LEGISLATIVE COUNCIL

Tuesday 27 October 2009

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The President (The Hon. Peter Thomas Primrose) took the chair at 2.30 p.m.

The President read the Prayers.

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

AUDITOR-GENERAL'S REPORT

The President tabled, pursuant to the Public Finance and Audit Act 1983, a performance audit report of the Auditor-General entitled "Handback of the M4 Tollway: Roads and Traffic Authority of NSW", dated October 2009.

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

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 226 outside the Order of Precedence objected to as being taken as formal business.

TABLING OF PAPERS

The Hon. John Robertson tabled the following paper:

Report of the Ombudsman entitled "Report under Section 49 (1) of the Surveillance Devices Act 2007 for the 6 months ending 30 June 2009", dated October 2009

Ordered to be printed on motion by the Hon. John Robertson.

LEGISLATION REVIEW COMMITTEE

Report

The Hon. Amanda Fazio, on behalf of the Chair, tabled a report entitled "Legislation Review Digest No. 14 of 2009", dated 27 October 2009.

Ordered to be printed on motion by the Hon. Amanda Fazio.

PETITIONS

Unborn Child Protection

Petition requesting that the House uphold the sanctity of human life, defend the fundamental rights of unborn children and reject all attempts to initiate legislation that emulates the Victorian Abortion Law Reform Act 2008, received from **Reverend the Hon. Fred Nile.**

BUSINESS OF THE HOUSE

Withdrawal of Business

Business of the House Notice of Motion No. 2 withdrawn by Ms Sylvia Hale.

BUSINESS OF THE HOUSE

Postponement of Business

Business of the House Notice of Motion No. 1 postponed on motion by the Hon Tony Kelly.

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Ms LEE RHIANNON [2.44 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. 225 outside the Order of Precedence, relating to Wallsend Aged Care Facility, be called on forthwith.

This is a matter of urgency. It was recognised as such by the House last Thursday, and at that time debate on the matter commenced. It is a matter of urgency, as private operators could shortly take over the facility, which has a long tradition of being a strong public facility with a large community involvement.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 20

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

Noes, 17

Mr Catanzariti	Mr Macdonald	Ms Voltz
Mr Della Bosca	Mr Obeid	Mr West
Ms Fazio	Mr Robertson	Ms Westwood
Ms Griffin	Mr Roozendaal	*Tellers,*
Mr Hatzistergos	Ms Sharpe	Mr Donnelly
Mr Kelly	Mr Tsang	Mr Veitch

Pair

Ms Cusack	Ms Robertson

Question resolved in the affirmative.

Motion agreed to.

Order of Business

Motion by the Hon. Ms Lee Rhiannon agreed to:

That Private Members' Business item No. 225 outside the Order of Precedence be called on forthwith.

WALLSEND AGED CARE FACILITY

Debate resumed from 22 October 2009.

Dr JOHN KAYE [2.52 p.m.]: I support the motion of my colleague Ms Lee Rhiannon opposing the privatisation of the Wallsend Aged Care Facility. Earlier this year, whilst attending a Rees Government community Cabinet meeting, I visited Wallsend and I was enormously impressed by the range of community campaigns opposing privatisation. Mr President, I am finding it hard to hear myself speak.

The PRESIDENT: Order! I ask members to allow Dr John Kaye to be heard.

Dr JOHN KAYE: Those campaigns included the proposed privatisation of the electricity industry, the then proposed sell-off of the Cessnock jail and the proposed privatisation of a number of nursing homes around New South Wales, in particular the Wallsend Aged Care Facility. A number of parents who were present at that meeting made representations to me that could only be described as heart-wrenching. They spoke of what had been their understanding of a secure arrangement for their children with acquired brain injuries who had been residents of that facility for a number of years, and who, they presumed, would be residents there for the remainder of their lives. Those people now have to face the fear of privatisation and its accompanying insecurity. If for no other reason but to honour the commitment of those parents to the future of their children, this Chamber should support the motion, and the Government should drop the proposed privatisation of this facility and other nursing homes.

Those parents are now living with the day-to-day fear that the quality of care that they have come to expect for their children will be substituted by a profit-driven, cost-cutting mentality as a result of privatisation. In the care of these resident young people and many older people there is no place for profit. They require care, compassion, commitment and public service. These residents, who are incapable of caring for themselves, should be looked after in a reasonable way. There is no place for profit motives in these publicly owned facilities. The overriding fear of all families of residents of nursing homes, particularly this Wallsend facility, is that with privatisation there will be no place for their loved ones and, even if there were a place, it would be inappropriate. The quality of care will not match the extraordinary high needs of the residents.

This a matter of concern not only for the families of those residents who live within the Wallsend facility but also for the community, and this is not the first time the Wallsend community has faced the prospect of privatisation of this facility. Eighteen years ago the then Labor Government's attempt at privatisation was greeted by 10,000 people on a picket line, and the facility was saved. The member for Wallsend, Ms Sonia Hornery**,** has done a remarkable job representing her electorate and the needs of the public sector throughout the Hunter. Last month she presented a petition to the Legislative Assembly, which had been organised by the staff, parents, relatives and supporters of the Wallsend Aged Care Facility and signed by more than 10,000 people. Those of us who have organised petitions will understand how difficult it is to get 10,000 signatures on a petition.

The Hon. Duncan Gay: I once got 16,000.

Dr JOHN KAYE: Good for you. Mr Gay may have been able to use the party machine of The Nationals to get 16,000, hopefully unique, signatures. This petition contained 10,000 signatures from Hunter residents who are deeply concerned about the future of this facility. This facility does not belong to the Minister for Health, Ms Carmel Tebbutt**,** to privatise, nor does it belong to this Parliament to privatise. This facility was paid for by money raised by mineworkers in the early 1890s and built on land donated by the Newcastle Wallsend Mining Company. The commitment of those hardworking mineworkers to an ongoing facility was evidenced in the bricks and mortar of the facility that they built. As a Parliament, we are now faced with the proposition that that work should be handed over to a profit-making private corporation. That would constitute not only a betrayal of the trust of the people of the Hunter, the people of the electorate of Wallsend, and the families of the residents of that facility, but also a betrayal of the trust of the mineworkers of the 1890s who invested in what they thought was an ongoing in-perpetuity facility for people unable to look after themselves, particularly the elderly and now young people with acquired brain injuries.

It is exceptionally important for the people of Wallsend that we save this facility from privatisation. It is also exceptionally important for the people of New South Wales. The standard of care that we provide as a community collectively with taxpayers' dollars to those who are incapable of looking after themselves is a measure of our civilised society. By handing over this facility to the private sector not only are we undermining the quality of care in the Hunter of those who cannot look after themselves, we are also undermining our moral standing as a community. This acid test will show where we draw the line between a profit-making market and a caring community that is prepared to invest public money in a public purpose, such as caring for those who cannot care for themselves. It is extremely important that we remain solid on this issue and ensure that this facility remains in public hands.

The Nationals member Ms Jennifer Gardiner has moved an amendment that effectively agrees to privatisation so long as the services provided by the facility are not jeopardised. We oppose that amendment for a number of reasons. First and most important, if the services are jeopardised it is too late once a facility is privatised. We must not conduct an experiment by privatising the facility and seeing what happens. Oops, the

quality of service has declined. But it is too late because it is already in private sector hands. Let us not go down the one-way path of privatisation. We do not need to conduct such an experiment. This facility works extremely well under public sector control and provides quality services.

The second reason the Greens oppose the amendment is it is almost certain that "if" will become "when"; the services will be jeopardised by privatisation. The third reason is that the overwhelming call of the people of the electorate of Wallsend and in the Hunter is to keep the Wallsend Aged Care Facility in public hands. They are not interested in disturbing the quality of care, the security of tenure and the sense of serenity that privatisation inevitably would bring. By not supporting this motion, the House would place in jeopardy not only the aged care facility but also the entire belief that this society ought to care for those who cannot care for themselves. I congratulate my colleague Ms Lee Rhiannon and, in particular, the people of Wallsend on the way they have rallied around this facility, and for their strong stand and insistence that this facility remain in public hands. I commend the motion to the House.

The Hon. GREG DONNELLY [3.02 p.m.]: The Government is vitally interested in the care and wellbeing of the many older people living in New South Wales. We continue to work hard to promote access by older people to the care and support they require. There is ample evidence of this across the State, from housing and transport services through to home and community services care. But governments across Australia are far from the only provider of services for older people. In fact, when it comes to residential aged care services in New South Wales, government-operated aged care places comprise less than 2 per cent of the total number. The vast majority of residential aged care services, more than 98 per cent, already are provided by the non-government sector—and they are doing a very good job. The non-government operators of nursing homes in New South Wales have many years of experience and substantial expertise in this field. They are highly regarded by their peers within the industry and by the wider community for the quality of care they provide.

Recognising the real strengths of the non-government sector in the delivery of aged care services, the New South Wales Government concluded about 10 years ago that it was no longer necessary for NSW Health to be a nursing home operator. After all, the core business of the public health system in New South Wales is, logically, health services, not aged care services. Many other providers can do at least the same if not a better job in delivering nursing home services. Accordingly, some time ago the State Government commenced a reform program, which has already seen a successful transfer of a number of State nursing homes to non-government organisations. The call for expressions of interest earlier this year in relation to 11 of the remaining State nursing homes and the request for detailed proposals that followed are a continuation of this reform program.

Importantly, the process for transferring State nursing homes to the non-government sector is underpinned by a clear set of guiding principles, which have been circulated widely to all interested parties. These principles commit NSW Health to ensuring that the aged care services and places stay in the local towns and suburbs, that aged care services to existing residents are maintained by the new provider and that any disruption in services is minimised during transfer process, and good communications throughout the transfer process with affected residents, their families and carers, staff, unions and the local community. The guiding principles also provide for the protection of job-related entitlements of affected nursing home staff. A guiding principle of particular relevance to the Wallsend Aged Care Facility refers to residents with special care requirements. A small proportion of the residents in the Wallsend nursing home fall into this category and have been the subject of special and detailed attention in all the planning that has been undertaken for the transfer process. As this is important I will quote the relevant principle in full:

> Where a State-owned nursing home operates aged care places identified for the care of residents with special care requirements these aged care places must continue to be operated at the same level of care and service by the new non-government aged care provider.

The House will note that this is not a discretionary clause. The new aged care provider must continue to provide the same level of care to individuals in a nursing home who have special care requirements. All short-listed proponents for the Wallsend Aged Care Facility were given information about the assessed needs of residents in that facility who have special care requirements. The evaluation process to which all detailed proposals are being subjected includes specific criteria to assess the proponent's plans for the care of this group of residents. This leads me to the final guiding principle. To paraphrase: Where detailed proposals received from non-government proponents are unsatisfactory to the New South Wales Government and cannot be accepted the nursing home will continue to be operated by the State Government. In other words, if none of the detailed proposals received adequately addresses all the evaluation criteria the nursing home will not be transferred under the current process.

This provision is surely one that the residents, their families, the staff and members of the local community would see as an important and essential safeguard for the entire process. It is a principle that the New South Wales Government was more than happy to sign up to because it has a commitment to ensuring a good outcome from the State nursing home transfer process for all interested parties, especially and importantly the residents. The New South Wales Government appreciates the strong and longstanding connections that the local community has with the Wallsend Aged Care Facility and the hospital that it replaced on the site 17 years ago. The Government also readily acknowledges an obligation to ensure that all residents of the facility continue to receive the care they need and deserve. These two factors make it all the more determined to ensure that the final decision in relation to the transfer of Wallsend and other State nursing homes are well informed by a rigorous and thorough evaluation of the detailed proposals received. The Wallsend residents, their families, the staff and members of the local community have a right to expect nothing less. I urge the House to vote against the motion moved by Ms Lee Rhiannon.

Ms LEE RHIANNON [3.08 p.m.], in reply: I thank members for recognising the urgency of this matter and I thank members who have participated in the debate. The case has been clearly made out: There is no role for a private operator at the Wallsend Aged Care Facility. Government speakers—Ms Amanda Fazio, Ms Kayee Griffin and Mr Greg Donnelly—were working overtime to try to justify a proposal that cannot be justified from a Labor perspective. It does not fit with what people believe Labor stands for. But as we are seeing more and more in so many communities, people are starting to see otherwise.

Ms Fazio went to great pains to try to make out that the care and wellbeing of the people in this facility would continue to be of a high standard. She makes out that the core business of the public health system in New South Wales is logical health services, not aged care services. Nothing about that is logical at all. Wallsend Aged Care Facility does not care only for elderly people but also for a number of young people with severe acquired brain injuries. Nursing staff are clearly working on a range of complex health issues with these patients. The attempt to shuffle the health component of this facility out the door was regrettable, but certainly revealing.

Reverend the Hon. Dr Gordon Moyes: It should have specialised areas supported by the Government.

Ms LEE RHIANNON: I acknowledge that important point, that they should have specialised areas. In their contributions to the debate Labor members clearly emphasised their view that this is just about a nursing home; they deliberately ignored the greater complexity of the work that is undertaken by the very many hardworking and fine staff members at that facility. It was revealing that Mr Donnelly attempted to excuse privatisation by suggesting that all the Government is doing is simply tendering. These days it is sometimes called testing the market—all this new language to try to avoid the word "privatisation". But Mr Donnelly was trying to say everything is okay because the Government has set standards and if the standards are not met the process will not go ahead. First, we must remember that simply because the Government states something does not mean it will happen. The Government is really trying to say that black is white. Just because the Government says that standards will be maintained in the facility does not mean that will happen.

There are many experienced private health facilities in which the standards are not maintained. That was certainly a message I was given loudly and clearly by carers, not only the young ones but also some of the older ones, who spoke to me when I visited Wallsend. They are concerned about standards. They are distressed every day, worrying about what is going to happen to their loved ones. They gave me many examples of the degrading way in which their loved ones who had been in private facilities were kept. They were at pains to explain that they were not blaming the staff in the private facilities; rather they were blaming a lack of resources.

I refer to the point that my colleague Dr John Kaye made very well: A private operator cannot run these facilities and maintain standards because, when these facilities are taken over by a private operator, it is all about the private operator making a profit. Something has to give. The level of care is eroded, which is simply unacceptable and it is why the community is working so hard to keep this facility in public ownership. It is why more than 10,000 community members came together in the early 1990s. I believe it is also why the facility was set up in 1892: The Government was not providing health facilities or hospitals for miners who were injured so the community stepped in.

The Wallsend Aged Care facility has been in public hands for more than 100 years. It has enjoyed a strong component of community involvement because the community understands clearly what is at stake. That

is why the Government has a clear responsibility to take a stand with the community and send the Government a message with this motion. When I refer to the community I refer also to carers and those who support them. Many of the local unions—the Newcastle Trades Hall Council, the New South Wales Nurses' Association, and the Construction, Forestry, Mining and Energy Union—have expressed their support for this facility remaining in public hands.

We have before us a Coalition amendment to fundamentally change section 2, which is the section of the motion where we call on the Government to not transfer the Wallsend Aged Care Facility to the non-government or private sector. The original motion states:

> And that the responsibility of this facility remain with the Department of Health in New South Wales.

That is certainly the wish of the community, a wish that was reiterated when they saw that this issue was debated in Parliament last Thursday. The Coalition amendment will remove the last section of the motion, which deals with the facility remaining with the Department of Health, and replace it with the words, "If the services currently provided by the facility are jeopardised". That amendment would gut the motion.

I am pleased that the Coalition is willing to support the need for the Wallsend facility not to be transferred, but putting that rider on it means that we are not sending a clear message to the Government: not only should it stay in public hands but also it should stay within the Department of Health. I urge members of the House not to support the Coalition's amendment. I thank all speakers who have participated in the debate. I remind people how hard the local community is working to retain the facility in public hands, as it has been for more than 100 years. I urge members to think of the carers and their loved ones in the facility who deserve quality care. We should not do anything that permits that quality care to be eroded. Passing this motion will send a clear message to the Government that it should work with the community to improve this facility and not allow private operators to take it over.

Question—That the amendment of the Hon. Jennifer Gardiner be agreed to—put.

The House divided.

Ayes, 15

Mr Ajaka	Mr Khan	Mr Pearce
Mr Clarke	Mr Lynn	
Ms Ficarra	Mr Mason-Cox	
Mr Gallacher	Reverend Nile	*Tellers,*
Miss Gardiner	Ms Parker	Mr Colless
Mr Gay	Mrs Pavey	Mr Harwin

Noes, 22

Mr Catanzariti	Mr Kelly	Mr Tsang
Mr Cohen	Mr Macdonald	Ms Voltz
Mr Della Bosca	Reverend Dr Moyes	Mr West
Ms Fazio	Mr Obeid	Ms Westwood
Ms Griffin	Ms Rhiannon	
Ms Hale	Mr Robertson	*Tellers,*
Mr Hatzistergos	Mr Roozendaal	Mr Donnelly
Dr Kaye	Ms Sharpe	Mr Veitch

Pair

Ms Cusack	Ms Robertson

Question resolved in the negative.

Amendment of the Hon. Jennifer Gardiner negatived.

Question—That the motion be agreed to—put.

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

The House divided.

Ayes, 19

Mr Ajaka	Ms Hale	Mrs Pavey
Mr Clarke	Dr Kaye	Mr Pearce
Mr Cohen	Mr Khan	Ms Rhiannon
Ms Ficarra	Mr Lynn	
Mr Gallacher	Mr Mason-Cox	*Tellers,*
Miss Gardiner	Reverend Nile	Mr Colless
Mr Gay	Ms Parker	Mr Harwin

Noes, 18

Mr Catanzariti	Reverend Dr Moyes	Mr West
Mr Della Bosca	Mr Obeid	Ms Westwood
Ms Fazio	Mr Robertson	
Ms Griffin	Mr Roozendaal	
Mr Hatzistergos	Ms Sharpe	*Tellers,*
Mr Kelly	Mr Tsang	Mr Donnelly
Mr Macdonald	Ms Voltz	Mr Veitch

Pair

Ms Cusack	Ms Robertson

Question resolved in the affirmative.

Motion agreed to.

ANIMAL WELFARE LEGISLATION AMENDMENT BILL 2009

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [3.28 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

The member for Sydney raised a number of issues during debate in the other place, the majority of which do not relate to the particulars of the bill. The bill contributes to a substantial package of reforms undertaken by the Government over the past year to improve animal welfare. Taken as a whole, it is not what I would describe as tinkering at the edges. I will take a moment to detail these reforms.

First, in January this year, the Government implemented three new standards under the Exhibited Animals Protection Act, which covers all animal exhibitions and includes permanent displays such as zoos, and temporary establishments such as circuses and mobile displays such as reptile displays and animal farms. The three new standards relate to the exhibition of animals at mobile establishments, during temporary removal and seals. The development of these three standards involved extensive consultation with the New South Wales Exhibited Animals Advisory Committee, the New South Wales Fauna and Marine Parks Association, Taronga Zoo and all licence holders.

Secondly, the Government also implemented a revised standard for circus animals in New South Wales. This standard was first developed in New South Wales in 1996 and was subsequently adopted by other States and Territories in Australia. In all, a total of 10 standards are prescribed under the Exhibited Animals Protection Act that contribute to improving the housing and husbandry of animals exhibited or on display. Referencing the standards in legislation also means that the majority of restrictions and rules applying to animal exhibiters are in one place, which improves education about, and compliance with, the standards and the Act.

Thirdly, the New South Wales Government has been working with industry on a national model code for pigs. This will lead to the Government progressing amendments to the Prevention of Cruelty to Animals Regulation, implementing sections of the national model code and making standards enforceable to promote the welfare of pigs. These standards will include restricting the use of gestation stalls to the first six weeks of a sow's pregnancy, and requiring industry to increase the minimum size of stalls used during gestation.

Fourthly and most recently, in September the Government introduced new standards for breeding dogs and cats. These standards, developed in consultation with enforcement agencies and industry, require that all people who breed cats and dogs for sale must meet minimum animal husbandry standards as set out in the Animal Welfare Code of Practice—Breeding Dogs and Cats. The new standard requires that written information must be provided to each purchaser to ensure that they are aware of pet ownership responsibilities, such as food, care and shelter requirements; a refund of 50 per cent within three days of the date of sale is offered in writing; animals must not be intentionally mated during the wrong parts of their cycles; a dog or cat must be physically and mentally fit, healthy and free of disease at the time of being mated; and in any two-year period, female dogs must not have more than two litters, and female cats must not have more than three litters, without the written approval of a vet.

The member for Sydney claimed that the new code does not address concerns relating to pedigree breeding. The requirements in the code extend to all types and breeds of dogs and cats—mongrels and pedigrees alike. The member for Sydney also mentioned the recent incident of the sale of Indian Blackbuck Antelopes by the Taronga Western Plains Zoo to a private person in New South Wales to be hunted in a game reserve. The claims that the animals were sold for the purpose of being shot are untrue. Both parties are on record stating this. In addition, under the Prevention of Cruelty to Animals Act, it is unlawful to operate a game park for shooting purposes in New South Wales.

The member for Sydney also stated that the rate of animals used in experiments had increased. Statistics collected and published in the annual reports of the Animal Review Research Panel, from 2004-05 to 2007-08, show that since 2005 the number of animals used in category 7 procedures has declined by 21 per cent. It is unfortunate that some animals are used in science and research. However, all animal research in New South Wales is carried out under the nationally accepted Australian Code of Practice for the Care and Use of Animals for Scientific Purposes. Further, the New South Wales Government is a leader in the protection of animals used in research.

The New South Wales Animal Research Act establishes a veterinary inspectorate as well as an Animal Research Review Panel to oversee the use of animals in research. The review panel includes nominees from animal welfare as well as scientific organisations. No animal research may be carried out without the approval of an animal ethics committee, which includes veterinary, scientific, animal welfare and independent members. The Animal Research Review Panel publishes extensive examples of alternative research methods that require fewer animals or no animals at all, or lessen the impact of procedures on animals. These reforms improve animal welfare in New South Wales.

The bill before the House today adds to the reform package that I detailed earlier. It does this by improving the treatment of animals, particularly those exhibited or on display in zoos, circuses, marine parks and mobile farms. The main aim of the Animal Welfare Legislation Amendment Bill is to reduce the risk of animals being mistreated, particularly by repeat offenders. The bill achieves this through changes to the Exhibited Animals Protection Act 1986 and a minor but important change to the Prevention of Cruelty to Animals Act 1979. The first amendment to the Exhibited Animals Protection Act 1986 will give the Director General of Industry and Investment New South Wales the power to disqualify a person from holding an authority under this Act for a period of up to five years. An authority includes a licence, approval or permit to exhibit or supervise the exhibition of animals in zoos, marine parks, circuses and other places which exhibit animals to the public. This simple but important change minimises the risk of repeat offenders by preventing a person reapplying for an authority for up to five years, where they have had a previous authority cancelled for misconduct.

The second amendment to the Exhibited Animals Protection Act will provide certainty and transparency about what the director general may consider in determining whether to issue an authority. This amendment will ensure that those authorised to exhibit or supervise the exhibition of animals are competent and informed and have the capacity and desire to treat animals humanely. Again, if a person has not complied with animal welfare rules and regulations, the director general will be able to take this into account when determining whether to grant an authority under this Act.

Specifically, when determining whether to issue an authority, the director general may consider whether the applicant has been convicted or found guilty of an offence against New South Wales animal welfare legislation, being the Exhibited Animals Protection Act 1986, Prevention of Cruelty to Animals Act 1979, Animal Research Act 1985, the National Parks and Wildlife Act 1974 and any instruments made under these Acts. The director general also has to consider whether the applicant has been convicted or found guilty of an offence under any law of another State or Territory or the Commonwealth relating to the keeping or protection of animals.

The director general also has to consider whether the applicant has previously failed to comply with any term or condition of an authority; has previously held an authority that has been cancelled or suspended by the director general; has the capacity to care for animals and comply with this Act and any prescribed standards; has provided false or misleading information, and is a fit and proper person to hold such an authority.

