their own employees and customers.

Furthermore, we believe that this proposed increase will be counter-productive as the industry will be forced to close parking bays that become unviable due to the Levy increase. Intern in total Government revenue will be less than what is presently received.

It should be a matter of concern to the Treasurer that the imposition of a 110 per cent increase may be counterproductive. If the Government needs every dollar it can find to meet its budget it may find, if that forecasts becomes a reality, that the total revenue from the levy is less than the Government is receiving now.

The Parking Operators Association has provided an executive summary of the association's concerns. The position paper contains detailed figures and material on: the effects that an increased levy will have on businesses and workers; why now is the wrong time to increase the levy; how Government revenue will decrease because of an increase to the levy; the result an increase in the levy will have on Sydney's amenity; how unemployment will increase because of a rise in the levy; how congestion will get worse, not better, because of an increase to the levy; the lack of public transport alternatives for all Sydneysiders; how to fix distortions in the parking market; reducing congestion by amending the legislation; and how to use the levy to encourage sustainable transport solutions. The position paper has also proposed some amendments:

**The Parking Operators Association requests of the New South Wales Government:**

The Government should delay the introduction of the Parking Space Levy for the following reasons:

- 1) Due to worsening economic conditions the 110% increase of the *Parking Space Levy* should be delayed until it can be reviewed based upon economic conditions.
- 2) We call on the Government to:
  - a) commission a quantitative study on congestion within all ... [parking station levy] areas to:
    - (i) review the effectiveness of the PSL
    - (ii) provide practical solutions to reduce congestion.

- b) establish a working group to create a parking plan for Sydney Metropolitan's future in conjunction with business and the community.

The association also suggests detailed amendments to the legislation from the association's point of view, and the amendments deal with category 1. I will not deal with all of those in detail now, but will cite some of them:

That exemptions be granted for parking bays allocated to sustainable transport options including:

- a) Green vehicle parking ...
- b) Carpool specific bays
- c) Scooters and motorcycles
- d) Car share vehicles
- e) Bicycle parking

The association has also provided some questions that I will address to the Parliamentary Secretary:

- 1. Where was the review of this legislation?

The Minister's second reading speech states that there was a review—

- 2. Where were the public forums and public submissions?

Again, they were mentioned in the Minister's speech—

- 3. The object of the Act is to reduce congestion. Where is the evidence it does so? ...
- 4. This Levy is going to raise \$111 million per year—

Hopefully—

Yet with its introduction only \$56 million of spending has been allocated. Where is a schedule of works that the Levy will fund?

- 5. If this is to fix congestion why do you insist on taxing weekend users of the CBD? Why not provide them exemptions enjoyed in Category Area 2?
- 6. Even if we had zero emission cars they will still require a place to park. To encourage low-emission transport shouldn't green spaces be exempt from the Levy?
- 7. Why is Westfield specifically exempted in Schedule 2 of the Bill where other retail car parks such as Parramatta Brand Smart shopping centre on Church Street [are] not specifically granted an exemption?

There is an implication that some favouritism has been shown to Westfield—

- 8. Why are car parks that serve retailers in Category Area 1 not provided the same exemptions as those in Category Area 2?
- 9. If a car park is closed, for instance on the weekend, why should the car park be charged the Levy?
- 10. Why is the government introducing a new tax on the CBD and other areas when we are experiencing an economic downturn? Surely these areas need help not hindrance!

I respectfully ask the Government to provide answers to those very genuine and sincere questions because they are important to any debate on the Parking Space Levy Bill.

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [8.39 p.m.], in reply: I thank honourable members for their contributions to the debate. There has been a lot of discussion in this debate about the nature of the levy. I place on record again to make it clear to honourable members that this bill does not seek to increase parking space levy rates. The House has already passed legislation to increase the levy: the State Revenue and Other Legislation Amendment (Budget Measures) Bill 2008 was passed on 4 December 2008. So the issue of the levy increase itself is irrelevant to this debate. Whether or not the bill is passed tonight will make absolutely no difference to the increase in the levy to \$2,000. It is important to place that on the record.

Basically, this bill tidies up the arrangements relating to the levy, not the levy itself. The bill clarifies the boundaries of the levy areas, frees up the restrictions that limit the way the levy proceeds are used, and simplifies the administration by clarifying a few rules and definitions.

