LEGISLATIVE COUNCIL

Tuesday 13 October 2015

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

The President read the Prayers.

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

ASSENT TO BILLS

Assent to the following bills was reported:

Health Services Amendment (Ambulance Services) Bill 2015
Real Property Amendment (Electronic Conveyancing) Bill 2015
Biosecurity Bill 2015
Jobs for NSW Bill 2015
Dams Safety Bill 2015
Impounding Amendment (Unattended Boat Trailers) Bill 2015
Independent Commission Against Corruption Amendment Bill 2015
Child Protection Legislation Amendment Bill 2015

ADMINISTRATION OF THE GOVERNMENT OF THE STATE

The PRESIDENT: I report the receipt of the following message from His Excellency the Lieutenant-Governor:

T Bathurst Go
vernment House
LIEUTENANT-GOVERNOR
Sy
dney 2000

The Honourable Thomas Frederick Bathurst, AC, Lieutenant-Governor of the State of New South Wales, has the honour to inform the Legislative Council that, consequent on the Governor of New South Wales, His Excellency General the Honourable David Hurley, AC, DSC (Ret'd), being absent from the State, he has assumed the administration of the Government of the State.

Thursday, 1 October 2015

ADMINISTRATION OF THE GOVERNMENT OF THE STATE

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

David Hurley Go
vernment House
GOVERNOR

Sy

dney 2000

General David Hurley, AC, DSC (Ret'd), Governor of the State of New South Wales, has the honour to inform the Legislative Council that he has re-assumed the administration of the Government of the State.

Thursday, 2 October 2015

ADMINISTRATION OF THE GOVERNMENT OF THE STATE

The PRESIDENT: I report the receipt of the following message from His Excellency the Lieutenant-Governor:

T Bathurst
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vernment House
LIEUTENANT-GOVERNOR

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dney 2000

The Honourable Thomas Frederick Bathurst, AC, Lieutenant-Governor of the State of New South Wales, has the honour to inform the Legislative Council that, consequent on the Governor of New South Wales, His Excellency General the Honourable David Hurley, AC, DSC (Ret'd), being absent from the State, he has assumed the administration of the Government of the State.

Saturday, 10 October 2015

ADMINISTRATION OF THE GOVERNMENT OF THE STATE

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

David Hurley
Go

vernment House
GOVERNOR

Sy

dney 2000

General David Hurley, AC, DSC (Ret'd), Governor of the State of New South Wales, has the honour to inform the Legislative Council that he has re-assumed the administration of the Government of the State.

Sunday, 11 October 2015

ADDRESS TO HER MAJESTY QUEEN ELIZABETH II

The PRESIDENT: I report the receipt of the following communication from the Official Secretary to the Governor dated 16 September 2015:

Government House
Sydney 2000

Wednesday, 16 September 2015

The Honourable Don Harwin MLC
President of the Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear President,

I write at His Excellency's command to acknowledge receipt of the Address to Her Majesty Queen Elizabeth II, offering congratulations from all members of the Parliament of New South Wales on the occasion of her becoming the longest serving monarch of the United Kingdom and Australia.

I advise that the message has been transmitted to Buckingham Palace to be brought to Her Majesty's notice.

Yours sincerely,

Michael Miller RFD
Official Secretary to the Governor of New South Wales

RESIDENTIAL TENANCIES AND HOUSING LEGISLATION AMENDMENT (PUBLIC HOUSING—ANTISOCIAL BEHAVIOUR) BILL 2015

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay, on behalf of the Hon. John Ajaka.

Motion by the Hon. Duncan Gay, on behalf of the Hon. John Ajaka, agreed to:

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

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

GOVERNOR'S SPEECH: ADDRESS-IN-REPLY

Presentation

The PRESIDENT: I have ascertained it to be the pleasure of His Excellency the Governor to receive the Legislative Council Address-in-Reply to His Excellency's Speech to both Houses of Parliament on the opening of the session at Government House on Wednesday 14 October 2015 at 4.30 p.m.

Motion by the Hon. Duncan Gay agreed to:

That the House do proceed on Wednesday 14 October 2015, at 4.00 p.m., to Government House and there, at 4.30 p.m., present to His Excellency the Governor the Address-in-Reply to the Speech His Excellency had been pleased to make to both Houses of Parliament on opening the session.

CENTENARY OF FIRST WORLD WAR

The PRESIDENT: On 16 October 1915 General Sir Ian Hamilton personally deciphered a telegram he had received from Lord Kitchener, the British Minister of War. It notified him of his dismissal

as the Commander-in-Chief of the Mediterranean Expeditionary Force, the man in charge of the Gallipoli campaign. History has not been kind to General Hamilton and he has shouldered much of the blame for the conduct of the Gallipoli campaign. Some may say that this is not altogether fair.

On that fateful day of 25 April 1915 two unrelated events led to his making an initial decision from which the campaign never recovered. First of all a simple mistake by a naval midshipman resulted in the Australian Third Brigade landing in the wrong place—at what became known as Anzac Cove. Secondly, a message from the Australian submarine, the *AE2*, reached Hamilton announcing its success in penetrating the Narrows and thus potentially being able to disrupt Turkish reinforcement reaching the peninsula—but this never happened. Hamilton was faced with immense pressure from his commanders on the ground to call off the invasion and evacuate the same day. His response, in a famous telegram to General Birdwood, commander of the Anzac forces read:

You have got through the difficult business, now you only have to dig, dig, dig, until you are safe.

And that is what they did—dig: trenches and graves—more trenches, and more graves. General Hamilton was the subject of a famous letter written by visiting journalist Keith Murdoch and smuggled to British Prime Minister Asquith, which laid the blame for the Dardanelles shambles squarely on his shoulders. This was the end of Hamilton's command. Hamilton's successor, Sir Charles Monro, took but a few days to assess the situation and to commence planning for the evacuation of the Gallipoli peninsula—an operation praised for its success. Lest we forget.

REGISTER OF DISCLOSURES BY MEMBERS

The President tabled, pursuant to the Constitution (Disclosure by Members) Regulation 1983, a copy of the Register of Disclosures of all members of the Legislative Council for the period 1 July 2014 to 30 June 2015, furnished by the Clerk.

Ordered to be printed on motion by the Hon. Duncan Gay.

INSPECTOR OF CUSTODIAL SERVICES

Report

The President tabled, pursuant to the Inspector of Custodial Services Act 2012, the report of the Inspector of Custodial Services entitled "Old and inside: Managing aged offenders in custody", dated October 2015, and authorised to be made public this day.

Ordered to be printed on motion by the Hon. Duncan Gay.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Report

The President tabled, pursuant to the Independent Commission Against Corruption Act 1988, the annual report of the Independent Commission Against Corruption for the year ended 30 June 2015, and authorised to be made public this day.

Ordered to be printed on motion by the Hon. Duncan Gay.

TABLED PAPERS NOT ORDERED TO BE PRINTED

The Hon. Niall Blair tabled, pursuant to Standing Order 59, a list of all papers tabled in the previous month and not ordered to be printed.

LEGISLATION REVIEW COMMITTEE

Report

The Hon. Greg Pearce tabled a report entitled "Legislation Review Digest No. 7/56", dated 13 October 2015.

Ordered to be printed on motion by the Hon. Greg Pearce.

PETITIONS

The Clerk announced the receipt, pursuant to sessional order, of the following responses to petitions signed by 500 or more persons:

(1) Response received from the Hon. Niall Blair, Minister for Primary Industries, and Minister for Lands and Water, to a petition presented on 25 August 2015 concerning the Plaza Car Park at Kooloonbung Creek, received out of session on 29 September 2015.

(2) Response received from the Hon. Niall Blair, Minister for Primary Industries, and Minister for Lands and Water, to a petition presented on 25 August 2015 concerning the Biosecurity Bill 2015, received out of session on 29 September 2015.

(3) Response received from the Hon. Anthony Roberts, MP, Minister for Industry, Resources and Energy, to a petition presented on 25 August 2015 concerning transforming electricity generation in New South Wales to 100 per cent renewables, received out of session on 30 September 2015.

The Clerk announced that the responses had been authorised to be printed.

BUSINESS OF THE HOUSE

Postponement of Business

Committee Reports Order of the Day No. 4 postponed on motion by the Hon. Robert Borsak and set down as an order of the day for a future day.

BROADCASTING OF PROCEEDINGS

The PRESIDENT: I inform honourable members that Corporate Technology Services Pty Limited has commenced as the camera system operator for the broadcast of proceedings having been awarded the Camera Operator Agreement tender for the Fifty-sixth Parliament.

SESSIONAL ORDERS

Cut-off Date for Government Bills

Motion by the Hon. John Ajaka, on behalf of the Hon. Duncan Gay, agreed to:

That, during the current session and unless otherwise ordered, the following procedures apply to the passage of Government bills:

(1) Where a bill is introduced by a Minister or is received from the Legislative Assembly after 29 October 2015 (Spring Session), debate on the motion for the second reading is to be

adjourned at the conclusion of the speech of the Minister moving the motion, and the resumption of the debate is to be made an Order of the Day for the first sitting day after the summer recess.

(2) However, if, after the first reading, a Minister declares a bill to be an urgent bill and copies have been circulated to members, the question "That the bill be considered an urgent bill" is to be decided without amendment or debate, except a statement not exceeding 10 minutes each by a Minister and the Leader of the Opposition or a member nominated by the Leader of the Opposition, and two crossbench members not of the same party and not exceeding five minutes each. If that question is agreed to, the second reading debate and subsequent stages may proceed forthwith or at any time during any sitting of the House.

RESIDENTIAL TENANCIES AND HOUSING LEGISLATION AMENDMENT (PUBLIC HOUSING—ANTISOCIAL BEHAVIOUR) BILL 2015

Second Reading

The Hon. RICK COLLESS (Parliamentary Secretary) [3.08 p.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

I am pleased to bring before the Legislative Council the Residential Tenancies and Housing Legislation Amendment (Public Housing—Antisocial Behaviour) Bill 2015, a bill that seeks to address antisocial, illegal and fraudulent behaviour in social housing. The management of antisocial and criminal behaviour is a challenge for the social housing system in New South Wales. The primary goal of this bill is to stamp out the illegal and disruptive behaviour of a minority of tenants engaging in antisocial behaviour and create better, safer communities for the large majority of law-abiding tenants, including those who are ageing and vulnerable.

Many members have contributed to the debate on this bill and many important issues have been raised. The Minister for Family and Community Services, and Minister for Social Housing covered much of this important detail in his speech in reply in the other House. I wish to reiterate some of those key points today. The bill is a critical part of the Government's reform of the social housing system. It provides legislative underpinnings to policies that seek to provide a better experience for a vast majority of law-abiding tenants by tackling antisocial and criminal behaviour carried out by a minority of tenants and to protect the vulnerable people who live in social housing.

Unfortunately, there are numerous examples of social housing tenants living in fear in their homes and whom these reforms will protect. I bring to members' attention one example. Last year in Ermington a person was dealing drugs out of a block of units. This brought fear and chaos into the lives of the residents within the block as they dealt with the harsh reality of what it means to live next door to a drug dealer. Every night the dealer's customers would disturb the neighbourhood trying to get access to the building to get to this person's unit. On more than one occasion people tried climbing through open windows of neighbouring apartments to get into the unit block.

The customers of the dealer would knock on every door late at night because they did not know which unit the dealer lived in and people would force their way past residents entering the front door of the unit block. Drug dealing results in people living in fear. One tenant was so frightened she decided she could not invite her grandchildren to visit as it was no longer safe for them. It is unacceptable that some of the most vulnerable people in society are living under these circumstances. This bill will help to deal appropriately with those disruptive tenants.

This bill introduces a one-strike policy to apply where a tenant or occupants have been involved in

the most severe criminal behaviour. In the event that a tenant is involved in those serious crimes, termination of the tenancy will be automatic. Those crimes include being charged with storing illegal firearms or show cause offences under the Bail Act 2013, in particular, violence which constitutes grievous bodily harm and the manufacture, cultivation or supply of illegal drugs. These provisions will ensure that in these very serious cases the tenancy is not continued. Our priority here must be to protect the people who live near these criminals, many of whom are vulnerable and afraid.

The tribunal will, however, maintain some level of discretion in exceptional circumstances for other serious behaviour. Should the tribunal not terminate a tenancy in such cases, it will need to document its reasons for that decision. We are not talking about minor offences here. We are talking about serious crime that has a terrible impact on our local communities and the people living there. But there are also protections for tenants in the bill. Natural justice and procedural fairness are important to the process. If a tenancy is at risk through the one-strike process because of the behaviour of other household members, the Department of Family and Community Services [FACS] will still have to prove, as now, that the tenant intentionally or recklessly caused or permitted the behaviour.

Many commentators raised concerns about the removal of the tribunal's discretion where a one-strike offence has been carried out by another occupant of the property, not by the tenant, where the tenant may be unaware that the illegal behaviour is taking place. An amendment has been made to the original bill in the other place so that the one-strike provision will apply to some of the prescribed offences only if the tenant has intentionally or recklessly caused or permitted those offences to take place. As well, when a first- or second-strike notice is issued against tenants, they will have the right to make a submission to the social housing provider outlining why they disagree with the details in the strike notice. If they are still not happy with the response, they can apply to have the strike notice reviewed by an independent review panel.

A person who is taken into the tribunal under the one-strike policy still has the right to appeal, as the tribunal also has an appeals panel which can review a tribunal decision. Anyone who is evicted will be provided with access to private rental products, including a no-interest loan for a bond and assistance with locating properties through real estate agents. Also, the Department of Family and Community Services will refer these people to support services and provide support to access assistance in the private rental market in locations that are affordable.

The bill also proposes the introduction of a three-strikes policy. A number of similar schemes have been introduced in other States and there is evidence to support it as a preventative measure. In Queensland and Western Australia, for example, over 80 per cent of first strikes do not proceed to a third strike, demonstrating the effectiveness of this approach in modifying tenant behaviour. Tenants will have two opportunities under the bill to challenge each strike. The first is to challenge the facts under which the strike was issued and the second opportunity is through the appeals process carried out by an independent review panel. All decisions made by the review panel will be binding and FACS will be obliged to reverse a strike where the panel finds in the tenant's favour. Further, factors including steps a tenant has taken to remedy prior breaches can be taken into account under the tribunal's capacity to apply discretion.

Tenants will always be offered the opportunity to respond to allegations of antisocial behaviour. Support agencies will be contacted where tenants are engaged with existing services or referrals will be made to link people to services to assist them to meet their tenancy obligations if they are engaging in behaviour that places their tenancy at risk. Advocates have suggested that tenants should be able to take every strike notice issued to the tribunal. However, this is not the best approach for tenants. The three-strikes policy is about keeping people out of the tribunal, not taking them to it. The chief executive of one of our non-government community housing providers, Evolve Community Housing, stated:

> The three chances may be just what [a vulnerable tenant] needs to successfully sustain their tenancy … You have to understand, for a lot of our tenants, they need support and guidance to

become good tenants, neighbours and community members. Under this new bill, social housing tenants are given not just one but three chances before they risk losing their rental property.

Where antisocial behaviour arises because of mental illness, FACS will generally use a different approach to engage with the tenant. The Department of Family and Community Services is experienced in working with clients with complex needs and will engage with health and social support services to assist the tenant wherever possible. In every district there are formal arrangements for liaison between the mental health services of the local health district and the local housing staff. The department has 104 dedicated senior client service officer specialist staff located across the State whose responsibility it is to work with vulnerable people and complex tenants to ensure they receive support to sustain their tenancy. The FACS staff make and receive referrals about individual tenants and they work together with tenants to reduce the risk of tenants losing their tenancy.

The first response of FACS is to engage health and social support services to assist the tenant. Where a neighbourhood dispute has arisen from a tenant's mental health condition and mediation or referral to support services has not resolved the situation, FACS will explore other options, such as relocating the tenants, rather than applying to terminate the tenancy. However, there will be cases where FACS may have no choice but to take action through the tribunal to terminate the tenancy, usually where the tenant will not accept mental health or other services. If the tenant accepts help at any time during that process, assistance can be provided to relocate the tenant if it is clear that the offending behaviour will cease.

In cases where tenants are victims of domestic and family violence, FACS will take a different approach to ensure the safety of the victims of violence is the priority. The department is committed to ensuring the safety of tenants and their children who are experiencing domestic and family violence. All efforts will be made to ensure the victim is not negatively impacted by antisocial behaviour on the part of the perpetrator of such violence. When a family breaks up as a result of family violence, FACS may rehouse the party leaving the home. If the property is damaged due to domestic and family violence and it is evident that the damage is the result of the perpetrator's violence, it is within FACS policy to treat these clients with sensitivity and understanding and to apply discretion so that no financial impact is placed on the victim.

Concerns were raised about inadequate time frames for tenants to respond to strike notices. The concern that 14 days for a tenant, particularly a vulnerable tenant, to respond to a strike notice may be insufficient has been taken on board. An amendment has been made to the bill to give tenants a minimum of 21 days to respond to a strike notice. This provides sufficient time for a tenant who disagrees with the department's decision to issue a strike notice to make a submission to FACS outlining the reasons. It also provides sufficient time for the tenant to seek assistance to prepare a submission, if needed.

If FACS decides to proceed with a strike against the tenant following a review of a strike notice, the tenant will be given a minimum of 21 days rather than 14 days as stated in the original bill to request a review of the strike notice by an independent review panel. The Opposition has stated that both time frames—to make a submission to FACS and to request an independent review of a strike notice—should be further extended to 28 days. This would place an unnecessary administrative burden on the department and would make it unlikely that three strikes could be issued in a 12-month period. The notion that finalising a strike notice should take more than four months, taking into account review processes, is unacceptable.

The bill introduces neighbourhood impact statements for consideration by the tribunal once a breach has been proven. Neighbours will be able to have a confidential discussion with a FACS officer about what is happening and will be able to table a statement outlining the impact of the antisocial or illegal behaviour on the local community. The tribunal will have to take this statement into account when making its decisions. The weighting of this evidence is still a matter for the tribunal to determine. In

response to concerns regarding the tabling of neighbourhood impact statements in NSW Civil and Administrative Tribunal proceedings, it was always the intention that such statements be tabled at the tribunal only once a breach is proven and the tribunal is considering whether to make a determination order. To put the matter beyond doubt, an amendment has been made to the bill in the other place which will clarify the position.

It is important that tribunal members accept the schedule of costs from FACS so that tenants pay the actual cost of repair and taxpayers are not left to foot the bill for a tenant's irresponsible behaviour. The legislation proposes that when assessing the cost of malicious damage to a property, the tribunal will be obliged to accept the actual cost of repairs from FACS. Tenants will still be able to dispute whether the repair is necessary and whether they were responsible for the damage. All social housing providers have a process to secure services at a competitive rate. This is a safeguard to ensure that they are not overcharged and they pay the correct amount.

Tenants will be able to dispute whether they are liable for a given cost and whether the work was necessary, but once this is established it is only right that they should pay the actual cost of the damage. In conclusion, the management of antisocial and criminal behaviour is a challenge for the social housing system. The Baird Government has heard from many tenants who wish for safer social housing communities and more pleasant environments for all who live in them. This bill will help to ensure that happens. I commend the bill to the House.

The Hon. SOPHIE COTSIS [3.23 p.m.]: I lead for the Opposition in this place in debate on the Residential Tenancies and Housing Legislation Amendment (Public Housing—Antisocial Behaviour) Bill 2015. I state at the outset that the Opposition will not oppose the bill. However, I foreshadow that we will move amendments to address our concerns with the bill. I begin by acknowledging my colleague Ms Tania Mihailuk in the other place who has worked diligently as Labor's shadow Minister for Social Housing to address the many issues arising in the bill. I acknowledge all my colleagues in the other place who spoke to the bill on behalf of many people in their communities. I note that the bill that has been introduced by the Government in this place is not the same as the bill that was originally introduced in the Legislative Assembly. The Government was forced to amend its own bill in the other Chamber because it had not done its homework.

Approximately 280,000 people live in social housing in New South Wales, and they include some of the most vulnerable people in our society. The majority of people who live in social housing are aged pensioners, people with a disability or people with poor mental health. Labor believes that every person who lives in social housing is entitled to live free from antisocial behaviour or illegal activities perpetrated by their neighbours. The termination of a tenancy is one of the most severe penalties that can be imposed on a person living in social housing. Labor believes it is correct that people who have broken the rules should pay the price. However, we recognise that life is complex and we believe that a fair balance must be struck so that people who have done nothing wrong are not subject to harsh penalties.

Many stakeholders have contacted Labor and have spoken to my colleague Ms Tania Mihailuk. They include the Law Society of NSW, the Tenants' Union of New South Wales and the Kingsford, Marrickville and Redfern community legal centres. They all expressed concerns regarding the original bill that was introduced. The Tenants' Union, in its commentary on the bill, referred to the case of *Aboriginal Housing Office v Corrie* as an illustration of the need for discretion when dealing with antisocial behaviour. In that case, a tenant had her tenancy terminated following her casual boyfriend doing drug deals at her social housing property.

The tribunal determined that it did not have the discretion to decline a termination order, despite noting that the tenant had not been involved in the drug deals, had not been charged, had cooperated with police, had no previous issues with her tenancy, and was a single Aboriginal mother with a history of domestic violence and mental illness. Undoubtedly, the termination of the tenancy in the case of Corrie was an unjust outcome for this social housing tenant. This case shows that there is an appropriate place

for discretion when considering the termination of a tenancy. The Government has recognised the need for the tribunal to exercise discretion and has restored a measure of this discretion in the amendments that it made to the bill in the other place.

One of the concerns that the Opposition raised in the other place related to proposed section 154C which details the scheme for recording strikes against tenants for breaches of a tenancy agreement. In the original bill that the Government introduced in the Legislative Assembly tenants were given only 14 days to respond to a strike notice. Labor expressed its concern that this time frame was too short. We believe that the time frame for a tenant to respond to a strike notice should be 28 days, and we will move amendments to the bill accordingly. The Government has partially admitted that it got it wrong and has amended its bill to increase the time frame from 14 days to 21 days.

The Law Society, in its commentary to the bill, referred to the importance of a reasonable time frame. It stated that 14 days is a very short time frame in which to respond to a strike notice, particularly as many social housing tenants are vulnerable, are unlikely to have easy access to legal assistance, are likely to have low literacy skills or speak English as a second or third language, are likely to have poor mental health and may themselves be victims of violence. The Law Society is absolutely right. Labor believes that tenants must be afforded a reasonable opportunity to respond if they have been issued with a strike notice. People should be able to obtain legal advice and independent assistance because that is the best safeguard against unintended consequences and unfair outcomes. A briefing paper prepared by the Eastern Area Tenants Service, the Illawarra Legal Centre, the Kingsford Legal Centre, the Marrickville Legal Centre and the Redfern Legal Centre states in relation to proposed section 154C:

> Vulnerable tenants will face extreme difficulty in challenging strike notices within 14 days. In that time they will have to contact a legal service, obtain legal advice and write a submission. It is unlikely that vulnerable tenants—such as older people, tenants with little English or low literacy, domestic violence victims, Aboriginal and Torres Strait Islander tenants, tenants with physical or intellectual disabilities or mental health conditions—will be able to comply with this very short time limit.

The consequences of this will be serious, and will have the greatest impact on the most vulnerable tenants, who lack the capacity to challenge strike notices. If a strike notice is issued and an application is made to the tribunal for termination, a tenant will not be able to challenge the strike if he or she did not initially challenge it. Again, stakeholders who have front-line experience in dealing with social housing issues in the community are correct. These stakeholders have called for a 28-day period for tenants to respond to strike notices, and I foreshadow that Labor will move amendments to increase the time frame to 28 days.

Proposed section 154F states that when considering termination of a tenancy, the NSW Civil and Administrative Tribunal must have regard to a neighbourhood impact statement. A neighbourhood impact statement is a summary of statements made by neighbouring residents. Proposed section 154F (2) (b) states that the neighbourhood impact statement should not identify the neighbouring residents or other persons. While the Opposition agrees that the confidentiality of such statements must not be compromised, it has reservations concerning a lack of procedural fairness, particularly where tenants would not have access to a statement or the opportunity to respond to an accusation concerning their behaviour. I note that the Law Society of New South Wales recommended:

> ... that at minimum the substance of any statement would be disclosed to a tenant to enable them to respond.

The Opposition agrees with the Law Society's recommendation, and again I foreshadow that we will move amendments to allow tenants to respond to any neighbourhood impact statement, in the interest of preserving procedural fairness. As I stated at the outset, the Opposition will not oppose the bill. We believe that the 280,000 people in New South Wales who live in social housing should be able to do so

free from antisocial and illegal behaviour. If people break the rules, they should pay the price. However, there must be appropriate safeguards in place to ensure that there are not unfair or unintended consequences.

The bill that the Government originally introduced in the other place fell short of meeting that goal because the Government simply had not done its homework. I commend the Government for acknowledging its mistakes and amending the bill. However, I note that this bill could still be improved. Accordingly, I foreshadow that we will move amendments to address the concerns that we still have with this bill.