I now turn to the amendment to the Prevention of Cruelty to Animals Act 1979. In Victoria and Tasmania, legislation allows the responsible Ministers in these jurisdictions to recognise interstate court orders that prohibit individuals from keeping animals. An amendment to the Prevention of Cruelty to Animals Act will give the New South Wales Minister for Primary Industries similar powers. The Minister will be able to recognise an interstate court order that prohibits a person from buying or possessing an animal. Once such an order is recognised by the Minister it can be enforced in this State under the Prevention of Cruelty to Animals Act.

This amendment is supported by the two organisations that investigate the majority of animal cruelty incidents—the Royal Society for the Prevention of Cruelty to Animals [the RSPCA] and the Animal Welfare League. During the 2007-08 financial year in New South Wales, the RSPCA investigated over 13,000 complaints of animal cruelty, with over 800 charges being laid. The prevention of interstate offenders from owning or possessing animals in New South Wales can only contribute to reducing the number of incidences of animal cruelty and reduce the costs for the RSPCA and the Animal Welfare League.

The bill also proposes two other minor amendments. Firstly, the bill includes a third amendment to the Exhibited Animals Act to revise the appeal mechanisms under the Act to reduce duplication and costs. Currently, appeals may be heard by either the New South Wales Minister for Primary Industries or the Local Court. This amendment will result in a single appeal pathway, straight to the Administrative Decisions Tribunal. This will enable appeals to be dealt with by members of the tribunal with appropriate expertise in administrative law. This will be consistent with existing appeal mechanisms in other New South Wales animal licensing legislation. For example, the tribunal currently hears appeals under the Non-Indigenous Animals Act. All of the reforms to the Exhibited Animals Protection Act are supported by the New South Wales Exhibited Animals Advisory Committee and the New South Wales Fauna and Marine Parks Association.

The final amendment proposed in this bill is to the Apiaries Act 1986. The amendment proposes administrative reform for the Australian beekeeping industry to allow exemptions from registration for beekeepers. The amendment will allow for the making of a regulation to provide that interstate beekeepers who are registered in another State can operate in New South Wales for short periods of time without needing to be registered in New South Wales. This approach to interstate registration is consistent with the principles of mutual recognition. It will also reduce the regulatory burden on industry by making it easier for registered beekeepers to conduct their businesses. It will allow beekeepers to follow seasonal sources of nectar and pollen without having to comply with unnecessary administrative requirements. The New South Wales Apiarists' Association and the Australian Crop Pollination Association support the proposed amendment.

All of the amendments contained in this bill are straightforward administrative reforms and are the result of extensive consultation with industry and stakeholders. Once implemented, they will improve the welfare of animals on exhibition or display in zoos, circuses, mobile farms and fauna and wildlife parks in New South Wales, and reduce the opportunity for animals to be mistreated repeatedly. Any steps to improve animal welfare, no matter how small or insignificant they may be perceived, are steps that should be taken and supported by all. Farmers requiring bees for pollination and beekeepers will benefit from reduced market barriers and increased mobility brought about by this bill. All of these proposals are sensible and useful amendments and I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [3.39 p.m.]: We could call this bill the Wagga Wagga bill; it is so good the Government gave the speech twice; the agreement in principle speech was read in the lower House and the Hon. Penny Sharpe read the second reading speech onto the record in this

House. Having said that, the Animal Welfare Legislation Amendment Bill 2009 is a good bill, and the Opposition does not oppose it. Although it is unusual for a government bill, this bill contains worthwhile initiatives that deserve our support. At the outset I contacted the New South Wales Farmers Association, which indicated its concern, in particular with biosecurity. When the House last sat, I spoke to the Minister's advisers, who told me that those concerns on biosecurity and the class of persons had been addressed, after discussions with the New South Wales Farmers Association.

I sent a note to the RSPCA seeking its views on the bill but I am still waiting for a response, which is very disappointing. The RSPCA wants to move into primary industry areas, yet when the Opposition seeks its views on legislation before the Parliament that may have some ramifications for it, there is deathly silence. In fact, the House will deal with another bill today that the RSPCA thought had nothing to do with it, yet we actually received a response in that instance. If the RSPCA is monitoring my speech and I am misrepresenting the organisation because of one person, I am sure someone from the organisation will get back to me. As the Minister correctly indicated, the bill amends the Prevention of Cruelty to Animals Act 1979 to give the Minister the power to recognise interstate court orders that prohibit certain people from buying or keeping animals. That is a logical and proper measure. If someone has acted improperly in another State, we should be cognisant of that fact. The Opposition applauds and supports that measure. It will reduce the risk of a person subject to such an order in another State simply moving to New South Wales to reoffend.

The bill also aims to amend the Apiaries Act 1985. This exemption will enable the making of a regulation to allow interstate beekeepers registered in another State to operate in New South Wales for a three-month period without the need to be registered here. Bees do not recognise State borders. It may be necessary for bees to fly over the Murray River to the other side of the border to obtain the pollen from the flora. This sensible amendment acknowledges the needs of apiarists and the bee industry, which provides a healthy product and is an industry that will become increasingly important for medical purposes in years to come.

The bill amends the Exhibited Animals Prohibition Act 1986 to include a list of matters that relate to an applicant's past actions in caring for animals that the Director General of the Department of Industry and Investment may consider in determining an application for an authority. I wonder why "Agriculture" has been removed from the name. In the new superdepartments, token support is given to food security, yet Agriculture has been removed from the name. The bill also provides the director general with the power to disqualify a person from holding an authority for up to five years and streamlines the appeals process under the Act. The bill contains small but important changes to the Prevention of Cruelty to Animals Act and the Apiaries Act. The Opposition does not oppose the bill.

Reverend the Hon. FRED NILE [3.44 p.m.]: The Christian Democratic Party supports the Animal Welfare Legislation Amendment Bill 2009, which aims to improve animal welfare in New South Wales. It is very important to provide animal welfare and animal protection. The two main bodies given the responsibility for animal welfare are the Royal Society for the Prevention of Cruelty to Animals and the Animal Welfare League, which, thankfully, receive many donations from the public and grants from the Federal and State governments. The report of the 2007-08 financial year revealed that the RSPCA investigated more than 13,000 complaints of animal cruelty in New South Wales, with over 800 charges being laid, which confirms the importance of the bill.

Of particular importance is the new provision to amend the Prevention of Cruelty to Animals Act 1979 to allow the Minister to recognise and enforce in New South Wales interstate orders made by a court in another State or Territory which prohibits a person from buying or possessing an animal, so as to prevent such persons from keeping animals in New South Wales. At present it is possible for a person charged with abusing animals in another State to meet the court orders but then move to New South Wales and again have animals in their care which they could abuse. That will not be possible under this bill and the Minister will have the power to take action against those persons.

The bill also amends the Exhibited Animals Protection Act 1986 to include a list of matters that relate to an applicant's past actions in caring for animals that the Director General of Industry and Investment New South Wales may consider in determining an application for an authority. It will provide the Director General of Industry and Investment New South Wales with the power to disqualify a person from holding an authority for up to five years where the authority has been cancelled for misconduct. It will streamline the appeals process under the Act by allowing appeals to the Administrative Decisions Tribunal rather than to the Minister or the Local Court. The bill amends the Apiaries Act 1985 to make regulations to allow interstate beekeepers to operate in New South Wales for a limited period of time without registering. The Christian Democratic Party supports the bill.

Reverend the Hon. Dr GORDON MOYES [3.48 p.m.]: The object of the Animal Welfare Legislation Amendment Bill 2009 is to amend three prior Acts of the Parliament—the Apiaries Act 1985, the Prevention of Cruelty to Animals Act 1979 and the Exhibited Animals Protection Act 1986—by giving the New South Wales Minister for Primary Industries the power to recognise interstate court orders that prohibit certain persons from keeping animals so that interstate orders will be enforceable in New South Wales, ensuring that such individuals are not repeat offenders here; by providing guidance and transparency in licensing matters and refining the appeal mechanisms resulting in improved animal welfare, reduced costs and less red tape; and by providing for exemptions for registration for a person who brings bees into New South Wales following a crop, if they stay for less than three months and are properly registered in another State.

The real benefits of these amendments are generally administrative and practical, not really for the animals' welfare, except in a minimal way. The amendment to the Apiaries Act 1985 will make it easier for out-of-State bee owners to come to New South Wales on business. Bees do not really care what State they get their flower nectar in, as long as they get it. But the pollination services required by interstate agricultural interests will be more easily obtained with these amendments. Beekeepers will benefit from the resulting freer mobility and fewer obstacles for their bees without borders, and that is sensible. But let us not pretend the bill is about animal welfare.

If we were actually interested in the welfare of bees we would encourage the agricultural industry to minimise the use of chemical insecticides, which are deadly to bees. We would encourage the creation and preservation of bee-friendly habitats in urban environments by allowing more public space to grow wild, rather than be mown down, cut back and cemented over. And since bees need a wide variety of nutrients in their diets from all sorts of plant life, including what are considered "weeds", we could let more native plants grow naturally: a diversity of native plants and flowers in our gardens and public places would provide bees with good food sources throughout the growing season. And we would encourage farmers to avoid seeds coated with systemic insecticides, which are toxic to bees. There has been a huge die-off of bees globally recently, which should be sounding alarm bells to all nations because we are dependent on the pollination carried out by bees for a large proportion of our food crops. But this bill is not about the welfare of the bees.

The honey bee is not a native bee in Australia, according to the Australian Native Bee Research Centre. It was brought to Australia in 1822 to produce honey for the new colony. The Australian native bees have evolved with the wildflowers for millions of years and are very capable of pollinating them but do not make commercially exploitable amounts of honey. Most of them are tiny, delicate, nearly inconspicuous bees that have great difficulty competing with the highly efficient commercial bees that have been introduced from Europe. This bill does not help them either.

The amendment to the Prevention of Cruelty to Animals Act 1979 allows the Minister for Primary Industries to recognise interstate court orders that prohibit certain individuals from keeping animals. I question putting any Minister for Primary Industries in the position of judging people who have previously mistreated animals because the framework within which he or she works, that of Primary Industries, by definition perceives animals as pests, research subjects and commodities with or without economic value. I do not recall the current office holder being interested in the welfare of the animals of the Northern Rivers area who were terrified or run over by the vehicles of the Repco Rally tearing up their natural habitats for three days in September. Nor was any concern expressed by the Minister over the welfare of the birds and wildlife in the Sydney Olympic Park where in excess of 250 trees are being torn up on the streets where the V8 Supercar races will be held—against the will of the surrounding residents, local councils and bird conservation groups.

The Minister's advisor regarding feral animal management was thrilled to have shot an elephant in Africa recently—a species with highly developed family life, social organisation and proven intelligence, an awesome creature which, in my estimation, should never be hunted and killed for "sport". But this amendment hopes to minimise the potential for people who have committed acts of animal cruelty interstate in the past from repeating their crime in New South Wales, and that is laudable. The third amendment, to the Exhibited Animals Protection Act 1986, would empower the Director General of Industry and Investment NSW to consider the past actions and capacity of those applying for licences, approvals and permits to exhibit or supervise the exhibition of animal in zoos, circuses and other establishments that publicly exhibit animals in New South Wales.

Regarding people who keep animals for exhibition, such as travelling circuses, I loved these travelling circuses when I was a kid. Nothing was more exciting for us than when we would see the big vans pulling into town to set up the big tent. But my love for the circuses was well before I had any idea of how the animals they have for show are trained and kept captive in miserable conditions. When I learned the details, I could never

overlook their suffering again. If we wanted to help progress the efforts toward a more compassionate treatment of animals, we would seriously consider banning travelling circuses from having exotic animals at all. I well remember learning as a young child Ralph Hodgson's poem:

'Twould ring the bells of Heaven
The wildest peal for years
If the Parson lost his senses
And the people came to theirs,
And he and they together
Knelt down with angry prayers
For tamed and shabby tigers
And dancing dogs and bears,
And wretched, blind pit ponies,
And little hunted hares.

Yet the amendment appears on its face to make sense otherwise. The bill is, after all, supported by the RSPCA and the Animal Welfare League, on my contact with them—those overworked, underfunded bodies that pick up the pieces when people shirk their responsibility towards the animal kingdom. With more than 13,000 complaints of animal cruelty investigated by these agencies in 2008 in New South Wales alone, we should be doing a lot more for animal welfare than making minor adjustments to the current legislation and bureaucratic systems. Having got that off my chest, however, I will support the bill.

Ms LEE RHIANNON [3.55 p.m.]: I speak on behalf of the Greens, not to congratulate the Government on the Animal Welfare Legislation Amendment Bill—

The Hon. Greg Donnelly: We wouldn't expect that, Lee, don't worry.

Ms LEE RHIANNON: I acknowledge the interjection, because Labor is in such a dysfunctional state at the moment. I have congratulated the Government at times, when its legislation is decent. Once again as Government Whip the Hon. Greg Donnelly does such a disservice to his party. As I was saying, I speak on behalf of the Greens, not to congratulate the Government on the Animal Welfare Legislation Amendment Bill but to hold the Government to account for making such minor changes to this State's system of animal welfare when it is crying out for a major overhaul.

The changes will mean that interstate court orders that ban animal keepers will be recognised. The changes will also allow interstate registered beekeepers to operate in New South Wales for up to three months without registering in this State. Together with a couple of other small changes, this is the sum total of the Government's work today to improve animal welfare outcomes in New South Wales. It is an inadequate response to the many areas where tougher animal protection laws are urgently needed. On behalf of the Greens and the many animal welfare activists who devote their lives to improving the welfare and wellbeing of animals, and for the animals themselves, I will take the time to summarise for the Government some of the work it needs to undertake before it can claim any victory for animal welfare in this State.

New South Wales has a legally sanctioned system of animal experimentation that is both cruel and excessive. The mismanagement of animal experimentation in New South Wales has resulted in an increase in animal deaths and suffering. Last year more than 8,000 animals died in legally sanctioned experiments and more than 16,000 animals were subjected to high levels of pain and distress, according to the Animal Research Review Panel 2007-08 report. I reviewed this report when it was released in July this year, and I called on the Minister for Primary Industries, Ian Macdonald, to take responsibility for this policy failure and for the New South Wales Government to urgently revise the management of animal experimentation.

It was a shocking report that highlighted the failure of the current model for overseeing animal experimentation. The existing regime amounts to self-regulation. There is an urgent need to review how institutions and individuals are issued with licences. New South Wales lags behind other jurisdictions in embracing non-animal alternatives for testing products and education programs. There is now solid evidence that not only are non-animal technologies more humane but they also produce scientifically valid data. The University of Sydney's medicine faculty is taking a lead in promoting computer simulation and interactive practicals that reduce the use of animals. Dr Batmanian in the faculty has created a cardiovascular control practical that replaces the use of approximately 250 rabbits per year. That is clearly a good thing; it shows the potential in this area if it were supported. In light of these developments, it is alarming that in New South Wales the number of animals that die in experiments is increasing. This legislation amendment process was an opportunity to seek more humane ways of testing products, and it is disappointing to see that work missing from the bill.

This month the Greens strongly criticised the shooting of 140 Eastern Grey kangaroos and their joeys—estimated to be almost the entire kangaroo population at the Bathurst 1000 Mount Panorama race site—in preparation for that car race event. In the past the council has herded the kangaroos off the site before the event. It was clearly a dereliction of duty on the part of the National Parks and Wildlife Service and Bathurst City Council to allow the kangaroo slaughter when there were other, more humane and ethical ways of managing the possible safety risks to the car drivers. The National Parks and Wildlife Service reportedly issued two licences to Bathurst City Council to conduct the cull, the first for 60 kangaroos and the second for 80. At this time of the year many kangaroos would have had a joey at foot and one in the pouch. A local consulting ecologist—

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

QUESTIONS WITHOUT NOTICE

THE HONOURABLE HENRY TSANG

The Hon. MICHAEL GALLACHER: I direct my question without notice to the Treasurer. Will the Treasurer request that the Henry Tsang, MLC, be stood down from his role as Parliamentary Secretary to the Treasurer on Trade and Investment until the Premier has concluded his investigation into the member's relationship—

The Hon. Greg Donnelly: Point of order: The question of the Leader of the Opposition is out of order. Standing Order No. 64 (1) deals specifically with questions relating to public affairs for which the Minister is officially connected. The question is directed to the Treasurer in respect of matters that have nothing to do with his public affairs or the public affairs of the person that the question is about.

The Hon. MICHAEL GALLACHER: To the point of order: First, I have not finished the question. Second, the Treasurer is being asked about a person who is the Parliamentary Secretary to him. I am asking the Treasurer whether his Parliamentary Secretary should be requested to stand down pending an inquiry and what requests the Treasurer has made. I have not finished the question.

The PRESIDENT: Will the Leader of the Opposition provide the Clerk and me with a copy of the question?

The Hon. MICHAEL GALLACHER: Yes.

The PRESIDENT: Order! I will allow the question. The Leader of the Opposition may ask the question in full.

The Hon. MICHAEL GALLACHER: Will the Treasurer request that the Henry Tsang, MLC, be stood down from his role as Parliamentary Secretary to the Treasurer on Trade and Investment until the Premier has concluded his investigation into the member's relationship with the Chinese-backed construction group Hightrade? If not, will he explain to the House why not?

The Hon. ERIC ROOZENDAAL: The Premier made a statement in response to a question on this matter in the other place. I refer the member to the Premier's answer.

STATE ECONOMY

The Hon. HELEN WESTWOOD: I address my question without notice to the Treasurer. Will the Treasurer advise the House on the latest information on the New South Wales economy?

The Hon. ERIC ROOZENDAAL: I thank the honourable member for her question and interest in this important matter. I suspect I need to give my usual pre-question warning to the Opposition: there is again good news about the economy. The Opposition hates to hear good news because it likes to talk down the State and national economies. I pre-warn the Opposition that we have more good news and Opposition members should not be upset about it. I observe that the mere threat of good news about the economy starts the Opposition yelling, as it talks down the State's economy.

This morning the National Australia Bank released its monthly survey of business confidence. Members will be pleased to learn that business confidence jumped to a seven-year high in the September

quarter. This is great news, and another sign that we are starting to turn the corner towards recovery. Indeed, we are seeing the green shoots of recovery. That is because both the State and Federal governments have worked together in partnership through their stimulus strategies. The business confidence survey grew by 20 points to plus-16 points in the three months to September—levels last seen in early 2002. Chief Economist of the National Australia Bank, Alan Oster, said in a statement:

> New data in this survey point to a significant jump in both near and long term business expectations—with longer term expectations, in particular, returning to around long run average levels.

The survey also showed business profit expectations had returned to levels last seen in the first quarter of 2008, while employment confidence had returned to pre-global financial crisis levels. New South Wales is the engine room of the Australian economy, and it is great to see business confidence at record levels. I am also pleased that business retained workers in New South Wales and across Australia and did not copy the experience of the United States of America of shedding workers.

The recovery in our economy is in large part due to the Federal and State stimulus packages. In the last budget the New South Wales Government announced a four-year $62.9 billion infrastructure investment, which is supporting around 160,000 jobs per year. The Government is also making good progress in implementing the Building the Education Revolution program into schools in New South Wales. Under the Primary Schools for the 21st Century [P21], 484 projects are underway—new projects are starting at a rate of about 100 per week.

The Hon. Michael Veitch: How many?

The Hon. ERIC ROOZENDAAL: One hundred per week. The Commonwealth Government's Building the Education Revolution program represents an historic investment in the schools of New South Wales, an investment worth some $5 billion that will be delivered between now and 2011. The New South Wales Government has stepped up to the challenge of implementing this program of works, making sure that every eligible school has its work delivered in a timely, efficient and cost-effective manner. I am advised that work has started at every school under the National School Pride program and schools in round one are now on track for completion by the end of December. Tenders have been announced for the construction of science and language centres in the State's high schools and work has already begun on that package. The first refurbishment has been completed under the program.

The Government anticipates that this stimulus spending will support around 15,000 jobs per year in New South Wales. This funding is in addition to the record funding provided by the New South Wales Government towards building and maintaining schools in New South Wales, including the $2 billion Building Better Schools initiative, and the $150 million Principals' Priority Building Program. It is worth noting that the Government met these challenges at the same time as it secured the State's triple-A credit rating as the economy improves. At 1.00 p.m. today we saw Moody's investors grant a triple-A rating to the latest bond issue of the New South Wales Treasury. Yet again, this is a demonstration of the strength of the New South Wales economy.

ETHANOL AND PETROL

The Hon. DUNCAN GAY: I direct my question to the Minister for Lands, in his capacity as the Minister who presented the bill to this House for the use of ethanol. Is it correct that the New South Wales Government will require all standard octane petrol sold from petrol stations to be blended with ethanol from 2011? Is the Minister aware that ethanol-blended petrol is not suitable for outboard marine engines? Is the Minister aware that because of this boat owners will have to use premium petrol at up to an extra 10¢ per litre? What plans does the Government have in place to ease the extra financial burden on boat owners, many of whom are pensioners?

The Hon. TONY KELLY: I thank the member for a very good question. The Hon. Duncan Gay is correct. A bill was passed through this House that as from 1 July 2011 all standard octane petrol, or 91 octane petrol, will have E10 in it. There are advantages to that. I will not repeat those advantages as I recently went through them in answer to a question by Mr Ian Cohen. It is true that some vehicles, including boats, ultralights, some pre-1986 vehicles that should be using super petrol and some newer model vehicles, cannot use it. For that reason we intend to leave it to choice. It does not have to be 98 premium. I understand three different grades of fuel over and above regular unleaded will be able to be used. It is slightly more expensive.

The New South Wales Marine Authority website gives detailed advice in relation to the recommendation against using E10 fuel in marine engines. The potential problems associated with

ethanol-blend fuels are well known. Ethanol can degrade incompatible components in the fuel system such as fuel lines made of natural rubber or tanks made of fibreglass. Motorbikes also are an issue, as I learnt from my farm motorbike. Engine failures or fires that may result from ethanol-blend fuel are particularly hazardous at sea. Ethanol is hydroscopic: it absorbs water. If sufficient water enters the fuel, phase separation of a water-ethanol layer can occur, causing engine failure. Ethanol-blend fuel may be less stable in long-term storage, which can lead to engine problems if the fuel remains unused in tanks for long periods. In fact, that is a recommendation for any fuel. It is recommended that stale fuel that has been in engines unused from last year be changed.

The Hon. Catherine Cusack: Including lawn mowers.

The Hon. TONY KELLY: Including lawn mowers.

The Hon. Duncan Gay: Have you looked at an off-road component for this situation?

The Hon. TONY KELLY: The problem with an off-road component is that at some stage the fuel companies will not want to produce a small amount of non-standard fuel. That is the reason for this measure. At least three fuel companies wrote to the Government saying they would prefer one grade of fuel changed over completely for infrastructure reasons. That means they would not have to install extra tanks and introduce extra logistics to cart the fuel around to various areas. At some time the fuel companies will decide that it is not economic for them.

The Hon. Duncan Gay: They have more money than pensioners.

The Hon. TONY KELLY: True. Ethanol-free premium grade unleaded petrol will continue to be available for boats, older vehicles, ultra-light aircraft and other uses.

THE HONOURABLE HENRY TSANG

Dr JOHN KAYE: My question without notice is directed to the Treasurer. Has the Parliamentary Secretary for Trade and Investment, the Hon. Henry Tsang, had any dealings with the construction company Hightrade? If so, what was the nature of those dealings? Has Mr Henry Tsang stayed at the Crown Plaza in Pokolbin in the Hunter Valley at the expense of Hightrade, its owners or affiliates?

The Hon. Greg Donnelly: Point of order: My point of order is similar to my earlier objection and relates to Standing Order 64 (1). A question has been addressed to the Minister about a private matter in relation to a member of the House who happens to be a Parliamentary Secretary.

The PRESIDENT: Order! A question is in order if it relates to public affairs with which the Minister is officially connected, but it must not relate to private matters involving the member. The time for asking the question has expired. However, extending the same fairness I extended to the Leader of the Opposition earlier, I will allow the member to complete his question.

Dr JOHN KAYE: The third part of the question is: Did Mr Henry Tsang visit Hebei province in China in August 2009 in the course of his duties as Parliamentary Secretary? If so, did Hightrade's affiliates or directors pay in part or in whole for Mr Henry Tsang's trip? Did Mr Henry Tsang represent or make representations on behalf of Hightrade in respect to the construction of a golf resort in Handan?