These changes will provide certainty to those who are subject to the levy, and clarify the exemptions and concessions that are available. I turn now to an issue raised by the Hon. John Ajaka. Clauses 7 and 8 of the Parking Space Levy Regulation 2009, in schedule 2 to the bill, contain a long list of exemptions. Specifically, I draw the attention of honourable members to clause 7 (1) (c), which exempts those with mobility parking scheme authorities. Disability parking is absolutely exempt from the parking space levy. Religious and charity organisations are also exempt. There is also a range of different exemptions for shoppers, depending on whether the parking spaces are category 1 or category 2. Honourable members do not seem to have taken those exemptions into account in this debate. The parking space levy has two purposes. It is an important scheme to encourage people to use public transport to and from levy areas. The money raised from the levy has provided a significant contribution to the provision of commuter car parks, interchanges and other infrastructure.

The definition of "other infrastructure" is wide. The Government has funded bus priority zones, the extension of light rail, new wharves and bike lockers. All of that is aimed at easing congestion and getting more people onto public transport, and that is working. It has been suggested that there was no consultation on this issue. That is not the case. Indeed, the parking space levy was reviewed in 2005. Many of the changes in this bill came out of that review, and that is what we are addressing tonight. In relation to the issues raised by Ms Lee Rhiannon, I can confirm that the revenue has been used predominantly to fund the transport projects I outlined, including car parks and interchange facilities currently underway, such as the ones in Wentworthville, Holsworthy, Tuggerah, Windsor, Morisset, Wollongong and Emu Plains.

One change in the bill is the provision for communication with commuters via new and emerging technologies not envisaged in the 1992 Act. As we all play on our blackberries, I hope that some funding from the parking levy will be used to provide commuters with real time information about changes to timetables and alternative transport options. Other examples include the provision of electronic timetables and trip planning based on that new technology. Again, I reinforce that if honourable members do not support this bill tonight, and it does not pass, that will not change the fact that the Parliament has already passed legislation that increases the levy to \$2,000. Much of the debate tonight has not focused on that. The bill is a tidying up bill: it will make clearer the ways in which the parking levy operates. On that basis I commend the bill to the House.

**Question—That the amendment of the Hon. Michael Gallacher be agreed to—put.**

**The House divided.**

**Ayes, 15**

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

**Noes, 22**

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

**Pairs**

Mr Gay	Mr Macdonald
Mrs Pavey	Mr Roozendaal

**Question resolved in the negative.**

**Amendment negatived.**

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

**Division called for and Standing Order 114 (4) applied.**

**The House divided.**

**Ayes, 22**

Mr Brown	Dr Kaye	Mr Tsang
Mr Catanzariti	Mr Kelly	Ms Voltz
Mr Cohen	Mr Obeid	Mr West
Mr Della Bosca	Ms Rhiannon	Ms Westwood
Ms Fazio	Mr Robertson	
Ms Griffin	Ms Robertson	<i>Tellers,</i>
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**Noes, 15**

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

**Pairs**

Mr Macdonald	Mr Gay
Mr Roozendaal	Mrs Pavey

**Question resolved in the affirmative.**

**Motion agreed to.**

**Bill read a second time.**

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

**Third Reading**

**Motion by the Hon. 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.**

**ADJOURNMENT**

**The Hon. TONY KELLY** (Minister for Police, Minister for Lands, and Minister for Rural Affairs) [8.58 p.m.]: I move:

That this House do now adjourn.

**WORLD DOWN SYNDROME DAY**

**The Hon. MATTHEW MASON-COX** [8.58 p.m.]: I bring to the attention of the House the celebration of World Down Syndrome Day on 21 March 2009. As members would be aware, people with Down syndrome are now living more confident, happy and independent lives than ever dreamed possible. To celebrate

that fact, and to foster further advancement by creating greater community acceptance and understanding, the first World Down Syndrome Day was declared on 21 March 2006. By 21 March 2007 hundreds of organisations around the world had joined in the celebrations with a variety of events. In New South Wales, "Tea for 3-21" [T4321] was launched with more than 60 events and more than 1,000 people taking part across New South Wales. T4321 is an opportunity for the whole community to join in the celebrations for World Down Syndrome Day, recognise the abilities and achievements of people with Down syndrome and raise vital funds to support their needs.

The celebration of World Down Syndrome Day on 21 March is of significance on more than one level. The date of World Down Syndrome Day symbolises the fact that Down syndrome is commonly caused by three copies of chromosome 21, that is known as trisomy 21. Hence the twenty-first day of the third month is of special significance. The celebration of World Down Syndrome Day not only raises awareness but also is both an opportunity to celebrate and raise much needed funds. The aim is to improve support and resources for families and individuals with Down syndrome so that in the longer term all people with Down syndrome are able to fulfil their potential and lead confident rewarding lives.