The Hon. ERNEST WONG [3.31 p.m.]: I join my Labor colleagues in speaking in this second reading debate on the Residential Tenancies and Housing Legislation Amendment (Public Housing—Antisocial Behaviour) Bill 2015. As has been noted by my colleagues, Labor will not oppose this bill. This is because Labor fully supports one of the stated aims of the bill—that people living in public housing should feel safe in their communities. They are entitled to this basic right and freedom as much as any other family or citizen in New South Wales. Unfortunately, the behaviour of some people living in public housing communities has resulted in the need for this bill.

I am at pains to stress that Labor members know that the vast majority of people living in public housing properties are model tenants. They fully appreciate the value of New South Wales public housing and respect it for the public resource that it is. We clearly need to acknowledge these tenants, who perhaps I could call the silent majority. This bill seeks to protect these tenants and their right to reasonable peace and security. It is, as I said, unfortunate that a minority of public housing tenants do not act as though they appreciate the full value that public housing offers them. They express this lack of appreciation through violent, destructive or other antisocial behaviour. This sort of action rightly upsets fellow public housing tenants and infuriates many in the New South Wales community, who simply cannot understand how people could treat a public asset such as housing so poorly.

With that in mind the Government is seeking to bring in a strike system to provide a mechanism under which those who substantially or regularly abuse the benefit of public housing lose that benefit. Indeed, some offences will require one strike only. The bill will require the NSW Civil and Administrative Tribunal to automatically terminate a housing agreement with a tenant or a joint occupier for certain one-strike offences. The proposed legislation seeks to remove NCAT's discretion in the case of one-strike offences and certain other offences unless the tribunal can be satisfied that exceptional circumstances prevent the termination order being issued.

As has been noted by others, Labor has concerns about the operation of these provisions and has foreshadowed amendments. As with all mandatory punishment schemes, there is a tension to be balanced between creating a clear deterrent to potential offenders and avoiding the punishment of genuinely innocent or genuinely extenuated parties. For example, Labor is of the view that some discretion or protection must be maintained to ensure that mandatory termination does not apply where the antisocial behaviour is that of an occupant and not the tenant, particularly where the behaviour is, on the evidence, unknown to the tenant. There is a balance to be struck here. Yes, tenants are ultimately responsible for the use of the property, but we must ensure that the tribunal is satisfied that a tenant has either intentionally or recklessly caused or permitted an occupant's actions.

For less critical but still serious breaches, the proposed legislation would also introduce a scheme to record strikes against tenants for certain serious offences and to seek a termination order on the basis of three strikes occurring within 12 months. Here again the ambition of providing safety and security to public housing tenants is supported, but there are circumstances in which the tribunal should retain its discretion. In particular, we need to ensure that vulnerable tenants, such as victims of domestic violence, children and the disabled, are protected from mandatory eviction from their social housing accommodation.

We also need to retain discretion for NCAT to examine background issues such as the mental health of tenants or occupants in the circumstances reported. In short, we must ensure that the social purpose and social reality of public housing is borne in mind throughout any disciplinary process. The reality is that our public housing infrastructure exists because, as a community, we acknowledge there are genuinely vulnerable people and families for whom free-market housing is not a viable option. We acknowledge as a community that the safety net that public housing provides is not just for the safety of our vulnerable citizens but also for all our communities.

We acknowledge that the alternatives to public housing—essentially homelessness and transience—carry an unacceptable social and economic cost and would diminish us all. The purpose of this bill will therefore be defeated if its operation does not acknowledge the complexities that public housing attracts, if it does not take into account the increased incidence of mental health and family violence issues, and if it does not acknowledge that the pressures of these issues can result in behaviour that does not meet usual standards. That would be to miss the point of having public housing. If enacted without discretion and compassion, any legislation would simply result in a new homelessness concern, which this House would face in future months and years.

For this reason I support the bill with the amendments foreshadowed by Labor. These amendments, we believe, represent the right balance between protecting public assets and protecting those who most need them. I thank members for their attention.

Mr DAVID SHOEBRIDGE [3.37 p.m.]: I speak on behalf of the Greens on the Residential Tenancies and Legislation Amendment (Public Housing—Antisocial Behaviour) Bill 2015 and note the contribution that my colleague Ms Jan Barham has made in The Greens response to this legislation. Ms Barham is not well today and is not in a position to present the position of The Greens, but I acknowledge the work that she has done with stakeholders in developing that position. In short, The Greens cannot support this bill in anything like its current form and will be moving that the matter be referred to a committee for some detailed consideration to see whether or not the objects of the bill are in any way advanced by the provisions of the bill. If that is not successful we will be seeking to make substantial amendments to this bill to reinstate some fairness and acknowledge the essential part that public housing plays in the lives of some of the most vulnerable members of our community.

The bill purports to improve the ability of social housing landlords to manage antisocial behaviour and to evict tenants who engage in criminal or other behaviour. Although the legislation has been announced as providing new powers for one-strike termination of leases, it removes the tribunal's discretion about whether or not it should exercise its power to terminate a lease. Effectively, it ties the hands of the tribunal with respect to a power that already exists. The bill also provides for a three-strike system of warnings by social housing landlords that can lead to the termination of leases, and makes a number of changes that extend the capacity for social housing landlords to justify the eviction of tenants for illegal or disruptive behaviour.

Nowhere in this bill and nowhere in the second reading debate speeches has the Government seriously acknowledged what the real impact will be on social housing tenants, if they are evicted. Where else do they go? If they have no public housing and no social housing, we will see families living in cars and increased homelessness. The fundamental problem with the bill is the removal of the rights of some of the community's most vulnerable people—homeless families and destitute families—and potentially seeing them and their families evicted from public housing with nowhere else to go. The Government has no answer to that in any of the second reading debate speeches, which have been high on rhetoric and high on social commentary and play well on the front page of the *Daily Telegraph* but are almost deliberately ignorant about what the impact of this legislation will be, if it is allowed to pass unamended by this Parliament.

The main provisions of the bill implement, first, a requirement that the NSW Civil and Administrative Tribunal make a termination order on the application of a social housing provider when the

premises have been used for certain serious offences, such as drug manufacture or supply, firearms offences and serious violent offences. The bill does not tie any criminal liability of the housing tenant to the offences that occur. I will deal with that in more detail during the balance of this speech. Secondly, the bill will implement a scheme for social housing providers to record strikes against a tenant for breaches and seek a termination order following three breaches within 12 months, with very limited tribunal review of those breaches.

Thirdly, the bill provides for a scheme for neighbourhood impact statements to be presented to the tribunal that would allow neighbours to provide confidential information for tribunal consideration along with requiring the tribunal to give consideration to the effect of a tenancy on neighbours and a landlord's responsibility to its other tenants. Effectively, that would be secret evidence that part of the community can give against a public housing tenant, which the public housing tenant can never see and never test. There might be circumstances in which there is concern about criminal or violent recriminations from tenants against members of the community who stand up against them, but surely a far more carefully calibrated set of laws is required than the Government's current blanket admission of neighbourhood impact statements without the tenant having the ability to test the evidence.

The bill also provides that a social housing landlord can submit a certificate that is to be accepted by the tribunal as evidence of the cost of work resulting from damage caused by a tenant and removes the tenant's capacity to challenge that. Basically, whatever the landlord says, the certificate applies, and that is the amount that has to be paid. Lastly, in the substantive provisions the bill has a provision to overturn a Court of Appeal decision and establish that debts arising from changes in rent rebates, due to a previously undeclared occupant, will become rent arrears and not a separate civil debt. It appears that that would enable the Government to more readily recover the debt. As I stated earlier, The Greens do not support the bill in its current form and I give notice that we will move the following amendment:

That the question be amended by omitting all words after "That" and inserting instead:

this bill be referred to General Purpose Standing Committee No. 2 for inquiry and report and in particular:

(a) whether the provisions of the bill are appropriate for effectively addressing antisocial behaviour in social housing;

(b) the impact of the bill on social housing tenants' access to fair and just review processes; and

(c) any alternative legislative, administrative or policy approaches which may more appropriately address antisocial behaviour in social housing.

If that amendment is not successful—but I hope it will be—The Greens have a series of amendments that will endeavour to restore the tribunal's discretion so that vulnerable social housing tenants are not at risk of unjustly inflicted homelessness. Although The Greens recognise the importance of ensuring the safety and wellbeing of all social housing tenants, the legislation before this House will not improve social housing providers' capacity to address the illegal or antisocial behaviour in most cases and indeed will undermine justice in cases in which the tribunal's discretion is removed. The only effect of the removal of the tribunal's discretion will be to allow for the eviction of public housing and social housing tenants whereas in other circumstances the tribunal, on review of the evidence, would have considered the evidence in its totality and decided it would be unjust to evict a housing tenant. This bill will simply remove the power of the tribunal to do justice.

Why would any Parliament think that its legislation is so perfect that it can remove the ability of an administrative tribunal to do justice in accordance with the evidence that is brought before the tribunal? There is a problem with illegal and antisocial behaviour affecting often vulnerable neighbours, and that is

clearly a significant issue in parts of social housing in this State. The 2014 Public Accounts Committee inquiry into tenancy management in social housing identified that as an issue and recommended that the Government formulate guidelines to assist the tribunal in weighing the interests and rights of tenants, who are alleged to have breached their agreement, and neighbours who are affected by the tenants' behaviour. That type of balanced approach would have been a positive contribution to policy in the social housing area. However, the legislative approach represented by this bill—getting rid of all balance entirely and simply removing discretion and ability to review the evidence—takes the law in a very unfortunate direction.

The Greens have many concerns in relation to this bill, most of which have been informed by detailed submissions from key stakeholders such as the Tenancy Union, the Coalition of Community Legal Centres and the Law Society—people who know this business, people whose clients will be impacted by these changes, people who can already see how current systems can produce injustice and how difficult it can be for vulnerable and marginal people in this community to exercise their existing rights. Those organisations have outlined a series of key concerns.

One is the removal of the tribunal's discretion over termination of leases. Section 90 and section 91 of the Residential Tenancies Act 2010 already provide for the termination of leases if a tenant causes serious damage to the property, injury to the landlord, a neighbour or certain other people, or if the premises have been used for illegal purposes. Under the law as it currently stands, the tribunal simply needs to be satisfied to the civil standard—only on the balance of probabilities and not to the criminal standard—that the breach referred to in the application for termination has occurred; in other words, a criminal conviction is not required.

Contrary to some of the commentary critiquing the current law, there does not have to be a successful criminal prosecution. The tribunal simply must be satisfied on the civil standard that conduct of a criminal nature has occurred in the premises. Then the tribunal has discretion and works out whether, having been satisfied about that, the lease should be terminated. The tribunal's discretion in determining whether or not to make a termination order is where justice is measured. That is where the tribunal has an opportunity to examine the circumstances of the case and say, "Yes, there has been some criminal activity here. We are satisfied about that. But in these circumstances, the tenancy should not be terminated."

A series of case studies have been outlined in that regard. All members of this House would have received them in a briefing paper on this bill formulated by the Eastern Area Tenants Services, the Illawarra Legal Centre, the Kingsford Legal Centre, the Marrickville Legal Centre and the Redfern Legal Centre. One of the case studies is *Aboriginal Housing Office v Corrie*, which is a social housing case that came before the then Consumer, Trader and Tenancy Tribunal [CTTT] but which would now be dealt with by NCAT.

In that case Sarah Corrie, an Aboriginal single mother of four young children, had her tenancy terminated after her casual boyfriend did several $10 to $20 marijuana deals from her premises over a period of two weeks. Sarah had never previously had any trouble in her tenancy and she was not involved in the drug deals. She was not charged and she cooperated with the police. The police even sent a letter of support to the tribunal, but the tribunal in that case terminated her tenancy because it thought it had no discretion to decline the application for an order. The tribunal was following a then District Court decision, *Housing Corporation v Cain*, which is a 2013 decision.

Even though the police said, "Don't terminate it.", and even though on any fair review of the justice of the case the tenancy should not have been terminated, poor Sarah knew nothing at all about what was going on. In that instance the tribunal thought it had no discretion, which is exactly the position in which the Government wishes to place the tribunal as a result of this bill. Although the tribunal's discretion subsequently was restored by the Supreme Court of Appeal, Sarah's story provides a clear example of how the changes proposed will lead to unfair and unjust outcomes for the most vulnerable

social housing tenants.

Another example concerns Claudia whose story is that she had been a public housing tenant for 10 years. She had always paid her rent and never had any problems with Housing NSW. Claudia had a long-term partner, who was an occupant in the property and is the father of Claudia's four children, all of whom are under 10 years of age. Claudia experienced domestic violence perpetrated by her partner and he recently moved out. The NSW Police Force came to Claudia's property. Bear in mind that Claudia is a victim of domestic violence who has enough to deal with, having four young children.

The police came to her property and found a number of cannabis plants being grown in a cupboard under the stairs. Claudia's partner immediately admitted to owning the plants and provided a statement that Claudia had no knowledge that the plants were there. However, Housing NSW still applied to the tribunal for termination of Claudia's tenancy on the grounds that she had used the property for an illegal purpose. Claudia and her four young kids aged under 10 now face the possibility of homelessness despite having no involvement in or knowledge of the criminal activity. Under the proposed changes, if those circumstances were brought to the tribunal, the tribunal would be compelled to evict Claudia.

The final case study is called Joanna's story. Again it shows how an unthinking broad application that is cooked up in a Minister's office can have such deleterious impacts when it is applied in the real world, particularly in the difficult personal circumstances in which people in social housing often find themselves. Joanna is a social housing tenant living in a private rental property subsidised by Housing NSW's Private Rental Subsidy scheme. A private neighbour complained about Joanna's cat. Joanna was then warned several times but denied that the cat had caused any nuisance. The neighbour ended up leaving the area, and graffitied the common area as she left. It appeared from the graffiti that the neighbour was offended not so much by the presence of Joanna's cat but at having a social housing tenant living in the same block under the rent subsidy scheme.

Under the proposed changes, the tenant could have been given three strikes for the complaints—each complaint could have been a strike—and then issued with a termination order. The onus of proof would have fallen on the tenant to prove that her cat did not cause a nuisance. That set of circumstances shows how, if a neighbourhood impact statement is provided, the evidence is never seen by the social housing tenant, let alone tested by the social housing tenant. Social housing tenants who are already vulnerable can be further isolated by their community and can be kicked out of their housing on the basis of rumour and innuendo, without having ever been in a position to test the evidence.

One further significant impact of the bill on a tenant is when another occupant has engaged in criminal or antisocial conduct. I dealt with that when I outlined Sarah's case and Claudia's case. Vulnerable tenants, including domestic violence victims, people with intellectual disability, older people, people with limited English, and Aboriginal members of our community, will be at increased risk of eviction, and removal of the tribunal's discretion—the discretion that can keep these people in housing, that can stop these people going from social vulnerability to homelessness and spiralling down after homelessness into further social isolation and poverty—can provide an unjust outcome. Why would this House approve that kind of legislation?

Another substantial issue raised, particularly by the legal centres but also by the Law Society, is the difficult process for challenging strike notices. Under this legislation, tenants issued with a strike notice will need to challenge it within only 14 days by making a written submission. This will be a complex and difficult task, especially for social housing tenants. Their capacity to respond to a complex notice in only 14 days is already compromised. They often have difficulty accessing legal advice. People in the community have told me about their difficulty in getting an appointment at a community legal centre within 14 days, let alone get the appointment, provide the papers and be in a position to respond. It is next to zero. What will be the effect? They will simply be evicted. That brings a risk that the tenants will either fail to submit a challenge to their strike notice, which will mean that it is taken to be conclusively proven should it proceed to three strikes, or there will be a much greater burden on the existing advice and

advocacy system, which is already underfunded by the State and Federal governments.

It would be much better to see an increased focus on support and prevention services. We note that the Government may amend this—I think it has foreshadowed an amendment to increase the time frame. But even if it is increased to 28 days it will still be a next to impossible task for vulnerable social housing tenants to respond in less than a calendar month to what can often be difficult and challenging evidence. I give the example of the public housing tenant who had an anonymous neighbour complaining about a cat and cooking up a case simply to get a public housing tenant out of the neighbourhood. One final substantial concern is that tenants cannot dispute the costs of maintenance work. This bill includes a provision, proposed section 165B, that allows social housing landlords to submit to the tribunal a certificate for the cost of work for damage done by the tenant. I accept that it can be an expensive process to challenge the costs and get evidence as to what the costs would be to remediate damage by a tenant.

There should be a fairly clear and simple evidentiary process, and The Greens would support streamlining that process to allow for the costs to be proven. Simply allowing landlords to submit their own certificate and have it conclusively assumed to be correct leaves tenants at risk of paying for overpriced repair work and reduces the incentive that landlords should have to ensure that quotes for repairs are reasonable and appropriate to the work to be done. Given that the Auditor-General's 2013 report on an inquiry into social, public and affordable housing highlighted concerns about the management and efficiency of maintenance issues in social housing, the Government should be concerned about simply allowing this certification process from entities that are often found to be substandard in their management and maintenance of housing. I will read onto the record the real concerns raised by the Tenants' Union of New South Wales, particularly its analysis of the three-strikes eviction. The union said:

> Three-strike eviction provisions will allow social housing landlords to issue "strike notices" to tenants to allege a breach of agreement that is not sufficient to terminate a tenancy, and specifically remind NCAT to consider such breaches when deciding any subsequent application for termination on breach of agreement grounds.
>
> - The Government's amendment will increase the minimum time period that a landlord may require a tenant to respond to a strike notice from 14 to 21 days.
>
> - The Opposition's proposed amendment will increase the minimum time … from 14 to 28 days.

Ultimately what we see with the three-strikes and the one-strike provisions is an ideological attack on the rights of social housing tenants to live with some form of dignity in public and social housing. The Tenants' Union and stakeholders have produced a series of creative responses to address antisocial behaviour in public housing. They involve supporting tenants in need. They require more front-line services to ensure that some of the most vulnerable members of the community get the support they need to live with dignity and security. This bill takes away the dignity and security of public housing tenants. I urge members to support The Greens' amendment to refer the matter to a committee, and I urge members to look closely at all the amendments put forward.

The Hon. BRONNIE TAYLOR [3.57 p.m.]: I support the Residential Tenancies and Housing Legislation Amendment (Public Housing—Antisocial Behaviour) Bill 2015. The bill is an important part of the Government's plan to reform the social housing system. The bill implements an election commitment—a very popular election commitment, by all accounts, and one that was backed by a strong mandate at the last election. Antisocial, illegal and fraudulent behaviour is a significant challenge for the social housing system in New South Wales. Many commentators have raised concerns about the negative impact this legislation may have on vulnerable social housing tenants, such as those who experience mental illness. It is important to note that the Department of Family and Community Services

[FACS] is experienced when working with clients with complex needs, and these people will receive support to sustain their tenancies.

FACS has 104 dedicated senior client service officer specialists located across the FACS districts. It is the responsibility of the specialist officer to work with vulnerable and complex clients to ensure that they receive the support they need. That support may be through engaging with services already in place or identifying and referring tenants to relevant support providers to address issues contributing to their antisocial behaviour. Where a person experiences mental illness, the first response of FACS is to engage health and social support services to assist the tenant. Mediation and referrals to support services are used to try to resolve the situation. In cases where a resolution cannot be found, FACS will explore alternative options for the tenant, such as relocating the tenant rather than terminating the tenancy. There will always be instances where FACS will have no option but to progress a case to the tribunal to seek a termination of the tenancy. But this is usually in a case where a tenant is not accepting help from the local mental health team or other support services.

This legislation aims to balance the responsibilities of tenants and the right of their neighbours in social housing, private residence and the broader community with the need to support tenants to sustain their tenancies. The introduction of the three-strike policy will do this. This policy needs to send a strong message to people engaging in antisocial behaviour and causing a nuisance that this behaviour will no longer be tolerated and action will be taken. I am happy to commend this bill to the House.

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

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

QUESTIONS WITHOUT NOTICE

VOLKSWAGEN VEHICLE EMISSIONS

The Hon. ADAM SEARLE: My question is directed to the Minister for Roads, Maritime and Freight in this capacity and as Leader of the Government in the Legislative Council. In light of more than 91,000 Volkswagen vehicles in Australia being fitted with emissions-rigging devices, what steps has the New South Wales Government taken to ensure that those and other vehicles here are complying with the approved methods for the sampling and analysis of air pollutants in New South Wales program?

The Hon. DUNCAN GAY: That question was out of left field; I love a question like that.

The Hon. Walt Secord: But will there be an answer?

The Hon. DUNCAN GAY: Of course there will be an answer, an absolutely outstanding answer. I should give the member an A-plus for observation and he should give me an A-plus for observation because I know that he is the driver of a Volkswagen with a 2.0-litre diesel motor and he knows that I am the driver of a Volkswagen with a 2.0-litre diesel motor. I am unaware whether the vehicle that he indicated he has and the one that I have are part of the group, but it is an ongoing issue. My understanding is that it falls right within the Federal area, but I will check with my department to see whether that is the case.

LOCAL GOVERNMENT NSW CONFERENCE

The Hon. DAVID CLARKE: My question is addressed to the Minister for Roads, Maritime and Freight. Can the Minister update the House on his address to the Local Government NSW Conference this morning?

The Hon. Walt Secord: They burned an effigy of you.

The Hon. DUNCAN GAY: They made me a deity—I wish. I thank the member for this important question and I congratulate the members of this House I saw at the conference this morning when they were part of a forum that followed my speech. It is correct that I snuck away from Parliament this morning—not from the sitting of Parliament but from the precinct—to talk to the people who look after New South Wales at the grassroots level. There was a great turnout with lots of great city and country mayors and councillors. As I said to the conference, when I got my portfolio I asked about council roads and they said, "Do not go there; do not touch them. Leave them with councils; that is the way it was done in the past." I was told not to put funding into council roads. I was told that if I did councils would never invest in their roads again but would instead queue outside my door to get the money.

The Hon. Walt Secord: What happened?

The Hon. DUNCAN GAY: I did it. It was a rash move but I believe it was the right one and I have to say you have to suck it and see. We have sucked it and seen. Councils are working more closely than ever before with the State and Federal governments as well as local industries, and we are certainly getting outcomes. Our metropolitan councils are benefiting from the biggest pinch-point program the State has ever seen, which is expanding every year.

Western Sydney councils are benefiting from our roads program and our Western Sydney Infrastructure Plan, which will support a second airport as well as create local employment and housing opportunities. But what will make the biggest difference is delivering world-class motorways, like WestConnex and NorthConnex, which will get through-traffic motorists off local roads and out of local communities by moving them onto motorways. If any member of The Greens—just one of The Greens—was in the Chamber I would be willing to have this conversation, but The Greens once again have not turned up for question time. They will wander in when they have a chance and wander out again; that is the way The Greens operate. I have been distracted and I should not be.

Our regional councils have a once-in-a-lifetime opportunity to access more funds and more programs than ever before. Since 2011 more than $1.8 billion in grants has gone to councils for their roads and bridges, a 40 per cent increase in funding compared to previous governments. We also have our Fixing Country Roads program. Round one has been a huge success and we have around 80 projects underway with most due to be completed this year. Round two is opening soon and we are making it easier than ever for councils to access the funds. We do not want any barriers put in councils' way.

It is not just about roads; councils want more freight shifted by rail and we agree with them, which is why we have developed our Fixing Country Rail program. This will work in the same way as Fixing Country Roads. Councils can apply for funding for network enhancements, siding construction, reactivation of non-operational lines and construction of passing loops. There are no restrictions. The Government made the brave decision to fund council roads and we believe this is the right decision as it is helpful for local government. It would be helpful for the State if The Greens turned up for question time.

WATTLE TREE ROAD, CENTRAL COAST

The Hon. WALT SECORD: My question without notice is directed to the Minister for Roads, Maritime and Freight. Given that local high school principal Mike Murphy on 4 March raised the problem publicly that the NRMA in its "Seeing Red on Roads" report released on 6 October named Wattle Tree Road near Holgate Public School on the Central Coast as the sixth most dangerous road in the State, when will the State Government fix this 7.8 kilometre stretch of dangerous road?

The Hon. DUNCAN GAY: I thank the member for his question and congratulate that community on the campaign it has run on this issue. Most of the roads named in the NRMA report are the roads that

we are fixing and, frankly, this highlights the need for fixing these roads. It is a rare pleasure to have Opposition members supporting the fixing of roads—albeit any road in this State. They have been quicker across the pitch on roads than almost anything else. One moment they support road maintenance and improvement; the next moment they are against it. It is bit like light rail—they support it coming in but they do not support it going out. They are forever looking for political advantage in what they are doing. I do not have the exact details on this, but I will take the question on notice and come back with a detailed answer.