The Hon. ERIC ROOZENDAAL: I refer to my previous answer.

Dr JOHN KAYE: I ask a supplementary question.

The PRESIDENT: Order! There can be no supplementary question arising out of the answer given by the Treasurer.

JOBS CREATION AND YOUNG PEOPLE

The Hon. LYNDA VOLTZ: My question without notice is addressed to the Special Minister of State. What action is the Government taking to create employment opportunities for young people?

The Hon. JOHN ROBERTSON: I thank the Hon. Lynda Voltz for her question and ongoing interest in employment opportunities for young people in New South Wales. The Government is committed to boosting jobs and providing training and development opportunities for young people. Today I am pleased to inform the House of the expansion of the Government's public sector cadetship program. Known as Jump Start, this program is a great chance for Higher School Certificate graduates who do not want to go to university to kickstart a career in the New South Wales public sector. Successful applicants are offered a cadetship in a public sector agency for 12 months and are able to go on to a permanent position once they have successfully completed the program.

Jump Start was established following the announcement by the Premier in February that the Government would sponsor 6,000 apprentices and cadetships over the next four years. It is one of a range of measures the Government is taking to protect young people from the impact of the global recession. It is part of the Government's approach to supporting jobs and helping young people build successful careers in the public sector. After Jump Start began its pilot phase earlier this year, the Government was pleased with the enthusiastic response from eager young job seekers. The overwhelming response meant that 80 high-quality cadets were chosen from this initial group to work in office administration, customer service, IT support and farming.

The Government is now moving to the next phase, which will see more than 250 positions available for school leavers considering their career options. We are looking for cadets in a range of professional areas, including nursing assistants, residential support workers, water supply operators, Aboriginal field workers and tourism officers. The program is being advertised in newspapers, on radio and online and material has been circulated to organisations that provide services to young people. The cadetships are available right across greater Sydney, from the northern beaches to Warragamba, with the majority of positions concentrated in western Sydney. Positions are also available in regional communities, including Bathurst, Dubbo, Tamworth, Grafton and Tumut.

We are calling for enthusiastic young people who want to earn while they learn in the New South Wales public sector. I am pleased to report that the number of participating agencies also has expanded greatly since our first round of recruitment. More than 25 government organisations will provide on-the-job learning, mentoring and assistance to ensure that these young people develop skills that give them the opportunity to succeed in the public sector. The traineeships are being offered in agencies as diverse as Taronga Zoo, Railcorp, Tourism NSW and the Department of Education and Training. This investment in the future skilled workforce will see some of our youngest workers become our most highly valued employees in the years to come.

The Government is committed to ensuring that young workers have access to training in a supportive workplace environment. We are delivering on that commitment. Last month I informed the House that the Government had reached its first year apprenticeships target four months ahead of time. Over 1,000 apprenticeships have been created over the last eight months. I am pleased to report that our cadetships targets are not only well on track but will exceed our targets for this year. If members of the House know of anyone under 25 who is keen to begin a career in the public sector, I urge them to pass on this information. Applications close next month, and we are encouraging people to get in quick and visit *www.jobs.nsw.gov.au* to apply.

TEACHERS

Reverend the Hon. Dr GORDON MOYES: My question is directed to the Attorney General, representing the Minister for Education and Training. Is the Minister aware of a survey released today by the Australian Education Union, which found that almost 60 per cent of schools have trouble getting the teachers they need and that about 58 per cent of secondary teachers are teaching subjects that are outside their area of expertise? Is the Minister aware that schools have difficulty in recruiting and retaining qualified teachers in mathematics, technology, computer science and languages?

In particular, is the Minister aware of the Organisation for Economic Co-operation and Development [OECD] Education at a Glance report, which ranked Australia as second last of the 27 OECD nations in public expenditure on public institutions, and that experienced teachers are paid significantly less than the OECD average, despite teaching longer hours and more weeks than in most OECD nations? With 16,000 teachers retiring in four years, what is the future of public education in New South Wales as more and more teachers are underqualified and underpaid?

The Hon. JOHN HATZISTERGOS: I am happy to refer the honourable member's question to the Minister of Education, but I caution the honourable member to reflect on some of the recent achievements of

education, particularly public education, in both the Higher School Certificate results late last year and also in the basic skills test results, which were released relatively recently. If he reflects on those results, he will see that some of the criticisms that have been directed towards schools, and in particular public schools, are quite unfounded.

WATERFRONT TENANCIES

The Hon. GREG PEARCE: My question is directed to the Minister for Lands. Given that the September 2009 Auditor-General's report into the administration of waterfront tenancies in New South Wales found a number of inconsistencies in the way that New South Wales government agencies are implementing government policy, how and when will the Government be implementing the Auditor-General's recommendations and returning consistency and fairness to the way waterfront tenancies are administered in New South Wales?

The Hon. TONY KELLY: The New South Wales Auditor-General has confirmed that the Land and Property Management Authority is achieving domestic waterfront tenure outcomes consistent with the 2004 Independent Pricing and Regulatory Tribunal review. The authority is updating information provided to tenants via the Internet, exploring options for tenants to pay rent in instalments, providing opportunities for tenants to sublicense berths, and implementing a new plain English licence. The Land and Property Management Authority is undertaking a staged review of the rate of return based on the Independent Pricing and Regulatory Tribunal formula, which will facilitate a more considered process with changes to be phased in.

It is expected that this review will be completed by early 2010 at the latest, and outcomes will be applied to future rate calculations. The average rent increase over the recent phase-in period was below $2,500 and above this amount in just a few instances. Generous phase-in practices, such as restarting all periods with the February implementation of macro precincts, have delivered a benefit to clients and exceeded the Independent Pricing and Regulatory Tribunal requirements.

Regarding the annual consumer price index, the Auditor-General has suggested that the Land and Property Management Authority implement this recommendation quarterly rather than annually, which is consistent with adjustments for other tenures under the Crown Lands Act 1989. Given that the actual rental adjustment for the particular tenure is applied only once in a calendar year, this process accurately captures rental adjustments that occur at different times of the year. I am pleased to note that the Auditor-General has commended the reduction of precincts and the introduction of three-year average rolling reforms.

ENERGY DRINKS

The Hon. AMANDA FAZIO: My question is directed to the Minister for Primary Industries. Will the Minister please update the House on what the Government is doing to address community concerns about the high levels of caffeine in some energy drinks?

The Hon. IAN MACDONALD: The New South Wales Government has been concerned for some time at anecdotal reports of young people being adversely affected by high levels of caffeine in energy drinks. It is a serious issue, especially when these products target the most vulnerable members of our community. The issue of energy drinks is a national problem because the products are sold and manufactured across Australia. If we are to find a solution, we need the Australian and State governments, as well as the New Zealand Government, which is part of Food Standards Australia New Zealand [FSANZ], to join forces. The New South Wales Government has been leading the charge to make this happen. I placed the issue of energy drinks on the agenda of the Australia and New Zealand Food Regulation Ministerial Council meeting last Friday.

I am pleased to inform the House that the ministerial council agreed to a New South Wales proposal that a national compliance strategy for caffeinated energy drinks be developed. We will lead that process over the coming weeks and months. The ministerial council has also requested its standing committee of officials to consider all the issues raised in the New South Wales paper and to report back to our next meeting with further information and options for action. This national agreement reflects the strong leadership role that New South Wales has taken on this issue and builds on the considerable work New South Wales has already done in assessing caffeine levels in energy drinks.

The Hon. Marie Ficarra: What about trans fats?

The Hon. IAN MACDONALD: You can ask me a question on that. In September the New South Wales Food Authority conducted a thorough investigation into energy drinks. Our experts carried out a large-scale survey of what is on the market and looked at those drinks that may exceed the legal limit of 320 milligrams of caffeine a litre. It identified more than 85 beverages that come under this category and tested them. Its investigations so far have revealed that over three-quarters, or 77 per cent, of energy drinks on sale exceed the legal caffeine content limit. Some of these drinks actually exceed the legal limit by more than 30 per cent. This is simply unacceptable and the Government has taken immediate action. We have already removed five products from the market that exceed the standard by more than 30 per cent.

In all other cases where a product was found to exceed the legal limit, the Food Authority has asked manufacturers to justify why their product should remain on the market and to explain how they intend to take corrective action to ensure that they meet legal requirements. The authority has met with industry representatives to accelerate this process. In relation to caffeine shots, some of these drinks have up to 12 and 15 times the level of caffeine legally permitted. With the exception of the illegal products already removed from the market, these products are currently not subject to the Food Standards Code. This is because a number of these products are imported from overseas. That is why we have alerted our Federal colleagues to this issue and will be discussing how we can stop drinks like these coming into Australia. We are working with the Therapeutic Goods Administration to deregister products that have exploited an administrative loophole to be registered as therapeutic goods.

We have raised our concerns with our New Zealand counterparts, where some of these products are manufactured as a food or a dietary supplement, and they also are concerned about this issue. This Government's decisive action and leadership on this matter is yet another of our fine achievements in the area of food regulation and I look forward to updating the House further on our progress in dealing with illegal products.

What a hopeless Opposition! This issue has genuine community support. People are concerned about these drinks and all that rabble of an opposition can do is throw scorn on the efforts of the New South Wales Government to take leadership and effect a course of action in relation to these drinks. It is probably because the Leader of the Opposition and the Deputy Leader of the Opposition are spending all their time drinking oopsie before they come into this place.

GANG RAPE SENTENCES

Reverend the Hon. FRED NILE: I ask the Attorney General a question without notice. Is the Government aware that three male Zambian nationals who were convicted of repeatedly gang raping a 15-year-old girl over the course of nine hours have been let off with a three-year jail sentence? Does the Government acknowledge community concern that the sentence does not reflect the severity of the crime and that it sends the wrong message to potential offenders? What action is the Government taking to review the low sentence?

The Hon. JOHN HATZISTERGOS: Victims of sexual assault are subjected to not only physical trauma but also deep psychological wounds, and aggravated sexual assault is one of the most extreme and despicable instances of this crime. The offenders in this matter received full-time prison sentences of six years with a three-year non-parole period. I am currently reviewing the transcript of Acting Judge Armitage's remarks and I have asked the Director of Public Prosecutions for advice in relation to the prospects of an appeal on the sentence. The issue of deportation of the men upon completion of their sentences is a matter for the Commonwealth and the Minister for Immigration.

LEAFS GULLY POWER PLANT

The Hon. CATHERINE CUSACK: My question is directed to the Minister for Climate Change and the Environment. What is the Minister's position on Campbelltown City Council's request to have the proposed Leafs Gully power plant assessed by the Federal Minister for the Environment, Heritage and the Arts under the Environment Protection and Biodiversity Conservation Act?

The Hon. JOHN ROBERTSON: I think that matter would be more appropriately dealt with by the Minister for Planning.

COURTS AND JUDICIARY

The Hon. PENNY SHARPE: My question is addressed to the Attorney General. What is the Government doing to consolidate the skills and expertise of the New South Wales judiciary and to enhance the effectiveness of our courts?

The Hon. JOHN HATZISTERGOS: New South Wales has a reputation for judicial excellence, producing some of the nation's most respected judicial officers and contributing to one of the best performing court systems in Australia. I am pleased to inform the House that the Rees Government is pursuing two initiatives that will share the wealth of expertise in the New South Wales judiciary with other jurisdictions while at the same time expose our judicial officers and the court system to the different perspectives and diversity of work that other jurisdictions can offer.

The first of these initiatives is the creation of a formal cross-border exchange system for judicial officers. Last week the New South Wales Government introduced the Judicial Officers Amendment Bill 2009, the main purpose of which was to amend the Judicial Officers Act 1986 to provide for the temporary exchange of judicial officers between State and Territory courts and administrative decisions tribunals. This Government has been the driving force behind the development of the judicial exchange program through the Standing Committee of Attorneys-General. It will represent a further step towards building a national judiciary that will in turn bring benefits to the New South Wales justice system. The bill is based on model provisions approved by the Standing Committee of Attorneys-General and it is underpinned by agreed principles of exchange that will be subject to a formal agreement between participating jurisdictions. New South Wales is the first jurisdiction to introduce this model legislation, and we anticipate that the other participating jurisdictions will soon follow. The proposed judicial reforms are supported by the judiciary, including the Chief Justice.

The judicial exchange program facilitated by the Judicial Officers Amendment Bill streamlines the process for arranging exchanges that are currently undertaken on an ad hoc basis. Exchanges may involve the actual exchange of judicial officers between two jurisdictions, but may also involve situations where a State or Territory judicial officer sits in another jurisdiction without reciprocation; for example, where local judicial officers are precluded from hearing a matter because of a conflict of interest and an interstate judicial officer is asked to hear the matter. While these situations do not often arise, it is important that there be clear mechanisms to address them.

Such one-way arrangements may also be implemented in the case of Federal Court judicial officers. For constitutional reasons, State and Territory judicial officers cannot sit on a Federal Court matter. Nevertheless, the Commonwealth Government has expressed a willingness to allow one-way exchanges so that Federal Court judicial officers can sit on a State or Territory court. The legislation has also been drafted to allow New Zealand judicial officers to participate should such an arrangement be entered into.

The second initiative is New South Wales' participation in reforms that will enable judicial officers to hold dual commissions with Federal and State courts simultaneously. Given the enormous depth of experience in the New South Wales and Federal judiciaries, sharing this wealth of judicial expertise through dual commissions will serve only to advance the provision of judicial services in New South Wales and to enhance the effectiveness of our courts. I intend to amend the relevant State legislation and to work with the Commonwealth to facilitate such dual appointments. Similar amendments across other Australian jurisdictions are expected to be introduced to achieve consistent arrangements in respect of dual Federal-State appointments.

The system of dual commissions and dual exchange I have described provides for the beneficial exchange of information and ideas between judicial officers in Australian jurisdictions and contributes to the development of a national jurisprudence while at the same time enhances judicial development. Judges will gain greater experience in and perspective of their role in the court system. With these initiatives, the New South Wales Government is demonstrating its progressive approach to judicial development and its commitment to promoting greater consistency and uniformity in the provision of judicial services through the development of a national judiciary.

LIVERPOOL PLAINS COALMINING

Ms LEE RHIANNON: I direct my question to the Minister for Primary Industries. The Minister has granted coal exploration licences to BHP Billiton and Chinese Shenhua over hundreds of square kilometres of some of Australia's most fertile and productive farming land on the Liverpool Plains. How does he reconcile that

action with his media release of 21 October which stated that "food security is one of the biggest issues facing our planet" and "farmers in New South Wales need to consider how they can produce more food in the future using the same amount of resources"? Given that the Minister has now recognised the importance of food security, will he agree not to issue any further exploration licences in that area and will he urge BHP Billiton and Chinese Shenhua to cease all mining-related activities until a comprehensive water study is completed in the Namoi catchment to properly understand the risks posed by mining?

The Hon. IAN MACDONALD: I think we canvassed these issues in considerable detail during the last session of this Parliament and a resolution about the matter was defeated. I see no conflict whatsoever between mining and agriculture, including with regard to food security. Although the area covered by the Caroona and Watermark licences is extensive, the resource projections cover only a small percentage of that land. Let us not get too carried away with an analysis of the entire exploration area. In most cases only a small area of the land covered by exploration licences is utilised.

The member might recall that in September I issued another press release dealing with Caroona and BHP Billiton. That press release indicated that BHP Billiton would not proceed with any mining proposal on the Liverpool Plains, which means that its proposal is confined to the ranges. If the member were to examine a map of the Watermark area, she would see that it also is in the ranges.

Obviously, the water issue is important and it must be appropriately addressed. It will be dealt with in the water study that will be conducted in due course under the leadership of Mr Mal Peters, the former president of the New South Wales Farmers Association. It will also be dealt with under the Environmental Planning and Assessment Act, which requires 41 or 42 major studies dealing with not only biodiversity but also water issues. Water is comprehensively dealt with in that process.

The report on the southern coalfields that dealt with water issues in the Illawarra region concluded that the Environmental Planning and Assessment Act provides for a rigorous assessment of any mining proposal, specifically with regard to water and other issues. I pointed that out to the Hon. Trevor Khan following his contribution to that debate. The report fully endorsed this Government's approach. These areas will be dealt with carefully by the processes that are available to us in this State for dealing with development applications, and water resources will certainly be taken into account.

The member is correct in referring to food security. However, I do not think we should start running the hares on that issue and thereby confuse the two topics; that is, food security and mining. We must remember that mining in this State uses about 1 per cent of the 6,000 gigalitres of water consumed in this State annually. We must keep all these issues in perspective and deal with each location carefully. I am sure that the Deputy Leader of the Opposition is also now coming to the conclusion that we must take a very measured approach. We must also remember that mining contributed $14 billion to this State last year.

LIVERPOOL PLAINS GROUNDWATER STUDY

The Hon. TREVOR KHAN: I direct my question without notice to the Minister for Primary Industries and Mineral Resources. Is the Minister aware that an independent water study has been requested by stakeholders in the Liverpool Plains area? Is he aware that the Federal Government announced months ago that it would provide $1.5 million for the study on the proviso that the State Government and the mining industry matched that figure? Is the Minister aware that BHP Billiton announced on 1 September that it would partly fund the study? Is the Minister aware that the Liverpool Plains Land Management Committee has claimed that the money for the water study is missing and wants confirmation of the State's matching funds? Is the Government supportive of the independent water study and has the Government made funds available to match the Federal Government's commitment? If not, why not?

The Hon. Rick Colless: Write the cheque out!

The Hon. IAN MACDONALD: I am not writing out any cheque in relation to this matter. The Government has decided, following discussions with Mr Peters and the department on this matter, that it would not be matching the funds provided by the Commonwealth. Just because the Commonwealth has put up $1.5 million for this or any other project does not mean that we should have to follow suit. However, my understanding from discussions in the committee is that adequate funds will be available for that water study.

BIOFUEL

The Hon. TONY CATANZARITI: My question is addressed to the Minister for Lands. Will the Minister update the House on recent changes to the law regarding the sustainable development of biofuels in New South Wales and sources of renewable forms of energy generation?

The Hon. TONY KELLY: I thank the member for his ongoing interest in sustainable energy projects in New South Wales, particularly biofuel projects. I thought the Deputy Leader of the Opposition was going to ask me this very question earlier. The Rees Government is demonstrating a strong commitment to making a variety of clean, renewable energy projects a reality in New South Wales. I am proud as Minister for Lands that the Land and Property Management Authority is facilitating large-scale wind energy generation through the adoption of innovative dual leases or special purpose leases for which this House passed enabling legislation. These leases will result in large-scale mitigation of CO_2 emissions and will provide important opportunities for farmers to co-locate agriculture and grazing with wind farm generation.

The Hon. Duncan Gay: Point of order: This is a question about a bill that is before the House and, therefore, should be ruled out of order.

The Hon. TONY KELLY: To the point of order: I said that I was alluding to legislation that this House passed last year to enable farms at Broken Hill.

The Hon. Duncan Gay: Further to the point of order: The *Notice Paper* for today reads, "Crown Lands Amendment (Special Purpose Leases) Bill … —Mr Kelly."

The Hon. TONY KELLY: Further to the point of order: When I referred to special purpose leases I said that the House had passed enabling legislation.

The PRESIDENT: Order! It is in order for the Minister to refer to legislation that has been carried or previously considered by the House but not to a matter that is on the *Notice Paper.*

The Hon. Duncan Gay: Can I have a clarification—

The PRESIDENT: No. I have given my ruling. The Minister may continue.

The Hon. TONY KELLY: The Deputy Leader of the Opposition should wait to read *Hansard* tomorrow and let me get on with it. Innovation, diversification and sustainability are also vital elements of this Government's biofuels strategy. This month, on 1 October 2009, the Biofuels (Ethanol Content) Act 2009 commenced operation. Having successfully implemented the first stage of the strategy and the initial 2 per cent ethanol mandates, we are moving into the second phase of volumetric mandates. This again demonstrates New South Wales's leadership in renewable energy as we establish an investment environment for self-sufficient forms of renewable bioenergy. In the next two years we will increase the volumetric mandates progressively to 4 per cent and then 6 per cent, phasing out regular grade unleaded petrol from July 2011. As of 1 January 2010 we will be expanding the mandate to include biodiesel, again at an initial 2 per cent level, but increasing to 5 per cent as supplies are available. From 1 October 2010 major retailers such as Woolworth's and Coles will be bound by the progressive mandates.

Also from 1 January next year Queensland will be following our lead and mandating the production of a 5 per cent blend of ethanol in fuel. Together, New South Wales and Queensland are driving the increased production of first-generation biofuels, creating investment and jobs in regional communities and new opportunities for farmers.

[*Interruption*]

Members opposite are not interested in the opportunities that we are creating for farmers The Government's mandate is already directly responsible for the fact that in New South Wales three biofuels projects are already under construction with total investment of over $500 million and the creation of almost 1,000 new jobs. This includes the planned national biodiesel soy processing plant at Port Kembla, which commenced construction in June this year and is on track to be commissioned in 2011. In yet another first in New South Wales, the Biofuels (Ethanol Content) Act 2009— [*Time expired.*]

The Hon. TONY CATANZARITI: I ask the Minister a supplementary question. Will he please elucidate his answer?

The Hon. TONY KELLY: In another first for New South Wales the Biofuels (Ethanol Content) Act 2009 is the only legislation in Australia to align the products in biofuels with the global principles and criteria for sustainable biofuel production. These measures complement government planning powers regulating environmental assessment processes, including greenhouse gas production. The increased use of biofuels will provide an industry base from which we can develop even more efficient and environmentally friendly second-generation biofuels in the future. Second-generation biofuels will create new opportunities for farmers and foresters as well as for the use of municipal green waste and algae production.

New South Wales is delivering self-sufficiency in renewable energy. The New South Wales Government is quietly achieving its goals, sending a clear and strong signal to investors, to the fuel industry and to motorists that the Rees Government is committed to providing cleaner, greener fuel alternatives that provide new opportunities for our primary producers and more jobs in rural and regional areas.

MARINE PARK WATER QUALITY MONITORING

Mr IAN COHEN: My question is directed to the Minister for Climate Change and the Environment. Will the Minister advise whether water quality is monitored in New South Wales marine parks? If the Minister's answer is yes, what are the findings of such monitoring? Is agricultural or urban chemical run-off and pollution having an impact on New South Wales marine parks? If that is the case, what is the nature of that impact? What evidence does the Department of Environment, Climate Change and Water have that agricultural chemical run-off is impacting fish species stock in New South Wales marine parks?

The Hon. JOHN ROBERTSON: I thank the member for his question, which, given its detail, I will take on notice. However, I will make a couple of comments. It is clear that run-off pollution is having an impact on marine biodiversity. That is worth putting on the record. The question deserves a proper, detailed answer, and I will take it on notice and get back to the member.

PRISONER PHILLIP CHOON TEE LIM EARLY RELEASE

The Hon. DAVID CLARKE: My question without notice is directed to the Minister for Corrective Services. Given that the Minister was made aware of the State Parole Authority's decision regarding the proposed release of Phillip Choon Tee Lim at the time the hearings took place, why did he not make a submission to the State Parole Authority before today, when the story appeared in the media?

The Hon. JOHN ROBERTSON: Victor Chang's work, establishing the national heart transplant program, has resulted in more than 1,200 successful heart, heart-lung and single lung transplants at St Vincent's Hospital since 1984. His murder was an abhorrent act that shocked our State. I can advise the House that this afternoon the State Parole Authority vacated inmate Choon Lim's release date pending a further hearing. I have asked the Commissioner of Corrective Services to prepare a State submission for this hearing, opposing the parole of Choon Lim. I understand that Corrective Services New South Wales has made contact with the family through the Victor Chang Research Institute to inform it that it is able to provide a victim's submission to the State Parole Authority. Corrective Services New South Wales will certainly provide any support needed by the family if it chooses to prepare a submission.

The Government established the Victims Register in 1996 to ensure that victims are included in the criminal justice process. I understand that because the murder of Dr Chang occurred in 1991, before the establishment of the register, Dr Chang's family were not registered victims. Today I have written to the Department of Justice, the Attorney General and the Victims Advisory Board, who are currently reviewing all victim services, requesting that they consider in particular the issue of ensuring victims of crimes committed prior to 1996 are included on the Victims Register if they so wish.