Indeed I joined in the celebration of World Syndrome Day with my family at Robert de Castella's café in Dixon in the Australian Capital Territory. Over an excellent cup of coffee I noticed a publication entitled "Ten things people with Down syndrome would like you to know," which I would like to share with members tonight. Most people with Down syndrome were born before their mothers were 35. People with Down syndrome enjoy their lives when they are well supported, like the rest of us. Down syndrome causes disability; it is not an illness. Some people with Down syndrome do have health problems and are entitled to the same quality health care as everyone else.

Just like everyone else, for children with Down syndrome learning starts at birth and it does not stop. Most people with Down syndrome now learn to read; they learn much more than we ever thought possible. Children, teenagers and adults with Down syndrome have feelings, thoughts, ideas, interests and dreams. They know what they want from life—friends, relationships, work, leisure and a measure of independence for a start. Most people with Down syndrome live interesting, fulfilling independent adult lives with support. It may be difficult to understand the speech of some people with Down syndrome, though they are usually excellent communicators. Their understanding is usually better than their speech. Some, indeed, have a lot to say.

Everyone with Down syndrome has a different personality with different likes and dislikes, just like the rest of us. People with Down syndrome can be found working successfully, with varying degrees of support, in retail, offices, child care, hospitality and gardening, to name but a few occupations. In 1960 the life expectancy of an Australian with Down syndrome was 10 years of age. Today people with Down syndrome live longer lives than ever before; most will live into their fifties and sixties. The oldest person with Down syndrome on record was 85 when she died in 1998.

People with Down syndrome have an extra chromosome—number 21—but they also have the regular 46 chromosomes. This means that they are as alike and as different from each other as the rest of us. Although people with Down syndrome may share some common facial features, they look more like their families than others with Down syndrome. I trust this will help dispel some of the myths surrounding Down syndrome. Indeed, in this regard education is our friend. Finally, I thank the many people involved in making World Down Syndrome Day a huge success, both in New South Wales and in the Australian Capital Territory. Support for the often-misunderstood yet important and valued members of our community is greatly appreciated. Indeed, it is times like this when people come together to celebrate our diversity that make me so proud to be part of such a rich and vibrant community.

### **HURLSTONE AGRICULTURAL HIGH SCHOOL FARM LAND SALE**

**Dr JOHN KAYE** [9.02 p.m.]: The Rees Government continues with its plan to sell off some or all of the Hurlstone Agricultural High School's agricultural land. Despite opposition from farmers, agricultural scientists, teachers, students and the alumni of the school, indeed from anyone who cares about the future of public education and the future of agriculture and food production in this State, despite the school's powerful track record in producing high-quality farmers and agricultural scientists, and despite the commitment of the students and teachers to the school's lands and the farm, the State Government persists with the idea that the school should be sold.

Yesterday 120 committed individuals attended the Parliamentary Theatre to express their overwhelming anger at the Government's plan. A unanimous resolution condemned the sale of the school land

and called on the Government to maintain the school. The meeting heard from students, former students, the New South Wales Farmers Association and agribusiness employees. Perhaps the most telling comment was that made by a young woman, Karina Hall, who last year graduated from Hurlstone to take up a career in agricultural science. Karina said:

If you take away the land, you take away Hurlstone's heart. Please let us work together to stop this sale.

That is exactly what came out of the meeting. The meeting was organised jointly by Adrian Piccoli, the shadow Minister for Education and Training, and me on behalf of the Greens, the New South Wales Farmers Association and the organisation Save Hurlstone's Educational Agricultural Property, also known as SHEAP. We heard from two former students, Lloyd Setter and Karina Hall, Dr Russell Bush from the University of Sydney, Jock Laurie of the New South Wales Farmers Association, and Priscilla Spendlove, a Hurlstone graduate and animal nutritionist with Ranvet.

It is hard to conceive of a more diverse group of people who spoke at the forum. The unanimity of that group sends one clear message—that Hurlstone should not be sold. Three key reasons for not selling Hurlstone arose from that meeting. First was the insanity of selling off public education land to create the illusion of a balanced budget. The Director-General of the Department of Education and Training, Michael Coutts-Trotter, issued a memo to school principles on 11 November 2008, in which he identified \$240 million of accelerated land sale of which \$120 million was to go into general revenue to be used to prop up front-line services such as police and nurses. Mr Coutts-Trotter identified two sites in particular, Hurlstone Agricultural High School and Seaforth TAFE.

Apart from the absolute economic illiteracy of selling off capital assets to pay for running costs, who could conceive of foreclosing on the future of public education? Where will our children be educated if we continue to sell off the land of public schools? The fetish against sustainable borrowing is driving an appalling public policy outcome—an irreversible loss of public education lands. Hurlstone, unlike any other Sydney school, is an agricultural high school. It does not just teach agriculture; agriculture is integrated into its curriculum. I saw that when I visited the school in February and again with the graduates of Hurlstone at yesterday's meeting.