INJURED WILDLIFE ROAD SIGNS

The Hon. MARK PEARSON: My question without notice is directed to the Minister for Roads, Maritime and Freight. On my recent travels around regional New South Wales I met with the Wildlife Information and Rescue Service [WIRES], the wildlife carers, which advised me that while it receives a high volume of calls regarding wildlife injured on our roads, many animals are left to suffer because of outdated road signage advertising local numbers that are no longer in use. For some time WIRES has been asking Roads and Maritime Services to update roadside signs to advertise the statewide 1300 helpline number, but to date this has not occurred. Will the Minister direct Roads and Maritime Services immediately to update its injured wildlife road signs to include this statewide phone number for reporting injured and orphaned wildlife?

The Hon. DUNCAN GAY: I thank the member for what I believe is his first question directed to me. I have been waiting and waiting and I have had a folder with me in anticipation of a question from him. It is a good and important question that I will take on notice. I will consult with my department to find out what is happening. If the member is correct—I have no reason to assume that he is not—as soon as we properly can we will put in train appropriate changes in that area.

CARERS WEEK

The Hon. NATASHA MACLAREN-JONES: I address my question to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. What is the Government doing to acknowledge and celebrate carers in New South Wales?

The Hon. JOHN AJAKA: As the House is no doubt aware, this week is Carers Week. However, for 850,000 carers in New South Wales this could be any other week. As I have regularly told members, many of our carers do not think of themselves as such. In our lifetime many of us are likely to provide care to a family member or friend, or to need care ourselves. Without carers many people would not be able to remain living in their own home and to participate in their community. Recent research estimates that the hours of care provided by unpaid carers in Australia would cost more than $60 billion to replace. If we had to deliver this care, our health and community care systems would not be sustainable.

Yesterday I had the privilege of hosting at Parliament House the New South Wales Carers Award ceremony for highly commended recipients and the Carer of the Year. This year, eight individuals and two organisations were recognised and honoured at this prestigious ceremony in the company of their families and friends and the key partners we work with to improve the position of carers in New South Wales. This year's New South Wales Carer of the Year is Sheila Openshaw. I had the opportunity to meet Mrs Openshaw in her hometown of Port Macquarie a couple of weeks ago with the local member, the Hon. Leslie Williams. It was a privilege to learn about Sheila's caring role and her experience of more than 20 years as a carer for her two sons. As well as her role as a carer, Sheila has for more than 14 years been the group leader for the Hastings Mental Health Support Group. Sheila is also a lifetime member of the Schizophrenia Fellowship of New South Wales and has been representing carers and people who experience mental health issues through her many speaking engagements and by raising awareness. She is also a keen fundraiser for mental health organisations.

Across the State this week, a total of 65 individuals and organisations will also be recognised for

their contribution in a caring role. Among them are men and women of all ages, including young carers and ageing carers. In recognition of Carers Week, Carers NSW administers a New South Wales Government grant program that supports organisations and carer support groups to hold events for carers during this week. About 300 organisations receive up to $250 each to organise events for local carers to enjoy, such as lunches, self-care sessions, bus trips, Tai Chi lessons and movie days. I encourage carers to participate in these events during Carers Week. A full list of events is available on the Carers NSW website. There are many reasons that carers may not realise that they are carers. In some languages the word "carer" cannot be translated, so information about being a carer does not reach them. In fact, the Microsoft Word program does not recognise the word.

As well as recognising carers, I am encouraging people to find out how they can acknowledge and support the carers they know. That is why I launched the 2015 Care for a Carer campaign this month. This campaign is running in print and digital media during October. Through the New South Wales Carers Awards and the Care for a Carer campaign I want people to understand more about carers. The campaign features eight families who share their experience of caring. They include Greg Smith and his mum, Lyn. As a carer, Greg is there for his mum without question to help with anything she can no longer do for herself. I encourage members to visit the campaign website and to learn more about carers. I am sure I speak on behalf of all members when I thank our carers for all that they do.

TERRORISM LEGISLATION

Mr DAVID SHOEBRIDGE: I direct my question to the Minister for Roads, Maritime and Freight, representing the Premier and the Minister for Justice and Police. What evidence does the Government have that the Terrorism (Police Powers) Act 2002 has been effective in preventing terrorism or terrorism-related offences that would justify this Parliament extending the detention and compulsory questioning provisions in the Act, including to 14-year-olds, as proposed today by the Premier and the Minister for Justice and Police?

The Hon. DUNCAN GAY: I thank the member for his question. If I interpret it correctly, he is asking what evidence from the operation of the Act would justify its extension. I would have thought the opposite would be appropriate. Surely the fact that the Act is not working as well as it could in collaboration with the Federal Act justifies reviewing it. I do not pretend to be an expert in this area, but I understand that that is the discussion now being conducted with the Federal Government.

Mr DAVID SHOEBRIDGE: I have a supplementary question. I thank the Minister for that answer, but can he elucidate by identifying the cases in which the said shortcomings in the Act have hindered the police in doing their work and exercising their powers?

The Hon. DUNCAN GAY: The member obviously asked me this question in my role representing the Premier and the Minister for Justice and Police. It probably also relates to the Attorney General's portfolio. I will refer the question to the Premier, the Minister for Justice and Police, and the Attorney General for an answer.

RACIAL VILIFICATION LEGISLATION

The Hon. SOPHIE COTSIS: I direct my question to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Given that 22 community organisations, including the representative bodies of the Jewish, Greek, Chinese, Assyrian, Indian and Sheik communities, have asked the State Government to strengthen the State's racial vilification legislation, what action has the Minister taken to amend section 20D of the Anti-Discrimination Act?

The Hon. JOHN AJAKA: The member is well aware that that question should be directed to the Attorney General, and she could easily have done so. In the meantime, antidiscrimination legislation is a matter for the Attorney General. As the Minister for Multiculturalism, I denounce racial vilification and will

continue to promote harmony and social cohesion within this State. New South Wales is one of the most multicultural States in the world. That is in no small part because we legally recognise and value the different linguistic, religious and cultural backgrounds of the people of this State through the Multicultural NSW Act 2000. Serious racial vilification where physical harm is threatened or incited is a criminal matter that can be prosecuted. Again, this is a matter that the Hon. Sophie Cotsis should direct to the Attorney General.

I am advised that if the president of the Anti-Discrimination Board NSW believes an offence may have been committed, he or she must advise the Attorney General. The president may continue to investigate by engaging the police. Where the police believe there is evidence to warrant prosecution, they will refer the offence to the Director of Public Prosecutions, who will decide whether it warrants prosecution as serious vilification. This is the process as established in guiding principles by the Attorney General.

I condemn any anti-Semitic statements and I believe they have absolutely no place within our community. I am advised—and I accept—that the Attorney General is committed to taking a measured and considered approach, considering the reports of the Standing Committee on Law and Justice into racial vilification laws, and she has advised me that she will consider any proposal for possible reform. My remit as Minister for Multiculturalism is to build and maintain a cohesive and harmonious multicultural society that enriches the lives of all of the people in New South Wales.

The Hon. SOPHIE COTSIS: I ask a supplementary question. Can the Minister elucidate his answer in relation to when the Attorney General will report?

The Hon. JOHN AJAKA: As I indicated at the commencement of my answer, I strongly recommend that the Hon. Sophie Cotsis—or, in fact, the shadow Attorney General—direct that question to the Attorney General. I have answered and made very clear my position as Minister for Multiculturalism.

EL NIÑO

The Hon. BRONNIE TAYLOR: My question is addressed to the Minister for Primary Industries, and Minister for Lands and Water. Can the Minister update the House on how the Government is supporting the State's farmers to prepare for the effects of El Niño?

The Hon. NIALL BLAIR: Right now the Pacific Ocean is in a strong El Niño event which continues to intensify. Sea surface temperatures in the Pacific are around two degrees above average. Until September the effects of the El Niño event on rainfall and temperatures over New South Wales have been mitigated by warm sea surface temperatures in the north-eastern Indian Ocean. As these cooled, warm and dry conditions have eventuated. Modelling suggests that the El Niño event is near its peak, will continue through summer and is likely to decay in autumn 2016.

Following good rainfall over most of New South Wales during winter, conditions have changed pretty quickly. Since early September conditions have been dry across New South Wales and this was exacerbated by hot, windy weather earlier this month. Winter crop yields have suffered as a result, particularly for late-sown crops across the western areas of the cropping belt. Rain quality is also likely to be affected. September's rainfall for Australia was the third lowest on record. Sixty-five per cent of the State received below average rainfall for the month. The Bureau of Meteorology rainfall outlook for October to December indicates that drier than normal conditions are likely across the south-eastern, southern and central areas of New South Wales. Drier than normal conditions are also likely along the south to the mid North Coast, and across the Hunter Valley and southern area of the Northern Tablelands and northern slopes.

We have some of the world's most innovative farmers when it comes to preparing for dry

conditions. The NSW Drought Strategy is about supporting our farmers to prepare for and make it through droughts. We do not just put in measures and walk away. We listen to farmers and we are constantly assessing whether adjustments to our strategy are needed. Previous governments allowed farmers to live from drought to drought, throwing good taxpayer money after bad with bandaid solutions and quick fixes long after the drought had reached crisis point. We cannot stop droughts—they are an inevitable part of farming in Australia—but for the first time we are investing serious dollars into helping farmers better prepare for the next inevitable drought rather than stepping in with handouts after it is too late.

The $300 million NSW Drought Strategy provides a range of measures to support farmers to prepare for and manage drought. The package includes $250 million over five years for the popular Farm Innovation Fund, providing long-term, low-interest loans to primary producers to install or upgrade on-farm infrastructure to better prepare for droughts and $45 million over five years in scholarships for farmers to undertake vocational training and farm business planning to prepare for future droughts. In addition, the New South Wales Government is helping our primary producers and regional communities build resilience by committing $5 million over five years for the rural support workers program on an as-needs basis.

Rural support workers are currently based at Broken Hill, Dubbo, Scone and Walgett. This is in addition to the permanent rural resilience officers employed at Bourke, Coffs Harbour, Goulburn, Hay and Tocal. The NSW Drought Strategy provides $5 million over five years for transport assistance for animal welfare and donated fodder and $2.5 million to improve the collection and analysis of weather data across New South Wales. The New South Wales Government is also continuing to administer the Commonwealth's drought concessional and drought recovery loan schemes. We will continue to monitor seasonal conditions across New South Wales as we get further into summer and we will ensure that there is ongoing whole-of-government coordination and response as a result.

SOLAR PLANTS

Mr JEREMY BUCKINGHAM: My question is directed to the Minister for Primary Industries, representing the Minister for Industry, Resources and Energy. Now that the Nyngan solar plant is fully operational and the Broken Hill and Moree solar plants are close to being finished and fully operational, where in New South Wales will the next large-scale solar plants be located and how is the plan to make New South Wales the California of clean energy progressing?

The Hon. NIALL BLAIR: I thank the member for his question. It is one that I will refer to the Minister for Industry, Resources and Energy. I will come back to him with a detailed response.

WILLIAMTOWN LAND CONTAMINATION

The Hon. PENNY SHARPE: My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given there has been continuing community concern about the response to the recent groundwater contamination at Williamtown RAAF Base, what is the exact number of private bores in the area surrounding the Williamtown RAAF Base and what steps have been taken to provide those using private bores with alternative sources of water?

The Hon. NIALL BLAIR: I am advised that the New South Wales Government is working closely with the Department of Defence to manage the contamination from the RAAF base at Williamtown. There are three main aspects to manage: first, protecting people's health and the environment; secondly, remediation of the contamination; and thirdly, ensuring that as the polluter the Department of Defence pays for the impacts on people and their livelihoods, the clean-up and the costs to the New South Wales Government in managing the contamination and related costs.

To get a clear picture of the extent of the contamination and its impacts, an extensive program of sampling is underway, primarily by New South Wales agencies, directed by the Williamtown investigation

expert panel, led by the NSW Chief Scientist and Engineer. The sampling is to examine groundwater and surface water and impacts on local fisheries—specifically fish, prawns and oysters—and some preliminary results have been received. Surface water sampling results led to an extension of the investigation area, with restrictions put on consuming water and produce from within that area.

A community reference group and an elected representatives group is in place to share information and to seek input on issues of concern. A review by Professor Mark Taylor has also been established that will consider Environment Protection Agency [EPA] past management of the contamination issue at Williamtown RAAF Base and the EPA's implementation of the recommendations of the 2014 Auditor-General's report into contaminated sites more generally. The New South Wales Government has set out its expectations to the Department of Defence to meet all costs to the affected people and businesses and to the New South Wales Government. The New South Wales Government has also indicated to the Department of Defence that, in line with the "polluter pays" principle, it should also be in a position to be fully responsible for the majority of sampling and monitoring associated with the contamination by the end of this month. This position was reiterated by the Minister for the Environment at a recent meeting with the Assistant Minister for Defence and Defence officials in Williamtown on 8 October 2015.

The Hon. PENNY SHARPE: I ask a supplementary question. I have listened carefully to the Minister's response and he did not answer my question. I would like him to elucidate one part of his answer.

The Hon. Duncan Gay: Point of order: The early wording of the member's question is argumentative and therefore rules the question out as a supplementary question.

The Hon. PENNY SHARPE: To the point of order: I have not finished the question.

The PRESIDENT: Order! The Hon. Duncan Gay is correct. I suggest that the Hon. Penny Sharpe start her supplementary question again and be cognisant of the requirements for supplementary questions.

The Hon. PENNY SHARPE: My supplementary question to the Minister is: Can he elucidate his answer regarding the preliminary results of the testing and are they available to the public?

The Hon. NIALL BLAIR: I thank the member for her supplementary question. As I indicated earlier, a community reference group and an elected representatives group is in place to share information and to seek input on issues of concern.

PORT BOTANY CONTAINER TERMINAL

The Hon. GREG PEARCE: My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on the recent opening of the Patrick container terminal at Port Botany?

The Hon. DUNCAN GAY: It was my great pleasure, and it would have been an even greater pleasure if the member had been with me—

The Hon. Greg Pearce: I did go to the Brisbane one.

The Hon. DUNCAN GAY: That is right; we went together.

The Hon. Walt Secord: Thelma and Louise.

The Hon. DUNCAN GAY: It was more like *The Odd Couple*—I was the odd one!

The Hon. Adam Searle: You were Oscar.

The Hon. DUNCAN GAY: Yes, I was Oscar. Last week, together with my State and Federal parliamentary colleagues from both sides, I attended the Patrick terminal. The new container terminal is not only the largest automated terminal in Australia but also the largest automated terminal in the world. It is twice the size of the Brisbane terminal. It is not said often enough but efficient and reliable port, road and rail networks are the lifeblood of the New South Wales economy. The freight industry is worth $60 billion annually. It already employs half a million people and is growing at a phenomenal rate. The long-term lease of our ports is supporting growth by driving new private sector investment. The new Patrick container terminal is a leading example of the smart investments we need to expand freight capacity and to boost productivity. I congratulate Murray Vitlich of Patrick, and John Mullen, chief executive of the parent company Asciano, on their investment and on bringing world-leading AutoStrad technology to our great State.

As I indicated, I was privileged to observe the new terminal in operation last week. Only in the control tower 25 metres above the terminal is it truly possible to take in the scale of the operation—1,400 metres of key lines across four berths, three new ship-to-shore cranes, and 45 automated straddle carriers, known as AutoStrads. Only in the control tower is it also possible to appreciate the role played by the highly skilled terminal operations team, many of whom have been retained to support automation. The remarkable AutoStrad robots pick up containers dockside and transfer them to waiting container trucks in a seamless, safe and automated process.

The terminal boasts an impressive capacity to handle 1.6 million 20 foot equivalent units, or TEUs as they are known in the industry. To put this in context, Port Botany's three terminals as a whole handled around 2.1 million TEUs in 2014-15, yet this new terminal alone has the ability to handle 1.6 million. The key benefits for Patrick customers include the ability to service more trucks per hour each day, no idle time, and increased certainty and predictability. The visit to Port Botany last week reinforced how important it is for us to improve the New South Wales freight rail network. I have said it before and I said it again last week, in partnership with the Federal Government and industry I am committed to delivering the duplication of the Port Botany freight rail line. We cannot continue to have a single rail track servicing Australia's second largest container port. [*Time expired*.]

INDUSTRIAL RELATIONS COMMISSION

The Hon. ROBERT BORSAK: My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Minister for Industrial Relations. Prior to the 2015 State election the Government promised that it would make further appointments to the NSW Industrial Relations Commission. Is the Minister aware that since then there have been several retirements, leaving the commission with fewer numbers than when it promised to appoint the two new commissioners? When will the Government honour its commitment?

The Hon. DUNCAN GAY: I thank the member for his question. I indicate that I am not aware that the Industrial Relations Commission is short by those numbers.

Mr David Shoebridge: Three.

The Hon. DUNCAN GAY: Three retirements—which is what the Hon. Robert Borsak said. It is an important question. I will take it on notice and refer it to my colleague for a detailed answer.

BONNYRIGG PUBLIC SCHOOL SAFETY

The Hon. SHAOQUETT MOSELMANE: My question is directed to the Minister for Roads, Maritime and Freight. In light of the Government's refusal to provide a school crossing supervisor at

Bonnyrigg Public School, what is his response to community concerns that the safety of children is being put at risk?

The Hon. DUNCAN GAY: One of the hardest decisions we make in that department is where school crossing supervisors will be situated. The language used in that question, indicating that we would think or even dream about putting children's safety at risk, is slightly offensive. It is quite the opposite. Within a few weeks every school in New South Wales will have flashing lights, not just schools in the city, not just big schools.

The Hon. Walt Secord: Point of order—

The Hon. DUNCAN GAY: Sit down, big boy.

The Hon. Walt Secord: The Minister was debating the question. The question related to a school crossing supervisor, not flashing lights. I suggest that the Minister be asked to return to the leave of the question.

The PRESIDENT: Order! There is no point of order.

The Hon. DUNCAN GAY: I see the member is trying to impress the new Leader of the Opposition to ensure he holds his job. Good work, Wally. Good work.

The Hon. Walt Secord: Answer the question.

The Hon. DUNCAN GAY: I am trying to answer the question but the time is being taken up with frivolous interjections. Wally has made an impression: The new Leader of the Opposition has walked out. I mentioned flashing lights because the inference in the question is that we do not care about school safety. We do care about school safety, otherwise we would not—

The Hon. Shaoquett Moselmane: Point of order: The question was specific. The Minister is talking about flashing lights, not the crossing supervisor.

The PRESIDENT: Order! The Minister made it clear that his comments were of general application. The Minister has the call.

The Hon. DUNCAN GAY: As I was indicating, the flashing lights are an example of how seriously we take school safety. We will have a look at this school, but we have an independent process that evaluates the schools and the streets in which they are located so those hard decisions can be made. At some stage we have to say that we cannot put a school safety officer at every school in the State. It is really hard for the people who make those decisions. We do it in the best way possible and we certainly weigh up the safety of the students. The Hon. Shaoquett Moselmane thinks he can play politics with the lives of children—forget about it, mate.

The Hon. SHAOQUETT MOSELMANE: I ask a supplementary question. Will the Minister elucidate his answer? He said that he will go and discuss this with the school. When will he consult with the school?

The Hon. DUNCAN GAY: As part of what is normally done in these reviews, our people talk to the schools, talk to the communities and look at the situation. If the Hon. Shaoquett Moselmane wants to continue to play politics I will remind him that Labor did nothing for 16 years. The shadow Minister in this House tried to stop us rolling out flashing lights. The Liberal Party did not stop the previous Government rolling out flashing lights. The Government has gone back to these schools. We have said that some of these schools are on busy roads.

The Hon. Walt Secord: So you are going to give them a crossing?

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

The Hon. DUNCAN GAY: Those schools need flashing lights not only at their main gates but also at their secondary gates. We also need to educate the little learners. That is why I have sent a letter to the principals of the primary and infants schools to remind them of the dangers and how important it is to engage with these children, who could run anywhere, and quite often do. These children are at risk around any school in these situations. I have found it mildly offensive that members of the Opposition have implied that we have done nothing when we have done things in the appropriate manner.

NEW SOUTH WALES HUMAN RIGHTS AWARD

The Hon. BEN FRANKLIN: My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister update the House on the 2015 New South Wales Human Rights Award?

The Hon. JOHN AJAKA: Each year the New South Wales Government ensures recognition is given to an outstanding individual whose activities have made a difference to people's lives. The New South Wales Human Rights Award gives us the opportunity to celebrate the empowering work and achievements of everyday people who are deeply committed to advocating for human rights. On 22 September I was delighted to present the 2015 New South Wales Human Rights Award to Reverend Bill Crews at a ceremony at Parliament House. As chief executive officer and founder of the Exodus Foundation and the Bill Crews Charitable Trust, Reverend Crews' work with the Wayside Chapel and his Uniting Church congregation in Ashfield has supported those in need by providing food and services in education, health and wellbeing.

Reverend Crews has dedicated his life to helping the elderly, sick, homeless and disadvantaged. His perseverance is outstanding and he fully deserves this recognition. Over the past 30 years Reverend Bill Crews has displayed an enduring commitment to human rights and has been a powerful advocate across a range of social justice and humanitarian issues. He is an esteemed community figure who has, for generations, worked tirelessly and selflessly to improve the lives of others. His commitment to the community at a local, national and international level is a true inspiration to us all.

The New South Wales Human Rights Award was first presented in 2013 to recognise Australian individuals who have made lasting and meaningful advancement in the human rights area. The award is presented annually in memory of Swedish diplomat Raoul Wallenberg, who saved tens of thousands of lives during World War II. One of the lives he saved was that of Mr Ervin Forrester, who I had the honour to meet when he spoke most movingly about his experiences of being saved from the firing squad in wartime Hungary. He claimed he had Swedish citizenship, even though he was a Hungarian Jew. A week earlier his mother had taken his photograph to the Swedish embassy, where Raoul Wallenberg worked. Within hours of Mr Forrester being arrested, Raoul Wallenberg walked into Ervin's cell with his life-saving Swedish passport.

The Human Rights Award judging panel was unanimous in its decision this year. With his enduring commitment to human rights and powerful advocacy across a range of social justice issues, Reverend Crews will make an outstanding New South Wales human rights ambassador over the coming year. To date, the award has had a history of impressive recipients. Last year's award winner was Maha Abdo, OAM, a renowned Muslim leader and mentor, who inspires many women through her work with the United Muslim Women Association Inc. She is someone I am proud to call a personal friend. The first winner of the award was Mr Andrew Penfold, AM, executive director of the Australian Indigenous Education Foundation, which he founded in 2007.

I am excited to recognise the work of yet another exceptional Australian. I am confident that this

award will increase awareness, across the community, of human rights issues and how inspiring individuals have overcome injustices to create greater social harmony. I am sure that every member of this Chamber joins me in congratulating Reverend Crews.

HACKING RIVER JETSKI USE

The Hon. ROBERT BROWN: My question without notice is directed to the Minister for Roads, Maritime and Freight. Is the Minister aware of community concerns regarding the dangerous use of jetskis on the Hacking River, particularly in the area directly adjacent to the Bonnie Vale campground in the Royal National Park? Will the Minister act immediately to regulate and police the dangerous use of these devices, particularly within the designated swimming areas at the location I mentioned, before someone gets seriously injured or killed?

The Hon. DUNCAN GAY: I certainly share the Hon. Robert Brown's concern. I recently met with the member for East Hills, who, in a very forthright manner, put his concern to me on behalf of his constituents. He had some pretty valid points. We have met with Roads and Maritime Services. It is joint area: Our boat inspectors operate up the river, and I recently had a meeting with the water police. We are currently working on new initiatives. Incidents and complaints about personal watercraft remain higher than for other recreational watercraft. About 10,000 personal watercraft are registered in New South Wales and more than 44,000 people hold licences to operate them. So for every one of these little machines there are four people sitting around with a licence waiting to hop on. Those people are ready to take the spot of someone whose licence we have taken.

The Sutherland-Liverpool boating area is especially popular, with personal watercraft accounting for about 20 per cent of these numbers. In 2013 Transport for NSW's Maritime Management Centre published a statistical report entitled "Botany Bay Georges River Boating Safety Plan and Personal Watercraft Incidents, Compliance and Feedback in New South Wales" for the 10-year period ending 20 June 2012. Despite personal watercraft representing only about 4 per cent of registered recreational vessels in New South Wales, the statistical report found they are linked to nearly 18 per cent of boating complaints, and are involved in more than 14 per cent of reported serious injury incidents affecting recreational vessels. That reflects the concerns expressed in the member's question.

Continued efforts in personal watercraft regulation, education and safety requirement compliance in recent years have seen improvements. In general the number of incidents is in decline, but in certain areas that is not the case. High rates of lifejacket wearing on personal watercraft are likely to have saved lives, and compliance rates in that respect have improved. These positives can be linked to the Ride Right and Take it Easy targeted education programs.