JUSTICE ACCESSIBILITY

The Hon. MICHAEL VEITCH: My question is addressed to the Attorney General. What is the Government doing to improve access to justice in New South Wales?

The Hon. JOHN HATZISTERGOS: Access to justice is an essential component of the rule of law and our democratic system. In the context of the civil justice system, true access to justice means not only access

to effective and efficient formal dispute resolution processes, but it also involves a broader system aimed at enhancing the capacity of individuals to resolve disputes informally. In Australia the issue of access to justice has been the subject of many reviews, reports and recommendations over the last decade or so.

The most recent of these, the Commonwealth Government's report on "A Strategic Framework for Access to Justice in the Federal Civil Justice System", was released by the Federal Attorney-General, Robert McClelland, on 23 September 2009. This report provides a valuable analysis of the issues and makes some interesting recommendations for improving access to justice within the Federal civil justice system. On considering the report's recommendations I could not help but notice that the Rees Government is already well advanced in pursuing many of the proposals advocated. One of the key areas examined by the Commonwealth report is alternative dispute resolution.

In May this year I announced the release of an important discussion paper entitled "NSW ADR Blueprint" for public consultation. The alternative dispute resolution [ADR] blueprint contains 19 draft proposals to increase and better integrate alternative dispute resolution across the New South Wales civil justice system. Two follow-up papers refining some recommendations have also been released. An alternative dispute resolution steering committee is now considering feedback on all the recommendations and will be reporting back to me on the next steps we should take in New South Wales.

The Commonwealth's report also recommends a thorough examination of issues and options for funding aspects of the justice system on a cost recovery basis. New South Wales has already gone some way towards implementing cost recovery in the court system. For example, corporations pay double the fee paid by individuals for filing a range of processes and documents with the court, for a hearing allocation, for jury requisition and retention, and for the preparation of appeal papers. The Rees Government supports further exploration of cost recovery options, particularly where they seek to address the monopolisation of court resources caused by mega-litigation in the vein of the C7 and Bell cases.

Given that some cost recovery options could raise the risk of forum shopping, the Standing Committee of Attorneys-General is considering options for a nationally consistent approach to targeted cost recovery. In a number of areas covered by the Commonwealth report, New South Wales is setting the standard for the rest of Australia—for example, with our approach to providing legal information and advice through LawAccess. The free LawAccess helpline and website are one-stop-shops that enable people to find quickly the information they need to resolve a legal issue. Last year the LawAccess helpline answered a record 190,000 telephone inquiries, yet it is currently the only government service of its kind in Australia.

The Commonwealth's report correctly notes that access to courts does not equate with access to justice. However, a robust, efficient court system is a fundamentally important part of ensuring justice is served. The Rees Government has treated the provision of court services to communities across New South Wales as an important priority. This is in stark contrast to the previous Government's approach in closing 39 courthouses in a single day. By contrast it was this Government that rebuilt the court system and has opened new courts and rebuilt old ones and is continuing to do so. As part of its commitment to keeping the New South Wales court system as the best performing in the country, the Government is also spending $48 million on JusticeLink, one of the first integrated, multi-jurisdictional case management systems in the common law world. New South Wales under Labor has led the way in ensuring justice is accessible to all. I will be encouraging my colleagues at the Standing Committee of Attorneys-General in Sydney next week to learn from our successes.

SEA LEVEL PREDICTIONS

Ms SYLVIA HALE: I address my question to the Minister for Climate Change and the Environment. The Federal parliamentary report "Managing our Coastal Zone in a Changing Climate" discusses the International Panel on Climate Change's 2007 prediction of a global sea level rise of between half a metre to one metre by 2100. Evidence given at the Federal inquiry by Professor Steffen and Dr Church indicates that the science has progressed since then and data on ice melt and sea level rise is already tracking the International Panel on Climate Chang top end scenario and that 1.5 metre rises by 2100 cannot be ruled out. Given this, what are the current predictions of the Department of Environment, Climate Change and Water for sea level rise along the New South Wales coastline for the years 2030, 2050 and 2100? Has the department determined which settlements along our coast are the most vulnerable and, if so, when will it provide that information to the public?

The Hon. JOHN ROBERTSON: The report that was released calls for urgent action to cope with sea level rise and coastal erosion. I am pleased to inform the House that that is exactly what this Government is

doing. Last week we announced measures for areas of New South Wales's coast affected by sea level rise to clarify the rights of councils and property owners and minimise the risk to taxpayers. We have identified 19 hot spots in New South Wales where erosion is severe. The coast is actively receding and emergency storm response plans are needed now. Legislative changes will be introduced in this session to give councils the ability to levy affected landowners for the cost of protecting their homes. Landowners will be given the right to protect their properties but only where it is feasible to do so without damaging local beaches.

This plan is about protecting our precious beaches and giving councils and landowners the tools they need to better manage the impact of coastal erosion. In addition, the New South Wales Government launched a draft sea level rise policy earlier this year that is due to be finalised shortly. That plan is about putting in place strategies to prevent development on land vulnerable to the impacts of sea level rise in the future. Unlike the Opposition, the New South Wales Government believes the science is in on sea level rise, and we must act now. New South Wales is taking a leadership role on this issue, with a draft report already being circulated to all States and Territories calling for a national working party that will deal with sea level rise and coastal erosion. The Premier will be taking this issue to the Council of Australian Federations next week in Adelaide to call for national action.

HUNTER INFRASTRUCTURE AND SERVICES

The Hon. ROBYN PARKER: My question without notice is directed to the Minister for State Development. Is the Minister aware of population trends in the Hunter region and estimations that 160,000 people are expected to move to the Hunter in the next 25 years? Given the Government's mishandling of the State's biggest housing project, Huntlee near Branxton, how can the local community have any confidence that the State Government will make the necessary investment in the Hunter's services to meet the needs of a growing population? Further, can the Minister guarantee that vital local infrastructure such as the F3 link road will still go ahead?

The Hon. IAN MACDONALD: I like the member's innovation in asking me questions that deal with planning, housing and roads. State Development is a very important portfolio with many responsibilities, but I do not know if I have been specifically involved in the F3 link road or any of the planning issues. I assure the member that over many years we have run the best planning system in this country. We have ensured that the needs of people have been met. The member can rest assured that in the future this Government will continue to look after the people of each region.

The Hunter is a very important region to this Government. That is why we put a lot of work into employment in that region. For instance, just recently we expanded the coal loader to provide more jobs and more investment in the Hunter Valley. We do not step back at all from the work we do in the Hunter. The member can rest assured that we will continue to look after the people in the Hunter Valley for years to come.

ILLEGAL FISHING

The Hon. IAN WEST: My question is addressed to the Minister for Primary Industries. Can the Minister please explain what the New South Wales Government is doing to crack down on illegal fishing?

The Hon. IAN MACDONALD: The New South Wales Government is working hard to increase penalties for illegal fishing and is stamping out this type of activity. I draw the attention of the House to the efficient and effective work conducted by New South Wales Fisheries officers in cracking down on these appalling crimes. Just last week our officers apprehended a man allegedly caught red-handed with an illegal haul of the friendly and lovable eastern blue groper, the emblem fish of New South Wales. The 39-year-old man from the Sydney suburb of Lansvale was apprehended in the Royal National Park last Wednesday. The man was observed walking west along the rocky shore area of Wattamolla carrying a large backpack and hessian sack. A search was carried out and the man was allegedly found to be in possession of 15 eastern blue gropers, ranging in size from 35 to 65 centimetres. It will be alleged that all these fish were speared and had wounds consistent with that of a spear. The mass slaughter of these fish is just horrifying. It is an inexcusable example of illegal fishing, and I commend our Fisheries officers for a sterling effort in apprehending this reckless offender. Blue groper has been a protected species for many years and can only be caught legally by rod or handline. This is perhaps one of the most deplorable fisheries crimes I have ever seen, and this offender can expect to face the full force of the law.

The Hon. JOHN HATZISTERGOS: If members have further questions, I suggest that they place them on notice.

DEFERRED ANSWERS

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

GENETICALLY MODIFIED CANOLA

On 22 September 2009 Mr Ian Cohen asked the Minister for Primary Industries a question without notice regarding genetically modified canola. The Minister for Primary Industries provided the following response:

> The issue of potential weediness was evaluated by the Commonwealth Office of the Gene Technology Regulator prior to approving Roundup Ready canola.
>
> Further details can be found at http://www.ogtr.gov.au/internet/ogtr/publishing.nsf/Content/dir020-2002

METROPOLITAN SPECIAL PROGRAMS CENTRE LOCKDOWN

On 22 September 2009 Ms Sylvia Hale asked the Minister for Corrective Services a question without notice regarding the Metropolitan Special Programs Centre lockdown. The Minister for Corrective Services provided the following response:

> Commissioner Woodham has advised me that he had understood that the question was referring to "all inmates at the MSPC" and he correctly answered "No" since not all wings of the correctional centre were being locked down. Around 300 inmates in Area 3 were not subject to the lockdowns.
>
> All correctional centres, including the MSPC, conduct lockdowns for specific purposes such as staff training. Such measures are an essential component of the administration of a correctional centre. At the MSPC, there have been partial lockdowns and these have not affected the entire correctional centre.
>
> The Crimes (Administration of Sentences) Regulation 2001 was replaced by the Crimes (Administration of Sentences) Regulation 2008 on 1 September 2008, and the applicable clause is now clause 50.
>
> Clause 50 (3) provides "An inmate's entitlement to exercise under this clause is subject to such practical limitations as may from time to time arise in connection with the administration of the correctional centre concerned."
>
> Regular ongoing training of correctional officers is an essential component of the administration of a correctional centre, and Corrective Services NSW has a responsibility for the safety of staff and inmates to maximise attendance at training sessions by making as many officers as possible available for participation.
>
> The nature and inmate profile of the MSPC necessitates ongoing training in security and mental health issues over and above that provided to most other correctional centres.
>
> For this reason, the memorandum referred to was circulated and the revised structured lockdown procedure has been implemented.
>
> The new management plan at the MSPC actually provides for more out-of-cell hours for inmates since the 1.5 hours daily lunchtime lock-in has been eliminated on weekdays.

HIGHER SCHOOL CERTIFICATE EXAMINATION SPECIAL TIME PROVISION

On 22 September 2009 Reverend the Hon. Dr Gordon Moyes asked the Attorney General, representing the Minister for Education and Training, a question without notice regarding the Higher School Certificate examination special time provision. The Minister for Education and Training provided the following response:

> The Board of Studies conducts the program for assessing applications and awarding special provisions for the School Certificate tests and Higher School Certificate examinations. The provisions are intended to address the effects of a special need on examination performance and to enable all students appropriate access in order to read and respond to the examination questions.
>
> I am advised that Joshua Cox lodged an application with the Board of Studies through Oxley High School for special examination provisions for the 2009 Higher School Certificate. The Board accepts the diagnoses made by Joshua's health care professionals and submitted as part of his application.
>
> Board guidelines provide that, regardless of the nature of a special need, the provisions granted are solely determined by the implications of that need on examination performance, and that adjustments and access arrangements must not confer an advantage on the candidate.
>
> The Board of Studies retains a panel of experts with particular expertise in medical, learning, vision and hearing difficulties. These experts advise and guide the Board in how to best respond to the particular needs of individual students while maintaining the above guidelines. Joshua's application and subsequent appeals have been considered by three registered psychologists and a paediatrician, each acting independently of the others. These experts have determined that Joshua's needs can be met by the provisions of rest breaks, a writer, coloured paper, special lighting and separate examination supervision.
>
> In considering Joshua's application for extra time to read and write, the panel considered functional evidence provided by his school, in particular, Joshua's performance on reading and writing efficiency tests. Joshua's reading scores and his writing rate are both typical of other HSC candidates and so it was determined that he was not eligible for either of those provisions.

The Office of the Board of Studies has consulted Professor Max Coltheart. He has supported the view that the Board has offered provisions appropriate to Joshua's condition. Professor Coltheart advised that the provision of rest, and flexibility in using it, were helpful. Students with conditions similar to Joshua's find reading to be tiring and report that short rest breaks are helpful. Professor Coltheart stated that the reasoning behind the Board's determination of Joshua's special provisions is consistent with his understanding of the condition, and that the provision of extra time could provide an advantage.

The Board of Studies recognised and provided for dyslexia long before the passage of legislation in 2008. Paediatricians and psychologists on the special provisions panel are required to update their knowledge and skills through their professional registration process. All panel members meet annually to review the guidelines used to determine special provisions. Senior Board officers meet and consult regularly with their counterparts in other states and territories to discuss the application of special provisions.

The Board is considering a further appeal from Joshua's school that involves a review of the case, including additional evidence, by an expert panel member not involved in the original decision. If the review leads to a different recommendation there may be further provisions granted.

COMMUNITY SERVICES GRANTS PROGRAM

On 22 September 2009 the Hon. John Ajaka asked the Minister for Primary Industries, representing the Minister for Community Services, a question without notice regarding the Community Services Grants Program. The Minister for Community Services provided the following response:

Community Services recognises the significant contribution of its partner agencies to the families, children and young people in our community who need additional support and is committed to a strong partnership into the future.

The review of the Community Services Grants Program undertaken during 2007 and 2008 was informed by substantial collaborative input from stakeholders on the Community Services Grants Program Roundtable and funded services. The review aimed to define the program's future directions, and provided valuable suggestions for a new focus that would concentrate resources for disadvantaged children, young people and their families, and the communities in which they live. The review's broad findings and directions remain relevant today and provide a good basis for determining an appropriate service provision response to the major reforms announced through *Keep Them Safe: A shared approach to child wellbeing*, the Government's response to the Special Commission of Inquiry into Child Protection Services in NSW. *Keep Them Safe* sends a clear message that a strong community with well-resourced and managed services results in better outcomes for children, young people and their families.

Commissioner Wood made recommendations in his report about funding reform in this sector and work is commencing on a range of fronts, including streamlining of processes and reduction of red tape, in partnership with peak groups and major non government service providers. For Community Services Grants Program funded services in particular, the focus is on understanding how existing projects and services align across the spectrum of prevention to tertiary services and how best to strengthen the range of services in line with the needs and priorities along that spectrum, and the available new funding.

In keeping with the commitments made in *Keep Them Safe*, the NSW Government has announced new funding for expansion in the areas of child protection prevention and early intervention services. Over the next four years, the package provides $28 million in new funding for the non-government sector to provide a range of early intervention services to support vulnerable families, potentially including projects currently funded through Community Services Grants Program. It is expected that some existing Community Services Grants Program funded services will submit expressions of interest for funds to operate new projects as the initiatives are implemented. This process will ensure the allocation of funds is transparent and that funds are used to achieve the best possible outcomes for clients in line with Government priorities.

The Pole Depot and Kogarah Community Services will be able to apply for these funds provided that they meet the associated conditions.

Funding is also provided by Community Services through Families NSW, Brighter Futures, Better Futures and other funding programs. Details of funding provided by Community Services to community organisations is set out in the addendum to the Department's Annual Report which can be accessed at www.community.nsw.gov.au

Funding is available from government agencies other than Community Services for a range of services in the community sector. These funds are typically available following an Expression of Interest process and are managed by the individual agencies.

ABORIGINAL JUSTICE ADVISORY COUNCIL RECOMMENDATIONS

On 23 September 2009 Ms Sylvia Hale asked the Attorney General a question without notice regarding the Aboriginal Justice Advisory Council recommendations. The Attorney General provided the following response:

I am advised by my Department that no recommendations were received from the Aboriginal Justice Advisory Council last year.

HENDRA VIRUS

On 24 September 2009 the Hon. Duncan Gay asked the Minister for Primary Industries a question without notice regarding the Hendra virus. The Minister for Primary Industries provided the following response:

Advisory messages can be found on I&I NSW's website.

NOXIOUS WEEDS AND FERAL ANIMALS ERADICATION

On 24 September 2009 the Hon. Rick Colless asked the Minister for Climate Change and the Environment a question without notice regarding noxious weeds and feral animals eradication. The Minister for Climate Change and the Environment provided the following response:

I am advised:

1. A remedial direction over 76 hectares was issued following the clearing of approximately 100 hectares of remnant native vegetation on the property "Waverley". Some of the clearing occurred after officers of the Department inspected the property and advised the owner not to continue clearing in the same fashion.

2. The Department of Environment, Climate Change and Water advises that its investigation has found no evidence that the Border Rivers Catchment Management Authority gave concurrence for the clearing of approximately 100 hectares of remnant native vegetation.

3. No. The remedial direction does not prevent the landholder controlling weeds or feral animals, and specifically requires the landowner to inspect, and if found, destroy any weeds, exotic species, commercial crops and non-native plants.

4. No.

INVERELL HOSPITAL INFECTION CONTROL

On 24 September 2009 the Hon. Trevor Khan asked the Attorney General, representing the Minister for Health, a question without notice regarding Inverell Hospital infection control. The Minister for Health provided the following response:

The Hunter New England Area Health Service has promptly investigated this matter. While the risk to patients was assessed by an expert clinical advisory group as low, all patients concerned have been contacted.

As soon as the breach of Infection Control Policy was detected the issue was rectified and no other breaches have been identified.

Staff have been counselled on the appropriate use of single use items and adherence to the Infection Control Policy.

Questions without notice concluded.

ANIMAL WELFARE LEGISLATION AMENDMENT BILL 2009

Second Reading

Debate resumed from an earlier hour.

Ms LEE RHIANNON [5.01 p.m.]: Prior to question time I was referring to some of the issues to do with kangaroo culling. At this time of the year—when the kangaroo slaughter was undertaken as part of this year's Mount Panorama race activities—many kangaroos would have had a joey at foot and one in the pouch. A local consulting ecologist we work with judged that shooting 140 kangaroos would most likely wipe out the entire kangaroo population at Mount Panorama. It is still unclear whether the council had a kangaroo management plan to deal with the infants when their mothers were killed.

Another animal welfare failure that the Greens have exposed recently is the sale of animals to private game park operators, where the commercial interests of our zoos were given priority over animal welfare. Dubbo Zoo sold endangered blackbuck antelopes to a private game reserve operator and member of the Shooters Party, Mr Bob McComb, for between $160 and $300 each. Mr McComb apparently hopes to set up a safari park for hunters if the Government passes the Shooters Party bill before the House. As Mr McComb now owns these animals, he may have the legal right to shoot the animals on his property even if the Shooters Party bill is not passed. Clearly, this is an area in which legislation should provide protection to animals. The widely reported sale of the endangered blackbuck antelope should never have been allowed to occur. People expect zoos to protect and care for animals—not sell them off to a person intent on using them for recreational hunting.

The then environment Minister, Carmel Tebbutt, tried to sidestep this embarrassing incident by saying she did not have to approve the sale. But she was the Minister responsible for Western Plains and Taronga zoos and she should have stated publicly that the sale of any zoo animals to hunters was unacceptable. She also should have sought expert advice on establishing ethical guidelines for the management of animals that are in excess to what zoos can manage. There is no sign in the bill that the work has been done.

Shooting in national parks is another example of the Government pandering to the Shooters Party. The worst example in recent times is that the Government did not rule out straightaway the Shooter's Party Game

and Feral Animal Control Amendment Bill, which would allow recreational shooters to hunt feral animals in national parks. There are various other aspects to that bill. We are now at the end of October. The second reading on the Animal Welfare Legislation Amendment Bill occurred in this House in June this year. The Government is aware of the massive community outcry about the bill, but as I understand from some of the media reports—and I understand the environment Minister, Mr John Robertson, held a press conference about this—the Government is still failing to rule out that it will negotiate with the Shooters Party on the legislation.

The opening up of State forests to recreational shooters in 2006 was bad enough, but the bill is a step too far. Allowing hunters in national parks would create a real threat to public safety and native wildlife, and destroy the pristine qualities of our parks. The Shooters Party tried to paint the legislation as environmentally responsible but it is really an act of vandalism, risking the spread of feral animals into new areas. The bill is so ludicrous that it even makes it an offence for the public to approach hunters who are shooting in declared areas. The bill also makes it legal for commercial safari parks to operate in New South Wales, and to breed and shoot birds as live targets. This is an abhorrent proposal that has proved to be deeply unpopular with the overwhelming majority of the general public.

Members of the environment and animal welfare groups, people from the gun control movement, as well as a large number of rangers and members of the Public Service Association, including the assistant secretary, Mr Steve Turner protested outside Parliament House today. When people from those groups spoke, they spoke with passion and concern. It was particularly interesting to hear from the rangers. It really comes home to one that these people would be in the front line if this unacceptable piece of legislation were ever passed. Also deeply unpopular is the New South Wales Game Council's resumption of the native duck shooting season in New South Wales. The Game Council recently advertised its intention to run a game bird education program for recreational hunters—

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! Ms Lee Rhiannon, are you speaking to the Animal Welfare Legislation Amendment Bill 2009?

Ms LEE RHIANNON: Yes, Madam Deputy-President. It is interesting to hear that comment from you as Deputy-President. The long title of the bill states: "An Act to amend certain Acts with respect to the keeping, protection and welfare of animals". So I am sure you would agree, Madam Deputy-President, that clearly what is relevant here is the fact that the Government may have, for whatever reason—perhaps because of an oversight or perhaps another reason—failed to include in the bill issues to do with the keeping, protection and welfare of animals. I have sought to outline some of those issues that have been omitted from the bill and should have been included in it.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The member should confine her comments to the bill, which will amend three Acts. It is not appropriate at this stage for the member to be speaking to other bills that are on the *Notice Paper* but are not currently before the House.

Ms LEE RHIANNON: Thank you, Madam Deputy-President. As I was saying, also deeply unpopular is the New South Wales Game Council's resumption of the native duck shooting season in New South Wales. The Game Council recently advertised its intention to run a game bird education program for recreational hunters who want to begin shooting native ducks. There has been a dramatic rise in the number of licensed recreational hunters since the Government opened up New South Wales State forests to so-called conservation hunting in 2006. Recreational shooters will now be able to do a Game Council course—

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The matter the member is speaking about now is not covered by the bill before the House.

Ms LEE RHIANNON: Madam Deputy-President, my understanding is that it is in keeping with the long title of the bill. The long title of the bill states: "An Act to amend certain Acts with respect to the keeping, protection and welfare of animals".

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! That is right, an Act to amend three different pieces of legislation—the Exhibited Animals Protection Act, the Prevention of Cruelty to Animals Act, and the Apiaries Act. In relation to the Prevention of Cruelty to Animals Act, the bill refers to prohibition orders for people who are keeping animals. The member should confine her comments to the bill we are dealing with. It is not an opportunity for the member to speak about animal welfare matters in general.

Ms LEE RHIANNON: Madam Deputy-President, I have to ask: Are you taking a point of order from the chair? I am finding it difficult to know what the process is.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The Chair is responsible for ensuring that the standing orders are upheld. It is not necessary for the Chair to take a point of order; the Chair directs the debate to ensure that the standing orders are being adhered to.

Ms LEE RHIANNON: Thank you, Madam Deputy-President. I must admit that I do not have my copy of the standing orders in front of me at the moment, but my recollection is that the debate should be in the context of the long title of the bill. The long title of the bill states: "An Act to amend certain Acts with respect to the keeping, protection and welfare of animals". That is how I have prepared my speech.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! In that case, the member should be aware that the bill amends certain Acts and she should confine her comments to the Acts that are being amended in relation to the welfare of animals.

Ms LEE RHIANNON: Thank you, Madam Deputy-President. Although the bill has a broad title, it is unfortunately narrow and did not include circus animals. The welfare of circus animals is another campaign that has received overwhelming community support but has not resulted in a total ban on the mistreatment of wild animals in circuses. The bill could easily have dealt with it when one of the Acts to be amended, as pointed out by the Deputy-President, is the Exhibited Animals Protection Act 1986. Wild animals should be banned in circuses. Their deprivation causes extreme suffering, torment and depression, and I have often observed it to be distressing to the young children who witness it. It is clearly not natural behaviour for wild animals to perform circus tricks. They do so only because they have been mistreated.