New South Wales needs farmers and agricultural professionals. The average age of farmers in New South Wales is 54 years. More than 50 per cent of public sector agriculture workers will retire within the next five years, and without their replacement the gap will place ever greater pressure on an already insecure food supply. The south-east of Australia is in the grip of a terrible drought and, tragically, that looks set to continue. The only way to cope with that is to train up more farmers who understand the concept of sustainable land management, and that is precisely what Hurlstone does. Jock Laurie said, "You can only train farmers when they can smell cow pats", and that is exactly what happens at Hurlstone. Believe me, I have been there.

Hurlstone is an essential ingredient for the future of food production in New South Wales. To get rid of that would be to jeopardise not only public education but also the future of food production. But there is a third and overriding reason why we should not allow any land at Hurlstone to be sold, and that is that we owe it to the students—past, present and, in particular, future—to their enthusiasm for agriculture, and to education. We can only hope that the New South Wales Government comes to its senses and recognises that it is not in the best interests of education, it is not in the best interests of the economy and it is not in the best interests of food production to sell off Hurlstone's agricultural land. [*Time expired.*]

### KIDS FREE 2B KIDS

**The Hon. GREG DONNELLY** [9.07 p.m.]: Honourable members may recall my adjournment speech in March 2008 detailing the excellent work done by the not-for-profit organisation Kids Free 2B Kids. The organisation was established by Julie Gale from Melbourne and is primarily involved in raising awareness of and campaigning against the sexualisation of children in the media, in advertising and in clothing industries. Julie works tirelessly campaigning, engaging with the media, speaking at public forums and lobbying politicians. While she would claim that the achievements thus far by Kids Free 2B Kids are modest, there is no doubt that her message is being heard loudly and clearly across the country.

In the second half of 2008, Julie took on the giant petrol retailers Shell-Coles Express, BP and Mobil and challenged them to explain why category 1 R-rated magazines were being sold at various outlets. For the information of members, the magazines she highlighted were not soft porn, back of the shop publications. As Julie noted, many of the magazines depicted young girls who appeared to be under 18 years of age, or were

dressed to look younger with accessories such as pink headbands, pigtails, uniforms, braces and soft cuddly toys. Many magazines depicted also graphic sex acts that are not permitted in category one R-rated magazines under the national classification system.

The material that Julie successfully campaigned against is an abhorrent genre of pornography that promotes and validates the sexual abuse of children, particularly young girls. Captions such as "Tender Teenage Twat", "Cum on my Braces", "Cum Hungry Virgins", "Freshest Teen Sluts" and "Fuckable Flatties Special" appear on magazines such as *Live Young Girls*, *Teen Angels*, *Barely Legal*, *Finally Legal* and *Petite*. Given the appalling nature of the publications, it was no surprise that the petrol companies quickly caved in and removed the magazines from the stores.

Unfortunately, Mobil's decision applied only to its corporate run stores and is, as I understand, still a case of work-in-progress with respect to its 470 co-branded franchised stores across Australia. In taking up this matter, Kids Free 2B Kids has had detailed correspondence with the Australian Classification Board. I seek leave to incorporate in *Hansard* a letter from Donald McDonald, AC, Director of the Australian Classification Board, to Julie Gale, Director of Kids Free 2B Kids, dated 13 January 2009.

### **Leave granted.**

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Australian Government  
Classification Board

Donald McDonald AC  
Director

C08/174

Ms Julie Gale  
Director, Kids Free 2B Kids  
PO Box 4105  
HOPETOUN GARDENS VIC 3162  
by email: julie@kf2bk.com

Dear Ms Gale,

I am writing to provide an update on the Classification Board's (the Board) progress on the 30 publications you referred.

#### **Revocation of serial classifications**

The Board has revoked the serial classifications that applied to the following publications because they contain content at a higher level than that allowed within the serial classification as granted.

The following publications contain RC (Refused Classification) content:

*Best of Cheri*, Volume 30, Number 10, May 2007  
*Finally Legal*, Volume 9 Number 5, April 2007  
*Live Young Girls*, December 8, 2006  
*Live Young Girls*, Volume 28, Number 8, August 2007  
*Live Young Girls*, Volume 29, Number 4, April 2008  
*Swank*, Number 124, May 2007  
*The Very Best of High Society*, Volume 24, Number 2, March 2007  
*Purely 18*, Volume 9, Number 10, July 2007  
*Purely 18*, Volume 10, Number 5, February 2008  
*Purely 18*, Volume 10, Number 7, April 2008  
*Purely 18*, Volume 10 Number 9, June 2008

The following publications contain Category 2 restricted content:

*Purely 18*, Volume 10, Number 10, July 2008  
*Purely 18*, February 2007  
*Hawk*, Volume 17, Number 4, February 2008  
*Hawk*, Volume 17, Number 5, March 2008

The publications are now unclassified.