We have been working within the community. We engaged a comedian, Rob Shehadie, who did an absolutely brilliant YouTube video on how cool it is to wear a lifejacket. That certainly was designed to cut through to a group of young men who were not doing so. Wearing lifejackets is one thing, but antisocial behaviour is quite another. Antisocial behaviour is a matter that has the Government's attention. As I indicated to the member for East Hills, I have had a meeting with the water police and the Commissioner of Police, but there is more to come. [*Time expired.*]

DESIGN CENTRE ENMORE LAND

The Hon. ERNEST WONG: My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water, representing the Minister for Skills. Given that there is strong community opposition to the sell-off of TAFE land—particularly the popular dog-walking park at the Design Centre Enmore—will the Government give an assurance that this important recreational green wedge will remain in community hands and will not be sold to developers?

The Hon. NIALL BLAIR: I thank the Hon. Ernest Wong for his question, which I note is

addressed to Minister Barilaro, who is doing an outstanding job with his portfolio. He is a Minister who brings to his portfolio a range of experience that places him in good stead to examine the future skills needs of the State. He came up through the trades system and went on to become a very successful businessman. Before the Minister was elected to Parliament, he was an employer of many apprentices. The Minister has done a great job and I am sure he will continue to do a great job in the Skills portfolio. As the Hon. Ernest Wong has asked a detailed question and there are many specifics around the question—

The Hon. Ernest Wong: Ha!

The Hon. NIALL BLAIR: I was about to conclude my answer, but I will keep talking as long as the Hon. Ernest Wong wants me to continue. If the Hon. Ernest Wong wants me to speak for the two minutes and 30-odd seconds remaining for my answer, I will continue to praise Minister Barilaro for his approach to his portfolio. As the Hon. Ernest Wong's question involves great detail, I will refer it to Minister Barilaro for a detailed response.

BROKEN HILL AND MENINDEE WATER SUPPLY

The Hon. SARAH MITCHELL: My question is addressed to the Minister for Primary Industries, and Minister for Lands and Water. Will he update the House on how the Government is securing the water supply for Broken Hill and Menindee?

The Hon. NIALL BLAIR: I thank the Parliamentary Secretary for Regional and Rural Health and Western New South Wales for her question. Last week I travelled to Broken Hill to outline solutions to secure the region's water supply. It was an important opportunity for the communities of Broken Hill and Menindee to hear firsthand the proposed solutions to secure the region's water supply, which has been a concern for decades. The number one priority is to ensure that Broken Hill has water security upon which the regional economy may grow. That is why the New South Wales Government is investing up to $600 million to secure the short-term and long-term water supply for Broken Hill and nearby communities. This is the single biggest investment in the history of the State to secure a regional town's water supply. The Government has the money and has diligently put in place a process to ensure that the outcome Broken Hill needs is achieved—certainty in its supply of good and clean drinking water.

The Government does not want to plan for just the next five years or 10 years. We need to be bold and build big while we plan for water security for the next 100 years. I met with representatives from the council, inspected the recommissioning and upgrading of the city's reverse osmosis plant, and held a community meeting attended by approximately 200 people. The Department of Primary Industries Office of Water, which is known as DPI Water, in conjunction with WaterNSW and Essential Water, is already implementing projects to secure water supplies for Broken Hill, Menindee and Sunset Strip as well as implementing measures to secure water for Lower Darling water users. The short-term emergency plan also involves identifying new water sources to supplement town water. This includes potential sites for shallow bores in the Lake Menindee bed and in the Talyawalka floodplain.

The first stage of the short-term water supply project is backed by this Government, with $42 million in investment. The combination of all of the short-term activities, including desalination of existing surface water, will ensure Broken Hill's water supply until at least 2019. Too often across regional New South Wales the Government sees new businesses and investors deterred because a community cannot guarantee a long-term and reliable water supply. I want to see regional New South Wales grow. To do that, the Government needs to adopt a long-term approach. I make clear that any long-term water security solution must recognise the importance of the Menindee Lakes in the history and culture of the region. The Menindee Lakes constitute a multiuse amenity that is loved by the community and is widely used for boating, swimming and fishing, and is used as a source of water for drinking and industry. The business case, which will be developed by next month, will consider some of the existing infrastructure that is near the end of its operational life, including wastewater treatment and the pipeline from Menindee

and its associated balancing storages.

As part of any long-term solution to Broken Hill's water supply, there are a few things to note. The Menindee Lakes will not be decommissioned under any proposal for the region's water supply. There is no proposed long-term option that would result in Broken Hill moving to a permanent bore water supply. The Government also knows that the manner in which the Menindee Lakes are managed needs a shake-up. To change the way in which the lakes operate, the Government needs to engage in negotiation and reach agreement with Victoria, South Australia and the Commonwealth Government. The New South Wales Government makes no apologies for leading those discussions. This is about the future of the State's Far West. It does not matter whether people are in Broken Hill or Menindee, or Bega or Maitland—New South Wales regional communities deserve clean and reliable water supplies, which I was happy to discuss with the Broken Hill community last week.

RACIAL VILIFICATION LEGISLATION

Mr DAVID SHOEBRIDGE: I direct my question without notice to the Minister for Ageing, representing the Attorney General. I note that on 3 June 2014—more than one year and four months ago—the Coalition Government responded to the report of the Standing Committee on Law and Justice entitled "Racial vilification law in New South Wales" by saying that it "continues to consider" the report. I ask: When will the Government provide a substantive response to the 15 unanimous recommendations of that committee to improve racial vilification laws in New South Wales?

The Hon. JOHN AJAKA: I thank Mr David Shoebridge for his question. I will refer it to the Attorney General and come back with an answer.

FUNNEL WEB AND SNAKE ANTIVENOM

The Hon. PETER PRIMROSE: My question without notice is directed to the Minister for Ageing, representing the Minister for Health. Given that vital antivenom collections from funnel web spiders and snakes have decreased by a third and that New South Wales residents have been urged to catch funnel webs for their venom, will the Minister guarantee that the New South Wales health and hospital system has enough supplies to treat patients as summer approaches?

The Hon. JOHN AJAKA: I thank the Hon. Peter Primrose for his very good question. I recall reading the article in that newspaper, but I am a little ashamed to say that I did not immediately go out and look for spiders to catch because, clearly, I do not have the experience in that area. I accepted the fact that if I saw any such spiders I would do my best to catch them. I will refer the substantive part of the question to the Minister for Health and I will come back with an answer.

SYDNEY OVERSEAS PASSENGER TERMINAL

The Hon. SCOTT FARLOW: My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on the upgrade of the Overseas Passenger Terminal at Circular Quay?

The Hon. DUNCAN GAY: I thank the member for his important question. Just last Friday I had the pleasure of officially opening the new and improved Overseas Passenger Terminal, also known as OPT, in time for this year's cruise season. The opening day was an absolutely stunning day in Sydney; the sun was shining brightly on the small runabout tied up at the dock—the Royal Caribbean Cruise Line's 293-metre long *Radiance of the Seas*, which has just returned from Hawaii. The newly upgraded impressive terminal, which we opened, will give international visitors and local travellers the best possible experience in Sydney. Sydney is one of the greatest—it is not one of the greatest; it is the greatest—destinations in the world, and it is no surprise that the demand to visit Sydney keeps growing.

The OPT is Australia's premier cruise gateway and the new facility meets ship turnaround times better than ever before. The capability for faster turnaround at this new upgrade means that more cruise liners can come into the harbour on any one day, potentially doubling the amount of cruises offered to tourists wanting to visit one of the best, finest and most outstanding harbours in the world. The $78 million package of work includes a wharf extension, which added 60 metres of new wharf deck, and a new dolphin—I am sure members know that a dolphin is a massive buoy—allowing us to better meet the needs of larger ships.

These days cruise liners are four times the size of their 1960s predecessors. The new and improved terminal accommodates the new generation of cruise liners to allow for the cruise demand that we are seeing in Sydney. Other improved features of the new terminal include new arrival and departure areas, including a mezzanine check-in level, meaning that the old slow and clunky passenger processing is now a thing of the past. One key reason we invested in this new terminal was that the Government is committed to keeping Sydney open, available and accessible to the growing number of ships wanting to come here.

The cruise industry is worth an estimated $1.87 billion to the New South Wales economy every year, which is not to be dismissed lightly. This cruising season alone Sydney is expecting nearly 300 cruise ships and more than 1.2 million passengers. We have now built for the cruise boom and we are sending a message to industry: New South Wales is ready and open for even more cruise ship business. As I said, we have the best harbour in the world and, frankly, we needed to improve our terminal.

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

WATTLE TREE ROAD, CENTRAL COAST

The Hon. DUNCAN GAY: Earlier today the Hon. Walt Secord asked me about Wattle Tree Road in Holgate on the Central Coast. I am advised that Wattle Tree Road is a local road under the responsibility of Gosford City Council. Put simply, it is under the care and control of Gosford City Council. It is not a State road. Roads and Maritime Services understands that the council has three road safety projects planned or in the works for Wattle Tree Road. The first will occur in the next school holiday, which is the best time to do work close to a school, for obvious reasons. The other two projects are the subject of applications for blackspot program funding, which I understand is Federal money. While Wattle Tree Road is a local road and the responsibility of the council, the Hunter region manager for Roads and Maritime Services is meeting with the school principal and the local member for Terrigal, Adam Crouch, on Friday to discuss their concerns and provide advice and assistance. Let me end by presenting a compelling statistic that provides an insight—no, I will not do that.

The Hon. Walt Secord: Table the document.

The Hon. DUNCAN GAY: Do you insist?

The Hon. Lynda Voltz: He was only joking.

The Hon. DUNCAN GAY: I am happy to table the document. Members opposite have encouraged me. Let me end by presenting a compelling statistic, a statistic that provides a compelling insight into Labor's gross neglect of roads in regional areas.

The Hon. Walt Secord: That's not the note you were reading. You switched the notes.

The Hon. DUNCAN GAY: You begged me. In the past five financial years, compared with Labor's last five years in office, Government grants to Gosford City Council have increased by 45 per cent. Indeed, since 2011 grants to the council have totalled more than $34.6 million. This compares with only $24 million under Labor from 2006-07 to 2010-11. Hansard will show that I did not intend to put that

on the record until the own goal from the Hon. Walt Secord.

DEFERRED ANSWERS

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

LOCAL GOVERNMENT COUNCILLOR CONDUCT

On 25 August 2015 Mr David Shoebridge asked the Minister for Roads, Maritime and Freight, representing the Minister for Local Government, a question without notice about the number of occasions local government councillors have voted on proposals to change or amend the zoning or development controls that apply to their own land. The Minister for Local Government provided the following response:

> The requested information is not collected or held by the New South Wales Government and is a matter for each Council.

FIREARMS REGISTRY

On 25 August 2015 the Hon. Robert Borsak asked the Minister for Roads, Maritime and Freight, representing the Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing, a question without notice about volunteers working in the New South Wales Firearms Registry. The Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing provided the following response:

> I refer the member to my response to his written question No. 0455 on this subject.

HOSPITAL PATIENT DISCHARGE

On 25 August 2015 the Hon. Robert Brown asked the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, representing the Minister for Health, a question without notice about an 89-year-old woman evicted from the Prince of Wales Hospital under the Inclosed Lands Protection Act 1901. The Minister for Health provided the following response:

> It is neither appropriate nor regular practice for patients in the New South Wales public health system to be discharged under cover of a letter using the Inclosed Lands Act.
>
> Under the Aged Care Act 1997, the Commonwealth Government is responsible for residential aged care in Australia.

FORMER DEPUTY PREMIER ANDREW STONER

On 26 August 2015 Mr Jeremy Buckingham asked the Minister for Roads, Maritime and Freight, representing the Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing, a question without notice about the former Deputy Premier, Mr Andrew Stoner. The Premier, and Minister for Western Sydney provided the following response:

> All Ministers are required to comply with the Ministerial Code of Conduct.
>
> Since 20 September 2014, the code has been prescribed as an applicable code for the purposes of section 9 of the Independent Commission Against Corruption Act 1988.

POLICE POWERS

On 26 August 2015 the Hon. Mark Pearson asked the Minister for Roads, Maritime and Freight, representing the Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing, a question without notice about police powers. The Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing provided the following response:

> Government consideration of these issues is Cabinet in confidence

AMBULANCE SERVICE OF NSW

On 26 August 2015 the Hon. Walt Secord asked the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, representing the Minister for Health, a supplementary question about the number and location of surge beds in the hospital system. The Minister for Health provided the following response:

> The number of beds and treatment spaces are reported in the NSW Health Annual Report, showing the average available beds and treatment spaces for the month of June in each respective year. The number of beds and treatment spaces staffed and available for treatment of patients varies on a daily basis depending on service demand.
>
> Further information can be obtained from the NSW Health website at: *http://www.health.nsw.gov.au/publications/ Pages/annualreport14.aspx*

GOING HOME STAYING HOME

On 26 August 2015 Dr Mehreen Faruqi asked the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, representing the Minister for Family and Community Services, and Minister for Social Housing, a question about when an evaluation would be conducted into the impact of the Going Home Staying Home program. The Minister for Family and Community Services, and Minister for Social Housing provided the following response:

> The KPMG Post Implementation Review confirmed the procurement process was carried out appropriately, the reforms were evidence based and, since they were implemented, there has been an increased focus on integrating services and early intervention.
>
> However the report acknowledges there were shortcomings in the way the reforms were handled.
>
> The report formed the first part of a more comprehensive Monitoring and Evaluation Strategy which was released in August 2015.

DISTRICT COURT CRIMINAL TRIALS BACKLOG

On 26 August 2015 the Hon. Paul Green asked the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, representing the Attorney General, a question without notice about what the Government is doing to address the backlog of cases and shortage of judges in New South Wales. The Attorney General provided the following response:

> I am advised by the Department of Justice that a number of initiatives are being introduced to make justice fast, fair and accessible including:
>
> · the recent appointment of two additional judges to the District Court to hear child sexual assault matters;

- the establishment of a Working Group chaired by the Chief Judge of the District Court to address the increase in the District Court's workload;

- the establishment of a designated "Rolling Courts List" in Sydney, managed by a single judge with permanently assigned staff from the Office of the Director of Public Prosecutions and the Public Defender's Office;

- the use of special call-overs in regional areas to identify pending matters that may be suitable for earlier plea or trials;

- a series of coordinated special one-off call-overs and trial sittings are planned for one week in November at Wagga Wagga and one week in December at Newcastle; and

- the District Court sat through the usual mid-year vacation this year at the Sydney District Court, the Sydney West Trial Court and other selected regional courts. The court will continue to do so in future years.

GAYBY BABY

On 26 August 2015 Reverend the Hon. Fred Nile asked the Minister for Primary Industries, and Minister for Lands and Water, representing the Minister for Education, a question about the scheduled presentation of the documentary film *Gayby Baby* at Burwood Girls High School. The Minister for Education provided the following response:

> Burwood Girls High School did plan to screen the documentary *Gayby Baby* on Friday 28 August 2015 during periods 2 and 3. However, on 26 August 2015, the Principal of Burwood Girls High School decided that after careful consideration the school would no longer be screening the documentary. This decision was made in the best interests of not detracting from the intended message of growing students' awareness of the importance of diversity in the school community. Burwood Girls High was concerned the adverse publicity may detract from students' achievements and the good work of the school.
>
> Further, on 26 August 2015, Mr Greg Prior, Deputy Secretary, School Operations and Performance issued a directive to New South Wales public schools that the documentary *Gayby Baby* must not be shown in school time so that it does not impact on the delivery of planned lessons. Screening the documentary may be considered if it is an integral part of the planned curriculum for an age appropriate year group. If a school decides to screen the film outside school hours, or as an integral part of the curriculum, all relevant departmental policy and procedures must be followed.

FIREARMS CRIME

On 27 August 2015 the Hon. Robert Borsak asked the Minister for Roads, Maritime and Freight, representing the Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing, a question without notice about firearms crime in New South Wales. The Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing, provided the following response:

> The NSW Police Force has advised me that it cannot provide a definitive response in the terms requested.

ENVIRONMENT PROTECTION ZONES

On 27 August 2015 the Hon. Robert Brown asked the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, representing the Minister for Planning, a question without notice about environment protection zones. The Minister for Planning provided the following response:

I am advised:

The department does not have access to private ownership land information or voluntary conservation agreements. These are matters for the administration of the Minister for Finance, Services and Property and Minister for the Environment respectively.

FORESTRY CORPORATION LOGGING OPERATIONS

On 27 August 2015 Mr David Shoebridge asked the Minister for Primary Industries, and Minister for Lands and Water, a question without notice about logging proposed in the Tantawangalo State Forest. The Minister provided the following response:

I am advised that the Forestry Corporation informed neighbours of the proposed harvesting operation in compartment 2431 of Tantawangalo State Forest in July 2015 and subsequently engaged with neighbours in good faith to identify issues of concern that could be managed by the harvest plan. The corporation remains open to good faith discussions with neighbours and negotiating suitable revisions to the planned operation wherever possible.

PADSTOW PARK PUBLIC SCHOOL AND MEMBER FOR EAST HILLS

On 27 August 2015 the Hon. Lynda Voltz asked the Minister for Primary Industries, and Minister for Lands and Water, representing the Minister for Education, a question without notice about the use of Padstow Park Public School grounds for a barbecue held by the member for East Hills. The Minister for Education, provided the following response:

The Department of Education's Controversial Issues in Schools policy states:

1.1.1 Schools are neutral grounds for rational discourse and objective study. They are not arenas for opposing political views or ideologies; and

1.1.7 Material of an overtly political nature or which is considered by the principal to be inconsistent with the values of public education or the school's purpose and goals must not be distributed on the school site.

Consistent with the department's Controversial Issues in Schools policy, Ms Mollica agreed to the use of the school grounds as a location for the community barbecue with the provision that no political material was to be disseminated. The event was held at the weekend and was unrelated to school business.

WILLIAMTOWN LAND CONTAMINATION

On 8 September 2015 the Hon. Walt Secord asked the Minister for Primary Industries, and Minister for Lands and Water, a supplementary question without notice about Williamtown land contamination. I provide the following response:

The Australian Defence Force held a briefing on 12 August 2015 about their site

assessment report indicating the presence of residues in and around Williamtown.

HALAL CERTIFICATION

On 8 September 2015 Reverend the Hon. Fred Nile asked the Minister for Roads, Maritime and Freight, representing the Premier, and Minister for Western Sydney, a question without notice about halal certification. The Premier provided the following response:

> The Australian Senate has referred an inquiry into third party food certification to the Standing Committee on Economics. It will report on food certification schemes and certifiers in Australia, including schemes for organic, kosher, halal and genetically-modified food. The committee is due to report by 30 November 2015.
>
> The New South Wales Government will consider the report when it becomes available.

WALLY'S PIGGERY

On 8 September 2015 the Hon. Mark Pearson asked the Minister for Roads, Maritime and Freight, representing the Deputy Premier, Minister for Justice and Police, Minister for the Arts, and Minister for Racing, a question without notice about Wally's Piggery. The Deputy Premier provided the following response:

> Animal welfare is an issue the New South Wales Government takes very seriously
>
> The NSW Police Force has advised me that police and RSPCA officers conducted an investigation of the piggery. However, the RSPCA decided to withdraw the prosecution against the piggery's proprietors in the Yass Local Court following legal advice.

Questions without notice concluded.

Pursuant to sessional orders debate on committee reports proceeded with.

SELECT COMMITTEE ON THE SUPPLY AND COST OF GAS AND LIQUID FUELS IN NEW SOUTH WALES

Report: Supply and Cost of Gas and Liquid Fuels in New South Wales

Debate resumed from 15 September 2015.

The Hon. Dr PETER PHELPS [5.07 p.m.]: I will be extremely brief. I encourage members of the House and members of the public to read my dissenting report on this matter, which clearly outlines my concerns for the main report and for the supply and cost of gas in New South Wales.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.07 p.m.]: I was a member of the committee for this inquiry. Interestingly, since the report was tabled the Government has now provided its response. I will address a number of recommendations. The first recommendation was that the relevant Minister, through the Council of Australian Governments Energy Council, seek to have information detailing the amount of gas available for purchase included in the National Gas Bulletin Board. The second recommendation was that through the Council of Australian Governments Energy Council the New South Wales Government seek to create the gas market equivalent of the National Electricity Market and to undertake an audit of all regulatory tools available to New South Wales to improve transparency and openness in the gas market both here and across Australia.

It is gratifying that the New South Wales Government's response is to support those

recommendations in principle. However, the detail of the response seems to be limited to acting to cause the Council of Australian Governments Energy Council to direct the Australian Energy Market Commission to review the design, function and roles of the gas markets and gas transportation arrangements on the east coast, as well as to look at the regulatory tools available to the New South Wales Government.

The New South Wales Government response does not enumerate those regulatory tools or set any timetable. It is noteworthy that on 17 September the chairman of the Australian Competition and Consumer Commission, Mr Rod Sims, gave a significant address on the nature of what I loosely term a gas market in this country. In his address he indicated that many aspects of the east coast gas market are opaque and complicated and this reflects the evidence received by the committee. Mr Sims made these points: The gas market is dominated by confidential bilateral contractual arrangements which make price discovery almost impossible; trading markets are immature and illiquid with conflicting views as to their utility; and at nearly all points along the value chain the market is dominated by large players, be they producers and processors, pipeline operators or gas aggregators and retailers. Mr Sims also made a number of other points.

Michael West, a business columnist for the *Sydney Morning Herald*, in an article on 12 October agreed with points made by Mr Sims and made a number of salutary points including that while it is called a market it has all the hallmarks and features of a closed cartel. This is why the committee found that there needs to be significant moves towards a more open and transparent trading of gas to make prices more reflective of market pressures, and also a level of discipline that has not existed because the industry is characterised by a small number of producers, transporters and long-term contracts. The evidence before the committee was that contracts being offered as they expired were of a shorter duration and contained higher prices.

There seems to be a debate about whether increasing production would put downward pressure on prices. That is the typical market theory. But the evidence received by the committee was that the nature of the industry was such that that would not necessarily work, particularly if, given the potential for liquefying and exporting gas produced offshore for the first time, some producers would have the potential to sell domestically or internationally for higher prices. This exposure to international markets would lead to significantly higher prices for domestic gas. This would be the case irrespective of the level of supply.

Mr Roberts, in his article, makes the point that a number of the gas projects in the pipeline, such as the Narrabri coal seam gas project and AGL's Gloucester project, if they came to fruition, would be amongst the most expensively produced gas in eastern Australia. He propounded the notion that if this was the gas supply increase on offer, further production of gas of this nature would not lead to a drop in gas prices but would lead to prices continuing to increase. These are significant matters for governments and regulators to consider in devising the best response to the gas issue. I turn to the Government's response to recommendation 3, which touches on the report of the Chief Scientist and Engineer, who gave her final report on the independent review of coal seam gas activities in New South Wales in September 2014—and I note that the Government claims to be committed to and implementing her recommendations. Recommendation 3 of the committee's report is:

> That the New South Wales Government fully implement the Chief Scientist and Engineer's Final Report of the Independent Review of Coal Seam Gas Activities in NSW (September 2014) before any expansion of the coal seam gas industry in New South Wales is contemplated.

The word "contemplated" is very important. This makes it clear that the view of the committee—and I make it clear this was the majority view of the committee—

The Hon. Dr Peter Phelps: Yes, majority view.

The Hon. ADAM SEARLE: I acknowledge that interjection. Whereas the Government's response

to recommendations 1 and 2 was to support them in principle, the Government's response to recommendation 3 was simply to support. Looking at what the Government means by support, it is the implementation and pursuit of the gas plan, which seems to be premised on the notion that we can continue to develop the coal seam gas industry in New South Wales while implementing the chief scientist's recommendations, I presume in parallel. That was not the recommendation of the committee. The recommendation was very clear that the Government had to press the pause button and implement the chief scientist's recommendations in full as they are set out in the committee's report as well as in the chief scientist's report. These recommendations detail a significant body of regulatory design and scientific and other administrative work that, if done properly and fully, would take some time. It is notable that the Government's response does not give time frames for implementing the chief scientist's recommendations. It also does not set out resources being committed to that project.

A review by the Lock the Gate Alliance found that eight of the 15 or 16 recommendations of the chief scientist had not been fully implemented by the Government. None of them has been fully implemented, I believe. I would not expect all of them to be fully implemented because the work recommended by the Chief Scientist and Engineer is very significant. One example is the establishment of a whole-of-environment data repository to measure not just the individual impact of a project or set of projects but the cumulative environmental impact of multiple land uses. Another example is a single legislative instrument to regulate and govern all extractive industries. Just looking at those examples would give even the most casual observer a snapshot of the significance of the work she says needs to be undertaken.

The Government claims to support the chief scientist's report as well as the committee's recommendations, including the one to fully implement her recommendations before giving any consideration to the further development of the coal seam gas industry in New South Wales. I can only assume that people charged with developing the Government's response did not read the chief scientist's recommendations and certainly did not understand the significance of the committee's recommendations. If the Government's true position is to embrace the committee's recommendation 3, then the Government would be joining with the Labor Opposition and a number of other parties in this Chamber because that recommendation encapsulates the policy approach to coal seam gas taken by a number of the parties in this place. The opportunity to focus on that more fully will come when this Chamber considers the coal seam gas moratorium bill being proposed by the Opposition.