It is ridiculous to say that circus lions are treated well. One simply cannot meet the welfare needs of a wild animal in a circus cage. Many people share the view that it is inhumane and immoral to inflict lifelong suffering on a wild animal for the entertainment of human beings. The Greens have called on local governments to ban any circuses with exotic wild animals from performing on council-operated land. I congratulate the majority of councils in New South Wales that have implemented such a ban. I also acknowledge the animal welfare groups and members of the public who have taken up this issue. It is another demonstration of the shortcomings of the legislation when the opportunity for the New South Wales Government to introduce a total ban on circus animals was missed.

If the bill had been more extensive in dealing with animal welfare then factory farming should have been covered in depth. Perhaps the biggest need for reform in New South Wales is factory farming, which institutionalises the suffering of animals. Such inhumane farming methods might be legal, but they are also extremely cruel. Corporations and small farmers alike callously increase their profit margins by using food production measures that are unnecessarily cruel to animals. This culture of cruelty is one of the biggest animal welfare reform hurdles we face, and the New South Wales Government is doing little to reign it in. This bill reinforces that.

The Hon. Duncan Gay: The next piece of legislation addresses that.

Ms LEE RHIANNON: I acknowledge the interjection of the Coalition member. I am surprised the member is so confident in the approach of the Government on this issue. Millions of laying chickens suffer in cages each year, yet the Government has failed to introduce tougher laws to prevent any cruelty to these animals. The Government will not introduce mandatory labelling legislation to ensure that consumers can be sure of exactly the conditions under which the eggs were laid. Currently, New South Wales consumers can be misled by shonky labelling as to whether eggs are laid free range, in a barn or in a cage because of an absence of mandatory labelling. An egg producer in New South Wales is under no obligation to meet legislative standards that define what free range or barn laid eggs mean. Existing consumer protection laws rely on complaints being made, investigated and prosecuted.

Egg marketeers are free to exploit the growing desire of consumers for food that is produced ethically in a way that protects animal welfare. We just have to trust what we read on the egg carton. It is time that the Government responded to the trend towards ethical eating and promoted truth in labelling and kinder food production methods. Pig farming still allows inhumane treatment of pigs at piggeries. Pigs are still so cramped that they cannot even lie down, let alone move around in their stalls. The time is long overdue for the Government to review and reform the whole practice of using sow stalls. It is inhumane and barbaric, and not in keeping with community standards and expectations.

When will these urgent welfare needs of animals be addressed? I do not share the confidence of Mr Gay that the answer lies with the next piece of Government legislation. There are so many ways in which animal welfare rights need to be strengthened in this State, but this bill will provide little material improvement to the majority of our animals. I urge the Minister to escalate these issues on the Government's agenda. Even though the bill relates to animal welfare, and includes that expression in its title, it is very limited in what it delivers.

The Hon. HENRY TSANG (Parliamentary Secretary) [5.14 p.m.], in reply: I thank all members for their contributions to the debate. I acknowledge that the Opposition will not oppose the bill. I also note that the issues that the New South Wales Farmers Association may have had have now been addressed. In response to the issues raised by Ms Lee Rhiannon about high impact category, category seven procedures, statistics collected and published by the Animal Review Research Panel annual reports in 2004-05 and 2007-08 show that since 2005 the number of animals used in category seven has declined by 21 per cent. In 2005, 20,387 animals were used in category seven procedures. In 2007, which is the year for which the most current statistics are available, 16,017 animals were used. Category seven procedures result in interference with an animal's physiological or psychological processes and can cause a moderate or large degree of pain or distress that is not quickly or effectively alleviated.

All animal research in New South Wales is carried out in accordance with the nationally accepted Australian Code of Practice for the Care and Use of Animals for Scientific Purposes. New South Wales is a leader in the protection of animals used in research. The New South Wales Animal Research Act establishes a veterinary inspectorate as well as an animal research review panel to oversee the use of animals in research. The animal research review panel includes nominees from animal welfare and scientific organisations. No animal research may be carried out without the approval of an animal ethics committee, which includes veterinary, scientific, animal welfare and independent members.

It is unfortunate that some animals used in research will experience pain or distress. Wherever possible this must be minimised, for example, by the use of pain-relieving medication. The animal research review panel publishes extensive examples of methods used by research establishments to replace the use of animals, to reduce the number of animals and to reduce the impact of procedures on animals. 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. Henry Tsang agreed to:

That this bill be now read a third time.

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

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 2 and 3 postponed on motion by the Hon. Henry Tsang.

EDUCATION AMENDMENT (SCHOOL ATTENDANCE) BILL 2009

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [5.19 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

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

Leave granted.

It is the right of *every* child in NSW to have an education and access to the lifelong benefits and opportunities that education brings.

For this reason, education has been compulsory in NSW since 1880.

Parents have the legal duty to enrol their child in a school, or to enlist them for home schooling, and to see that they attend regularly.

A very small minority of children do not attend regularly.

These children miss out on the quality education which is provided by NSW schools. They are at risk of life-long social disadvantage as a consequence—a disadvantage which can be passed on to the next generation.

Currently, for cases of persistent non-attendance, the only remedy offered by the Education Act is prosecution of the child's parents in court, with a monetary fine up to $1100.

Yet a family's failure to have a child educated can be caused by a wide variety of factors.

It may arise from mental illness, from drug and alcohol addiction, from social isolation, from parental disabilities, from the absence of parenting skills or from other causes of family disruption.

When attempting to deal with these cases, it is vital to have a system which is flexible enough to address the real underlying causes of the problem. This bill will introduce such a system.

Our aim is not to obtain a fine, or have a parent convicted and punished. Our aim is to ensure that all children are receiving the education to which they are entitled.

Current situation

In the NSW education system the first attempts to address a child's failure to attend school are made by the school.

The principal and other school staff will work with the family to identify and resolve the reasons for poor attendance. Non-government schools are required by the conditions of their registration to take a similar approach.

This is often successful.

Where attendance does not improve, further assistance can be called upon by government schools from regional or state office staff or from a non-government school's welfare and pastoral support structure.

Currently, if this does not work, non-attendance matters are formally referred for prosecution in accordance with the Act.

At present, all the courts can do under the Act is impose a fine.

This system dates back to at least 1917 when a fine of 5 shillings was imposed for a first offence, and 40 shillings for a subsequent offence.

A fine may work in getting some parents to meet their obligations under the Act. A recent examination of a sample of cases subject to prosecution shows that in around 50 per cent of cases, attendance improves in the 3 months following a conviction.

But that still means that in 50 per cent of cases, it did not improve.

If our aim is to have children attending school, the imposition of a fine may in some cases just add additional stress to a family that is already struggling.

The Rees Government has been committed to finding a better way to deal with these matters.

We have been working to develop a much broader suite of options for the Department of Education and Training to deal with non-attendance matters before it is necessary to involve the court.

And for those cases that do proceed to court, we have been working to develop greater options for magistrates—options that are better directed at our goal of improving attendance than the traditional fine.

New system

I turn now to the provisions of the bill.

Firstly, the bill will allow the Minister for Education and Training to approve an alternative education program for children who are unable for social, cultural or other reasons to participate effectively in formal school education.

This will enable child who has been living on the streets, say, to participate in a program like Oasis, run by the Salvation Army.

The Oasis program helps get homeless children "off the streets, off drugs and alcohol and away from abuse and violence". While partly an educational program, it also offers other services and family support. It is not a traditional school environment, but programs like this can playa role in reintegrating such a child back into engagement with compulsory education and training.

Such a program would be able to be recognised as an alternative way of meeting the compulsory education requirements of the Act, at least for an interim period. The ultimate aim, where practicable, would be for the child to resume his or her school education.

Secondly, one of the difficulties the Education Department can face when dealing with the failure to enrol a child in a school is in identifying and locating that child and proving that she or he is of compulsory school age.

Section 22A of the bill addresses this problem by allowing the Director General to request relevant information from a range of persons and institutions including both government and non government schools, other government agencies, and any non government organisation in receipt of government funding.

Concerned individuals would also be able to give information to the department about a child who they suspect is not receiving an education.

To give an example, if a community nurse becomes aware that a child of compulsory school age is not enrolled in school, the nurse can notify the Department of Education and Training and, as a result of the bill, will not be in breach of professional ethics by doing so provided he or she has acted in good faith.

The department wants to ensure that a person who performs an important civic duty by reporting a non-enrolment is not placed at risk of harm by doing so. Accordingly, the bill also provides that the identity of any person who provides information under the section will not be disclosed.

Once the department is satisfied that a given child is not in regular attendance, Section 22C of the bill gives the department the power to convene a conference of persons and agencies with a potential role in improving a child's attendance.

The conference could include the child's parents or caregivers, school executive, other government agencies such as Health or DoCS, and individual members of the community who may be able to assist in improving attendance.

For example, if the student is of Aboriginal background, the department may seek out a member of the local Aboriginal community, such as an Elder, who may be willing to play a role in assisting with the child's attendance.

The purpose of the conference will be to discuss the reasons why the child is not at school and to develop strategies to improve attendance.

The conference may identify services that are required, including, for example,

- parenting or adult literacy classes
- drug or alcohol counselling
- mental health services including counselling for depression
- respite for a family if the child has a disability
- community nursing or other health care services
- housing, financial support or other welfare services
- contact with Aboriginal or other cultural support services.

The Department of Education and Training could also make undertakings such as to arrange for the child to have a school uniform or a breakfast program, or if he or she has a disability, transport to school.

The undertakings made in the conference will be formulated into an individual attendance plan for the child in question.

It is hoped that the majority of non-attendance matters will be resolved through this new, pre-court mediation process.

However, if these measures are not successful, the bill allows the Department of Education and Training to apply to the Children's Court for a compulsory schooling order as a next step.

Unlike a prosecution, the application for a compulsory schooling order is not a criminal procedure. However, it is a warning that if the order is not followed and attendance does not approve, prosecution may be considered as the next step.

A compulsory schooling order may contain a requirement to follow through on the actions voluntarily agreed to in the previously mentioned conference or it may contain new actions deemed by the court to be able to assist in the goal of getting the child to attend school.

So, for example, if it is acknowledged that a parental drug addiction is contributing to the failure to ensure the child attends school, then a requirement that the parent attend a rehabilitation program may be included as an element of the compulsory schooling order.

A compulsory schooling order adds the weight of the justice system to the requirement to follow through on these actions.

The point of introducing these new steps—the parents' conference and attendance plan, and the compulsory schooling order—is to attempt to resolve cases of persistent non-attendance without having to proceed to prosecution.

However, for serious cases that cannot be resolved through these mechanisms, the bill retains the option of legal action.

Where a parent continues to fail to see that their child is enrolled and attending school, the matter may be taken to a Local Court.

The bill retains the option of a monetary penalty. Magistrates will be able to issue a maximum fine of $2,550 for a parent for their first offence, rising to a maximum fine of $11,000 for subsequent offences.

This increased maximum penalty is proportional and consistent with serious penalties under the Children Care and Protection Act 1998 for child neglect or acting so as to cause a child significant psychological harm.

Magistrates opting for a monetary penalty will be able to choose a suitable fine within this range, appropriate to the amount that would serve as a deterrent given the particular circumstances of the family in question.

However, under this bill, for the first time magistrates will also have alternative penalty options available to them in lieu of a fine, if circumstances warrant.

The bill provides in section 23 (5) that instead of imposing a fine on a person the court may make a community service order upon the parent.

It will also be possible for the court to take a range of alternative sentencing options, such as imposing a good behaviour bond or deferring sentencing pending the completion of a rehabilitation program.

It is anticipated that in many cases these options will be more suitable to the ultimate goal of the child returning to regular attendance than the traditional fine.

Independent or disobedient children

Sometimes despite a parent's best efforts, he or she is unable to compel their child to receive compulsory schooling.

For example, the child may simply refuse their parents' best efforts to send them to school or may even pretend to go to school but never actually attend.

The first steps in remedying such a situation will remain engagement at the school level, followed by the convening of a conference with relevant agencies and persons and the development of an attendance plan.

If this is not successful, section 22D (3) of the bill provides that where a child is over 12 and the Children's Court is satisfied that the child is either living independently or the parents are not able to control the child, the Children's Court may direct a compulsory schooling order at the child in place of their parents.

Like compulsory schooling orders for parents, this will not be a conviction but it adds the weight of the court to the actions agreed to in the attendance plan.

Where a compulsory schooling order is not successful, and the child is over the age of 15, the department retains the option of taking court action.

For children in this category between 15 and 17, a modest fine of up to 1 penalty unit ($110) will be available for failing to comply with a compulsory schooling order. The court cannot proceed to a conviction and criminal record for the child and can also order the child to participate in specified programs instead of a fine.

This is a balanced approach which recognises, as the law does generally, an increasing capacity for children to exercise adult-like judgement and responsibility as they approach 18.

Other measures

There are a number of ancillary provisions in the bill, which I will address briefly.

Parents and children are able to rely upon a broad range of defences for non-attendance set out in section 23 of the bill.

These include the fact that the child was sick.

Unfortunately a very small number of parents claim that their child is sick as a means of keeping them home or excusing their non-attendance.

While it will not normally be necessary, section 23 (7) of the bill allows a school principal who has reasonable doubt as to the cause of a persistent absence to require a medical certificate confirming that the child is not fit to attend school.

This bill also resolves an anomaly relating to attendance at non-government schools.

In the past 10 years there have been no prosecutions of parents whose children are enrolled in non-government schools. This is because although all principals are required to keep a record of daily attendances, there is no requirement for non-government schools to notify the department of unsatisfactory absences.

This bill will close that gap, creating a level playing field in relation to the parental responsibilities of children enrolled in all schools.

Information about persistent non-attendance in non-government schools would be passed on to the Education Department for consideration of appropriate action in accordance with the new system.

I will also point out that under the system proposed in the bill it would still be possible in extreme cases for the Education Department to move directly to prosecution without first making an application for a compulsory schooling order to the Children's Court.

These would be cases where a dramatically worsening threat to the child's educational development is evident.

It is expected that this will be a rare occasion but the necessity of this power being available in potentially tragic situations is clear.

Recognition of Aboriginal involvement in decision-making

This bill also adds a very important statement to the objects of the Education Act.

The bill will amend the Act to explicitly require the Education Department to provide opportunities for Aboriginal families, kinship groups, representative organisations and communities to participate in significant decisions relating to the education of Aboriginal children.

This will be particularly pertinent in the application of the reforms set out in the bill but it will also apply to all significant decisions made under the Act in the future.

The Rees Government's Aboriginal Education and Training Strategy 2009-2012 already commits the Education Department to work in partnership with the NSW Aboriginal Education Consultative Group, as the peak community advisory body on Aboriginal education and to engage the Aboriginal community in a meaningful way in policy development and decision-making.

It is appropriate that this principle be enshrined in the Education Act.

Relationship to Wood Recommendations

This bill is complementary to the changes passed earlier this year to child protection legislation as part of the Government's Keep Them Safe Action Plan. The process reflects the importance the Government has placed on active collaboration between public agencies and families to improve outcomes for children.

The bill also responds to the recommendation of Justice Wood to introduce "measures to ensure greater attendance at school". It builds on the Government's decision to introduce 25 additional Home School Liaison Officers and 15 Aboriginal Student Liaison Officers across the State.

This bill is also consistent with the change to the requirements of mandatory reporting following the Wood inquiry report. Failure of parents to comply with their compulsory schooling obligations is now one of the circumstances to be considered in determining whether a child is at risk of significant harm under the Children and Young Persons (Care and Protection) Act 1998.

Together these reforms will allow a significant enhancement of our capacity to ensure all children of compulsory school age receive the education they deserve.

Conclusion

In conclusion, the vast majority of parents are enthusiastic supporters of their children's participation in education.

For the very small number who do not comply with the compulsory schooling requirements of the Education Act, the reforms set out in this bill provide greater flexibility in managing their cases.

The bill will allow actions taken to remedy non-attendance to be tailored for the particular case and targeted at our ultimate goal the child's return to a regular pattern of attendance.

I commend the bill to the House.

The Hon. ROBYN PARKER [5.19 p.m.]: On behalf of the New South Wales Liberals-Nationals I indicate that we do not oppose the Education Amendment (School Attendance) Bill 2009. However, I will make comments on the legislation that are important to put on the record. It is imperative to say from the start that New South Wales has many measures in place already to tackle school truancy. Existing measures must be implemented to full capacity. The impact of legislation alone is not enough. It is important to tackle the social issue of chronic truancy. However, the Government uses a legislative mechanism to tackle a social issue. It deals with the issue with a judicial solution rather than looking at the causes of truancy. Why are children not attending school? Why is the community so concerned about this issue? What is occurring in the education system to cause children to truant in massive numbers, if that is occurring?

The Government should provide extra resources and support for our teachers who are trying to do their job to the best of their capacity. It should provide support to engage these children in the education system. It should find out why these children have disengaged and are not attending in so-called record numbers. Instead, the Government acknowledges the truancy and applies a big stick. It does not offer any carrot to encourage children to stay at school and to engage in the school environment in a meaningful way. The Government is shutting the gate after the horse has bolted.

Often the children who are not engaged in the education system and who truant are from areas of extreme disadvantage and are already behind in terms of their home environment, community environment and economic circumstances. They often lack the support they need from their parents and school environment. They also lack the support they need from the Government to be able to actively engage in education in a meaningful way. I will refer shortly to the Government's shameful record on its treatment of TAFE, one of our vital educational institutions, which provides second-chance educational opportunities. I will talk a little more about the Government's measures in relation to TAFE. As I said, we do not oppose the legislation. But this mechanism is only one part of the equation in dealing with truancy. In many ways, truancy is society's failure. It is a much broader issue that cannot be dealt with simply by introducing legislation that imposes fines on parents and, shamefully, in some cases on children.

The failure of families to properly educate their children can involve a complex web of issues, including housing, peer support, dysfunctional families, social isolation, mental illness, violence, drug addiction, poor parenting skills and learning difficulties. Any one of these issues or a combination can cause a child to disengage from the education system. Bullying is at the forefront of my mind, as General Purpose Standing Committee No. 2 is soon to report on its inquiry into the bullying of children and young people in New South Wales. As a member of that committee, I understand that the bullying that exists in our community in and out of the school environment is a key factor in children not attending school. They are afraid to attend school or for them school is a confronting environment. In some cases their parents take them out of the school environment because they feel their children are not safe, and no support or solutions have been offered.

The bill does not include alternative and flexible learning options. It does not contain measures that encourage students who have become disenfranchised from mainstream schooling back into the system. That is where our focus should lie. While the legislation deals with penalties for students and parents, it does not contain any measures that will engage students and their families, or provide resources and community support to address the wider social issues. We are all too aware of the sad situation at Hawks Nest in the Hunter region and the very tragic death of young Ebony. The family had moved from one community to another. Truancy was a major issue in the family. Ebony and her siblings were taken out of school under the guise of home schooling. Although the children had not attended school for a number of years, they had not been followed up. It was a key indicator of broader neglect that should have been identified. If authorities had followed up the truancy as an indication that things were not right in the family, the broader neglect would have been identified.

I was horrified, as I know other parents were, to read an article in the *Daily Telegraph* last weekend about the number of student sick days at a school in Dubbo. According to the *Daily Telegraph* article, the school has a 13 per cent absentee rate. Given the size of the school, that means that every day about 250 students are away, allegedly sick. That is a phenomenal number of students and it must be very disheartening for the school's teachers who are trying to provide a good educational environment for the students who attend. They know that many of their students are falling through the cracks. This legislation will not fix that problem. The article contained a number of reasons for the high rate of truancy, including the creation of two separate campuses for years 7 to 9 and years 10 to 12. It was said that the students needed better role models. Another suggestion was that bullying was rife.

Understandably, teachers at that school have become disillusioned with up to one-third of their students missing from their classrooms. According to the *Daily Telegraph* report, they will meet with the education Minister this week. I sincerely hope that all stakeholders in the community are involved in the process. I also hope that it is not too late. I doubt that the legislation will make any difference to the school environment in that community. No doubt the Government encouraged the story to be published in the paper to highlight the issue of truancy and gain support for the legislation. An environment of truancy has led to the legislation. Legislation introduced last year could have dealt with this issue, but it did not. There is no proof that fining parents or children increases attendance at school. It certainly will not increase school attendance if there is no attempt to engage students in a meaningful way.

In the Hunter region, my local region, there are reports of students missing school for as many as four weeks every year—although the region's truancy average for both primary and high schools in 2008 is well below the State average. However, missing four or six weeks of school effectively wipes out that school year, unless a student is extremely bright or supported by lessons, such as those offered in a hospital environment. Windale Public School's home school liaison officer, Bruce Donaldson, told the Newcastle *Herald* that a student who misses 10 days of school a year would miss more than a term of school by the time the student reached year 6. He said that many of the children at his school missed far more than that.

What is apparent is that those children who currently truant have truanted in the past. That pattern of truanting needs to be stopped early on in the child's education. I do not know whether this legislation will affect that because these children need to be followed up early on before the pattern of truanting becomes entrenched and before it becomes apparent that parents are not encouraging students to go to school because they do not recognise the positive benefits of an education and that attendance at school is needed in order to get that education.

The impact on a child's future caused by a loss of education cannot be underestimated. Currently, under part 5, section 23, of the Education Act 1990, it is already an offence for parents to fail to send their children to school. Furthermore, under the Children and Young Persons (Care and Protection) Act 1998, if parental contracts are breached the Children's Court can issue care orders to protect the child, with the possibility of the Department of Community Services becoming involved. However, it appears that the Government has not been transparent on truancy rate data by school or by Department of Education and Training region because there is no publicly available data on a local basis. If there is such information it is very difficult to find.

I cannot understand why the Government has not used the full force of these existing laws in the past. On anecdotal evidence alone, truancy is an increasing problem in New South Wales, but not all truancy cases end up in court. While the Government must use existing laws in New South Wales, the Liberal-Nationals Coalition welcomes some of the measures contained in this bill. We support the Department of Education and Training obtaining more information about the child in question. If more questions had been asked about the Hawks Nest children I mentioned perhaps something could have been done earlier. If there had been empowerment to ask questions and to follow up on the answers to those questions or if those provisions had been followed up, we might not be talking about that family now.

Under this proposed legislation the Department of Education and Training may convene a conference of parents, the school executive, other government agencies and community members to design an attendance plan. If the conference and the attendance plan fail, a compulsory schooling order through the Children's Court can be made. That order is not recorded as a conviction but it is a warning that prosecution would be considered if attendance does not improve. That is a good deterrent to non-attendance at school provided, in the first instance, all parties are involved in the conference, there is agreement on an attendance plan, and some follow-up action is taken to make sure the attendance plan is being followed. Every step of the way needs cooperation, follow-up and support.

The bill also strengthens the power of magistrates, including an increase of the monetary penalty to $2,550 for parents for their first offence, rising to a maximum of $11,000 for subsequent offences. Many students who are truants come from disadvantaged backgrounds. Fining families up to $11,000 when they clearly cannot afford to pay that kind of money will merely serve to place more pressure on struggling families. Again the bill focuses on penalties and on poor parenting, with no emphasis on what the final outcome will be for the children. Magistrates may also opt to serve a community service order on the parents in lieu of a fine, as well as direct parents to undergo rehabilitation programs that could result in improved attendance for the child.

In these cases asking for parental responsibility falls in line with the Liberal-Nationals Coalition policy. We certainly want parents to be responsible and take on board their role as parents. However, I wonder whether some parents may take it out on their children who are truanting when they are faced with a fine of up to $11,000. I can envisage that parents who take a violent approach to behaviour management and to their parenting may well take out their anger on the child.

In cases where the child is independent or beyond the control of his or her parents an attendance conference and compulsory schooling order can be issued. If a child is in that position, the family background is probably already known and if the family has broken down we hope that far more support will go to that child to follow up where they are and what is happening in their lives. If the child is between 15 and 17 years old and breaches the schooling order, courts can issue a maximum fine of $110 against the child, which would not be recorded as a conviction. The legislation does not mention how or where that child might find $110 to pay the fine, how that is going to encourage the child to attend school, or what advantage fining the child has on educational outcomes. If that student is struggling with so many aspects of their life, as they clearly are, I find it difficult to see how fining the student is going to help matters. It comes back to responsibility of the Government and it comes back to the responsibility of the Department of Education and Training to work with other government departments, such as the Department of Community Services, and take a leadership role on the issue of truancy.