Law enforcement agencies have been notified about the revocations and about the level of content in the publications.

The Board decided not to revoke the serial declaration relating to the following title:

*18 Eighteen*, Volume 11, Number 2, February 2008

The Board decided not to revoke this title as it was brought to their attention during the show cause process that the publication covered by a serial classification declaration was published in the UK and the publication referred to the Board was published in the US. Therefore the US version is not covered under the serial classification declaration. The US version is unclassified and law enforcement agencies have been notified.

#### **Call-in of unclassified issues**

The following publications were found to be unclassified:

*Adam Girls International Teenz*, Vol 8 No 11 Sept 2007  
*Genesis*, No 96 March 2005  
*Live Young Girls*, Vol 25 No 1 Jan 2005  
*Petite*, No 71 Nov 2007  
*Cheri Teens*, No 42 March 2007  
*Cheri Teens*, No 43 May 2007  
*Finally Legal*, Vol 5 No 1 Jan 2003  
*High Society Teen Angels*, No 41 May 2007  
*High Society Teen Angels*, No 40 Feb 2007  
*Finally Legal*, Vol 7 No 7 July 2005  
*High Society*, Volume 30 No 4 April 2005  
*Club International (USA)*, September, 2007

If the distributor was able to be identified, I have issued call-in notices. The call-in notice requires the publication to be submitted for classification. Law enforcement agencies were notified that the publications have been called in. If the distributor could not be identified, law enforcement agencies were also notified.

None of the distributors have complied with the call-in notice and therefore law enforcement agencies have been notified.

I can also report that one distributor has advised that, as a result of the Board's findings, they will withdraw all stock they have distributed and re-issue stock that they can guarantee is compliant with classification requirements. This distributor also commented that they would no longer be distributing the 'teen' titles as some retailers will not sell them.

#### **Compliant publications**

The following publications were found to be compliant with classification requirements:

*All 18 Teen Angels*, No 45 2005  
*Besta Fiesta*, Vol 2 Issue 7

#### **Clarification**

In addition, a clarification is necessary in respect of the letter I sent to you on 16 December 2008.

I stated in my letter that I had issued a call-in notice to the distributors of Club International (USA), September 42007. This has not proved to be possible. Whilst I do have reasonable grounds to believe that this publication is a submittable publication and unclassified, we have not yet been able to find the distributor of this publication and therefore I am not able to send a call-in notice. If I do receive information about the distributor of this publication in the future, a call-in notice will be issued.

In addition to the publications that you referred, the Board has continued its program of periodic audits to ensure that serial declaration conditions are being met.

I trust this information assists you. Thank you for bringing these matters to our attention.  
Yours sincerely,

Donald McDonald  
Director  
13 January 2009

Locked Bag 3, HAYMARKET NSW 1240  
Telephone 02 9289 7100 Facsimile 02 9289 7101 [www.classification.gov.au](http://www.classification.gov.au)

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**The Hon. GREG DONNELLY:** As honourable members will see, the letter outlines the revocation of the serial classifications for several magazines along with the call in of many unclassified titles. When one follows the evidence trail to those who are distributing these magazines, it is interesting to see where the trail ends. I undertake to keep honourable members up to date with the details as they are systematically uncovered.

As Julie acknowledged to me the other week, the victory seems small given the size of the problem. However, in my view that is selling the outcome short. It is a wonderful victory and Julie Gale and Kids Free 2B Kids should be very proud of the important work being undertaken and the outcomes being achieved. Taking on



the hyper-sexualised culture and societal norms in which our children are living and developing was never going to be easy. Bearing in mind what is at stake, as Julie Gale is demonstrating, the fight is there to be had and it is worth having for our kids and for future generations.

I will also comment on the work being done by Maggie Hamilton, an Australian author who in June last year published her book *What is Happening to Our Girls—Too Much Too Soon: How Our Kids are Overstimulated, Oversold and Oversexed*. The book, which is the culmination of two years research, traces the lives of girls from birth to the end of their teen years showing why "out there" behaviour and issues such as depression, cutting, eating disorders and binge drinking are on the rise. It looks at why girls are becoming preoccupied with sex and shopping at such a young age. Alongside an examination of the marked decline in girls' imaginations, the book traces the increase in sexual behaviour and language in young girls, many of whom are preschoolers. [*Time expired.*]

### BURWOOD LOCAL AREA COMMAND

**The Hon. DON HARWIN** [9.12 p.m.]: In 2003 the Burwood Local Area Command had 178 police officers. Despite major new residential developments such as Breakfast Point swelling the population of the Canada Bay local government area significantly in the six years since then, the Labor Government has actually cut the number of officers serving in the area. The most recent figures, relating to November 2008, show that the Burwood Local Area Command has just 135 officers. This means that there are 43 fewer police officers serving Drummoyne than there were in 2003. This reduction in the number of police officers in the inner west is emblematic of the Labor Government's neglect of police resources in the area over a long period.