The Hon. MICK VEITCH [5.17 p.m.]: I was a member of the Select Committee on the Supply and Cost of Gas and Liquid Fuels in New South Wales, which was established on 6 November 2014. As part of a resolution passed in this place, the Hon. Robert Borsak was elected chair of the committee. The committee received 36 submissions and held two public hearings, on 28 January and 2 February 2015, at which 20 witnesses were sworn to give evidence. We conducted one interesting site visit, of AGL's operations in Camden. The diverse views of committee members were reflected in the written submissions as well as the testimony provided at public hearings. There are three dissenting statements contained at appendix 6, which starts on page 94 of the report, including the one drawn to our attention in the contribution of the Government Whip.

Why was this inquiry important? More than one million New South Wales households have some form of gas supply that is used for cooking and/or heating. Gas is also used by more than 33,000 businesses, with 300,000 jobs in gas-dependent industries in New South Wales. Those stakeholders have a real interest in the price of their gas. Interesting testimony was provided giving an explanation of conventional and unconventional gas and liquefied natural gas. Page 4 of the report contains a definition of liquefied natural gas and explains how it is created. I found it interesting that it is chilled to minus 161 degrees Celsius to convert it to liquid, which occupies much less space. It occupies one six-hundredth of the space occupied by methane in its gaseous form, making it easier and cheaper to transport to market.

My main concern in respect of this inquiry was the impact on jobs. Other important issues were raised and stakeholders had a keen interest in the supply of gas to households. However, I am worried

about the impact of gas pricing on jobs in this State, particularly in the manufacturing sector, which is being subjected to significant adjustments not only because of the price of gas. Whether the manufacturing sector continues to be subject to adjustment because of gas pricing should concern us all. My colleague the Hon. Adam Searle referred to the keynote address given by Rod Sims to an energy conference last month. A media article about that address makes interesting reading.

Many of the comments attributed to Mr Sims closely reflected those in a number of the submissions to the inquiry. He mentioned the opaque nature of the sector and the size of companies involved in providing gas. His comments also reflected the frustrations that we heard about from the Minister, who said that on any given day he found it difficult to determine how much gas was in the system. That is important because during the inquiry we heard about the potential for in-pipeline trading. For that to occur we must have greater transparency about the amount of gas in the system and what is driving the market potential. This committee inquiry was extremely interesting. At the outset I was concerned that it would involve a dry economic argument.

The Hon. Dr Peter Phelps: I certainly tried to make it dry.

The Hon. MICK VEITCH: The Government Whip certainly tried to make it extremely dry. However, other committee members displayed common sense and we did our best to elevate the process above that argument; we at least tried to address it. The membership of the committee was diverse and members certainly had differing views. However, even during the deliberative process we generally accepted our different positions. The dissenting reports appended to the main report indicate that we agreed to disagree on a number of issues. However, unlike other committee inquiries in which I have been involved, we did so without yelling and screaming at each other. I am sure that market transparency is a significant issue for the gas sector in Australia, and that is one of the main things that must change. We need to know how much gas is in the system and the process must be much more transparent.

I thank the committee secretariat for its assistance, particularly during the visit to the AGL Energy site at Camden. I also thank AGL Energy for accommodating the committee during that visit. I thank all the organisations that made submissions and attended the public hearings. I thank the Minister, who gave valuable evidence to the inquiry and who was open and frank. I extend my appreciation to the Hansard staff for documenting the public hearings. I thank my fellow committee members for their efforts. While we have disparate views and opinions, the committee proceedings remained relatively civil. Significant and warranted concerns still exist about gas pricing in New South Wales and Australia. As I said, we await with interest the Government's response to a number of matters, not only the chief scientist's reports but also in a broader sense, the adjustment that will be required in the manufacturing sector and the impact of price of inputs such as gas. I commend the report to the House.

Dr JOHN KAYE [5.27 p.m.]: I note the report of the Select Committee on the Supply and Cost of Gas and Liquid Fuels in New South Wales. In doing so I support the comments made by my colleague Mr Jeremy Buckingham and note his dissenting report. Leaving aside Mr Buckingham's dissenting report, the committee report represents lost opportunities. It could have been written 25 years ago. It displays the same attitude to the gas industry that was probably relevant and correct in the 1980s and early 1990s, but its time has long since passed. It was a lost opportunity to recognise that the day of fossil coal and fossil gas have passed. Those days are well behind us now. Any attempt to prolong the use of fossil fuel not only will have substantial consequences for the environment and household power bills, particularly for low- and middle-income households, but also will have devastating consequences for employment in Australia in the long term. The very worst kind of abuse of people employed in industries that are dependent upon fossil fuels is to spin them the yarn that there is a future for the consumption of those fuels.

It is not only a matter of environmental imperative to reduce and eliminate our use of fossil fuels but also an economic imperative to make the transition away from fossil fuels as quickly as possible to generate new jobs, new industries and new economic opportunities in this country. We should not to be

left behind by the rest of the world, which will embrace those opportunities. The particular problem of the fossil fuel industry, and particularly the fossil gas industry, is that in the first instance it is being economically out-competed by renewable energy. Apart from the 13 per cent of fossil gas that is used as feedstock for the explosives, plastics and glass industries, the remainder is used to heat and to chill. The remarkable advances being made in the design of reverse-cycle heaters and chillers in the past five years mean that gas is slowly disappearing.

The massive advances being made in renewable energy, particularly in solar panel design and battery storage, mean there is almost no future for gas. Those who mock should visit abattoirs in southern Queensland to see what they are doing. Not driven by any environmental imperative, abattoir operators have recognised that it is possible to power their chillers during the day using solar panels and to heat water using solar hot water heaters to the 90 degrees they need to sterilise their facilities and to keep chilling rooms closed overnight to maintain the cool. Gas is disappearing as a fuel in the abattoir industry.

The second reason the gas industry is doomed is that it produces massive greenhouse gas emissions. Burning gas in Australia, although it is obviously per unit of energy produced, is a substantial source of greenhouse gas emissions. Our greenhouse gas emissions in this country are increasing while our emissions from burning coal are decreasing. There is no excuse for the continued use of any fossil fuel when we face a climate emergency.

Finally, gas, particularly non-conventional gas and coal seam gas, has such a substantial local impact that it ought to be ruled out before it is even considered. The reality is that no jurisdiction around the world has controlled the impact on aquifers, air quality or human health that inevitably comes from coal seam gas drilling or unconventional gas winning, regardless of whether it involves fracking. Fracking, of course, makes it a lot worse. The cost of prolonging the future of our fossil fuel consumption in Australia is economic, social and environmental, and there is a cost to employment.

The reality of any attempt to prolong the use of gas in Australia is that it will fail to put downward pressure on household gas bills for two reasons. The first reason is that infrastructure is expensive and will get more expensive. The delivery infrastructure—the pipelines that bring gas to homes—in fact dominates the cost of residential gas. Like electricity, it is becoming more expensive. Local alternatives will inevitably become cheaper. The second reason is that Australia is a small market compared with the export market. The size of the export market, as more gas export trains are built in Queensland, means that the price in Australia, no matter how much gas is drilled here, will inevitably be driven by export prices. Any attempt to do otherwise will needlessly put pressure on households by not assisting them to make the transition away from gas or giving them the opportunities to move away from an industry that is only going to become more expensive.

Any attempt to extend the life of gas will needlessly damage the local environment and human health and will cost jobs. The real jobs of the twenty-first century are in the smart, new technologies such as renewable energy and high-tech transport and communication technology. To continue to believe we can build and maintain jobs on the basis of cheap energy supplies is a complete and utter head-in-the-sand approach. It is an approach that entirely fails to recognise that the economy is moving on. As that economy moves on, those countries that tie their future to low-cost energy supplies will inevitably suffer appallingly in terms of jobs. That is one of the reasons I do not support a domestic gas reservation policy. As was pointed out by Professor Stephen King, a gas reservation policy should be seen as the equivalent of a tax on exporters—with which I have no difficulty—but a subsidy on gas use domestically. Subsidising gas use domestically has a number of implications, the first of which is that it undermines the market—

The Hon. Dr Peter Phelps: Hear, hear!

Dr JOHN KAYE: —for renewable energy alternatives. I am glad to hear the Government Whip agrees with me that it is important not to distort the market, particularly at a stage when renewable energy

is grabbing a foothold. Not only does it do that but also it creates an unrealistic economy in gas that sooner or later will collapse. It protects industrial gas users, particularly the 13 per cent of gas that is used in artificial fertilisers and in plastics, from the need to understand that there are upstream environmental costs associated with the resources that they are using and to find new and innovative ways either to reduce their reliance on fossil gas or to find alternative feedstock.

Mr Jeremy Buckingham in his dissenting report on behalf of The Greens outlines very eloquently the steps that need to be taken to protect low-income households and to make the transition away from fossil gas sources. I will not reiterate them other than to say that the key task is to facilitate households, businesses, the public sector and industry to transition away from gas and other fossil fuels into high-efficiency energy use and renewable energy forms, particularly where those forms can be generated locally. The exciting opportunities here will generate jobs in development, marketing and high-tech manufacture.

The jobs that are available in the renewable energy alternatives pale into insignificance compared with the jobs that are currently dependent on gas, but that does not mean, as Mr Jeremy Buckingham points out, that we do not have a responsibility to secure that transition in a way that makes sure that every community is protected. It is possible to do that now. It will become increasingly less possible to do that as the economy gets jammed into a fossil fuel dead end. It is a shame that the report and the Government's response to it fail to recognise that time is up for fossil fuels; it is time for the renewable energy future.

The Hon. ROBERT BORSAK [5.35 p.m.], in reply: I thank all members who contributed to this very important debate: Mr Scot MacDonald; Mr Jeremy Buckingham; the Hon. Dr Peter Phelps, who made a short and pithy contribution; the Hon. Adam Searle; the Hon. Mick Veitch; and Dr John Kaye. As I stated in my previous contribution in this debate, I believe the work of this committee teased out a lot of burning issues regarding the supply and cost of gas and liquefied fuels in New South Wales. While it remains a divisive issue within certain sections of the community, it is not an issue that will go away any time soon. I am sure that there will be further inquiries down the track and many more arguments and debates about this in the future. I commend the report to the House.

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

Motion agreed to.

SELECT COMMITTEE ON THE PLANNING PROCESS IN NEWCASTLE AND THE BROADER HUNTER REGION

Report: The Planning Process in Newcastle and the Broader Hunter Region

Debate resumed from 11 August 2015.

Reverend the Hon. FRED NILE [5.36 p.m.]: As chairman of the inquiry I am pleased to speak on the final report of the Select Committee on the Planning Process in Newcastle and the Broader Hunter Region. We had two reports, the interim report and the final report. This report is entitled "The Planning Process in Newcastle and the Broader Hunter Region". As members know, we had to speed up the process and produce an interim report because of the Government's decision to truncate the Newcastle railway line at the end of December while the whole issue was being investigated by our committee.

The matter was open to question because of legislation requiring that any truncating of a railway line can take place only after first passing an Act of Parliament. That was a provision of various governments over years to protect railway lines so that they could not be closed willy-nilly but had to be closed through an Act of Parliament. Of course in this case the Government went ahead without an Act of Parliament, which led to citizens opposing the closure of the railway line taking the matter to the Supreme

Court. I will say more about that in a moment. In this final report our recommendation 9 states:

> That the New South Wales Government immediately reinstate rail services that have been ceased and infrastructure that has been removed from the Newcastle heavy rail line.

Our parliamentary committee, through all its investigations, public hearings and submissions, did not move from that position and maintained it in the final report that is now before the House. As members know, the Transport Administration Amendment (Closure of Railway Line at Newcastle) Bill 2015 is on the business paper. That is an acknowledgement by the Government that it broke the law when it closed the railway line.

It not only closed it but I assume it gave orders to remove the safety equipment wiring and so on from the line. This was getting close to sabotaging the line because safety officials would be able to say that the railway line could not be reopened the next day because it was not safe for passenger use. The railway line was still there, but the signalling equipment, et cetera, had been removed. If the Government proceeds with this bill we will debate it in this House in due course. The citizens of Newcastle took the matter to the Supreme Court to deal with the closure and disposal of railway lines as regulated by the Transport Administration Act 1988. Section 99A of that Act provides:

> (1) A rail infrastructure owner must not, unless authorised by an Act of Parliament, close a railway line.
>
> (2) For the purposes of this section, a railway line is closed if the land concerned is sold or otherwise disposed of or the railway tracks and other works concerned are removed.
>
> (3) For the purposes of this section, a railway line is not closed merely because a rail infrastructure owner has entered into an ARTC arrangement or a lease or other arrangement in respect of it pursuant to an agreement entered into by the Commonwealth and the State.

The third provision does not apply to this act by the State Government when it closed the railway line or, to use its word, "truncated" the railway line. Under the Act, rail infrastructure facilities include a railway track, associated track structures, over-track structures, cuttings, drainage works, track support earthworks and fences, tunnels, bridges, level crossings, service roads, signalling systems—which I understand were removed or damaged so that they would not function—train control systems, communication systems, overhead power supply systems, power and communication cables, and associated works, buildings, plant, machinery and equipment. The legislation is absolutely clear as to its meaning. Following two days of hearings in the Supreme Court, Justice Michael Adams delivered his judgement on 24 December 2014, granting the injunction to prevent the removal of the Newcastle inner-city rail line infrastructure. As I mentioned, it was removed even while the case was proceeding. On page 62 of our report, we stated:

> During the hearing it emerged that the NSW Government had instructed RailCorp to transfer certain rail infrastructure facilities, including signalling systems, lighting equipment, overhead wiring and boom gates, to the Hunter Development Corporation.

In his decision, Justice Adams found that this transfer rendered the Hunter Development Corporation a rail infrastructure owner within the meaning of section 99A of the Transport Administration Act 1988, and that the corporation therefore required an Act of Parliament to remove the railway tracks or undertake other related works. In his decision, Justice Adams said:

> It seems to me, therefore, that the sale of the relevant infrastructure by the Corporation [RailCorp] and its acquisition by the Hunter Development Corporation has rendered the latter a "rail infrastructure owner" within the meaning of section 99A of the Act. It follows that without the

> authority of an Act of Parliament it cannot remove "railway tracks or other works concerned", I take it those relating to the tracks.

It is quite clear in his decision that the Government had instructed RailCorp, knowing in fact that it was breaking the law, because there was no Act of Parliament to give the Government that authority. We further stated in our report:

> Despite the decision of Justice Adams, the NSW Government proceeded to halt rail services beyond Wickham Station on 26 December 2014.

As I said, it was the day after Christmas Day. I believe that was a political decision because no-one would be expecting major infrastructure decisions to be made at that time. Everybody would be busy celebrating Christmas and the Government would not expect anyone to notice what it was doing. The then Minister for Transport, now the Treasurer, the Hon. Gladys Berejiklian, announced:

> The final train services into the city centre ran late last night, and Newcastle, Civic and Wickham stations have now stopped operating as railway stations. With trains no longer operating in the city centre, the boom gates on Stewart Avenue and Merewether Street will now open, which will see an improvement to the traffic flow in these areas. Construction of a brand new $73 million train, bus and light rail interchange at Wickham will also get under way.

During our inquiry committee members kept asking questions about this reference to light rail. The only answer we could get was that it would be some time in the future, which could mean next year, in five years time or 10 years time. This issue has upset the residents of Newcastle. I have here just one of the front pages of the Newcastle paper, which shows hundreds of people protesting over the closure of the railway line. The closure of the rail line affected not only the residents of Newcastle but also the people who live in Maitland and Dungog and those who use the train to travel into the heart of Newcastle without transferring to buses on the fringe of Newcastle. Parents with babies and children in strollers or prams, or people with bicycles or surfboards would have a difficult time moving those items from the train to a bus. The trains were equipped to take heavy items but the buses are not.

A suggested solution was for the light rail to use the heavy railway line, which would have reduced a lot of controversy. In our interim report we stated that the three light rail routes in the Newcastle central business district that were considered were alignment with the existing heavy railway corridor, alignment with Hunter Street—which we understand is the one the Government is favouring—and a hybrid alignment, utilising part of the rail corridor and Hunter and Scott streets. On 23 May 2014 the New South Wales Government announced that the hybrid light rail route option, which includes part of Hunter Street, had been selected. There is almost no support for that proposition, which would cause massive congestion on Hunter Street because it would not be able to cater for light rail. There is a big question mark. If there is to be light rail, why not use the existing rail corridor so there would be no congestion?

One of the side issues of the inquiry occurred when the committee received a copy of a Cabinet minute that was produced by the Hon. Gladys Berejiklian, the then Minister for Transport. We received the minute on 18 February 2015. The Cabinet minute, dated 9 December 2013, contained advice regarding the truncating of the heavy railway line at Wickham and the preferred rail alignment in the Newcastle central business district. It is very unusual for a committee to receive a copy of a Cabinet minute; no-one ever gets a copy of a Cabinet minute. Rather than the hybrid alignment announced by the Government in May 2014, the minute identified an alignment utilising the existing heavy rail corridor and Scott Street as the preferred light rail route, stating that this option "supports the urban revitalisation of Newcastle, minimises road impacts, as well as costs and risk of delivery". It highlighted the benefits of that alignment. That was what the committee was recommending: If the heavy rail is truncated then build the new light rail on the same railway corridor. I urge members of the House to study the report in detail. [*Time expired*.]

The DEPUTY-PRESIDENT (The Hon. Trevor Khan): Order! Before I call upon the Hon. Greg Pearce to speak I remind members of Standing Order 92. It states:

> A member may not digress from the subject matter of any question under discussion; or anticipate the discussion of any matter shown on the Notice Paper, except an item of private members' business outside the order of precedence, unless, in the opinion of the President there is no likelihood of the motion or order of the day being called on within a reasonable time.

I will deal with that first, noting that the Order of the Day includes the Transport Administration Amendment (Closure of Railway Line at Newcastle) Bill 2015. I conclude that the matter will come on within a reasonable time. This is a rule that is generally interpreted liberally. I refer, in that regard, to page 319 of Lovelock and Evans' *New South Wales Legislative Council Practice* and page 231 of *Odgers' Australian Senate Practice*. I remind members of the ruling of President Burgmann in 2001 that a motion is out of order if it anticipates debate on a matter contained in a more effective form, such as a bill.

Given the fact that the Transport Administration Amendment (Closure of Railway Line at Newcastle) Bill 2015 is an Order of the Day, I urge members to focus on those parts of the report that do not traverse the provisions of the bill. I note in that respect that the final report of the inquiry into the Planning Process in Newcastle and the Broader Hunter Region contains nine recommendations, only one of which—recommendation 9—relates specifically to the reinstatement of the railway line.

The motion that the House take note of the report is not in itself objectionable, but if a member were to speak on the matter which is the subject matter of the bill then they would be out of order in dealing with that specific subject matter.

Mr David Shoebridge: Point of order—

The DEPUTY-PRESIDENT (The Hon. Trevor Khan): I am at this stage giving a preliminary indication of the position. I am not ruling on a matter. I am not seeking to enter into debate.

The Hon. GREG PEARCE [5.54 p.m.]: I believe the House should take note of this inquiry report, as the interim inquiry report was produced in the context of the lead-up to the last election. It is a shameless and appalling abuse and misuse of parliamentary procedure and the committee system. The entire inquiry was an attempt to politicise a very good economic decision for the region, and to whip up fear and dissent.

Reverend the Hon. Fred Nile: Point of order: I ask the member to withdraw those last remarks. I believe they cast aspersions on all members of the committee, if you take literally the words of the member in his description of the committee inquiry.

The DEPUTY-PRESIDENT (The Hon. Trevor Khan): Order! There are two responses to that. The first is that I was trying to work something out so I did not hear the member's comments. The second response is that if the remarks are of a general nature and not directed towards a specific member there is no point of order.

The Hon. GREG PEARCE: What is worse is the dismal failure of the inquiry to whip up that sort of fear and loathing in the community. The committee succeeded in allowing a handful of people, who were the protagonists in this matter, to embarrass and recklessly to make claims and defame good public servants and others who were taking part in an entirely fair and appropriate process. Along with Hon. Catherine Cusack, I have made that clear in a dissenting report. We thought the entire conduct of the inquiry was shameful.

I will not go through the dissenting report in any detail. The proposition by the committee that the rail should be reinstated was ludicrous. There was no sense at all in that proposal. Much is now being

made of the Supreme Court ruling. I do not intend to refer to that except to say that that ruling and the process were peripheral to the committee proceedings. The key reason given in Parliament for conducting the inquiry was to uncover any links between allegedly improper political donations revealed by the Independent Commission Against Corruption's Operation Spicer and Newcastle planning decisions, including truncation of the rail line. Operation Spicer has not concluded and no evidence supporting the initial propositions in relation to this inquiry was received by the inquiry.

The committee received, prior to the release of the interim report, evidence in relation to the interests of Mr Robert Hawes, and resolved to seek advice from the Independent Commission Against Corruption [ICAC]. The committee proceedings defamed that gentleman to a great degree. The advice from ICAC is dealt with in chapter 3. The evidence is that any conflict of interest or perceived conflict of interest has been dealt with in accordance with the relevant policies. Accordingly, we reject the commentary in the report in relation to that matter.

The Government has issued its response. One of the issues of concern to the committee was that Newcastle City Council should be involved in the future development and use of the rail corridor. By May 2015—after the election and after the committee's attempts to politicise this were no longer relevant—the council and UrbanGrowth signed a memorandum of understanding as to how they would work together. They have worked together very well. Most recently they have conducted an exercise called Revitalising Newcastle, which involved a very extensive canvassing of the community as to possible options for the rail corridor.

I visited the rail corridor recently, and I must admit there were no surfers walking up and down with their surfboards unable to get to the beach. There were no people protesting. Instead, there are several green areas that people were enjoying walking across. Businesses around the rail area are very happy with the progress. I have a photograph—which, of course, I will not use as a prop—that depicts Hunter Street in the 1930s. It shows Hunter Street with a tram running along its length. Not only that, but also it is busy with cars and the shops are busy. I will circulate the photograph to anyone who is interested in seeing it. That is the type of outcome the Government expects to achieve in Hunter Street.

I recall that Reverend the Hon. Fred Nile referred to the *Newcastle Herald*. I remind him of the commentary in the *Newcastle Herald* after the interim report was completed. It makes very interesting reading. It states, just as I have, that the processes of the committee at that time were an absolute disgrace. It was a very unpleasant inquiry to be part of. As I said, the worst part of it was that it was an absolute failure on the part of those who sought to incite, defame and cause chaos in the lead-up to the 2015 election.

Debate adjourned on motion by the Hon. Dr Peter Phelps and set down as an order of the day for a future day.

SELECT COMMITTEE ON THE LEASING OF ELECTRICITY INFRASTRUCTURE

Report: Leasing of Electricity Infrastructure

Debate resumed from 2 June 2015.

Reverend the Hon. FRED NILE [6.01 p.m.]: As chairman of the Select Committee on the Leasing of Electricity Infrastructure, I am pleased to participate in debate on the committee's report entitled "Leasing of Electricity Infrastructure", dated June 2015. I was pleased to be involved with this inquiry, which I believe has brought forward a number of practical recommendations. The decision whether to lease the State's poles and wires was perhaps one of the most important issues facing the people of New South Wales because of the potential financial benefit to the State, with various figures quoted as high as up to $20 billion, which would be available for the State's infrastructure. The consequences of the decision have been significant and wideranging for the State's financial position as

well as for consumers, electricity workers and the electricity industry more broadly.

By examining the claims made by key stakeholders on both sides of the debate, the committee was able to get to the truth and declare that the proposal is in the best interests of the State. That has assisted in ensuring that New South Wales will continue to be the State with the nation's leading economy. The economic benefits achieved by the State will place New South Wales as the foremost State in the Commonwealth, leading the rest of the nation as the State with the strongest economic position. As members know, in promoting the benefits of the lease, the Government argued that the associated $20 million in infrastructure investment would result in a forecast $300 billion boost to the State's economy by 2035-36, thereby increasing taxation revenue to the State. The anticipated $300 billion boost to the State's economy was forecast in a report commissioned by the Government from Deloitte Access Economics. The report was the subject of some questions. Recommendation 1 of the committee states:

> That the NSW Government commission an independent review of the Deloitte Access Economics report entitled *Economic Impact of State Infrastructure Strategy – Rebuilding NSW* by a suitably qualified modelling expert before any legislation is enacted, with the results to be published when complete.

Obviously, that did not happen. Legislation has been enacted. I understand that the Government is in the process of seeking tenders for New South Wales poles and wires. Recommendation 2 of the committee states:

> That the NSW Government commission an independent review, including consultation with stakeholders, of the powers of the Electricity Price Commissioner within 12 months of the leasing of electricity infrastructure.