In April 2008 former Premier Morris Iemma announced that magistrates would be given the option to make special orders against problem parents if their children were repeatedly missing class. There is a pattern here. We have a government in trouble—all sorts of things going wrong; all sorts of issues with planning and other matters; ministers' behaviour—and suddenly a piece of legislation appears that the Government says will make parents more responsible and will crack down on truants. It does not add up.

The Hon. Greg Donnelly: What would you do? What is your policy?

The Hon. ROBYN PARKER: Our Ministers will not be misbehaving, we will not be mismanaging, and we certainly will not be mismanaging planning. We will be leading, and you will be able to find out in March 2011 just how we manage. This Government should not be proud of how it manages truancy. The Government should have as its last option the prosecution of parents who disobey court orders in relation to school attendance. Prison sentences were rejected by the Liberal Party and The Nationals and by most people in the education system. Fortunately, the Government decided to drop that proposal. But 18 months later the Government comes back with a bill to combat truancy, backing down on its policy not to jail parents and ramping back up its policy to fine parents.

The New South Wales Coalition is concerned that the introduction of legislation is not enough to combat chronic truancy if there is not a wider social plan to tackle the real issue of why children are not attending school. A slap on the wrist does not address why a child becomes so disinterested in education. Sending a child back to school without addressing why they do not want to be there in the first place will only deliver negative results. Indeed, it will make a difficult situation worse for those parents, worse for those teachers trying to cope, and worse for other students in the classroom who are trying to learn, if those students who do not want to be there and are not engaged with school are there simply because if they are not their parents will be fined or they will be fined themselves.

This legislation does not come up with a comprehensive plan across several departments. It is insincere. It does not tell us how government departments and agencies are going to work together with young people and their parents to involve young people, particularly those in areas of disadvantage. The legislation does not refer to involving the Department of Community Services, despite the fact that that department is responsible for protecting children. It also does not refer to involving the Department of Juvenile Justice, despite the fact that some students who are chronic truants get caught up in that system. There is also no mention of a partnership with the New South Wales Police Force, despite the fact that police officers see truanting students when they are on street patrols and they know where they go when they should be at school. Students experiencing poor health, particularly those in disadvantaged regions, generally do not perform well at school and are tempted to truant. This legislation makes no mention of the need to coordinate health and disability services in a truancy action plan. It is simply about fining parents and discriminating against children who are not engaged in the education system.

As I said, the Opposition does not oppose the legislation, but it is obvious that this is the tip of the iceberg of what can and should be done to combat truancy. The Opposition understands that we need a comprehensive and multi-departmental approach to address all the issues seriously. This legislation is a reminder of other legislation such as the bill increasing the school leaving age to 17. The Opposition supported that legislation, but it did so on the condition that students actively engage in an education system. They must feel part of an education system. They should not be there simply marking time until they reach the age of 17; they should be there in a meaningful and engaged way.

The Hon. Duncan Gay: Point of order: I am having trouble hearing the honourable member over interjections from Government members.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! All members should be aware that interjections are disorderly at all times and the speaker should ignore them.

The Hon. ROBYN PARKER: I am not supporting legislation that was poorly drafted; I am supporting its objective. I am outlining the Opposition's reasons for supporting the legislation increasing the school leaving age to 17. Our support for that legislation was very much couched in terms of students needing to be actively engaged, not simply filling in time, and not distorting unemployment data. Disappointingly, that support has been eroded because in the past few weeks this Government has declared war on TAFE. The TAFE system provides second-chance learning opportunities for many young people, and particularly those who are not engaged in the traditional education system. I am referring to students who do not feel they can do the Higher

School Certificate, who are not interested in going to university and who are disengaged from the traditional school environment. In the past they have done School Certificate equivalent courses at TAFE. This Government is now closing doors on those students—that is, the students we most need to engage and who will perhaps be listed as truants and they or their parents fined. The Opposition wants to provide support rather than impose sanctions.

The Opposition encourages all students to complete year 10. However, if for some reason they cannot—for example, if they have been expelled—does this Government intend to deny them the opportunity to get back on track? Schools and teachers must have the appropriate resources to combat truancy, and those resources include school counsellors. These are the students who need the support of school counsellors, whom this Government let down with the imposition of an outrageous 1:1,000 counsellor to student ratio in high schools in New South Wales. Those students—whom the Government intends to fine for truanting—are not supported with a sufficient number of counsellors. The TAFE system also needs resources to provide alternatives to mainstream schooling.

This legislation does not provide the fresh ideas that the community wants and it does not provide a whole-of-government solution. It demonstrates that this Labor Government is out of ideas. It introduces legislation every now and then to try to divert attention from the good work that is done by teachers in the public education system and by parents who are supporting their children through school. The Government wants to divert attention from its mishandling of planning and its Ministers' bad behaviour. That is the intention behind this legislation. I feel sorry for the students who are falling through the cracks because this Government has failed to support them and our wonderful teachers.

The Hon. LYNDA VOLTZ [5.46 p.m.]: I am surprised by the Opposition's discussion about public school resources. When members opposite were in government, the kindergarten and year 1 teacher to student ratio was 1:27 or 1:28. On coming to office, this Government made a commitment to reduce that ratio to 1:20 or 1:21. Of course, the Coalition Government also sold schools—for example, Blackwattle Bay Public School.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! I remind the Hon. Robyn Parker that interjections are disorderly.

The Hon. LYNDA VOLTZ: This Government had to invest $6 million in upgrading Ultimo Public School because the neighbouring schools had been sold and there was insufficient accommodation. The Labor Government has invested in school infrastructure to deal with the Coalition's sell-off policy.

Dr John Kaye: What about the $239 million worth of schools that your Government is selling?

The Hon. LYNDA VOLTZ: We are not selling any schools. I do not know what the member is talking about.

The DEPUTY-PRESIDENT (The Hon. Amanda Fazio): Order! The member with the call should not respond to interjections.

The Hon. LYNDA VOLTZ: It is the right of every child in New South Wales to receive an education. Accordingly, the Education Act requires parents and caregivers to enrol their child in school or to provide home schooling and to ensure they attend regularly. The Act provides only limited means of enforcing that provision in case of persistent non-attendance. In the most serious cases, the Department of Education and Training must take the matter to court and the only penalty available to magistrates is a fine. That is the only option open to the department and this legislation will change that.

This bill seeks to create more options for the Department of Education and Training to intervene to avoid court action. The Hon. Robyn Parker said that the Government simply wants to slap fines on offenders. In fact, this bill provides a range of options. For serious cases that do proceed to court, the bill increases the options available to magistrates. It allows the Department of Education and Training and, if necessary, the courts to tailor interventions to the circumstances of a given child.

I draw the attention of members to one of the new processes that this bill establishes—the attendance improvement conference. To achieve a lasting improvement in a child's school attendance, it is vital for schools to work in partnership with parents or caregivers and the child. Certain government and non-government

agencies and community representatives may also play a role. Under this bill, the Director General of the Department of Education and Training will be able to arrange for a conference of the relevant parties to be held before the matter is drawn to the attention of the court.

Before the matter is drawn to the court's attention we will get people together—relevant government agencies and the relevant parties—and hold a conference. The purpose of the conference will be to identify and resolve the underlying causes of a child's poor attendance. So, rather than just slapping these children on the wrist and not dealing with why they are not going to school, as the honourable member said, we are doing the opposite. We will get these kids into a conference with the relevant parties to try to find the underlying causes of their poor attendance.

The best way of doing this is to get the people who know the child, and who know why he or she is not attending school regularly, to talk with the people who have knowledge of the range of services, supports and solutions that may improve the child's attendance. These conferences will be conducted by an authorised person who will be appointed by the director general or the Children's Court, as the case requires. The person appointed to act as an authorised person will be determined by the student's individual circumstances. For instance, if a child is Aboriginal, an Aboriginal elder may be appointed to run the conference and take the lead in developing strategies to improve that child's attendance. The essential criterion to be invited to the conference will be that the person can make a positive contribution to improving the child's attendance.

The conference may seek to identify and resolve issues in dispute in relation to compulsory schooling for the child, or it may seek to identify any services whose provision to the child or his or her family would facilitate compulsory schooling for a child. Say, for example, a child has become the carer of a parent who is chronically ill. The key to improving that child's attendance would be to identify support services that could assist the family in coping with the parent's illness and relieve the child of the total responsibility that he or she currently has for the parent's care. It is important that the participants in the conference should feel able to speak freely as attempts are made to identify and resolve barriers to attendance. Accordingly, nothing that is said in the conference can be used in subsequent court proceedings, except in care proceedings under chapter 5 of the Children and Young Persons (Care and Protection) Act 1998.

A parent and other persons attending the conference may give an undertaking with respect to the compulsory schooling of their child. For example, a parent may give an undertaking to attend a parenting or rehabilitation class. The education department can also give undertakings in the conference—for example, to arrange for transport to and from school each day for the child. Such conferences will not work in every case and they are only one of a range of new processes that this bill sets up. But they recognise that in the first instance the best way to tailor an attendance strategy for an individual child is to work with the people who know the child best and to connect the family to services that they identify as likely to assist in helping the child develop a pattern of regular attendance. This bill has a strong emphasis on government and non-government agencies working together to resolve the underlying causes of unsatisfactory attendance.

The Hon. Greg Donnelly: We are not fining people?

The Hon. LYNDA VOLTZ: We are not fining people. We will bring them in and get government agencies and non-government agencies to work together. We will get the people who know the kids best to talk to them and their families, to try to look for solutions. We are giving magistrates options to fix the problems in the home. We are giving the department options to fix the problems in the home. We have a whole raft of new measures in this bill. There is not just the option of fining them; there are options to deal with solutions. But all we hear from the Opposition is criticism and reasons why it is acceptable for kids not to attend school. On what level is it acceptable for us not to try to take all these measures to ensure that kids are where they should be—at school? That is where we want them to be, and the best way for someone over 15 to avoid the fine—here is a good idea—is to go to school. I commend the bill to the House.

Dr JOHN KAYE [5.53 p.m.]: On behalf of the Greens I address the Education Amendment (School Attendance) Bill 2009. The Greens do not oppose this bill. In fact, we strongly welcome a number of features of the bill, in particular the features that create additional steps between an act of truancy and the criminal justice system. As I think the Leader of the Opposition stated and as the Hon. Lynda Voltz firmly stated, this is a step forward to ensure that a number of steps are taken before truancy becomes a matter of criminal justice. The logic behind the legislation starts at a very good place. It says that attendance at school is a right of every child and an obligation of every parent.

The bill obviously comes from a place we recognise: that there are massive individual benefits from regular attendance at school and there are also massive social benefits associated with having all children attending school for as long as is possible and for as long as they will benefit from it. There is nothing new in that idea. In 1880, despite vehement opposition from the churches and various other conservative elements in society, Premier Henry Parkes introduced the Public Instruction Act, the first time anywhere in Australia that legislation brought in compulsory schooling.

Reverend the Hon. Fred Nile: It brought in scripture teaching too.

Dr JOHN KAYE: Reverend the Hon. Fred Nile makes the observation that the Public Instruction Act introduced scripture teaching. It did not; it introduced an hour a week where scripture could be taught, which continues to this day. However, that is not relevant to the issue of truancy—or perhaps it is in terms of turning some children away from school, but we will come to that matter later. The important issue here is that as soon as you create compulsory schooling you end up with truancy. It is the obverse side of the coin. The Minister in her agreement in principle speech, the Opposition spokesperson and a number of members in the Legislative Assembly acknowledged that truancy is a complex issue. It comes about on the one hand for a variety of family reasons—drug and alcohol abuse, mental illness, and family disruption and dysfunction. It also comes about for complex community reasons, where a community does not encourage education and where there is a culture of consistently wagging school.

But, as the Opposition spokesperson said, and I totally agree with her on this, there are other elements behind truancy, and they include the absence of adequate resourcing in the school sector to engage children who have disengaged from education. Everybody has to accept responsibility. Families have to accept responsibility for getting their children to school, but the State has to accept responsibility to fund a public education system so that it can focus on each individual child, especially in those very difficult middle years of education when truancy begins to become a severe issue for some children. The State needs to provide adequate resources so we can ensure that every child has a reason for going to school, has an engagement with school, and has a lust for education. Creating that lust will only happen when we have classes and teachers who have the time and resources to put the effort in to ensure that every child can engage.

I make it clear here that we are not talking about the occasional one-off wagging school to go fishing, to go for a swim, or to go to the movies. I imagine within a stone's throw of me right now are a number of people who probably engaged in such activities when they were younger. I make it clear, I was not referring to Reverend the Hon. Fred Nile who, I have no doubt, had a 100 per cent attendance record at school. There are other members closer to me than Reverend the Hon. Fred Nile right now—and I include myself—who may have occasionally wagged school. But we are talking about a serious issue, an issue of children whose education is interrupted by a persistent pattern of non-engagement with education. This bill extends the legislative provisions and penalties within the existing truancy law under the Education Act 1990. What the bill does, most sensibly—and we congratulate the Government on this approach—is that it provides a graded approach to truancy, a graded series of responses.

This is a far cry from Premier Iemma's announcement to lock up parents. It is a credit to the Government that it was able to overcome the former Premier's rather visceral, moral, panicked approach and come up with this approach, which has a sensible and humane approach to truancy. It recognises that we must encourage children to attend school, while acknowledging that some parents are part of the problem and need to be part of the cure. The legislation starts with what can be done in a school. Where actions in a school fail, the department will first convene a conference with everyone involved with the child to seek to identify remedial actions. Hopefully, an agreement will come from the conference about steps to be undertaken with the family and the child to ensure that the child returns to school. This is an attempt to form a consensus and to engage the family in the process, with the necessary degree of formality to highlight the seriousness of the matter. It is not a criminal justice matter at this point and any agreement will be a blueprint for getting the child back into school on a regular basis.

All members would hope that the conferences are 100 per cent successful and that no further action is required, but realistically this will not always be the case. In instances in which a family does not abide by the provisions of an agreement, the department can apply to the Children's Court for a compulsory school order. Again, this is not a criminal matter, and it keeps parents and children out of the criminal justice system. This measure is a very sensible but serious second step. The parents have to front up to a Children's Court magistrate and be told, "This is your compulsory school order. These are the things you must do to get your child back into school. These are the things you must do to keep yourself and your child out of trouble but, most importantly, to get your child back into education so your child can achieve and reap the benefits of a quality education."

Only when that step fails does the matter go to the Local Court. There are three intervening steps between an active truancy and the Local Court. The Greens congratulate the Government on those three excellent intervening steps. In the Local Court the penalty for the first offence will now be $2,250. For a subsequent offence the maximum penalty will be $11,000. This is where alarm bells start ringing because for most—but not all, I realise—families involved in truancy $11,000 is a substantial, indeed an insurmountable, amount of money to pay. I note that in the second reading speech the Minister said quite sensibly that magistrates opting for a monetary penalty will be able to choose a suitable fine within this range, that is up to $11,000, appropriate to the amount that would serve as a deterrent, given the particular circumstances of the family in question. The clear intention in the Minister's second reading speech is that the fine would be graded in proportion to the capacity of the family to pay that fine. For some families a fine of $110 would have a far greater financial impact than a fine of $11,000 would have on other families.

I hope it is not the intention of the Government to bring a family to its financial knees because of repeated acts of truancy. The bill's intent is to get children back into school. The $11,000 fine will act as more of a deterrent. It is unfortunate that there is no legislative provision other than the Minister's statement in the second reading speech. I understand that the instruction from the department to prosecutors will be in accordance with the second reading speech. If prosecutors are forced to prosecute families for active truancy after the other three steps have failed and they end up in the Local Court, they will seek penalties only in proportion to the capacity of the family to sustain those penalties and continue to function. I foreshadow that the Greens will place a question on notice seeking to clarify whether that is the Government's policy and whether the department will give that instruction to prosecutors. I hope that subsequent governments will continue to follow the same practice so that families will not be financially ruined by any penalty. Further, I note that the legislation allows for a community service order rather than a fine. That, in many cases, would be less onerous on families responsible for truant children.

A positive aspect is that the bill works hard to avoid engaging families with the court. The conference and the order are non-criminal justice measures. They encourage, indeed coerce, the family into addressing the issues causing truancy. But until the Local Court stage is reached, no criminal record or criminal penalties are involved. The bill also addresses the highly vexed issue of children who are beyond the control of their parents. This includes children who have left the family home and are living on the streets, and it includes children who remain within the family home but whose parents are simply not capable of controlling them through no fault of their own. This is not new; it goes back thousands of years. It is the sad reality that some children are beyond the control of their parents. With all the best intentions and best parenting in the world, some children act out in their own way. Equally for such children there are three steps: school intervention, the attendance plan and the Children's Court, which can direct a compulsory school order. However, up to that point there are no criminal record or criminal penalties. I congratulate the Government on working hard to create a series of steps that keep the matter as a social and welfare issue, not a criminal issue.

For students between the ages of 15 and 17 years the bill imposes a fine of up to $110 for persistent truancy. At this point the Greens part company with the intent of the bill. We believe very firmly that a fine of $110 on a 15-year-old will have devastating consequences. Many children are outside the control of the family; many of live outside the care and protection of the family and do not have a fixed address. If a fine is imposed on such children, it will not be paid, with the classic and tragic result that young truants will end up in the criminal justice system for non-payment of fines. We are deeply concerned that the fine will not have a deterrent effect on truancy but could have a devastating impact on individual, persistent truants. It makes no sense to criminalise young people for truancy. To do so would only compound the problems that led to their truancy in the first place.

We believe it would be much more sensible to address the reasons why those children are not in school. I hark back to the statements made by the Opposition spokesperson in respect of this. We need to provide support to the wonderful public sector teachers, particularly those in the schools who deal with the difficult-to-educate population. We need to give those teachers the time and resources to create the programs that encourage these students to re-engage. Senior level and middle-school level teachers who have 27 students or more under their care at any one time simply do not have the time to put the necessary focus on students who are disengaged. What is needed here is the programs and the release time for teachers to focus on those students and re-engage them. Yes, it is expensive in the short term, but in the long term it is a massive investment in society. It is an investment in reducing criminality, it is an investment in those individuals, and it is an investment in a safer and more secure society.

We welcome the provisions within this bill, but the bill is only half the solution. It needs to be complemented by real measures in schools. The Education Amendment (School Leaving Age) Bill 2009, which

raised the school leaving age and which every member in this Chamber supported, needed to be accompanied by real resources to ensure that young people between the ages of 15 and 17 have something meaningful to do. There is a real contradiction between the Education Amendment (School Attendance) Bill and a memo sent out by the Deputy Director General of TAFE and Community Education, Marie Persson, on 21 September 2009 in which she instructed all TAFE staff, including TAFE institute directors in the following terms:

> Students wishing to attend TAFE NSW to complete a course equivalent to Year 10 will need to show they have the ability and skills to study in an adult learning environment, the ability to undertake specific vocational qualifications and the language, literacy and numeracy skills to be successful in their chosen course.

Effectively Ms Persson was instructing TAFE staff not to enrol students in the year 10 alternative within TAFE colleges—that is, the Certificate in General and Vocational Education—in order to complete their year 10 studies. Effectively the Deputy Director General of TAFE and Community Education was saying that the onus of proof on the capacity to complete the Certificate in General and Vocational Education falls on the student. I evidence that by her words, "Students wishing to attend TAFE NSW to complete a course equivalent to Year 10 will need to show …" The onus of proof is placed on the student. The directive requires that a student is capable of a further TAFE qualification in a vocational educational area, rather than just the Certificate in General and Vocational Education itself—

The Hon. Amanda Fazio: Point of order: My point of order is relevance. The matter Dr John Kaye is now speaking about is not connected to the bill. I ask you to direct him to speak to the Education Amendment (School Attendance) Bill and not to other matters related to the TAFE system.

The Hon. Greg Donnelly: To the point of order: I reiterate what the Hon. Amanda Fazio has said. Moreover, Dr John Kaye is simply putting his interpretation on a memorandum from the Department of Education and Training. Dr John Kaye is therefore out of order, as his interpretation is clearly outside the scope of this debate.

Dr JOHN KAYE: To the point of order: I would argue that this is directly relevant. I am talking about a provision within the bill—I think it is proposed section 22D—which refers to young people between the ages of 15 and 17 copping a $110 fine if they do not attend school. My point is that if we are to do that—and I do not believe we should—we need to have alternatives. One of those alternatives was the Certificate in General and Vocational Education. At the same time as the Government is imposing a $110 fine on students between the ages of 15 and 17, those students are being kept in school by the school leaving age legislation. One of the important avenues for those children to complete their year 10—and hence be able to escape from school—is the Certificate in General and Vocational Education, which is being damaged by the legislation.

The Hon. Robyn Parker: To the point of order: The argument is totally relevant. It was not ruled out as irrelevant when I raised this very issue: that these are the young people we seek to engage in the education system. This program, offered through TAFE, has been one way of offering a second-chance learning environment. It is certainly appropriate, and it should be supported.

The PRESIDENT: Order! Although, by tradition, debates in this House may be wide-ranging, because the bill before the Chair has in its title the words "education", "school" and "attendance" does not mean that members are free to range over anything to do with education, school and attendance. What is relevant is the long title of the bill, of which I urge all members with the call to be aware. Dr John Kaye may continue provided his comments are confined to the scope of the long title of the bill.

Dr JOHN KAYE: Thank you for your guidance, Mr President. I have a copy of the long title of the bill and I will maintain my speech within it. The point I have sought to make is that with regard to the issue of the compulsory school age and forcing children to be in school during that compulsory school age, the way the bill interprets children being in school includes their attaining an approved TAFE qualification. One of those very important approved TAFE qualifications is being effectively shut down. The Government Whip has said that is my interpretation. I accept that he might regard that as my interpretation. However, I have read into *Hansard* what the Deputy Director General of TAFE and Community Education, Marie Persson, said. Firstly, Marie Persson said the onus of proof is on the students. Secondly, she said that a student must be capable of a further TAFE qualification in a vocational educational area, rather than just the Certificate in General and Vocational Education itself—whereas the tradition of the Certificate in General and Vocational Education is that it is a second chance at year 10. Thirdly, Marie Persson said that the student must come to TAFE equipped with the basic skills to study a vocational education course. In contrast, the kids who will get caught with a $110 fine are specifically kids who do not have those skills; these are the kids who largely have no skills.

The purpose of the year 10 TAFE equivalent, the Certificate in General and Vocational Education, was to give the kids for whom school was no longer a possible outcome an opportunity to develop those skills—or at least an opportunity to complete year 10 and therefore an opportunity to sense some self-worth. The Deputy Director General's memo effectively creates massive barriers to those children engaging with school, which means that under the bill—and I appreciate your patience in allowing me to come back to this issue—those children who are facing a $110 fine will now not have the opportunity to avoid that $110 fine by doing a Certificate in General and Vocational Education, unless they have those specific skills. Under this legislation, 15- to 17-year-olds who find it impossible to complete year 10 in school will be trapped in school with the risk of a $110 fine, the non-payment of which will escalate into a greater criminal justice issue.

For that reason, the Greens will move an amendment in Committee to delete provision for a $110 fine. We believe it is unnecessary. There is no evidence that such a fine will in any way reduce truancy. There is evidence from other fines on juveniles, however, that it will lead to adverse outcomes. Instead we propose that the Government put money into schools and to reopen the Certificate in General and Vocational Education TAFE course, which we believe will work better.

In conclusion, the bill contains two other provisions that are welcomed wholeheartedly by the Greens. First, it fixes the anomaly whereby non-government schools in general were not required to report truancy problems to the Department of Education and Training. The bill started from the proposition that every young child deserves the right to attend school. When that is not happening at either a government or non-government school then action should be taken. The veil of secrecy that has existed to date, probably due to an oversight in the original drafting of the truancy provisions in the Education Act 1990, will be lifted, the loophole will be closed and non-government schools will have to report acts of consistent truancy to the Department of Education and Training.