For years the Government has repeatedly claimed that the Five Dock police station is a fully manned 24 hour-a-day, seven-day-a-week station. In truth, there are long periods in which there is not a single officer in the building. When people ring the buzzer at the front door on such occasions they are answered via intercom by an officer in the Burwood police station, which is some 15 minutes drive away. While traffic and highway police are attached to the Five Dock station, there are very few officers actually stationed there. With police numbers at the Burwood Local Area Command continuing to fall, there seems little prospect of the station becoming fully manned at any time soon.

In October 2004 the member for Drummoyne told the other place in relation to Five Dock police station that, "the building is old and needs major repairs to bring it up to an acceptable community level". It was nearly four years later that the Government gave the station a coat of paint and window treatments, and upgraded the air-conditioning and the alarm system that is used when the station is empty. There remains no sign of the major upgrade of the station that is so hopelessly overdue and that the Government has been promising for years.

The officers at the Burwood Local Area Command work tremendously hard under difficult circumstances. Regrettably, the strain of inadequate officer numbers for the size of the area and its growing population is reflected in many offence categories detailed by the Bureau of Crime Statistics and Research. In the 12-month period from October 2007 to September 2008 the number of assaults unrelated to domestic violence reported in the Canada Bay local government area was 182, more than 20 incidents higher than in any other year in the last decade. The number of such incidents in 2003, when the Burwood Local Area Command had its peak number of officers, was just 148. Similarly, the number of reports of theft from retail stores in 2008 was 71 compared with just 57 in 2003. The incidents of malicious damage to property numbered 590 last year, up from 474 five years earlier.

As has been widely reported in the local media, the number of thefts from motor vehicles in the Canada Bay local government area in 2008 was 739, a 40 per cent increase on the 556 incidents in 2003. This has seen Canada Bay jump from a ranking of 53 among all local government areas for thefts from motor vehicles in 2003, to a ranking of ninth in 2007. It is quite shocking to think that Canada Bay is one of the top 10 worst areas in the whole of New South Wales for theft from motor vehicles.

In addition to cutting the number of officers allocated to the Burwood Local Area Command, the Government has repeatedly reduced the command's authorised strength in order, it would seem, to make the gap between the authorised strength and actual officer numbers appear less concerning. Of course, shifting the benchmark of authorised strength makes it an easier goal to attain. In November 2005 the Burwood Local Area Command had an authorised strength of 154. That was reduced to 150 immediately following the last State

election, and in July last year it was reduced still further to just 144. The member for Drummoyne has never given an adequate explanation of why she has allowed the authorised strength for the local area command covering her electorate to decline by 10. It is a disgrace.

With the population of inner west areas such as Drummoyne and Canada Bay increasing each year, it is concerning that the Rees Labor Government fails to provide the funding and resources that our dedicated police need to keep us safe and secure. The Government must finance a proper upgrade of the Five Dock police station and ensure that it is fully manned. The decline in officer numbers at Burwood Local Area Command must be reversed. Our residents need better, and our police deserve better, from this Government.

## **NEPAL GAY, LESBIAN, BISEXUAL AND TRANSGENDER RIGHTS**

### **CASULA RAIL NOISE NUISANCE**

**Ms LEE RHIANNON** [9.17 p.m.]: The Himalayan nation of Nepal has become very progressive with regard to gay and lesbian rights. The current government took power in 2007 in a poll that also saw the election of Nepal's first openly gay politician, human rights activist Sunil Pant. This was only months after the country's Supreme Court struck down the country's sodomy laws, a relic of British colonialism. That ruling also created a third-gender category in law to recognise the country's transgender minority and provided for further protection for gay Nepalese.

Nepal's Supreme Court ruled again in November 2007 on gay, lesbian, bisexual and transgender rights. There were three key determinations: that the Government should enact laws to protect gay, lesbian, bisexual and transgender citizens from discrimination both in employment and their daily lives; that gay, lesbian, bisexual and transgender people must be recognised as natural persons by government authorities; and that Nepalese legislators need to extend legal protection to same-sex couples to equal the protections extended to heterosexual couples.