The committee made that recommendation because there was some question about the extent of the powers of the Electricity Price Commissioner. The Government placed a great deal of faith in the Electricity Price Commissioner ensuring that electricity prices would not increase in New South Wales. Those who opposed leasing of the poles and wires claimed that the privatisation would lead to an increase in the cost of electricity whereas the Government anticipated the cost would decrease, depending on how the powers of the Electricity Price Commissioner were enforced. The Christian Democratic Party reiterates its call on the Government to review those powers for the purpose of ensuring that they are sufficiently strong to achieve the Government's stated intention.

The committee was also concerned with how leasing the poles and wires would affect employees, especially in relation to the availability of apprenticeships. One of my concerns, which I know other members of this House share, is the prospect of decreasing opportunities for apprenticeships. I point out that apprenticeships are vital for the ongoing success of industry in New South Wales. There should be a range of apprenticeships and apprentices should be qualified to fulfil important roles in various trades in New South Wales for the benefit of the development of the State, and particularly the State's economy. Recommendation 3 of the committee states:

> That the NSW Government develop strategies that will ensure that sufficient numbers of apprenticeships are offered by the new operators of the electricity network businesses, to meet the needs of the electro-technology industries of New South Wales.

The committee made that recommendation because there is always a temptation experienced by new operators, not confined to electricity network businesses but including enterprises that are either leased or privatised, to guarantee profits by reducing staff numbers, reducing the number of apprenticeships or in fact not offering apprenticeships at all. Recommendation 3 is very important and was supported by the committee. Recommendation 4 of the committee states:

That the NSW Government ensure the employment protection guarantees sought by Unions NSW and the Electrical Trades Union as outlined … [in the committee's report] are included in any enabling legislation, including:

· at least five years continued employment with the new employer—

That is a fairly obvious requirement. As members know, throughout the time I have been a member of the upper House I have successfully promoted job protection in a number of areas in negotiations with both Labor and Liberal governments. However, I have received a great deal of correspondence from the Electrical Trades Union and other bodies claiming—and I believe it is true—that various electricity corporations are reducing their staff at this point in time. The blame for that has been placed at the feet of the Australian Energy Regulator, which recommended a reduction in staff numbers. Electricity supply companies claim that they therefore have no option but to dramatically cut staff numbers.

Those numbers are not in the tens or twenties but in the thousands. I am distressed about that, as are other committee members and, I am sure, members of the House. We thought that at least the employment positions were protected until the leasing was finalised and then employees would have at least five years continued employment with the new employer. However, it appears that staff numbers will be dramatically reduced prior to the leasing. Indeed, that is happening.

The Government can say, "Don't blame us. We are just observing the situation." However, I believe that the Government has a responsibility to employees to intervene in this situation to ensure that the reduction in staff numbers is not as dramatic as it appears to be. As I said, it is not tens and twenties but thousands. The committee also recommended the transfer of all accrued employment entitlements, including annual, long service and sick leave; recognition of prior service; job location guarantees; a sufficient number of apprenticeship opportunities, which I have mentioned already; and payment on transfer from the public sector and so on. I urge members to study the report, which has many positive aspects. I thank all members of the committee for their participation. [*Time expired.*]

Mr SCOT MacDONALD (Parliamentary Secretary) [6.11 p.m.]: I will make a short contribution about the committee and its report. The committee made a good contribution to some of the transition arrangements on the poles and wires. However, I will comment on one aspect of the poles and wires campaign, to which Reverend the Hon. Fred Nile referred, that I think was a stain on politics in New South Wales when this issue was hotly contested back in February and March.

The Labor Party insinuated that the Communist Government of China would be controlling the destiny of New South Wales by buying into our power networks. That was lowest common denominator politics; it was scaremongering at its worst—and I note it is continued by The Greens to this day—without any recognition of the institutional arrangements that are in place, and that is by the Foreign Investment Review Board [FIRB] and the Australian Competition and Consumer Commission. Any State-owned network is subject to a review by the FIRB, including considering its worthiness to hold an investment in this country. In the dying days of that campaign we had electronic media and we had statements particularly from the Leader of the Opposition at that time.

The DEPUTY-PRESIDENT (The Hon. Trevor Khan): Order! I remind Mr Scot MacDonald that this is a debate on a committee report—

Mr SCOT MacDONALD: On poles and wires.

The DEPUTY-PRESIDENT (The Hon. Trevor Khan): The member will speak to the committee report before the House.

Mr SCOT MacDONALD: It is an aspect of this legislation. It was contested and this report touched on it. We need to remind ourselves how low we can go in the politics of this State because it was

xenophobia, it was borderline racism and it is a shame.

The Hon. Shaoquett Moselmane: Point of order: The member is flouting your ruling.

The DEPUTY-PRESIDENT (The Hon. Trevor Khan): Order! I made a ruling and Mr Scot MacDonald ignored it.

The Hon. ADAM SEARLE (Leader of the Opposition) [6.13 p.m.]: I was also a member of this committee and I speak now to the committee report. It is important to acknowledge that in the wake of this report—indeed, before the ink had dried on the publication of the report—the legislation authorising part privatisation through the means of 99-year leases of the electricity distributors and the transmission system was put through the Parliament. It is a shame that, even if this were to be embarked upon, the committee's recommendations were not given full effect. I will talk briefly about the recommendations. Recommendation 1 was that the Deloitte Access Economics report—the report that was comprehensively rubbished and debunked during the committee hearings—should be reviewed independently.

Dr John Kaye: Absolutely.

The Hon. ADAM SEARLE: It is not a case of getting a second guess. The report should simply have been consigned to the waste bin. Even a supporter of electricity privatisation, former New South Wales Labor Treasurer, Michael Egan, said that the report was of such poor quality that he had no time for it. The Government should not have placed any weight on that report, but it did so. The second recommendation was to review within 12 months the powers of the Electricity Price Commissioner. This was a great smoke-and-mirrors trick perpetrated by the Government because the Australian Energy Regulator [AER] set out in its determination how much money these companies can charge the wider public. That has an indirect effect on prices. There was no independent or other mechanism, and no charter given to the Electricity Price Commissioner to ensure that the so-called benefits said to come from privatisation would flow through.

In fact, amendments were put to that legislation that would have given some kind of benchmark and power to the Electricity Price Commissioner to ensure that prices in each consecutive year were lower for consumers. But members chose not to embrace them. So the Electricity Price Commissioner is an expensive white elephant, and reviewing its powers within 12 months will not add one jot to consumer protection. The third recommendation about sufficient apprenticeships was a good recommendation; indeed, I think it was supported by all committee members. It is a shame that the electricity companies are not embracing that; they seem to be dropping the ball.

Dr John Kaye: It was nonsense because it would never happen. We knew that.

The Hon. ADAM SEARLE: I acknowledge the interjection. The fourth recommendation set out a number of employment protections that, if one were to go down this path, should be embraced in any authorising legislation. I will not enumerate them as Reverend the Hon. Fred Nile has already done so. Notably, when those amendments were put fairly and squarely to this Chamber persons who signed up to them in the committee process did not follow through in the legislative process, and that is disappointing. I turn to one particular problem that flows from that. Schedule 4 to the legislation, which was enacted on the back of this committee, based on the AER current determination—the determination is under challenge but I assume that it will remain as it is—sets out the appropriate staffing level for each electricity network State-owned corporation, being the number of full-time equivalent employees said to be sustainable by the determination.

The determination sets out for each company to be partially privatised how many full-time equivalent employees they should have during the employment guarantee period. For Ausgrid it is 3,570 full-time equivalent employees, for Endeavour it is 2,100 full-time equivalent employees, and for TransGrid it is 1,000 full-time equivalent employees. The legislation also provides for no forced

redundancies except as permitted by the fair work legislation. At the moment workers in the industry have the benefit of no forced redundancy provisions in their enterprise agreements. Those agreements expired in December, they are up for renewal and there is hard bargaining, protected bargaining and the like. What is notable is that, despite the fact that management of the companies has called for voluntary redundancies, and despite the fact that at least one of the companies to be privatised has enough or nearly enough volunteers for redundancy to do so without force, nevertheless the companies are seeking to remove the no forced redundancies provisions and to have forced redundancies to achieve their objectives.

That is not only most unfair; it flouts the wording of the legislation, which was inspired by the committee report we are now debating, and the actual words because company management is saying that those numbers do not refer to direct employees that the company must employ. The positions could be filled by contractors who might be employees of different companies as long as they are employees of somebody. This is a distorted reading of the legislation and certainly does not reflect the spirit in which Reverend the Hon. Fred Nile put forward the amendments to the Government's legislation or the House resolved this matter.

We have a clear case where the State-owned energy companies' management appear to be pursuing an agenda that is not consistent with the spirit of the legislation. Whether the agenda adheres to the words of the legislation will, no doubt, be up to the Independent Pricing and Regulatory Tribunal [IPART] to determine. Under the legislation IPART is given the curious role of an industrial tribunal. This is one of the problems stemming from the committee's recommendations not being perfectly reflected in the legislation. The level of employment being set for the employment guarantee period is significantly lower than the current employment level as there is some permitted loss of employment, but it seems management is seeking to take advantage of that and press it much harder.

There is a concern that under the rubric of the Energy Regulator's determination company management is seeking to lower employment in the industries to levels below what is required. The Energy Regulator does not tell companies how many people to employ but does set the revenues. It was hoped that management would work with unions and the workforce to preserve as many jobs as possible and to seek other forms of revenues in contested markets where companies had previously acquired work to supplement revenue and preserve jobs. It is noticeable that TransGrid, the transmission system that is to be 100 per cent privatised under the Government proposal—despite the Energy Regulator cutting its revenue by something like 25 per cent over the regulatory determination period—is foreshadowing no job losses whereas the other companies are shedding jobs in the hundreds or thousands.

This shows a different management approach in the same regulatory environment. On the back of this, the Government through energy company management is seeking to challenge the Energy Regulator's decision to drive the allowable revenue of these companies higher in order to get a higher price for privatisation. When selling a business, the sale price is a multiplier of the revenue. With the revenue of these companies being cut by anywhere up to 30 per cent, that would put downward pressure on the price achieved. The Government is therefore doing everything it can, at the public's expense, to drive up prices to get a higher sale price. That is most regrettable.

A more regrettable feature is that during the recent budget estimates hearings the Government, through two Ministers—the Minister for Industry, Resources and Energy and the Treasurer—failed to come clean on how much is being spent on the challenge to the Australian Energy Regulator's determinations. This is a matter that will be pursued in other forums, but we have a situation where the report supported the part privatisation but on a very clear basis of employment protections and ensuring that a sufficient number of apprenticeships would continue to be offered by the industry. The Parliament did not enact the employment protection guarantees as recommended. It is clear that energy company management is departing from the spirit, if not the wording, of the legislation enacted by the Parliament. The whole basis for the committee's support for the part privatisation has, in my respectful view, been

completely debased and removed.

Dr JOHN KAYE [6.23 p.m.]: The report of the Select Committee on the Leasing of Electricity Infrastructure was a rushed job. It was done without seeing the final legislation in a fashion that did not give due consideration to a number of critical issues. It came to entirely the wrong conclusion that is beginning to play out now and will play out over the next two decades in New South Wales. It will cost jobs, reduce the reliability and safety of the electricity network, and possibly increase household bills. The part privatisation will cost the State's Treasury money that would otherwise be spent on schools, hospitals and public transport. It will in the end remove critical control for the transition of New South Wales to a clean energy future.

The Government relies on a Deloitte Access Economics report to argue that there will be a positive impact on the budget. Deloitte Access Economics says that gross State product [GSP] will increase by $300 billion over the years to 2035-36. Treasury officials told our inquiry that for every additional dollar in GSP there will be an additional 12.8 per cent collected in taxes. Even if we accept this report is correct—

The Hon. Adam Searle: We don't.

Dr JOHN KAYE: I thank the Hon. Adam Searle for his helpful interjection. He and I came to a consensus on this matter as we watched the evidence unfold. We went into the inquiry with an open mind about the Deloitte Access Economics report. The evidence presented shattered our confidence as the report had been changed under what can only be described as highly dubious circumstances after phone calls between various people, including members of the Premier's office. Even if one did accept that report, there is no reason to suspect that the 12.8 per cent that Treasury officials claim will be added is true. The transactions are based on selling income-bearing assets and replacing them with new infrastructure. That new infrastructure will impose new costs—maintenance and ongoing operational costs. Deloitte's claimed gain in GSP is based mostly on population growth and, the more the population grows, the greater the cost of services and that means more money will be needed.

Another critical issue is that relying on historical ratios of tax receipts to GSP is foolish in the extreme because new people attracted to the State might gamble less or get sick earlier—either impose higher costs or bring in less economic activity in the specific aspects of the economy that the State taxes. It is an unsound conclusion that the budget bottom line will not be affected. It is so unsound that the original Deloitte Access Economics report said it was bad for the budget, good for the economy. The first part of this statement—that it was bad for the economy—was suddenly retracted.

A lot has been said about network prices and there has been a lot of manipulation of data. One can take the data used by either side and draw the exact opposite conclusion. The data used by the Government can be interpreted to say it supports higher network charges. The data used by the Opposition, including The Greens, can be interpreted to argue for lower network prices. The reality is that comparisons of networks with vastly different geographies and densities of consumer connections and comparisons across time will never lead to reasonable conclusions; there will always be room for manipulation of data.

It is interesting that the Government, in its price guarantee, says the price will be lower in 2019 than in 2014. The year 2019 was not randomly plucked from the air; it is the end of the current regulatory offset. I would also make that guarantee because the money collected in the way the bill was drafted was shown as total revenue collected, not prices. Total revenue collected will be lower because that is what the Australian Energy Regulator [AER] said it would be. What about prices in 2020, 2021, 2024, 2028 or 2032? In these following years the real pain of electricity privatisation and leasing transactions will inevitably kick in and result in higher costs.

The Government said that there are no worries about safety and reliability, and the committee

majority accepted that. However, it ignored serious concerns raised about labour hire practices that will inevitably occur in privatised networks. The Electrical Trades Union cited one example of a privatised Victorian utility that engaged contractors who illegally employed people from overseas. Those employees were hanging by a thread. They were probably very good workers, but they knew that at any moment the contractor could blow the whistle on them and have them kicked out of the country, which would result in their losing income. They were not in a position to call time on work practices that endangered them or even people downstream, including consumers. That is just one instance, but it highlights the risk created by the use of unscrupulous contractors.

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

BUSINESS OF THE HOUSE

Notices of Motions

The Hon. Duncan Gay, by leave, pursuant to Standing Order 71, gave notice of a motion relating to the introduction of the Crimes Amendment (Off-road Fatal Accidents) Bill 2015 to amend the Crimes Act 1900 and the Road Transport Act 2001 to make further provision for evidence of intoxication in connection with dangerous driving and to provide for testing for alcohol and drug use in off-road accidents.

RESIDENTIAL TENANCIES AND HOUSING LEGISLATION AMENDMENT (PUBLIC HOUSING—ANTISOCIAL BEHAVIOUR) BILL 2015

Second Reading

Debate resumed from an earlier hour.

The Hon. RICK COLLESS (Parliamentary Secretary) [6.31 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank all members who contributed to this debate: the Hon. Sophie Cotsis, the Hon. Ernest Wong, Mr David Shoebridge, and the Hon. Bronnie Taylor. This is undoubtedly an extremely important piece of legislation that will improve the lives of people living in or near social housing in New South Wales. This bill is an important part of the Government's plan to reform the social and affordable housing system, and it implements a very popular election commitment. It recognises that antisocial, illegal and fraudulent behaviour is a significant problem in social housing.

Many public housing tenants are vulnerable, such as those who are ageing, those with a disability and those who are experiencing mental illness. Because of this, it is vital that more is done to protect vulnerable tenants and to improve the living conditions for all people in social housing and their neighbours by cancelling the public housing tenancy of those involved in serious breaches. Further, the department needs simpler and less resource-intensive tools that send a strong message about the consequences of antisocial and criminal behaviour and which hold people accountable for their actions.

The Government received a number of written comments from consumer advocates, including a number of legal services. As a result of those recommendations the Government has tabled several amendments in the other place relating to limiting the scope of one-strike provisions in certain cases, amending the definition of a brothel, the minimum period in which a tenant can make a submission or ask for a review of a strike, and the tabling of neighbourhood impact statements. We have heard from the Labor Opposition and the other parties about this bill, and I will comment further during the Committee stage.

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

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 2 to 4 postponed on motion by the Hon. John Ajaka and set down as orders of the day for a later hour.

PROPERTY, STOCK AND BUSINESS AGENTS AMENDMENT (UNDERQUOTING PROHIBITION) BILL 2015

Second Reading

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [6.35 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Property, Stock and Business Agents Amendment (Underquoting Prohibition) Bill 2015.

On 7 March 2015 the Premier announced that a re-elected Liberal and Nationals Government would reform the law in relation to real estate underquoting to better reflect community expectations.

This bill gives effect to this commitment.

The real estate industry is an integral and important sector of our economy and our community and the majority of real estate agents act professionally and honestly.

The provisions of this bill will provide NSW Fair Trading with the necessary powers to crack down on those members of the industry who are lowering public confidence and integrity of the whole industry by not doing the right thing.

Underquoting occurs when an agent provides a price guide to a prospective purchaser that is not the estimated selling price stated in the agreement with the vendor.

While the provisions of the current Act prohibit this practice, they lack rigour and have an unnecessarily high evidentiary burden, which makes it difficult to prosecute the offence.

Indeed, there has been no successful prosecution under the Act since its inception 13 years ago.

This bill address these outstanding concerns by providing clarity about when underquoting occurs and giving force to the offence provisions, increasing consumer certainty and ensuring agents know their obligations.

This Government is committed to working in partnership with the real estate industry to drive higher standards and greater professionalism.

As a first step, a Real Estate and Property Division has been established within Fair Trading with

a dedicated Assistant Commissioner, who is leading the work on increasing professional standards among real estate agents through an industry reference group.

This bill is the product of that partnership.

Key industry stakeholders such as the Real Estate Institute of NSW [REINSW], the Estate Agents Co-operative [EAC] and the Australian Livestock and Property Agents Association [ALPAA] have been engaged throughout the process and provided input and advice in the development of these reforms.

I would like to thank the REINSW, the EAC and ALPAA for their valuable contributions.

We will continue to work with these peak bodies over the coming months to conduct a thorough review of training standards across the industry, and to raise the standard in complaints handling, compliance audits and management of trust accounts.

This specialist area within Fair Trading will help the Government provide a comprehensive and cohesive approach to real estate matters and deal quickly and effectively with current and emerging industry issues.

In this regard, it is clear that underquoting is a significant current industry issue that is the source of concern for many people.

Buying a property is one of the biggest financial decisions most people will ever make. Consumers rightfully expect when they turn up on auction day that, having conducted their due diligence on the property, they are operating in a fair and equitable marketplace.

The surging property market and high sales prices, particularly in Sydney, have led to confusion and scepticism among consumers about the accuracy of advertised property prices.

While it is not possible, nor desirable, to curtail the market forces that are driving increasing sale prices for vendors, deliberate underquoting is a grossly unfair and unethical practice.

It gives potential purchasers an unrealistic impression that a property might be in their price range. This is a costly exercise.

If a property price guide is artificially low, people spend money on building and pest inspection reports or strata reports, believing the property is in their price range.

Estimates of the total costs involved range from $250 to more than $1,000 per property and if this happens to the same people for a number of properties, these costs can mount up.

The amendments in this bill will strengthen provisions contained within the Act to prohibit the practice of underquoting, sending a clear message to all industry participants.

The bill does this by:

- requiring agents to provide evidence of their estimated selling price to the vendor and this estimate must be stated in the agency agreement,

- requiring that the estimated selling price must be based on reasonable grounds and must be updated during the sales campaign if market circumstances change,

- providing that an agent cannot quote a price that is less than the estimated selling price

provided in the agency agreement when marketing a property,

- prohibiting advertisements and representations that say "offers over" or "offers above" or any similar statement, and

- requiring that agents keep records of prices quoted on a property, verbally or in writing.

The reforms include penalties of up to $22,000, plus forfeiture of any commission or fees from the sale.

I will now talk through the amendments in some detail.

The estimated selling price must be included in the agreement and must be based on evidence, which must be provided to the vendor when the agency agreement is entered into.

This can be a single price, or a price range, however if an agent uses a price range, the upper end of the range cannot exceed the lower end by more than 10 per cent.

It will be illegal for agents to advertise or market a property for a price that is less than the estimated selling price in the vendor agency agreement. If the estimated selling price is a price range, the advertised price cannot be less than the lower price in the price range.

In addition, words like "offers over" or "offers above" or anything similar, such as a plus symbol, will not be allowed.

During consultation on the draft bill, we considered requiring that the price in agency agreements and property advertisements be exactly the same.

However, feedback from consultation was that this would unnecessarily curtail the rights of the vendor and that the aims of the bill could be achieved by requiring the price to be not less than the estimated selling price.

This means that if a vendor wants to pursue a higher price for a property, it can be advertised for a price above the estimate in the vendor agency agreement.

This is because the aim of the reforms is to prohibit the practice of underquoting, luring in potential buyers by advertising a lower price than the estimate.

The objective of the reforms is therefore met by ensuring the advertised and quoted price is not a lower price than the one which the agent has based on evidence from the market and which is contained in the agency agreement.

To enable effective compliance monitoring for the new measures, the changes will introduce strict liability. That is, NSW Fair Trading will not have to show that the agent "intended" to underquote.

It will simply be a matter of comparing the price in the agency agreement to that in any advertisement or given verbally to prospective clients.

This will remove the current difficulties with pursuing prosecution for an offence under the current provisions.

Agents will need to keep written records of any verbal price estimates given to potential sellers or buyers, providing clear evidence of any estimates offered.

A property can be on the market for some time and in that time the estimated selling price could change.

If there are grounds for revising the estimated selling price, the agent will have to notify the vendor and update the vendor agreement.

Agents will also be obligated to take all reasonable steps to update any marketing material to ensure it is consistent with the vendor agreement.

This obligation is a crucial element of the package. It provides the impetus to ensure that the estimated selling price remains accurate.

Reasonable grounds for revising the estimated selling price would be, for example, if sales or auction results for similar properties in a certain area have increased since marketing a property in a certain area.

These results would have a direct flow-on effect to the value of other properties in the same area that are still on the market.

As per the requirement when entering into the agency agreement with the vendor initially, agents will also need to substantiate what they believe a property may be worth by providing a vendor with evidence such as comparable selling price data for similar properties.

Good practice regarding the revision of estimated selling prices will be clarified in updated underquoting guidelines that will be developed by Fair Trading.

Agents will face fines of up to $22,000 for failing to comply with the new laws. In addition to fines, if agents are found guilty of an offence, agents may also have to forfeit their commission and fees.

This money will be paid into the Property Services Compensation Fund managed by Fair Trading.

The compensation fund was established to help people who find themselves out of pocket as result of their dealings with an agent and other licensees under the Property, Stock and Business Agents Act.

Fair Trading will also establish an underquoting hotline so that members of the public can make complaints and provide "tip-offs" for Fair Trading to investigate.

Once these measures in the bill have been passed by Parliament, we will undertake further industry consultation on supporting regulations and revised underquoting guidelines.

We plan to complete the consultation process later this year so the industry and Government will be fully prepared for the implementation of the new laws at the beginning of 2016.

I want to emphasise that these new measures are not designed to stifle what is a very hot property market. Nor will they stop a property selling beyond its advertised price if competition is fierce.

Anyone who has been to a recent auction for residential property has probably seen firsthand how competitive this environment can be.

Fundamentally, the new underquoting laws are about transparency, accountability and disclosure of accurate information.

They are also about creating a fair and level playing field for everyone.

Agents have access to comparable sales and should be in an informed position to provide an accurate market appraisal based on the current market values.

They also have details or lists of potential buyers whom they may have dealt with. The experience and knowledge of agents places them at a distinct advantage in their dealings with vendors and purchasers.

As the selling agent is the agent of the vendor, purchasers need to understand that the agent is acting for the vendor and promoting their interests.

In a hot property market, properties will often be sold for prices that exceed the best estimate of the selling price that the agent could possibly have foreseen. These reforms will not and should not try to curtail the market.

The aim of the reforms is to stamp out the dishonest practice of price baiting where potential purchasers are led to believe that the property will go for much less than the true estimate by the agent.

An important part of this reform will be an extensive information and education campaign for both agents and consumers.

An educated marketplace will help ensure that potential purchasers know their rights and the responsibilities of agents, and will assist agents in ensuring that they comply with the laws.

These new underquoting laws will go a long way towards improving confidence among homebuyers.

The Government will continue to work with the industry to maintain high professional standards across the State.

We have worked hard to ensure that the measures in the bill strike an appropriate and reasonable balance between protecting consumers while minimising the degree of regulatory intervention.

I commend this bill to the House.