The second welcome provision is the recognition in the bill of Aboriginal families, kinship groups, representative groups and communities to ensure their participation in significant education decisions affecting the children of their communities. This stated objective of the bill will enshrine the practice of ensuring that Aboriginal communities are active participants in decisions relating to the education of their children. International studies and evidence taken in an inquiry conducted by the Standing Committee on Social Issues in which I was involved demonstrate that this is a recipe for success. It orients education policy-making for indigenous Australians in a direction of empowerment, and that is a precursor to ensuring high educational outcomes. This is an essential step in New South Wales because the year 12 completion rate for Aboriginal young people is half that of the rest of the population. The Greens warmly welcome many of the provisions in the bill as a step forward in dealing with truancy. However, the Greens do have concerns about imposing financial penalties on young people who persistently truant.

Reverend the Hon. FRED NILE [6.21 p.m.]: I speak on behalf of the Christian Democratic Party on the Education Amendment (School Attendance) Bill 2009. I agree with the objectives of the bill to ensure that children of compulsory school age attend school, and provisions in the bill will assist that to happen. However, I am puzzled about the necessity to increase penalties. The objects of the bill state:

> (a) to facilitate the provision of information to the Director-General of the Department of Education and Training about children who are not attending school;
>
> (b) to provide for confidential conferences with parents and other relevant parties to assist in ensuring a child attends school,
>
> (c) to provide for the making of compulsory school orders by the Children's Court directed at parents whose children do not attend school and, in certain cases, directed at children who do attend school, and

Those objects are very good. However, (d) adds:

> (d) to increase the monetary penalties for parents who do not ensure that their children attend school, in particular, where parents fail to comply with compulsory schooling orders.

The Government has erred in seeking to increase the monetary penalties, especially as no increase is necessary. In the debate about penalties for parents of children who are absent from school in which I was involved, the Department of Education and Training clearly stated that the current fine of $1,100 applies for each day a child is absent from school. Accordingly, if a child is absent for one day, the fine is $1,100 and if the child is absent for 10 days, the fine is ten times $1,100. I recall also debate about approvals for home schooling when the department threatened to fine parents for each day that their children were not in a compulsory school situation.

I am concerned also about the proposal to fine children aged 15 to 17 years, a matter referred to also by Dr John Kaye. The objects of the bill make no reference to introducing a monetary penalty for children aged 15

to 17 years, but there is no doubt that clause 22D provides for such a penalty. In this regard those who drafted the bill must have been confused because the Minister for Education and Training, Ms Verity Firth, said in her agreement in principle speech:

> Yet a family's failure to have a child educated can be caused by a wide variety of factors. It may arise from mental illness, from drug and alcohol addiction, from social isolation, from parental disabilities, from the absence of parenting skills or from other causes of family disruption. When attempting to deal with these cases, it is vital to have a system that is flexible enough to address the real underlying causes of the problem.

We all agree with that. She continued:

> This bill will introduce such a system. Our aim is not to obtain a fine or have a parent convicted and punished. Our aim is to ensure that all children are receiving the education to which they are entitled.

According to the Minister the aim of the bill is "not to obtain a fine or have a parent convicted and punished"; however, the bill will dramatically increase the penalties. A magistrate will be able to impose upon a parent a maximum fine of $2,550 for a first offence, rising to a maximum fine of $11,000 for subsequent offences. The briefing paper refers to "subsequent offences"—that is, offences plural. Does that mean $11,000 for each offence? That is how the departmental people have interpreted the fine in the past: children must attend school every day and if they are absent without excuse for one day, they will be fined. The House may pass the bill today but I ask the Government to review that provision as it will make the legislation more draconian than the Minister originally intended.

The bill contains many valuable provisions that will encourage parents to get their children to attend court. If matters come before a court, a range of penalty options will be available to the magistrate that focus on resolving the causes of non-attendance rather than merely punishment. Why are the penalties being increased? There is no need to increase the penalty to $11,000; for an average family a fine of $1,100 dollars is sufficient penalty to attract attention. I support the opportunity for a conference to be conducted and an attendance plan to be worked out by representatives of the Department of Education and Training and/or the magistrate. I also support the provision of a compulsory schooling order by the Children's Court, with such an order not recorded as a conviction but rather as a warning that prosecution may be considered if attendance does not improve. Again it seems the Government does not wish to be draconian with this legislation, so why is it proposed to increase the fines?

A positive feature of the Government's legislation is that the previously announced policy of incarcerating parents who do not ensure that their children attend school does not form part of this bill. On the other hand, the penalties increase dramatically. The bill will provide greater flexibility to both the Department of Education and Training and the courts in dealing with cases of persistent non-attendance. The aim is to resolve cases without the need for prosecution. The goal is to get the child back to school, not to prosecute the parents.

The Government reinstated the number of liaison officers across the State: 25 additional home school liaison officers and 15 Aboriginal student liaison officers. How many school truant officers have the specific role of questioning children who are in shopping centres or at the beach during school hours? What action do Department of Community Services officers take to ensure that all children attend school? Do they attend a child's home and question the parents as to whether they know their child is at school? Do schools provide prompt information to parents when their child does not attend school? A child could pretend to go to school and the parents may believe that the child is at school. Schools have a responsibility to keep parents fully informed if a child is absent from school without parental consent. I support the bill in principle. I will support the Greens amendment to reduce the penalty on children. I do not consider it is necessary to increase the penalty from $1,100.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.31 p.m.], in reply: I thank honourable members for their contribution to the debate and their support for the bill. It is the right of every child in New South Wales to have an education and to have access to the lifelong benefits and opportunities that education brings. Most parents agree with this principle and ensure that their children are enrolled and regularly attend school. The bill introduces improved processes to help manage the very small number of cases in which parents are not fulfilling their responsibilities in this regard. The current provisions in the Education Act relating to attendance were framed in the 1940s and reflect an overly punitive approach. In most cases, if the Department of Education and Training wishes to pursue a case of persistent non-attendance it must take the matter to court. Once before the court the only penalty option available to magistrates is a monetary fine. Fines are not well connected to our ultimate goal, which is to see the child return to a pattern of regular school attendance. In many cases a fine may exacerbate the cause of the child's non-attendance.

The main principle underpinning the bill is that families, communities and a range of government and non-government agencies have a role to play in identifying the reasons for a child's poor attendance and in contributing to improvement in attendance. The bill provides the Department of Education and Training with new powers to convene conferences of parties and to develop attendance plans as a first course of action. The purpose of these conferences is to try to resolve attendance issues without the need to proceed to court. For those serious cases that do proceed to court, the bill expands the options available to magistrates. For the first time magistrates will be able to issue a range of orders that may be more appropriate than a traditional fine. These may include an order that parents participate in a parenting or rehabilitation program or for an agency to provide a particular form of support. These expanded options, for both the Department of Education and Training and the judiciary, will allow strategies to improve attendance to be better tailored to the individual and family in question. I will expand on these options when I address concerns raised by Reverend the Hon. Fred Nile.

Dr John Kaye raised issues in relation to TAFE. He repeated the incorrect claim that the Opposition and the Greens recently made in the media about options for young people to complete their schooling at TAFE. Dr John Kaye should listen to my response. In a small number of cases an adult learning environment may better suit an individual student. With the agreement of the student's parents or caregivers, the principal of the school and the local TAFE facility, the student may enrol in TAFE in lieu of secondary school. This is the case now, and the Minister has made it clear it will continue to be the case. It is completely disingenuous for the Opposition and the Greens to suggest otherwise. Recently TAFE New South Wales clarified this process in an email to staff. The email reiterates that all relevant parties must be in agreement that completing years 9 and 10 equivalent at a TAFE college is the best option for the young person in question. This is entirely appropriate. TAFE is not suitable for every student of this age. As I said, this process is already in place and will continue to be in place. Dr John Kaye is incorrect when he suggests that the Government is seeking to close TAFE's doors. For some young people TAFE is the most appropriate option. It seems that Dr John Kaye is not interested in my response.

Reverend the Hon. Fred Nile raised concerns about the expanded options for both the Department of Education and Training and the judiciary. In cases where a compulsory schooling order is not successful the bill retains the option for the department to proceed to prosecution. However, this is to be seen as an option of last resort. The previously announced policy of jailing parents who do not ensure their children attend school has been removed from the bill. The bill retains the option of a monetary penalty. Magistrates will be able to issue a maximum fine of $2,550 for a parent for a first offence, rising to a maximum fine of $11,000 for subsequent offences. That is the maximum option for magistrates. Magistrates opting for a monetary penalty will be able to choose a suitable fine within this range appropriate to the amount that would serve as a deterrent, given the particular circumstances of the family in question. However, for the first time magistrates will be able to opt for a community service order on the parents in lieu of a fine, if circumstances warrant.

Magistrates also may direct parents to undergo rehabilitation programs that may result in improved attendance for the child. These options may be more suitable to the ultimate goal of the child returning to regular attendance than the traditional fine. In cases where a child is independent or demonstrably beyond the control of the parent, an attendance conference and compulsory schooling order served on the child may still be pursued. If the child is between the ages of 15 and 17 years and breaches a compulsory schooling order, court action against the child is possible with a maximum fine of $110 deferred if the child returns to school, and it is not recorded as a conviction. If the child does not return to school the fine will be imposed. If the child returns to school the fine does not have to be paid. This means the child will not have a criminal record as a consequence of a breach of a compulsory schooling order. The aim of the bill is to provide greater flexibility to both the Department of Education and Training and the courts in dealing with cases of persistent non-attendance, with the aim of resolving more cases without the need to prosecute. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Dr JOHN KAYE [6.43 p.m.]: I move Greens amendment No. 1:

No. 1 Page 8, schedule 1 [5], proposed section 22D (9) (b), lines 29-33. Omit all words on those lines.

The intention of this amendment is to address the issue that I referred to in my second reading speech on behalf of the Greens in respect to the $110 penalty for students of or above the age of 15 who are guilty of the offence of failing to fulfil their obligations under a compulsory schooling order. The amendment will delete proposed section 22D (9) (b), lines 29 to 33, which is a provision that imposes one penalty unit—a $110 fine—on a child unless the child has a reasonable excuse for not complying with the order. The Greens are concerned about the ineffectiveness of fining children between the ages of 15 and 17 and, more importantly, the consequences of doing so in terms of escalating a child's engagement with the criminal justice system as a result of the non-payment of a fine. A child may not have a fixed address and therefore may not be able to be reached by mail or contacted in any way and risks non-payment of a fine. I also draw the Committee's attention to the Legislation Review Committee's report No. 13, dated 19 October 2009. The Legislation Review Committee reviewed the Education Amendment (School Attendance) Bill 2009 and at paragraph 20 noted:

> … proposed section 22D (9) intends to act as a deterrent against non-attendance of children at school. However, the Committee has serious concerns regarding the impact of the penalties on parents and young people, in particular, those from disadvantaged backgrounds, including Aboriginal young people and parents. Accordingly, the Committee refers proposed section 22D (9) to the Parliament for its consideration.

It is not just the Greens and the Christian Democratic Party who identify a serious issue with respect to imposing these kinds of penalties on young people and families; it is also the parliamentary review committee. We are also concerned about the ineffectiveness of a fine. How many 15- to 17-year-olds will know that they face a $110 penalty? It must be remembered that we are talking about children who do not have a functional family background and children who are operating largely independently of their family. How many of them will take seriously a $110 fine when they have no money of their own at all? We are creating an impossible position. These young people will cop a $110 fine but it will not be a deterrent; it will not stop them truanting and the result will be that they will end up entangled in the criminal justice system.

While we support the intent of much of the rest of the legislation, we share with Reverend Fred Nile concern about the $11,000 fine for parents. But at this stage we ask the Committee to support the amendment to make sure that we remove this punitive provision from the legislation so that young people between the ages of 15 and 17 cannot be fined. I commend the amendment to the Committee.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.48 p.m.]: For many decades the minimum school leaving age has been 15. Therefore, prosecutions for non-attendance have been in relation to children and young people aged 14 or below. In those cases ensuring attendance is clearly a parental responsibility. The Education Amendment (School Leaving Age) Act 2009 changed the applicable age cohort of compulsory schooling. This means that compulsory schooling requirements from next year will apply to children up to the date of their seventeenth birthday. That change was supported unanimously by this Parliament. As the age of students at school rises, an increasing number of them live independently of their parents, or demonstrably beyond their parents' control. In these cases processes to address persistent non-attendance that are directed at the young person's parents will be of little use.

The first step in remedying such a situation will remain engagement at the school level, followed by convening a conference with relevant agencies and persons, and the development of an attendance plan. If this is not successful, proposed section 22D (c) provides that, where the young person is above a given age and the court is satisfied that he or she is living independently or the parents are not able to exercise control, it may direct a compulsory schooling order at the young person in place of the parents. A magistrate can tailor compulsory schooling orders to the particular circumstances of a given young person. For example, a magistrate will be able to direct a young person to participate in an alternative education program rather than to attend school. Compulsory schooling orders are not themselves a criminal conviction and do not establish a criminal record; they are a strong message that the requirement to attend school or another program is taken seriously and that if attendance does not improve more serious action may be pursued.

The efficacy of this process will be undermined if these older children face no consequences for breaching a compulsory schooling order. The proposed fine is very small—a maximum of $110—and the legislation provides two in-built protections. First, the Children's Court is legally obliged to consider the student's capacity to pay a fine prior to imposing one. Secondly, the bill provides that there is no penalty if the child has a reasonable excuse for not complying with the order. Members should compare the $110 fine contemplated by the bill with a child 12 years of age or older found guilty of riding a bicycle on a footpath who can be fined up to 20 penalty units or $2,200.

In addition, the court will retain the option of requiring the child to do community service in lieu of a fine and will also be able to exercise the range of alternatives provided by the Children (Protection and Parental

Responsibility) Act 1997, and no conviction will be recorded. This is a balanced approach that recognises, as the law does generally, the increasing capacity of young people to exercise adult-like judgement and responsibility as they approach the age of 18. The honourable member's amendment proposes that we hand the court the power—namely, to issue a compulsory schooling order—but no means to enforce it. It would be an order with no penalty for a breach and it could seriously undermine the proposed process. If members believe that all young people should be engaged in education until the age of 17 in accordance with the amendments to the legislation dealing with the school leaving age, they must accept the necessity for a credible enforcement process for the small number of cases that involve independent or disobedient young people. The Government opposes the amendment.

Reverend the Hon. FRED NILE [6.53 p.m.]: As I said in my second reading speech, I will support the amendment moved by Dr John Kaye. I do not believe the Government has given sufficient thought to this new provision imposing a fine of $110. The Parliamentary Secretary said it is a small fine. From where would a 15-year-old child with no income or wage get $110?

The Hon. Henry Tsang: There is an alternative.

Reverend the Hon. FRED NILE: It is a penalty. I do not agree with imposing a penalty in the first place. If we were to have one, it could be $5, which a child might be able to pay. What happens if the child does not pay the fine? Will he or she end up in a juvenile justice centre? On the other hand, if a fine is imposed, will a child run away fearful that he or she is in trouble with the law? The legislation includes a provision covering a child who has a reasonable excuse. What are the reasonable excuses? A parent might tell a child to stay home to engage in home schooling, but the provisions relating to home schooling have not been fulfilled. The child is then told to obey the Government. Who does the child obey—the State or the parent? It would be simpler to omit that provision at this stage.

The Hon. ROBYN PARKER [6.54 p.m.]: The Coalition does not support this amendment.

The CHAIR (The Hon. Amanda Fazio): Now that we have the replacement Christian Democratic Party amendment, and it relates to a similar clause—although they are not in conflict—it would be appropriate for Reverend the Hon. Fred Nile to move his amendments and then we will put the amendments in order.

Dr JOHN KAYE [6.54 p.m.]: Does that close off the debate?

The CHAIR (The Hon. Amanda Fazio): No, the member can exercise his right of reply and comment on the amendments as well after Reverend the Hon. Fred Nile has moved his amendments.

Reverend the Hon. FRED NILE [6.56 p.m.], by leave: I move Christian Democratic Party amendments Nos 1 and 2 in globo:

No. 1 Page 8, schedule 1 [5], proposed section 22D (9) (a), lines 26-28. Omit all words on those lines.

No. 2 Page 9, schedule 1 [6], proposed section 23 (1), lines 27-32. Omit all words on those lines. Insert instead:

Maximum penalty: 10 penalty units.

These amendments restore the status quo. The Act provides for a 10-unit or $1,100 penalty, which is appropriate. The jump to 100 penalty units is huge; in fact, it is almost draconian. I ask the Committee to support these amendments. The Government can review the legislation later. I do not believe that such a penalty would be a deterrent to parents in this very sensitive situation. I also do not believe it would be helpful to have such a harsh penalty. Some parents would feel oppressed by it.

The Hon. HENRY TSANG (Parliamentary Secretary) [6.57 p.m.]: Reverend the Hon. Fred Nile's amendments deal with fines. The purpose of the bill is to expand the options available to magistrates. The most significant provisions of the bill create new non-fine penalty options. Magistrates will now be able to issue community service orders or good behaviour bonds instead of fines. Such bonds can include orders to participate in rehabilitation or parenting courses. However, in some cases a fine may be the most appropriate deterrent to a family. The Department of Education and Training is aware of cases where wealthy families have refused to have a child educated and simply pay the fines provided for in the Education Act. This bill extends the options available to magistrates, and it is appropriate that the uppermost limit also be extended for those cases that warrant it. The Government does not support the Christian Democratic Party amendments.

The Hon. ROBYN PARKER [6.59 p.m.]: On behalf of the Liberal-Nationals Coalition I make a couple of comments about Reverend the Hon. Fred Nile's amendments. The so-called amended amendment is the first time we have seen these amendments, so we have had no time to consider them and decide what our joint parliamentary party room or our shadow Cabinet might think. Sadly, if we had these amendments in advance, we may have been in a different position. Our support for this legislation should be interpreted as support for the extra provisions available in supporting and keeping young people engaged in the education system. Our support is for encouraging parental responsibility, and also for encouraging children and young people to take responsibility for their educational needs.

Our concerns are on the record, but I reiterate them. The Government needs to provide support to teachers and to families in a coordinated way, as it says it is going to do, so children do not fall through the cracks and are engaged in the education system. We are not convinced that those supports will be in place or that this legislation will help towards more negotiation, more coordination and more discussion between all parties when children are truant. Our concerns have been and continue to be about the fines and punitive measures that are encompassed in this bill. However, our support for the bill is maintained. If we start tinkering at the edges we will end up with legislation that does do completely what the bill is meant to do. So we do not support these amendments or the earlier Greens amendments.

We support this bill because it will help meet the needs of children, parents and teachers. Nonetheless, we are concerned that this legislative effort might fail if the Government does not address those needs but allows increased fines to put pressure on already disadvantaged children and families. We will be watching the outcome of this legislation very closely. We will be monitoring whether the punitive measures, which the Government assured us will be a last resort, are used instead as a first resort before the alternative measures available are employed.

Dr JOHN KAYE [7.02 p.m.]: The Greens strongly support the amendments put forward by Reverend the Hon. Fred Nile and welcome them. They are amendments we contemplated when we were analysing the legislation, and they make perfect sense. With respect to the Christian Democratic Party amendment No. 1, the penalty for parents who fail to comply with a compulsory schooling order is up to 100 penalty units, that is $11,000, which is a massive imposition for all but a very small number of families. We inferred from the Minister's agreement in principle speech that prosecutors would be instructed to ask for penalties in proportion to the capacity of the individual family to pay. We remain concerned about such a large penalty being on the books. We are talking largely but not exclusively about families who are strapped for cash and are quite impecunious.

I would make similar remarks about Christian Democratic Party amendment No. 2, which amends the section 23 offence of a parent failing to send a child to school. Rather than starting with 25 penalty units for the first offence and increasing to 100 penalty units for a parent who is subject to a compulsory school order—

Reverend the Hon. Fred Nile: It is $11,000.

Dr JOHN KAYE: I am sorry, $11,000, and Reverend the Hon. Fred Nile seeks to reduce that to the current status of $1,100, which is 10 penalty units. I appreciate the arithmetic advice from Reverend the Hon. Fred Nile. For those reasons the Greens strongly support the Christian Democratic Party amendments and encourage all members to do likewise.

Reverend the Hon. FRED NILE [7.05 p.m.]: I note the position of the Government and of the Opposition. The Opposition obviously has not had a chance to see the amendments, but I would have thought Opposition members could have given thought to the penalties when considering the bill. Tonight is not the first opportunity the Opposition has had to consider the penalties. The shadow Cabinet should have considered them.

Question—That Greens amendment No. 1 be agreed to—put.

The Committee divided.

Ayes, 5

Mr Cohen
Ms Hale
Reverend Nile

Tellers,
Dr Kaye
Ms Rhiannon

Noes, 23

Mr Ajaka	Mr Gay	Mr Tsang
Mr Catanzariti	Ms Griffin	Mr Veitch
Mr Clarke	Mr Khan	Ms Voltz
Mr Colless	Mr Lynn	Mr West
Ms Cusack	Mr Mason-Cox	Ms Westwood
Mr Della Bosca	Reverend Dr Moyes	*Tellers,*
Ms Ficarra	Ms Parker	Mr Donnelly
Miss Gardiner	Mr Primrose	Mr Harwin

Question resolved in the negative.

Greens amendment No. 1 negatived.

Question—That Christian Democratic Party amendments Nos 1 and 2 be agreed to—put.

The Committee divided.

Ayes, 5

Mr Cohen
Reverend Nile
Ms Rhiannon

Tellers,
Ms Hale
Dr Kaye

Noes, 23

Mr Ajaka	Mr Gay	Mr Tsang
Mr Catanzariti	Ms Griffin	Mr Veitch
Mr Clarke	Mr Khan	Ms Voltz
Mr Colless	Mr Lynn	Mr West
Ms Cusack	Mr Mason-Cox	Ms Westwood
Mr Della Bosca	Reverend Dr Moyes	*Tellers,*
Ms Ficarra	Ms Parker	Mr Donnelly
Miss Gardiner	Mr Primrose	Mr Harwin

Question resolved in the negative.

Christian Democratic Party amendments Nos 1 and 2 negatived.

Schedule 1 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Henry Tsang agreed to:

That the report be now adopted.

Report adopted.

Third Reading

Motion, by leave, by the Hon. Henry Tsang agreed to:

That this bill be now read a third time.

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

TABLING OF PAPERS

The Hon. John Hatzistergos tabled, according to the Annual Reports (Statutory Bodies) Act 1984, the following paper:

Report of the Sydney Cricket and Sports Ground Trust for the year ended 30 June 2009

Ordered to be printed on motion by the Hon. John Hatzistergos.

ADJOURNMENT

The Hon. JOHN HATZISTERGOS (Attorney General, Minister for Industrial Relations, Vice President of the Executive Council) [7.19 p.m.]: I move:

That this House do now adjourn.

WORLD CONFERENCE ON WOMEN AND SPORT

The Hon. LYNDA VOLTZ [7.19 p.m.]: As we know, sport can be a powerful tool to empower people. Susan Anthony, a suffragist, stated in 1896 that cycling has done more to emancipate women than any one thing in the world. Whatever we believe, it is undeniable that while we generally accept that women should be treated with equality in society, we are still subjected to inequalities and discrimination in sport. I think one of the more disappointing things in sport recently has been the treatment of Caster Semenya by the media, the International Association of Athletics Federations and Athletics South Africa. I cannot imagine what it must have been like for this young woman, who had her most intimate medical details laid bare for the entire world. To release personal medical details is, without question, a brutal way to treat this athlete. Caster Semenya has a right to participate in sport, as is the right of us all. If this means that sport officials, particularly those at the world championships, need to rethink some categories, so be it. Caster Semenya should be congratulated on her 800-metre win and her countenance in the storm that surrounded her.

It is particularly pleasing in light of these incidents that the New South Wales Government, through the Department of Sport and Recreation and Sydney Olympic Park, have provided support to bring the fifth World Conference on Women and Sport to Sydney in May 2010. The International Working Group on Women and Sport was established in 1994 at the first World Conference on Women and Sport held in Brighton. The group is an independent coordinated body consisting of representatives of key government and non- government organisations from different regions of the world.