Consequently the court ordered the establishment of a government committee to study the various forms of legal recognition granted to same-sex couples around the world. Marriage rights are included, with some form of civil union of partnerships likely to be offered when the committee reports back. Hopefully the Nepalese court ruling will give added momentum to the pace of reform in neighbouring India, whose High Court continues its hearings on the legal status of homosexuality. It is inspiring that in relation to homosexuality Nepal could be set to go from criminalisation to full equality in the space of three years. Whether Nepal embarrasses Australia by joining South Africa to become the second developing nation to beat us to full marriage equality is entirely up to the Rudd Labor Government. The Greens hope that Australia takes its lead from Nepal and South Africa.

The Australian Rail Track Corporation is building a freight line directly behind a number of homes at Casula. I, along with local members of Parliament Andrew McDonald and Chris Hayes, attended a meeting with residents who live in this area, which will be subjected to greatly increased movements, the removal of curfew, associated vibration and noise increase and significant particulate pollution. The residents were very clear at this meeting that they are not against a freight line. They most definitely support it. All they are asking for are noise barriers. They are in a most terrible situation because the Australian Rail Track Corporation, which builds noise barriers in so many areas, is refusing to do so in this particular area. Vincent Alvaro has written to me and to the two members of Parliament who attended this meeting setting out some of the problems. He states:

I reside along the Leacocks Regional Park area and the houses here, mine included, are in direct site of the freight line. Our row of homes in Slessor Road will be parallel to the line barely 100m beyond our back fences.

Currently the park is enjoyed by all residents. It is highly frequented and easily caters for those walking, riding bikes, exercising and for families. With the line going in I believe a lot of this will be lost. Without sound barriers being erected to at least limit the noise I fear that the natural area as it currently stands and its use as a recreational park for locals will become obsolete.

The Australian Rail Track Corporation is being extremely unfair and treating these citizens appallingly. It is installing sound mitigation only along a small part of the 35 kilometres of the new line. Why not along the line where people live? It has installed it in other areas. Why is it discriminating against these residents? Only four kilometres along the Casula to Liverpool line will have noise mitigation. The Australian Rail Track Corporation recently agreed at a public meeting to conduct further testing and asked locals to suggest locations for the testing. Of the eight locations suggested, only one was used. During the testing, freight trains travelled through Casula and Liverpool at very much reduced speed. Not one or two, but many freight trains travelled at a lower speed.

Naturally the locals were very suspicious about the information that was being collected. Members should remember that many of these homes are within 50 metres of the rail lines and a few are as close as 25 metres from the lines. Many of the locals are doing their own tests and they have recorded noise as loud as 82 decibels. Freight trains using five engines to haul more than 100 wagons, or 1.8 kilometres of train along the rail line, are clearly having a huge impact on these local communities. The Australian Rail Track Corporation expects a 158 per cent increase in the number of freight trains by 2018. Concrete sleepers also generate more noise. Clearly the corporation and RailCorp need to sort out the fight and ensure that these noise barriers are erected.

### TRIBUTE TO LAURIE SHORT

**The Hon. AMANDA FAZIO** [9.22 p.m.]: I note the passing of one of the great figures of the trade union movement, Laurie Short. Laurie Short was secretary of the Federated Ironworkers Association from 1951 to 1982. He passed away on Tuesday aged 93. He was born in Rockhampton in Central Queensland in 1915, the son of famine-emigrant Irish and Scottish parents. In the Depression Laurie Short's father, Alexander, was forced to go bush to work as a shearer or a shearer's cook and belonged to the Australian Workers Union and served as a delegate. As well as supporting his family, he was exposed to ideas of militant unionism. Laurie Short left school at 15, went to work in a radio factory and discovered communism.

It was in the inner Sydney industrial, working-class suburb of Camperdown that Short attended his first meetings and learned about basic Marxist ideas. His father opposed this and was distrustful of Communists who he saw as personally offensive, authoritarian, and mindlessly using the language and slogans of the Russians. Short adopted the Communist Party of Australia view, which led to clashes with his father. In 1932—during the Depression—he left home at age 16 and began working with the Young Communist League, throwing himself into party activity. During this period he was drawn to the Left Opposition and regarded Trotsky as a "scintillating personality" and a "dazzling pamphleteer". His call for permanent revolution and his critique of Stalinism captured Short's imagination.