The Hon. PETER PRIMROSE [6.36 p.m.]: The Property, Stock and Business Agents Amendment (Underquoting Prohibition) Bill 2015 is a sensible piece of legislation. It is a good addition to consumer protection in New South Wales, and the Opposition welcomes it. The purpose of the bill is to stamp out the deceitful practice of price baiting. This occurs when an agent and a vendor agree on a price for the sale of a property but advertise or in other ways present a lower price to potential purchasers. The aim is to create a honeypot, luring in more potential purchasers and so increasing the tension and the numbers who bid for the property, with the aim of pushing up the eventual sale price.

The Real Estate Institute of New South Wales advises that there are about 2,800 registered agencies in the State, while the 2014 annual report of NSW Fair Trading suggests there are approximately 50,000 real estate agents in New South Wales, and 6,000 were registered last year alone. No one suggests that all real estate agents are engaged in the practice of price baiting, and the bill is aimed only at the minority who do. However, one Sydney real estate agent recently cited in the media stated that underquoting by agents in inner Sydney was "90 per cent, it's rife, it's absolutely rife". Over time, various measures have been proposed to overcome the problem, including mandating the use of escrow accounts.

This bill provides a clearer definition of when underquoting occurs, increases penalties, and will greatly assist all parties involved in knowing both their rights and responsibilities. We note that the Minister in his second reading speech undertook to conduct further industry consultation on the regulations and underquoting guidelines that are consequent on the passing of this bill prior to its implementation early next year, and we look forward to this essential process taking place.

The Act prohibits the practice of underquoting, which occurs when an agent provides a price guide to a prospective purchaser that is not the estimated selling price stated in the agreement with the vendor. The old adage amongst some real estate agents is, "Quote 'em low and watch 'em go. Quote 'em high and watch 'em die." However, the provisions of the Act, especially the high evidentiary burden, make it difficult to prosecute the offence. As a consequence, since its introduction 13 years ago there has not been a successful prosecution under the Act. Buying a property is one of the biggest financial decisions most people will ever make. However, consumers are justifiably sceptical about the accuracy of advertised property prices. Deliberate underquoting is unfair and costly. It gives potential purchasers an unrealistic impression that a property will be in their price range. People spend money again and again on building and pest inspection reports or strata reports, believing the property is in their price range, and these costs can mount up.

The bill requires agents to provide evidence of their estimated selling price to the vendor, which must also be stated in the agency agreement. It requires that the estimated selling price be based on reasonable grounds and be updated if market circumstances change. The bill also provides that an agent cannot quote a price that is less than the estimated selling price provided in the agency agreement when marketing a property and prohibits advertisements and representations that say "offers above", "offers over" or similar statements. Finally, it requires that agents keep records of prices quoted, whether verbally or in writing. The prescribed penalties will range up to $22,000 plus forfeiture of any commission or fees from the sale.

Unlike the current provisions that require proof of intent, the bill introduces strict liability provisions. In any prosecution, NSW Fair Trading will need only to compare the price in the agency agreement with that in any advertisement or given verbally to prospective clients. It will not have to show that the agent intended to underquote. Agents will be required to keep written records of any verbal price estimates given to potential sellers or buyers, providing clear evidence of any estimates offered. A property can, of course, be on the market for some time and in that time the estimated selling price can change. If there are grounds for revising the estimated selling price, the agent will have to notify the vendor and update the vendor agreement. Reasonable grounds for revising the estimated selling price would be, for instance, if auction results for similar properties in the area have increased.

Agents will also be obliged to take all reasonable steps to update any marketing material to ensure it is consistent with the vendor agreement. As I have indicated, agents will face fines of up to $22,000 for failing to comply with the legislation and, if found guilty, may also have to forfeit their commission and fees. On average, agents charge around 2 per cent commission, which on the median Sydney house price of around $914,000 would be $18,200. This money will be paid into the Property Services Compensation Fund, which was established to help those who find themselves out of pocket as a result of their dealings with an agent and other licensees under the Property, Stock and Business Agents Act. An underquoting hotline will also be established so the public can make complaints for Fair Trading to investigate. This is important, because many in the industry have expressed doubt that the new laws will work unless they are "heavily policed". One agent put it this way:

> Underquoting is so prevalent, and so deep-seated within the industry, it is foolish to believe the industry can self-regulate. Unless Baird and Fair Trading plan to rigorously police the real estate industry, underquoting will likely persist because agents and vendors have too much to lose by bowing out independently.

Of course, we can only hope that the Baird Government will, in light of the Minister's fine words, choose to apply both the spirit and the letter of these new provisions to their own actions. Take for example what happened in the sale of the first properties at Millers Point in September last year. An article in the *Sydney Morning Herald* of 12 September 2014 stated:

> The initial shock at the high prices achieved at a double Millers Point auction on Thursday quickly gave way to anger, as members of the crowd expressed their frustration at the $1 million differences between the price guides and the sale prices.
>
> The first Millers Point property offered, 11 Lower Fort Street, sold for $3.95 million—$1.25 million above the revised asking price.
>
> The second offering, 23 Lower Fort Street, sold for $2,685,000—$985,000 above the revised asking price.
>
> An auction attendee told Domain that after the auction several people approached the auctioneer.
>
> A woman was overheard saying: "How can you be so wrong? You can't keep missing by over a million."
>
> "Why do bidders know they'll pay nearly $4 million, as they've got their cheque books with them, yet you are clueless?"
>
> She reportedly then walked away shaking her head.
>
> Three of the four sales at Millers Point have sold for about $1 million above the price guides. The first sale, at 119 Kent Street, was $600,000 above its price guide.

My colleague the Hon. Sophie Cotsis strongly raised the concerns of potential buyers about the Government's price baiting. The *Sydney Morning Herald* asked a representative of Fair Trading for its views on this practice. The article continued:

> The representative previously told Domain "a gap between the initial advertised price and the final sale price is not necessarily proof of underquoting".
>
> The representative also noted that an example of underquoting was "when a property is promoted at a price that is less than the seller's asking price or auction reserve price".
>
> Fair Trading would not disclose whether it had asked the vendor, Government Property NSW, to provide the reserve price.
>
> Government Property NSW has repeatedly refused to disclose the reserve prices set for the properties. When asked on Friday, a representative said only, "price guides are set independently by agents based on market feedback".

This all sounds a little suspect and, frankly, a bit dodgy. The Minister said in his second reading speech:

> … deliberate underquoting is a grossly unfair and unethical practice. It gives potential purchasers an unrealistic impression that a property might be in their price range.

My last comment on this sordid matter is addressed to the Government, which has introduced this bill: Physician, heal thyself. We want this new legislation to work. As an Opposition we will be monitoring its implementation and enforcement and, as always, holding the Government to account. The Government needs to guarantee that sufficient resources are made available to Fair Trading to ensure that effective

and rigorous enforcement takes place and that the Government is transparent and regularly reports on the number of successful prosecutions that have taken place. This publicity will assist in deterring others from committing offences in the first place.

I appreciate that NSW Fair Trading has been restructured and a Real Estate and Property Division established, headed by Assistant Commissioner Andrew Gavrielatos. This is a good initiative but the Opposition will be watching closely to ensure that the Government provides both the staffing and other resources that this new division will require to do its job effectively. If this does not happen then the bill will merely be window-dressing. The Opposition will not oppose the bill.

The Hon. TREVOR KHAN [6.47 p.m.]: I speak in support of the Property, Stock and Business Agents Amendment (Underquoting Prohibition) Bill 2015. I commend the Minister for Innovation and Better Regulation for implementing our Premier's election commitment. This is a matter that is close to my heart at present. My son, all things going according to plan, will settle his first home purchase tomorrow on his twenty-fifth birthday. In the course of reaching what is a significant milestone for him, he has been going through the process of trying to find a home in the Newcastle market. Unlike his father, who is minded to do things perhaps on the spur of the moment, my son takes more after his mother, so he is a very deliberate and thoughtful young man.

The Hon. John Ajaka: He will do well.

The Hon. TREVOR KHAN: Yes, he will do well. In fact, he demonstrates that all the time. Week after week, month after month, he has looked at properties in the Newcastle market. The Newcastle market is somewhat different from the Sydney market. Most of the properties—or a considerable percentage of them—it seems, do not proceed to auction but instead the method of sale is by private treaty. Different from the procedure when I practised law—although I was kept away from conveyancing for very good reason—where a property being sold by private treaty would be offered for sale at a price and then the prospective purchaser would bid down from that price, now the advertisements state "offers above".

The Hon. Shayne Mallard: The same in Dubbo.

The Hon. Ben Franklin: It is the same everywhere.

The Hon. TREVOR KHAN: I acknowledge both comments. It apparently has now become the norm. It is somewhat similar to the auction process where one goes along to kick the tyres and the agent whispers in your ear "anything above $500,000 will be accepted" and, as we will hear in this debate, that property then sells for above $750,000. The same process is applied in the "offers above" ad campaign. For example, an ad for a three-bedroom weatherboard house in Carrington, Mayfield or Waratah will say "Offers above $385,000", but the properties do not sell for $385,000; the sale price is $430,000 or $450,000.

My son looked at many properties that were offered at $50,000 below their eventual sale price. This is not like the exceptional market of Millers Point that the Hon. Peter Primrose talked about. I am talking about a standard three-bedroom weatherboard property in a standard suburb of Newcastle where properties are sold every week. It cannot be that the agents have no idea of the sale prices. They do not have to speculate or guess. They could look at their own sales records or the local council sales records of tens, if not hundreds, of properties that have been sold over the previous 12 months. The agents know the sales prices and they deliberately underquote. My son visited up to six agencies that all did the same thing.

The Hon. Peter Primrose said that the Sydney market is being underquoted by 90 per cent. From my son's experience in Newcastle, 90 per cent is being overly generous to the agents. The reality is that this is a standard form of rorting that is endemic in the real estate industry and it gives the industry a bad

name. It is unfair that the purchasing public cannot attend property auctions with a reasonable idea of the bidding range. It is a gross misuse of market power and it is grossly misleading the public. I truly commend the Minister and the Premier for, hopefully, bringing this practice to an end. There can be no doubt that introducing this legislation will stamp out bad practice within the real estate industry. It is a demonstration, once again, that this Government has the interests of the public of New South Wales at heart.

The Hon. SOPHIE COTSIS [6.53 p.m.]: I make a brief contribution to debate on the Property, Stock and Business Agents Amendment (Underquoting Prohibition) Bill 2015. I acknowledge my colleague the Hon. Peter Primrose, the shadow Minister for Local Government, and shadow Minister for Innovation and Better Regulation, who in his speech in this place comprehensively countered the Government with respect to its actions and fair trading. It is a matter of concern that the Government does not have a Minister for Fair Trading, particularly for those who need information, services and assistance.

The issue of underquoting by real estate agents is a familiar one. Advertising a price that is much lower than the expected sale price is a great way for real estate agents to drum up interest in a property. But this can lead to potential purchasers wasting time and money on inspection reports and other matters because when they show up to an auction they are completely outbid. I acknowledge the Government for turning its attention to this issue of underquoting; however, this bill is an own goal.

Last year I raised serious concerns that this Government had been involved in the practice of underquoting in relation to the sale of former public housing properties in Millers Point. Concerns about the Government and its agent being involved in underquoting were well documented at the time. On 12 September last year, Fairfax's Domain published an article entitled "Auction awe turns to anger after Millers Point properties sell for $1 million above price guides". It followed an article that Domain had published on 27 August 2014 entitled "Government left red faced after Millers Point sale". To provide additional context, I refer to the article dated 12 September:

> The initial shock at the high prices achieved at a double Millers Point auction on Thursday quickly gave way to anger, as members of the crowd expressed their frustration at the $1 million differences between the price guides and the sale prices.
>
> The first Millers Point property offered, 11 Lower Fort Street, sold for $3.95 million—$1.25 million above the revised asking price.
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> The second offering, 23 Lower Fort Street, sold for $2,685,000—$985,000 above the revised asking price.
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> An auction attendee told Domain that after the auction several people approached the auctioneer. A woman was overheard saying, "How can you be so wrong? You can't keep missing by over a million. Why do bidders know they'll pay nearly $4 million, as they've got their cheque books with them, yet you are clueless?"
>
> She reportedly then walked away shaking her head.
>
> Three of the four sales at Millers Point have sold for about $1 million above the price guides. The first sale, at 119 Kent Street, was $600,000 above its price guide.

Following the first two sales of those properties, as the shadow Minister for Housing, I called on the Department of Fair Trading to investigate the massive discrepancies between the advertised prices and the final sale prices. The article states that it is understood that Fair Trading acted on my request and conducted interviews with sales staff and examined the sale files of the two properties. I acknowledge that the Fair Trading Commissioner, Mr Rod Stowe, responded to my letters. My concern was not only the underquoting but also that the Government did not disclose the reserve price. In this place and through

the media I asked the former Minister for Fair Trading why the Government had not revealed the reserve price, despite its knowledge of it. The Government can blame real estate agents but it was involved in the practice of underquoting last year. On 11 September 2014 the then Fair Trading Minister, the Hon. Matthew Mason Cox, spoke in this place on the issue of whether prices had been underquoted at Millers Point. He said:

> There are no issues at all; it is a very successful sales process.

Let me be clear: The bill leaves the Government with egg on its face because the Government did not reveal the reserve price of those properties. Underquoting is a significant issue in the Sydney property market. I understand that is the reason for the Government introducing the bill. The Government should look at its own practices. It is selling off a lot of property assets in the inner city and the inner west and around the foreshore. It proudly states that it is selling properties, but once an asset is sold it is gone. The Government needs to take its own advice. What the Government did with the Millers Point properties a year ago was appalling. The Government did not get value for those properties, which would have been in the best interests of taxpayers. I spoke about this last year. It is also embarrassing for the Government that one of the purchasers bought one of those properties and put about $30,000 into it. Within six months that purchaser had sold it for $600,000 more.

The Hon. Shayne Mallard: It is called capitalism.

The Hon. SOPHIE COTSIS: The taxpayer lost that money.

The Hon. Shayne Mallard: No, the market.

The Hon. SOPHIE COTSIS: You have no idea. The Government got completely ripped off. It flooded the market with those properties.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! Interjections are disorderly at all times.

The Hon. SOPHIE COTSIS: I have spoken extensively on how this Government—

[*Deputy-President (The Hon. Natasha Maclaren-Jones) left the chair at 7.01 p.m. The House resumed at 8.00 p.m.*]

The Hon. BRONNIE TAYLOR [8.00 p.m.]: I speak in support of the Property, Stock and Business Agents Amendment (Underquoting Prohibition) Bill 2015. I commend the Minister for Innovation and Better Regulation for his work on this bill, which honours the Government's election commitment. This bill contains measures that will deliver clear benefits for prospective property buyers and sellers. The reforms will also provide greater clarity for real estate agents about their responsibilities when marketing properties.

Underquoting occurs when an agent provides a selling price to prospective buyers that is lower than the price listed in the agency agreement. The consumer detriment arises when prospective buyers incur costs for checking out the property with building reports, pest reports or strata reports in the misbelief that they can afford it. These costs can reach up to $1,000 per property. Multiply that several times over and it becomes a significant impost. Some people may attend an auction full of hope based on price information provided by agents only to hear the very first bid exceed their maximum limit. This is obviously a frustrating and disappointing—and some may say soul-crushing—experience for them, especially if it is not the first time this has happened.

Underquoting creates false hope, imposes unnecessary costs on consumers and fails to deliver any genuine benefits. There is a definite need for the Government to take action. Getting into the real

estate market is an important part of anybody's life. The Hon. Trevor Khan spoke eloquently about what his son is going through and that is pertinent to this debate. Owning a home or property is the biggest investment many people will make. The process should be fair and, above all, equitable.

The more vulnerable members of the real estate market—such as first home buyers and low-income earners—should not be misguided by underquoting, and this bill will provide them better protection than ever before. To ensure prospective buyers are given more accurate and appropriate price information the bill will specifically prohibit the use of terms such as "offers over" or "offers above". This kind of price information can be vague or misleading and it can create false perceptions. When the price figure provided to prospective buyers is less than what the agent genuinely believes the property will sell for, this is a clear case of price baiting. The prohibition on the use of terms such as "offers over" or "offers above" will directly address this problem. Further, if the price given to prospective buyers by the agent is less than the estimated asking price in the agent's agreement with the vendor, this will be a clear breach of the new laws. Breaches of the law could result in the forfeiture of agents' commissions and fees, and that will definitely hurt.

The measures in this bill will enhance transparency and accountability, and will foster a fair and equitable market. This legislation will give NSW Fair Trading the necessary powers to ensure this is achieved. The new measures will not stop a property selling above its advertised price if competition for a property or at an auction is strong. But it will help create a fairer system for people who spend money on building and pest inspection reports, believing a property is in their price range. It will protect buyers and vendors who are acting in good faith, and create a fairer market for all prospective property buyers in New South Wales. I commend the bill to the House.

The Hon. PAUL GREEN [8.04 p.m.]: On behalf of the Christian Democratic Party I address the Property, Stock and Business Agents Amendment (Underquoting Prohibition) Bill 2015. The bill aims to curb a perceived growth in the deceptive practice of underquoting by real estate agents. Jarrad Downs from Kells Lawyers defines "underquoting" as a marketing technique where agents deliberately market the property below the anticipated sale price with the aim of creating a false sense of interest in the property and increasing demand. The practice is particularly frustrating for buyers who incur expenses from carrying out due diligence on a property when they have no reasonable prospect of acquiring it. The prevalence of this practice is hard to quantify given that undersupply combined with strong demand has created a situation where market forces drive prices beyond reasonable expectations.

Legislation already exists to make the practice of underquoting illegal. Agents are regulated by the Australian Consumer Law, which prevents the making of false and misleading statements. They are also regulated under part 5, division 3 of the Property, Stock and Business Agents Act 2002. The Act prohibits an agent from falsely understating the selling price. They are considered to have understated the price if they provide an estimate that is less than their "true estimate". The problem with the current legislative regime is that it is quite difficult to prosecute agents. It is important to note that there has been only one successful prosecution, and that was more than 13 years ago. The new laws create offences with strict liability—that is, there will be no need to prove an intention to underquote as the offence is committed by the making of the price statement. Under the old laws, several prosecutions failed because the regulator failed to prove an intention to underquote.

The breach of the new laws will attract a maximum penalty of 200 penalty units, which is currently $22,000, per breach. In addition, if a real estate agent represents to a buyer that the property is likely to be sold for less than the estimated selling price the court may order that the fees or commission payable on the sale be paid to the Property Services Compensation Fund. The transitional measures will make the new laws apply to existing sales agency agreements as from the date that the new laws come into force in the new year. This will mean that real estate agents will need to review the estimated selling price in all sales agency agreements that are then current. Regulations and an updated Underquoting Property Prices Guideline will provide more detail of the requirements under the new laws.

The new laws will change three aspects of real estate agency practice: first, listing the property and the estimated selling price in the sales agency agreement; secondly, marketing the property within restrictions on price advertising; and, thirdly, a record is to be kept of selling prices quoted. In respect of price estimate, the requirement is that the agent includes in writing in an agency agreement an estimate of the likely sale price. The estimate cannot provide a price range greater than 10 per cent and the agent must provide the seller evidence to support their reasonable estimate. The agent must maintain and adjust the estimate in a timely manner and record all price estimates made when the property is marketed. In respect of limiting vague pricing terminology, the agent cannot use vague price information such as "offers above" or "offers over", which can obscure the property estimate.

The Real Estate Institute of New South Wales [REINSW] is the peak industry body for real estate agents and property professionals in New South Wales. REINSW worked closely with the Minister for Innovation and Better Regulation and NSW Fair Trading throughout the drafting process. The institute said it was happy with a lot of what it achieved; however, it felt that the bill still does not get it right in some areas. John Cunningham, the vice president of the Real Estate Institute of New South Wales, stated:

> What we don't know, and what is unclear in the Bill, is how an agent is allowed to communicate an estimated selling price to a prospective purchaser when it is a price range. Once a price range is entered into the agency agreement are you then forced to use that range, and that range only, when talking to prospective purchasers? Or is the lowest price you are permitted to quote the bottom end of the range? Or the top end of the range? This is an area that is bound to cause confusion and, fingers crossed, it will be clarified by the forthcoming Regulations.

Kell Lawyers are concerned that there is still a lack of transparency in marketing. The legislation states only what must not be said to buyers; it does not require disclosure to buyers of the estimate provided to the seller. The likely result is that in order to avoid the risk of prosecution agents will provide even less information to buyers.

The consequences of this bill can already be seen, with many agents changing their advertising to remove any price guide and to contain statements such as "expressions of interest" and "price by negotiation". Another likely consequence of regulating price guides is that more properties will be sold at auction. This will only exacerbate the problem because bidders will be required to incur the expense of doing due diligence—including getting inspection reports—accessing legal services and making finance enquiries because of the lack of a cooling-off period for properties purchased at auction. The Christian Democratic Party congratulates the Government on this great move to eradicate underquoting in the real estate market. However, as has been said, this is simply the first step. I look forward to seeing the regulations, which will further clarify the intricacies of this legislation.

A member of my staff who is married with a couple of children was in this disheartening situation. The family based their hopes and dreams on information that could have been provided to mislead them about the reality of the market. I can remember being gazumped on a house. There is no more deflating feeling than realising that someone has compromised their integrity to achieve a higher price. This is good legislation that may address some of the issues that have been raised and which will ensure that those trying to buy their dream house get a fair go. The Christian Democratic Party commends the bill to the House.

The Hon. ERNEST WONG [8.12 p.m.]: My Labor colleagues and I do not oppose the Property, Stock and Business Agents Amendment (Underquoting Prohibition) Bill 2015. As has been noted by other members, the object of this bill is to weed out the common real estate practice of underquoting. It will do this by tightening the legislation to which real estate agents must adhere. Sections 72 and 73 of the Act will be replaced by tougher provisions with regard to the underquoting of property prices. Importantly, the bill will make these strict liability offences, meaning that there is no need to prove malice or other poor motive on the part of an agent; the underquoting itself will be evidence of the offence. For this reason, the

bill will place new emphasis on the importance of agents getting their estimates right and recording carefully any discussions they have about price estimates during the sales campaign.

I am sure that many real estate agents take offence that such a bill is deemed necessary. Indeed, I am certain that the vast majority of agents are doing their best in a highly competitive business. As someone with a long history in local government and of local business support, I know many people who work in the real estate profession. The vast majority run excellent, professional businesses dealing with what is for most customers the most important transaction of their lives. There is significant pressure at play: pressure from the seller to get the highest price, and pressure from the buyer to get the lowest price. That has always been the case, but in a market as heated as Sydney's that pressure is seriously amplified.

It appears that many agents have responded to that pressure with less than ethical tactics. It has been instructive to see from the various polls conducted by Sydney media outlets just how many agents openly admit that underquoting is a tactic. I suppose this comes from their understood role, which is to get the highest possible price for every seller or, as I once heard it described, "to turn the buyer upside down and shake every last coin out of them". While it is a colourful description, that is the agent's role, and clearly there are some who view deliberate underquoting as simply part of the game. However, it is a part of the game that not only causes heartache to thousands of New South Wales families looking to buy properties but also corrupts proper competition in our housing market.

Yes, the real estate market is competitive—it is competitive for agents, for buyers and for sellers. However, the practice of underquoting does not assist genuine competition; it corrupts it by injecting false speculation into property sales. Underquoting simply results in sellers with over-estimates of what buyers will pay and buyers with over-estimates of the properties available. I believe that many agents who engage in this practice do so only out of fear of losing clients in a highly competitive market. This is therefore one of those occasions when the Government must intervene to correct a market practice, and on this occasion the Labor Party supports its approach.

Of course, with so much money now riding on Sydney property transactions, these measures will work only if the cost of breaching the new legislation outweighs the benefit of selling a property by breaching it. I note that the Minister in the other place said that in addition to penalty unit fines, NSW Fair Trading will have powers to seize sale commissions and to suspend operating licences. I understand the additional burden that this places on agencies, many of which are small family businesses. However, the additional administrative cost of adhering to the legislation is more than outweighed by the value of selling properties in a high-value market like Sydney's.

As has been noted by other members, the real estate agent involved any Sydney house sale now attracts fees many times greater than those paid to the solicitor who undertakes the conveyancing but who carries a far greater responsibility in ensuring the accuracy of the transaction. With the value of these transactions in mind and the need to provide greater certainty to buyers looking to make the most important purchase of their lives, it is time that real estate agents were exposed to similar scrutiny of their accuracy and ethics. As indicated by the Hon. Peter Primrose, it is the enforcement process that makes the legislation work. The Government has introduced a sensible bill that will be implemented by NSW Fair Trading. As I said, the Labor Party does not oppose the bill.

Dr JOHN KAYE [8.17 p.m.]: I speak on behalf of The Greens to the Property, Stock and Business Agents Amendment (Underquoting Prohibition) Bill 2015, which we do not oppose; in fact, we enthusiastically support it. I imagine that every member of this Chamber has been through the process of purchasing a house. We are some of the increasingly rare and lucky few who have been able to gather together the resources to purchase our own home. Unfortunately, a growing number of individuals are being excluded from the property market, largely because of prices that are in many cases 10 or 15 times their annual gross earnings, which makes it impossible for them to save a deposit. Even if they can, it is increasingly difficult for them to get a mortgage. As a result of rising property prices we are dividing our

society into those who can afford to own a home and those who cannot.