The first International Conference on Women and Sport brought together policy and decision makers in sport at both national and international levels. It was organised by the British Sports Council and supported by the International Olympic Committee. The conference specifically addressed the issue of how to accelerate the process of change that would redress the imbalances women face in their participation and involvement in sport.

The 280 delegates from 82 countries representing government and non-government organisations, national Olympic committees, international and national sports federations, and educational and research institutions, endorsed the Brighton Declaration. The declaration provides the principles that should guide action to increase the involvement of women in sport at all levels and in all functions and roles. In addition, the conference agreed to establish and develop an international women and sport strategy, which encompasses all continents. This strategy should be endorsed and supported by government and non-government organisations involved in sport development. Such an international strategic approach enables model programs and successful developments to be shared among nations and supporting federations, accelerating the change towards a more equitable sporting culture worldwide.

The Brighton Declaration is addressed to all those governments, public authorities, organisations, businesses, educational and research establishments, women's organisations and individuals who are responsible for, or who directly or indirectly influence, the conduct, development or promotion of sport, or who are in any way involved in the employment, education, management, training, development or care of women in sport. This declaration is meant to complement all sporting, local, national and international charters, laws, codes, rules and regulations relating to women in sport. The overriding aim is to develop a sporting culture that enables and values the full involvement of women in every aspect of sport. It is in the interests of equality and development that the commitment be made by government and non-government organisations and all those institutions involved in sport to apply the principles set out in the Brighton Declaration, which include equity and equality in society and therefore, of course, sport.

The main conference venue for the fifth World Conference on Women and Sport will be the Sydney Convention and Exhibition Centre in Darling Harbour. The final day of the conference will be held at Sydney Olympic Park, somewhat our sporting home here in Sydney. This final day will also feature a Women's Sports Festival, celebrating women's participation and achievement in sport. The fifth World Conference on Women and Sport is organised under the auspices of the International Working Group on Women in Sport with the support of New South Wales Sport and Recreation, the University of Technology Sydney, the Australian Government's Department of Health and Ageing, and the Sydney Olympic Park Authority. The fifth World Conference on Women and Sport is designed to attract not only the international and national organisations involved in sport but the multitude of industries relevant to women and sport, including health, physical activity, education, youth, community development and human rights. The conference theme is "Women: Play/Think/Change" and its aims are to deal with women, sport and human rights; physical activity and health for women; engaging generations Y and Z in sport and physical activity; sport and social change; and financing and media for gender equity.

TILLEGRA DAM

The Hon. ROBYN PARKER [7.23 p.m.]: I wish to place on record my concerns about the $477 million Tillegra Dam project—known far and wide in the Hunter region as the Orkopoulos diversion dam, because that is clearly why the Government put the dam back on the agenda—funnily enough, at the same time as former Minister Milton Orkopoulos's terrible past was being unveiled in the Hunter media. Since the project's announcement by the New South Wales Labor Government—which, as I said, was a diversion away from the scandals of its own members of Parliament—repeated evidence has been produced to show that the dam is not needed and Hunter ratepayers are the ones who will foot the bill.

I was amazed to hear the Treasurer's answer to a question without notice recently regarding the cost of the dam—which has gone from $344 million to $477 million and construction has not even started yet—in which the Treasurer actually claimed that the existing Hunter dam capacity can fall to as low as 30 per cent during droughts. Indeed, this may be news to residents in Port Stephens, for Grahamstown Dam is currently at around 95 per cent capacity. Even during times of drought in recent years, ratepayers in the Hunter region did not have water restrictions put on them.

An independent analysis of the Tillegra Dam project by the Institute for Sustainable Futures found that there is a one in a million chance of current water supplies being low enough to justify building the dam. And yet it is the ratepayers in the Hunter region—who are not short of water—who will pay for this project. When the Tillegra Dam project was announced during the 2007 election campaign, the promise from the Government was that it was fully funded and fully costed. But it has been revealed in a memo dated 28 September 2006 to Minister David Campbell that the cost of Tillegra Dam has not been "robustly" quantified. The dam construction is now hitting residents in the Hunter region with a 31 per cent cost increase for household water bills by 2013, costing each house an extra $221 a year.

In fact, the Independent Pricing and Regulatory Tribunal's determination for water prices in the Hunter will see massive hikes in the cost of water, sewerage and stormwater charges, brought about by Labor's failure to save for future infrastructure needs. Because of the inadequacy of the pensioner water rebates, the tribunal estimates that the typical Hunter Water pensioner will face a rise in their water and sewerage charges of 56 per cent by 2013. Labor's original claim of hundreds of jobs being created as a result of this dam is also hot air, given that it has claimed that more than 1,570 more jobs would be created than the 280 actually required.

The Government has stopped using the claim that the Central Coast will need the proposed 450 billion-litre dam, which was one of its initial reasons, not only because Hunter ratepayers would be paying for it but also because the Central Coast has received Federal funding for the pipeline between Mardi and Mangrove Creek dams supplying Wyong and Gosford. The Government has failed to address concerns from Dungog Council and ratepayers in the shire that there will be a considerable loss of income from the rate base for what is one of the smallest local councils in the Hunter region with one of the largest local road networks. For example, the Government has not provided any funding for main road 301, which runs from Raymond Terrace, through Clarence Town and then to Dungog, which will no doubt be a major artery during the construction of the dam and needs urgent funding for council to maintain. There will be a loss of large productive farmland and the agricultural employment that goes with that, and the expenditure that those farms make in the local community.

There has been much criticism of the project's environmental assessment report, which scientific and planning experts say significantly underestimates the dam's impact on the environment. For example, Dr Peter Coombes, who is a member of the National Water Commission and who analysed the project in the 1980s, says:

> Tillegra Dam will completely change the operation of the river system below it. By storing a lot of water, which will take a long time to impound, then releasing it into the river system when they need it further downstream, will fundamentally change the system regime. It will no longer be a healthy operating system.

It was not that long ago that even Hunter Water said we do not need the dam. In its 2003 Integrated Water Resource Plan, Hunter Water said, "A new water source will not be required within the next 30 years," and that Tillegra would be far less cost effective than many demand management and water conservation initiatives. It is very clear to me from the evidence I have outlined and from the discussions I have had with many members of the community that Tillegra is not wanted, the need for it has not been demonstrated, and the residents of the Hunter should not be paying for Labor's white elephant—the Orkopoulos diversion dam. We need to go back to the drawing board and hold this Government to account. [*Time expired.*]

SAMOA AND PADANG NATURAL DISASTERS

Mr IAN COHEN [7.28 p.m.]: As I survived the 2004 tsunami in Sri Lanka, the recent disasters in Samoa and Padang have weighed heavily on my mind. To the Samoan and Indonesian communities living in Australia who have lost families and loved ones in the affected areas, I express my deepest sympathies. In 2004 I was on the beach, fortunately with my surfboard, at Hikkaduwa when the waves struck with devastating results. Although I did not know it at the time, I was a part of a major Indian Ocean catastrophe. As the knowledge sank in, I decided to stay for a month to assist in the relief campaign. It was both rewarding and harrowing, as I had a first-hand working observation of the difficulties of delivering support to where it counted. Government bungling and corruption combined with the best and worst excesses of human behaviour in extreme situations were all rolled together in an exhaustive month where I played a minor role in the relief efforts.

With the continuing ravages of war, tsunamis and earthquakes, it is understandable that those in affluent nations suffer donation fatigue, becoming less willing to give. This is particularly apparent if there is any suspicion that money handed over with the best intentions in the world does not get to the appropriate destination, and instead lines the pockets of the unworthy. Such stories abound. Given the plight of the West Sumatra area, in what is possibly the most natural disaster-prone region of the world, it is heartening to witness the international response, and in particular the effectiveness of SurfAid International. This small, non-government organisation was delivering health and community development programs to the isolated Mentawai and Nias islands, off the west coast of Sumatra, prior to the 2004 tsunami and has operated in the region since 1999.

After the Boxing Day tsunami SurfAid teams were able to access remote regions delivering life saving aid to where it was most needed. Their knowledge, experience and connections to the local communities gave SurfAid the edge in responding effectively to situations on the ground. Ironically Padang, which is their staging area, is now the centre of the current catastrophe. Once again the founder of SurfAid, Dr Dave Jenkins, and the SurfAid team are at the epicentre of the disaster zone, deployed and ready to help local communities to rebuild. The difference today is that the organisation has matured. It has learnt from experience and built up a local and international reputation for high-quality action. The following extract from a recent SurfAid situation report illustrates my point:

> "SurfAid was requested by UN-OCHA to undertake rapid assessment of two coastal sub-districts of Agam and we found 75,000 people without shelter," SurfAid Chief Operating Officer, Andrew Judge, said today from SurfAid Emergency Response headquarters in Padang. "Rain is forecast for the next week so SurfAid is urgently planning with other agencies to respond to this assessment."
>
> SurfAid has loaded a boat, the Kuala Intan Baru2, with emergency supplies for Pasaman Barat. On board are 300 shelter kits, 700 tarpaulins, 300 construction kits and 500 hygiene packs, plus medical staff. The boat will depart from Muara Harbour Padang at Bam tomorrow (Wednesday 7 October) bound for Sasak Harbour in the north.

These disasters elicit a massive response, and it is just as well. The earthquake and tsunami in Samoa will not be the last or the worst, so it is vital that support for organisations such as SurfAid is ongoing. Research shows that $1 spent on emergency preparedness in non-emergency times can save the equivalent of $10 donated in an emergency. This is especially pertinent in the West Sumatra region, where the merging tectonic plates, the cause of the earthquake, have not yet released the pressure that has been building up over many years. Another massive earthquake is predicted. Short of travelling to the region with money in hand, I feel confident that

SurfAid is operating on our behalf in a most efficient and practical manner. Founded by compassionate surfers, SurfAid now employs a dedicated group of Indonesian workers. It has grown into a significant cooperative enterprise between Indonesia, Australia, New Zealand and the United States. Meanwhile, having miraculously survived the disaster in Padang, staff from SurfAid are already geared up for action on location at this critical time. These dedicated and tireless workers deserve our support.

JOBSUPPORT

The Hon. AMANDA FAZIO [7.32 p.m.]: Tonight I wish to inform members of the work of Jobsupport, a disability employment service that has provided excellent outcomes for clients in the 23 years that I have known it. I first became aware of Jobsupport when I was the Assistant Director Disability Services in the Commonwealth Department of Community Services. At that time, the disability sector was going through major changes as a result of the introduction of the Disability Services Act (1986), which was being driven by the then Minister, the Hon. Don Grimes. The Federal Labor Party can be very proud as the improvements in the lives of people with disabilities that ensued are massive. This was a true "social justice" initiative before that term became common usage.

My belief in and support for Jobsupport was such that when I left my position I accepted an invitation to join its management committee to assist in continuing its valuable service. I was not the only Assistant Director Disability Services who held Jobsupport in such high regard; my successor also joined the management committee when she moved on to employment in another area. I can assure members that not many community-based organisations have such a strong effect on the senior public servants who oversight them. Over the years I have seen Jobsupport grow to become one of the largest and most successful disability employment providers of its type in the country.

Jobsupport, a non-profit organisation, was established in 1986 as a demonstration open employment project for the Commonwealth Government to show that people with a significant intellectual disability could achieve open employment. The demonstration open employment project was very successful, and today Jobsupport is part of a disability employment network across Australia funded by the Commonwealth Department of Employment and Workplace Relations. Some of the other achievements of Jobsupport over the years include winning a National Safety Council award to demonstrate the safety of workers with an intellectual disability; being one of the first open employment services to achieve quality management systems, disability service standards and occupational health and safety accreditation; demonstrating that open employment services such as Jobsupport are cost-effective for the Australian taxpayer, for example, in 2005 an Econtech report estimated Jobsupport's net annual cost to government per client at $1,692, the net annual cost to government of supported employment at $6,358, and the net annual cost of ATLAS services at $15,699; developing training materials that were distributed throughout Australia by the Commonwealth Government as an example of good practice to assist other organisations to replicate the service; and initiating a staff training course in conjunction with the University of Sydney.

Jobsupport is proud of the open employment outcomes it has achieved together with their clients and employers. It caters for people with a significant intellectual disability who are unlikely to access other open employment services, and it currently supports over 480 people in open employment jobs throughout Sydney. Over 80 per cent of Sydney school leavers with a moderate intellectual disability who achieve open employment do so through Jobsupport; 71 per cent of Jobsupport clients achieve a 26-week outcome rate—the industry average for people with an intellectual disability is 42 per cent; the average wage for Jobsupport clients is $309—the industry average for people with an intellectual disability is $242; Jobsupport's retention rate in employment for 2003-2004 was 91 per cent—the industry average for people with an intellectual disability was 77 per cent; and 60 per cent of all the people with a significant intellectual disability ever placed into employment by Jobsupport since 1986 are still employed.

Jobsupport is an organisation committed to continual improvement. Dr John Kregel from Virginia Commonwealth University in the United States of America conducted a program evaluation of Jobsupport in October 2004. Virginia Commonwealth University is one of the top facilities in the world for technical assistance and program evaluation. Dr Kregel's evaluation included the following comments:

> The clinical skill and experience of the program's staff members and the organization's overall commitment to excellence are simply the best I have ever seen. I have reviewed over 200 open employment programs in 18 states in the US and five other countries. From the perspective of the application of proven clinical principles to job search, placement, and maintenance training the skill of the Jobsupport staff is second to none.
>
> …
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> Program retention exceeds any standard I have seen in any program anywhere.

In November 2003, the then Minister for Family and Community Services, Senator Kay Patterson, congratulated Jobsupport's milestone on the placement of their 400th client into open employment at an awards presentation in Sydney. In May 2005, the Hon Tanya Plibersek, the current Minister for Housing and the Status of Women, said in the House of Representatives:

> Recently I was asked to become a parliamentary patron of a marvellous organisation called Jobsupport. Over the years I have taken an interest in this marvellous organisation—ever since I first did a little bit of work for them when I was still a student, more than 12 years ago now.

Many great stories have come out of Jobsupport. Perhaps the story that touched me most was the story of young Nick. Nick had an intellectual disability, was not able to talk and needed to wear a back brace for most of his life. Within 18 months of starting his job, he was speaking enough to get by in everyday life. Today he is married, has been able to travel to Greece to visit his extended family and leads a pretty good quality of life, which is more than he or his family ever expected. For the participants the advantages are obvious: the confidence, socialisation and pay packet—70 per cent of Jobsupport clients earn award wages. What I want to say about this program is that we should be following this model.

I am mentioning the great work of Jobsupport tonight because the Commonwealth Department of Education, Employment and Workplace Relations is reviewing the funding arrangements for employment services for people with disabilities. The arrangements as currently proposed would not allow Jobsupport to continue to operate in its current form. A solution needs to be found for the new disability employment service system to ensure that best practice open employment services for people with moderate to severe intellectual disability, such as Jobsupport, will remain financially viable. I am confident that an acceptable solution will be found and that this vital service, established by the Federal Labor Government in 1986, will be able to continue its great work for people with intellectual disabilities.

COOMA HEALTH SERVICES

The Hon. MELINDA PAVEY [7.37 p.m.]: A member of Parliament is in a very privileged position. Members must accord with a code of conduct that states:

> Members of Parliament acknowledge their responsibility to maintain the public trust placed in them by performing their duties with honesty and integrity, respecting the law and the institution of Parliament, and using their influence to advance the common good of the people of New South Wales.

That is one of most imperative reminders of one's role as an elected member, and one would imagine that all members, regardless of their political alliance, would always ensure that that basic code is met to the best of their ability. In a letter dated 22 October 2009, Brett Holmes, the General Secretary of the New South Wales Nurses Association, wrote about the Greater Southern Area Health Service nursing profile review to Heather Gray, the Chief Executive of the Greater Southern Area Health Service in the following terms:

> There is no agreement at this point in time to the recommended profiles for; Cooma, Wagga Wagga, Deniliquin, Narrandera, Bourke Street, Junee, Murrumburrah-Harden, Barham, Moruya, Gundagai, Berrigan, Tocumwal and Hillston.
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> Therefore, we are seeking the Area reconsider the profiles for these facilities in terms of Full Time Equivalent (FTE) reductions and changes in skill mix as is relevant to each site. We consider that we are in dispute in relation to the areas where there is no agreement and therefore status quo must be maintained, that is, no reductions or changes in skill mix are to take place.
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> Concern surrounds the reductions in areas where there are already chronic vacancies and skill mix problems. The overall concern is the ability to continue to safely care for patients. I take this opportunity to remind the GSAHS of its obligation to adhere to OHS legislation and Reasonable Workloads provisions contained in the Public Health System Nurses' & Midwives' (State) Award.
>
> In addition, there are concerns relating to reductions in discharge planning, clinical nurse educators and infection control at the sites and further, I have been informed of wide spread distress being felt by Nurse Managers as a result of budget/pressure being applied by various levels of management. In some cases this is being described as bullying behaviour.

Local ABC South East has reported that Christine Kirby, a Nurses Association organiser, said a proposed loss of 4.4 full-time equivalent positions at Cooma and 3.42 full-time equivalent positions at Moruya are unacceptable. She said:

> If it is that Greater Southern does not go back to the drawing board and review those sites that we're holding out on then, as I said, we will take it to the Industrial Relations Commission.

That is where it stands. In an email sent to local community members the member for Monaro, Steve Whan, stated:

> There will be no downgrading of services at Cooma Hospital and staff are not being sacked.

He continued:

> You should be reassured the information about Cooma Hospital currently circulating in the anonymous email is not correct.

It was not an anonymous email; it was a letter from the Nurses Association confirming job cuts planned for Cooma Hospital. This has created serious concerns within the local community. The staff cuts threaten the delivery of paediatric and cardiac hospital beds at Cooma Hospital. A local who gets sick or has a heart condition that requires hospitalisation may be forced to travel to Canberra. This is yet another step towards total centralisation of health services that is slowly breaking down hospitals such as Cooma Hospital. I have spoken to locals who say that staff morale is already low. With these additional cuts and a proposed increased ratio of patients to nurses, morale will drop even lower. Steve Whan and his broken Labor Government's staff cuts will force some Cooma nurses to commute to Canberra for work. The continual failure to recognise how important nurses are to the health system is typical of this Labor Government, which after 14 years is still unable to improve health services for the people of Cooma.

The truth is out and the community is furious. Who are people going to believe—Steve Whan, a member of the failing, broken Labor Government that is carrying out these harsh cuts across the entire State or the nurses on the ground and at the coalface whose lives and patients' lives will be detrimentally affected in the near future? A community rally by nurses will take place on Saturday 7 November 2009. I call upon everyone across the region to support the community. Without this type of momentum, the staff cuts that the community fear will become a reality. The Government cannot keep making even more cuts to an already broken system. A New South Wales Liberal-Nationals government is committed to ensuring that local people make local decisions so that faith in regional health systems is restored. We will remove Labor's failed area health services and put hospitals back in the hands of locals by creating smaller district health boards, putting patients first and re-engaging medical experts. I believe this will restore honesty and integrity, which seems to be extremely lacking in this current Labor Government and the member for Monaro, who defends his Government's broken promises. [*Time expired*.]

HELENSBURGH PLANNING

Ms SYLVIA HALE [7.42 p.m.]: I want to tell a story of a small town that has fought against greed, corruption and bullying for more than 20 years, only to now be on the verge of succumbing as a result of an old ally of the developers reappearing as an administrator of a council that had been sacked for corruption. This is the story of Helensburgh, a small, sleepy village just south of Sydney nestled next to the Royal National Park in the north and the escarpment in the south. Back in the late 1980s, Wollongong City Council prepared a citywide local environment study to update a 1990 local environment plan. This study found significant biodiversity values in Helensburgh. It also found that existing development was resulting in major pollution of the Hacking River. As a result, the council rezoned the land to "7 (d) high conservation" and restricted future urban expansion.

At the same time, big business developers began to move in and purchase land. They included a significant donor to the Labor Party and employer of lobbyist Graham Richardson, the Walker Corporation, and Ensile Pty Limited, a company associated with the Hogarth family, who are large local landowners. These developers exercised extraordinary influence within the Government. The then Director of Housing for the New South Wales Government was Peter Dransfield. He was also a director of the Walker Corporation. Despite this clear conflict of interest, Mr Dransfield wrote to Gabrielle Kibble, then head of the Department of Planning, asking that Helensburgh be considered for future development as a matter of urgency. At the same time Ms Kibble had received Wollongong council's request that Helensburgh be gazetted as high conservation zoning.

At a time when gazettal usually occurred within a matter of months, Ms Kibble delayed gazettal for more than a year. When it was eventually gazetted, she informed council that a commission of inquiry should be established to assess the development potential of the area. This gave an opening for developers, who then pressured the Greiner State Government for a commission of inquiry. Gabrielle Kibble advised the Minister that it should proceed and a commission of inquiry was held in 1994. Following extensive submissions from the

council, the National Parks and Wildlife Service and concerned residents—all of whom supported the environmental protection zoning—as well as from developers, the commission's report supported the high conservation zoning and noted that impacts on the Hacking River were of greatest concern.

The council then wrote seeking the Government's support for the environmental zoning. In 1996 the State Government confirmed its environmental protection. Since then a series of studies, including the Hacking River Stormwater Management Plan 1999, the Bioregional Assessment on Biodiversity and Conservation Values 2001, the Bushfire Management Plan 2005, as well as desktop assessments such as the Urban Capacity Analysis of Helensburgh and the Review of Commercial Uses of 7(d) Lands at Helensburgh, all found that the area needed high conservation zoning and that any proposal to rezone any part would require extensive studies before any zoning change could be supported. In late 2008 Wollongong City Council transposed the old high conservation zoning into its new draft local environmental plan 2009 as E2 high conservation value and exhibited the local environmental plan to the community between December 2008 and April 2009.

The community felt it could at last relax, after more than 20 years of being pressured by developers who relentlessly lobbied for zoning changes and even resorted to serving SLAPP writs—strategic lawsuits against public participation—the sole purpose of which was to intimidate outspoken community members into silence. The community believed the bullying tactics had not paid off. But following Gabrielle Kibble's return as a Wollongong council administrator, lo and behold, in mid-2009 a sudden and dramatic switch to the area's zoning took place. The administrators voted to relax the zoning from E2 to E3 and to give 250 lot subdivisions to developers, who had threatened and harassed residents. Moreover, the changes to the local environmental plan were done without any study being undertaken to support the rezoning or proper rationale provided as to why the local environmental plan had been exhibited as one zoning and then swiftly changed to another.

The community will take little comfort from the concluding words of a response this week to questions I asked about Helensburgh and the upper Hacking River catchment. Planning Minister Keneally talked of "the need to ensure that the level and capacity of services within Helensburgh can accommodate additional growth". Further, the Minister responded that zoning would resolve "historic dwelling entitlement issues". This is erroneous. There are no dwelling entitlement issues that need resolving. If there were, they could be resolved by existing use rights. That is the purpose of that provision. Rezoning will allow more development than before to satisfy those who have speculated on land. Clearly, Helensburgh is not safe from the depredations of developers whose greed knows no bounds, from an administrator anxious to do the bidding of those developers and from a State Government that knows the price of a planning approval but the value of nothing.

FLIGHT OF THE *UIVER* SEVENTY-FIFTH ANNIVERSARY

The Hon. MICHAEL VEITCH [7.47 p.m.]: Last Friday I attended a dinner to commemorate the seventy-fifth anniversary of the flight of the *Uiver*. This is an amazing story about the landing of a lost aeroplane in Albury. The *Uiver* was a Dutch competitor in the 1934 London to Melbourne Air Race. During the last leg of the race, the *Uiver* struck turbulence and lost its way in an electrical storm over Albury. When the *Uiver* lost radio contact, the people of Albury came to the rescue. The Albury community has since developed a great relationship with KLM Airlines and the Dutch. It was a wonderful evening commemorating the seventy-fifth anniversary of this amazing incident.

[*Time for debate expired.*]

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

Motion agreed to.

The House adjourned at 7.49 p.m. until Wednesday 27 October 2009 at 11.00 a.m.