Laurie Short took several part-time and casual jobs, finally finding work as a labourer in Mt Isa in January 1935. He continued his agitation for Trotskyism inside the Australian Workers Union and after several months won a post of job delegate at the mine. As the economy recovered, ironworkers had more bargaining power, which they did not hesitate to use. Heading up this effort was newly appointed Federated Ironworkers Association General Secretary, Ernie Thornton. This reflected the popularity of Communists as union leaders following the change of line from social fascist to popular front. In 1941 Laurie Short married and moved back to Sydney, where he found work at Cockatoo Island and became a member of the Balmain branch of the Federated Ironworkers Association, which was at that time the largest blue-collar union in Australia, with about 48,500 members.

During this period he became highly critical of the communist leadership of the Federated Ironworkers Association, and that culminated in 1949 when he stood for the position of National Secretary of the association. He lost in what he claimed was a rigged ballot and the ballot was contested in the courts. In late 1951, after a 16-month battle in the courts, Laurie Short was declared National Secretary of the Federated Ironworkers Association, much to the disgust of the Communist leadership at that time. By early 1949 the industrial groups were a powerful force in the labour movement. They had formed at the June 1945 New South Wales Australian Labor Party conference to combat communist industrial strength, at a time when the Communist Party of Australia, on conservative estimates, had a controlling influence over a quarter of all Australian unionists. The Australian Labor Party industrial groups sought to encourage party members to be union activists and to stand against Communist candidates. The party groups operated openly and stood as group candidates in union elections.

The New South Wales organisation was reaching its peak at the time Laurie Short joined, with its big successes still to come in the Federated Ironworkers Association, Federated Clerks and the Miners Federation. Several months after his transfer from Balmain to Gladesville, Short joined the Australian Labor Party's industrial groups. This was the most controversial act of his whole career. Laurie Short and his activists in the Federated Ironworkers Association, throughout the 1940s and early 1950s, were at the centre of a bitter, tempestuous and sometimes violent struggle for control of the union. The struggle between communists and anti-communists was acrimonious because of the critical role the union's numbers would play in the way the Labor Party eventually evolved, especially in New South Wales. Laurie Short headed the anti-communist faction that wrestled control of the union from the hardline Stalinist leadership. Later he would call his political change, his break with Trotskyism, "realism". He said:

I came to see that the claim that people were inevitably radicalised by economic circumstances was at total variance from reality. It just wasn't happening. In all the time I was a Trotskyist, no more than 50 people in Australia saw the light. I began to wonder whether the evils of capitalism and its overthrow were all that inevitable.

Laurie Short was one of the pioneers of communism in Australia, but rejected these ideas as the Cold War dramatically escalated inside trade unions when he chose to stand with those who were fighting to maintain the values of a free, independent and democratic labour movement. Paul Howes, the National Secretary of the Australian Workers Union, with which the Federated Ironworkers Association amalgamated, has honoured Laurie Short, saying:

In today's AWU the legacy of the Ironworkers is felt in every part of our organisation. The big Ironworker industries of Steel, Aviation, Manufacturing, Aluminium, Chemicals still form the bedrock of the Union as we move forward to build a Union which always knows that we are Stronger Together.

In 1982, when Laurie Short retired after 30 years leading the association, the then New South Wales Premier, Neville Wran, said the union leader was:

...responsible, probably more than anyone else, for the fact that the Labor Party of NSW did not split in 1955. The importance of that fact, not only in the NSW Labor Party, not only in the Party throughout Australia, but its importance to Australia itself, can hardly be exaggerated. And if nothing else, if the Party had split in NSW in 1955, in the state with the strength of Labor which is the whole key to our strength throughout Australia, I don't think there would be a Labor government in NSW now, and I don't think I would be standing here as the Premier of NSW ...

Those words about the importance of the work of Laurie Short to the history of the Australian Labor Party ring just as true today. Laurie Short was married to the acclaimed artist Nancy Borlase, who died in 2002. He is survived by their daughter, Susanna Short—a journalist who has authored an excellent biography of her father—and two grandchildren.

#### **RAYMOND TERRACE POLICE STATION CONSTRUCTION PROJECT**

**The Hon. ROBYN PARKER** [9.27 p.m.]: I have documented the Port Stephens police station saga many times in this House. Today I asked the Minister for Police a question about plans for the station, but he failed to answer it. I asked specifically who would be required to cover the cost of the new station, where alternative parking would be provided and where police officers would be housed while the new station was being built. I hope that the Minister familiarises himself with the project and updates the Chamber and the people of Port Stephens, who will be required to pay about \$700,000 for parking and associated roadworks while the station is being built. It is classic behaviour of this Government to plan after the event. This sort of planning should be done in advance. I hope the Minister can come up with some answers tomorrow.

*[Time for debate expired.]*

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

**Motion agreed to.**

**The House adjourned at 9.28 p.m. until Thursday 26 March at 11.00 a.m.**

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