I am of a generation—in fact, I am the last of a generation—who was able to easily purchase their own homes. As members would be well aware, I am absolutely the last of the Australians in the baby boom. Those born after me are not baby boomers. I took the last regulated home loan on the east coast of Australia. I also had one of the last defined benefit superannuation schemes in Australia. Those two things defined my generation and have been largely denied to the next generation. Those without wealthy parents or the capacity to have an income that enables them to save will be excluded from the good things that have made my life and the life of my partner so incredibly fulfilled and enjoyable.

The Hon. Walt Secord: This sounds like a valedictory speech.

Dr JOHN KAYE: You should be so lucky, Walt Secord, to live long enough to hear that. This bill will do little to help those people, but it will do something very important which has been urgently needed for decades. I say "for decades" because I have personal experience of a highly unscrupulous real estate agent from a big chain of real estate agents which was later exposed for doing something quite dreadful—they bugged the rooms they put people in to discuss prices when at auction. Fortunately that worked in our favour, although they would have been subject to some language that I know Mr Deputy-President (The Hon. Paul Green) would not have approved of.

They would have heard some language about their estate agent, because that estate agent quoted a price for a house that was way below the price that we bid at auction. The house was passed in at auction, so clearly they had no intention of selling it at the price that they were quoting. Fortunately we were in a falling market when we purchased the house. Fortunately we were tough enough to fight it out with them and to walk out of the real estate agency and tell them, "Go find another client." They did not. The next day they came back with an offer which we knocked $500 off in penalty for their behaviour and we purchased the house. But we were lucky that we were able to see our way through it.

The Hon. Dr Peter Phelps: Markets work.

Dr JOHN KAYE: I acknowledge the interjection. They do not work, specifically because I am somebody from a family with an experience of real estate. My partner is a very savvy person when it comes to real estate. We know what is going on. Others might have fallen for it and might have been deluded. The worst of what happens is not what happened to us; as the Minister pointed out in his second reading speech, it is what happens to the people who go genuinely into the business of getting pest reports, building reports and strata reports believing, foolishly, that the real estate agent has been honest with them.

There are some real estate agents out there who play the game extremely fairly. I have had interactions with two of those in recent history and both of them have been remarkably honest. I take my hat off to those who are honest. But the reality in this market, as in so many markets, is that ethically it is a race to the bottom—to the lowest common denominator—and it is necessary for governments to intervene. I congratulate the new Minister for fair trading who—I will say it this way first and put it in a less laudatory fashion in a minute—has allowed common sense and compassion to outweigh neoliberal ideology and has come up with a regulatory framework which I genuinely think will work.

I think there is a real chance that this will turn around some of the worst aspects of chronic underquoting and using unsuspecting and vulnerable individuals as nothing more than auction fodder—luring a crowd into an auction. I congratulate the Minister on doing that. I must also say that the Minister is responding—as was his predecessor, the Hon. Matthew Mason-Cox, who just entered the Chamber—to an outcry as a result of some appalling practices in the industry. The then Minister responded during an election with a very popular, and rightly so, policy. But I do not want to take away from the former Minister, the current Minister or the Premier on this. This is a matter which we can and should all get behind and recognise that it goes a long way.

There are a couple of features of this bill I want to point out before I go on to talk more generally. The first of those goes to a rather fatuous remark by the Real Estate Institute of New South Wales about new section 72A, which very sensibly requires that the minimum price given to a vendor is within a 10 per cent range. I appreciate that often it is hard to get it right, but allowing real estate agents to put out egregiously broad ranges of prices is no information at all. The Real Estate Institute says that this bill will result in there being less information available to clients. I totally disagree. There will be more information, because the 10 per cent range will put the acid on real estate agents to come up with a price that is realistic.

Subsection (5) of new section 72A is absolutely critical. It requires the real estate agent to present the vendor with evidence of reasonableness of the estimated selling price. This is a big step forward. This will take the real estate industry forward to an evidence base where the price will be based on equivalent selling prices. I have seen real estate agents do this and good ones do it really well. They can identify the reasonableness of a price against five other properties they have sold. They say, "Well, this one is worth more because it is north facing. Yours is worth more because it has an eight in the number which will make it attractive to certain purchasers, but it does not have a big double lock-up garage." An experienced, quality real estate agent will sort through that and will be honest with the vendors; this provision will force all real estate agents to be honest.

More importantly, new sections 73 and 73A require that the price quoted in advertising must not be less than the estimated selling price for the property. If the Real Estate Institute cannot understand new sections 72A and 73 then they are not really trying. It is very clear: it cannot be less than the lower limit. Honest real estate agents would already do what they are required to do under this legislation: if they are going to indicate a price they would indicate the price range, which is a fair and honest thing to do. The Real Estate Institute says that there will be less information. Well, there will be less misinformation under this bill. There might be less rubbish information in the market, but there will still be the capacity to have real and evidence-based information. Because it is disclosed to both the vendor and potential purchasers, there is a correct incentive. We remove the perverse incentive that exists to overquote to the vendor and to underquote to the purchasers. This bill pulls those two prices together and creates a fair market by having both those information levels together.

I note also that new section 73A bans underquoting in representations to potential purchasers. It not only has the standard 200 penalty units, which is $22,000, but also adds in new section 73A that where a real estate agent underquotes to a potential purchaser a court can impose an additional penalty that is equal to "the whole or any part of any fees or commission paid to the real estate agent", which nowadays is going to be a lot more than $22,000. For a big sale that number can be up around $80,000 or $90,000. It will make real estate agents think carefully about what they are doing. The legislation provides consumer protection. It is sensible legislation because it works with the market rather than against it, but it fixes up an information hole in the market and forces real estate agents to disclose the real money that is on the table. This is potentially a game changer for the industry, not just because it will stop the underquoting but also because it takes away the rewards that go to the shonks. The real problem in the history of the real estate industry is that it has been driven by perverse incentives.

The real estate agents who game the system, who lure in unsuspecting and vulnerable potential purchasers with offers below the price they have given the vendor, have prospered because often they drag in people who spend more than they can afford. The agents receive the best possible price and hence the best possible commission. The agents who have unfairly prospered have put pressure on real estate agents who want to do the right thing. By removing that perverse incentive, we will allow for some degree of ethics to flourish in the market. The Real Estate Institute of New South Wales has been consulted about this legislation. I note its responses and I think they are self-serving. With all due respect, it is ridiculous for the institute to say that it cannot work out how agents will advertise in this environment. To say that there will be less information shows that it does not understand what information is. To say that more houses will be sold at auction is an untested proposition that may not be true.

I raise one observation with the Minister for further consideration. One of the barriers to entry into the market is the amount of money that people with a limited budget have to spend on pest reports, building reports and strata title reports. Those reports are expensive and it is a significant cost in an expanding market—although it is not expanding for much longer. Potential purchasers may look at 15 or 20 properties—unlike the Hon. Trevor Khan who looks at one—and are serious about 10 of them. I invite the Government to consider the proposition that one independent building and pest inspection is done, paid for by the vendors and the inspectors chosen by an independent agency so that purchasers can rely on the results. That would take quite a bit of money out of the sale process. It seems like a radical idea, but it has merit.

Some 30 years ago I had a constrained budget when I was looking at buying a house. I was serious about a number of houses but did not win a bid at auction. I was miffed about the money I had spent on building and pest reports; the reports were unnecessary because other potential purchasers were obtaining exactly the same information. Surely there is a way that process can be short-circuited. I commend the Minister and his staff for this legislation and congratulate the former Minister for Fair Trading on his work on this bill. I hope that this legislation is passed and I look forward to the impact that it will have on the real estate market.

The Hon. MATTHEW MASON-COX [8.32 p.m.]: It is a pleasure to support the Property, Stock and Business Agents Amendment (Underquoting Prohibition) Bill 2015. I have had some involvement with its genesis and indeed its development. I thank Dr John Kaye and other speakers for their comments. The Minister for Innovation and Better Regulation has done an excellent job in bringing the bill to this place. The genesis of the bill extends from my own experience with the real estate industry a couple of years ago when I was trying to find a place to live in Sydney. I remember clearly inspecting a property in Woolloomooloo in a very nice location. After speaking to the agents and being told the price was approximately X dollars—I will not say the exact price—I thought it was within my price range. I viewed the premises and was impressed with what I saw.

A couple of weeks later, when I was in the process of obtaining reports to make an offer, I found out that the property had sold for 30 per cent more than that quoted to me. When I researched the matter further, I realised that the house had sold within the market price range but that I had been underquoted. At the time I found the experience repugnant because I had spent a significant amount of money on inspection reports. However, I discovered that I was not alone in that experience. After further investigations, I realised this was a significant problem in the real estate industry. Lo and behold, I became Fair Trading Minister shortly thereafter.

The Hon. Walt Secord: But you were Fair Trading Minister for a long time. What did you do?

The Hon. MATTHEW MASON-COX: I did what I could about this issue. I must acknowledge the good work of Fair Trading officers regarding the real estate industry because prosecutions were brought to bear upon sales agents who were underquoting at that time. The Hon. Walt Secord knows little about much in this place. He certainly knows little about underquoting so he should rest on his laurels, as he does, and he might learn a couple of things.

Dr John Kaye: He underquotes on many things.

The Hon. MATTHEW MASON-COX: He never underquotes on his own ability. It was clear that there was a problem in the property market. As members are acutely aware, the property market in Sydney is still strong. The compliance work of Fair Trading officers was increased as a result of the feedback that was received. The Real Estate Institute of New South Wales was not pleased with a lot of the compliance work. As a result of inspectors auditing the books of real estate agents and putting Fair Trading officers in the field to observe the behaviour of sales agents and purchasers at auctions, we were able to compare the prices at auctions to the prices in the sales agreements. That investigation process

took months. As a result of the wonderful work of Fair Trading officers, we were able to make a case against prominent real estate agents. BresicWhitney is now in the process of being prosecuted and its court case is due to be heard in November this year.

At the time in May when this investigation occurred, there was a lot of reaction from the real estate industry. On 7 March the Premier and I were in Western Sydney when we made an announcement to the media that this would be an election policy and that should this Government be re-elected we would clamp down on the real estate industry. The Real Estate Institute was outraged at the time. I remember clearly the words of Malcolm Gunning, President of the Real Estate Institute, and Tim McKibbin, who were outraged that we were using underquoting by the real estate industry as an election issue. I think the words of the Opposition were "This is a stunt", that it should not be happening and that there should be some policy work done about this issue. The record will show that was the reaction of the Opposition because this issue hit a nerve in the community. People in the community understood that for those trying to buy a home this practice was happening. It was costing people a lot of money and causing a great deal of disappointment.

When the Government made this announcement, it received strong negative reactions from the Real Estate Institute, players in the real estate industry and members of the Opposition. A few weeks later we found out that BresicWhitney was being prosecuted for allegedly underquoting on several properties. It was interesting, because it was a principal of BresicWhitney who spoke out strongly against the change that the Government was putting forward as an election policy. That case is being defended by BresicWhitney. At the time it was shamed. As I understand it, the case will be heard in November this year.

Let us be frank about it, it is very difficult to prove underquoting. That is why there have been no successful prosecutions under the Property, Stock and Business Agents Act. Some hurdles in that Act require intention to be proved. As members know—a whole bunch of lawyers in this place are nodding sagely—it is difficult to prove intention unless one is right in the midst of what is happening. Even then one can point to an accidental mistake or some other circumstances which remove intention from the equation. In those circumstances, it is difficult to prove even when there is significant, effective data.

The changes in this legislation will, amongst other things, deal with that intention issue. It is a strict liability offence. If there is evidence of a distinct difference between the price that the agent is quoting the vendor and the price that is advertised or quoted to purchasers or prospective purchasers, then that is a clear case of underquoting—lock, stock and two smoking barrels. If an agent does that, he or she is done and dusted. A fine will follow and, importantly, the agent will lose the commission. I can speak from personal experience and from the experience of the many people who contacted NSW Fair Trading when I was the Minister. The alleged underquoting by BresicWhitney and other agents shows that it is still a burning issue in our community. It is a burning issue that this Government has had the courage to correct, unlike the 16 years of Labor inaction on this issue.

I commend the Minister for Innovation and Better Regulation for bringing this legislation to fruition, but other things need to happen in the real estate industry. It is worth reflecting upon that for a moment. This legislation twins quite nicely with the Government's approach of providing a better flow of information to the marketplace through the changes the Government is making in relation to access to real property data. The Minister for Finance, Services and Property has been overseeing that for the last year or so. The legislation dovetails into providing that data to the markets so that we get the best possible information into the hands of prospective purchasers and vendors as well as the agents, who have always had access to this information, to ensure that the market is able to operate efficiently. This is a very important principle that this Government has put into action to ensure transparency and access to information in the market.

It is also important to note that, even if we have the best will and the best legislation, there is a need to improve standards in the real estate industry. That is another area that the current Minister is

addressing. The Government is looking at the standards in the industry. It is looking at improving education levels—which, in my humble view, are lacking in some regards—and registration standards of real estate agents. We need to ensure that we get a higher quality in real estate agent registration by building up the standards in the industry. It is important to note that underquoting forms only a small amount of the real estate activity in the market. The vast majority of agents are doing the right thing by the vendors and providing the right information to the purchasers.

Only a small group of cowboys create problems in any market, and it is that group that we need to send a very strong message to in order to ensure that this practice is clamped down on and we have the most efficient real estate industry market in Australia. We need to ensure that the property market gets a level of information that will create confidence so that prospective purchasers—people who want to buy a property—know that they are getting the best possible information. People need to know that real estate agents are not putting one over on them, that they are being dealt with honestly and creditably in the market. These changes will go a long way to that end.

I want to reflect on one aspect of the legislation that Dr John Kay mentioned, that is, the possibility of providing further information to prospective purchasers by way of the sale contract. If property inspection reports, pest inspection reports and the like were put into the contract, each prospective purchaser would not have to purchase the information in order to make an informed decision about a particular property. I note that that is the practice in the Australian Capital Territory. I am loath to refer to the Australian Capital Territory in respect of any policy issue, particularly when I think it probably has a fair angle on what should happen in this area, but I would encourage the Minister to look at the best practice in this area.

The Minister could perhaps look at the idea of providing that information to the marketplace at the vendor's cost, which would then be passed on through the sale process. That would mean that we do it once and we do it well. We can provide exception to privity of contract in relation to this matter so that prospective purchasers have the ability to rely on that information, even though it is prepared by the vendor in the contemplation of a sale contract and does not involve the purchaser at the time that the report is made. I think this would be a very clever and equitable thing to do. It would improve the market dynamics and save a lot of money in the industry. It would ensure that we get the best possible information for purchasers at the least cost and improve the market overall.

There are a lot of good elements in this package. It needs to be seen broadly in relation to the other initiatives in the real estate industry and the wider property market, particularly the initiatives with respect to access to quality information. This is a very important industry for the economy of New South Wales. This legislative change is all about improving confidence in the industry, improving information flows and outcomes, and ensuring that purchasers are given a fair go. I congratulate the staff of the Office of Fair Trading, some of whom are in the gallery tonight, Commissioner Rod Stowe, and the Minister and his office, on doing an excellent job in bringing this legislation to the Parliament. I thoroughly and strongly commend the bill to the House.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [8.46 p.m.], in reply: I thank members for their contributions: the Hon. Peter Primrose, the Hon. Trevor Khan, the Hon. Sophie Cotsis, the Hon. Paul Green, the Hon. Bronnie Taylor, the Hon. Ernest Wong, the Hon. Matthew Mason-Cox and Dr John Kaye. As members have heard, the purpose of the Property, Stock and Business Agents Amendment (Underquoting Prohibition) Bill 2015 is to introduce measures to better address underquoting in the real estate industry. As a lawyer who practised for over 25 years, I saw firsthand the adverse effects on buyers of underquoting by agents. I saw not only the financial cost—all of the speakers have referred to this—but also the emotional cost to the buyers. It is clearly unacceptable.

The reforms will establish an open and transparent framework and will provide greater and more accurate information to both vendors and potential homebuyers. The Real Estate and Property Division of

Fair Trading, coupled with Fair Trading's enforcement division—over 80 strong—will ensure that there is more than adequate compliance and enforcement resources to police the bill. The Minister, the Fair Trading Commissioner and the new Assistant Commissioner will be watching closely and working effectively to ensure that this bill is effective in its operation. 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. John Ajaka agreed to:

That this bill be now read a third time.

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

FAIR TRADING AMENDMENT (INFORMATION ABOUT COMPLAINTS) BILL 2015

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by Mr Scot MacDonald, on behalf of the Hon. John Ajaka.

Motion by Mr Scot MacDonald, on behalf of the Hon. John Ajaka, agreed to:

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

Second Reading

Mr SCOT MacDONALD (Parliamentary Secretary) [8.50 p.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Fair Trading Amendment (Information About Complaints) Bill 2015.

This bill will amend the Fair Trading Act 1987 to allow the Commissioner for Fair Trading to publish information about complaints received by the Commissioner.

The bill allows for publication of information about the identity of the persons or businesses about whom complaints have been made or about whom the greatest number of complaints have been received.

Importantly, it does not allow the publication of the identity of the person who made a complaint.

The bill will enable the Commissioner for Fair Trading to establish a register containing information about traders who have been the subject of complaints to NSW Fair Trading.

The Fair Trading Act provides that one of the functions of the Commissioner for Fair Trading is to receive and deal with complaints relating to the supply of goods and services.

As New South Wales' primary consumer regulator, NSW Fair Trading receives around 45,000 complaints each year, and almost one million inquiries.

When a consumer complaint is received, Fair Trading staff contact the trader and attempt to negotiate a resolution that is accepted by both parties. If a resolution is not achieved, the consumer may choose to take action in the NSW Civil and Administrative Tribunal.

If conduct in breach of the law is identified, NSW Fair Trading may take enforcement action against the trader.

NSW Fair Trading has long kept an internal record of those traders who are the subject of the most complaints. However, this information has never been made available to the public.

The New South Wales Government's open data policy, which is in line with international trends towards open data, supports release of government datasets wherever possible.

In the digital economy, open data is a driver of economic growth and innovation.

This data can be used to improve services, inform the community about trends in the market, create new business models and devise innovative ways to help consumers gain better value in the marketplace.

Events such as apps4nsw, where app developers use government data and make it more accessible and useful for the community, show the value of open data.

The impact of ratings websites such as Urbanspoon, Canstar, Open Agent, Tripadvisor and many others show the power of data to change the marketplace and affect trader behaviour.

Consumers now rely on such data when making decisions and have become experienced at deciding how much weight to give data from different sources.

Complaints handling bodies such as the Telecommunications Industry Ombudsman, the Commonwealth Financial Ombudsman Service and Credit Ombudsman Service, and the New South Wales Energy and Water Ombudsman all make complaint data publicly available.

Websites such as My School and My Hospital share performance data about schools and hospitals.

Overseas, the United Kingdom Government's Consumer Empowerment Strategy requires government agencies to "free the complaint and performance data (in particular on individual businesses) they already own unless they have a good reason to do otherwise".

Some United Kingdom regulators are required by law to make performance data publicly available.

Release of complaint data is one means of so-called "reputational regulation"—influencing business behaviour by means of public release of performance data.

The data provides consumers with valuable information that can guide purchasing decisions and hold businesses to account.

It also provides businesses with an incentive to improve their performance and satisfaction of their customers.

In April 2015, the Telecommunications Industry Ombudsman noted that the agency's work in highlighting the causes of consumer complaint and working with industry to improve services has contributed to telecommunications providers improving their networks, plans and customer service.

Together with better regulation aimed at ensuring consumers are treated fairly, the Ombudsman's work has contributed to four consecutive years of reduced complaint numbers.

Research from the United Kingdom has found that release of complaints and performance data is improving trader performance.

For example, the United Kingdom's communications regulator, Ofcom, found that following publication of complaints data, the volume of complaints received about the worst performing businesses reduced over time.

Ofgem, the United Kingdom's gas and electricity market regulator, has noted that publication of performance data has contributed to a substantial fall in the number of energy disconnections.

The details of the design of the Fair Trading complaints register, including how many businesses should be listed on it and what complaint details will be included, will be developed following a public consultation process.

NSW Fair Trading has begun consulting with key industry and consumer groups and a broader public consultation, informed by a discussion paper, will take place during late September and October 2015.

The discussion paper will outline NSW Fair Trading's complaints process and the protections against inclusion of vexatious complaints.

The discussion paper will also seek feedback on a number of aspects of the design of the register, which will be taken into account in the register's development.

Before the register commences, NSW Fair Trading will work with traders and consumers to ensure that there is good understanding of how it will work and what the data represents.

NSW Fair Trading is also reviewing its complaints process to ensure that protections against vexatious complaints are operating as intended.

It is noteworthy that key consumer advocates including CHOICE, the New South Wales Customer Services Commissioner, the New South Wales Information Commissioner, and the Consumer Action Law Centre have expressed strong support for the register concept.

The initiative is a first for a general consumer protection agency in this country and is one of the ways New South Wales is demonstrating its leadership in the consumer protection field.

The register will not only empower consumers but also provide the raw material for innovations to improve the value obtained by consumers in the market and the products and services offered by traders.

In closing, I would like to thank the Hon. Matthew Mason-Cox MLC and the Hon. Stuart Ayres, former Ministers for Fair Trading, for championing the idea of sharing complaint data. I thank Commissioner for Fair Trading Rod Stowe, as well as officers from Fair Trading Rhys Bollen, Gabbie Mangos, Diana Holy, Elyse Cain, David Saunders, and my policy director, Jane Standish, for their outstanding efforts in developing this bill.

I commend the bill to the House.

The Hon. PETER PRIMROSE [8.51 p.m.]: The Opposition will not oppose the Fair Trading Amendment (Information About Complaints) Bill 2015. The purpose of the bill is to amend the Fair Trading Act 1987 to allow the Commissioner for Fair Trading to publish information about complaints. This information could include the identity of the persons or businesses complained about. But the bill does not allow the publication of the identity of the person who makes a complaint. The Minister has confirmed that consumer groups such as CHOICE and the Consumer Action Law Centre support the proposal to publish this information.

The Office of Fair Trading receives around 45,000 complaints each year and almost one million inquiries. It maintains an internal record of those traders who are the most complained about, but this has not been made public previously. Numerous complaints handling bodies already make their complaints data publicly available, including the Energy and Water Ombudsman in New South Wales. Websites such as My School also share performance data. The Government argues that such open data can improve performance, and is "a driver of economic growth and innovation". The details of how the NSW Fair Trading complaints register will work are currently the subject of public consultation. Matters to be decided include how many businesses should be listed on it, what details should appear and what protections should be implemented against the inclusion of vexatious complaints. For instance, a business could be tarnished if raw complaint volume was listed without regard to the number of instances where it was found that no action was taken or the matter was frivolous.

While not highlighted in the Minister's second reading speech, I note that, in addition to the Fair Trading Act, the bill will allow, but not require, publication of complaints received by the commissioner under "any other legislation administered by the Minister". Accordingly, it covers complaints relating to matters as diverse as biofuels, boarding houses, residential parks, plumbing and drainage, retirement villages and agricultural tenancies. I look forward to the Minister publishing details of complaints received under this other legislation and will be interested to hear his reasons in the next round of estimates committee hearings should he choose to keep any a secret.

Claims in the second reading speech that this bill is evidence of a government committed to openness and transparency are of course perverse. This Government has made secrecy and the refusal to grant access to information into an art form. For instance, the recent announcement by the Premier that the Government had scrapped 321 State targets for the sake of 30 so-called priority areas—none of which makes any reference to regional New South Wales—makes a mockery of claims that the Government believes it should be open and accountable to the Parliament, let alone to the people of New South Wales. We will not oppose the bill.

The Hon. MATTHEW MASON-COX [8.54 p.m.]: It is again my pleasure, for the second time in a row, to support an important piece of Government legislation, in this case, the Fair Trading Amendment (Information About Complaints) Bill 2015. Again, I will reflect upon my time as a former Minister for Fair Trading and the complaints NSW Fair Trading receives on a regular basis from consumers. From memory, NSW Fair Trading receives about 45,000 complaints every year, which is an enormous amount of complaints to consider. Indeed, it is incredibly successful in ensuring that those complaints are addressed. The success rate of NSW Fair Trading is about 90 per cent. I know those opposite have heard me say that many times. They can only dream of achieving any success rate above about 10 per cent. The efforts of Fair Trading are outstanding, and it should be commended for the role it plays in the

marketplace.

This is a very important initiative and one that I was very keen to support. I am pleased to see that the current Minister has brought this legislation into this place. It became clear that in some cases Fair Trading was becoming a complaints register for many major companies and businesses in this State. This initiative has been put forward a number of times. I commend Commissioner Rod Stowe because this has been one of his personal priorities and an area where he has wanted to see change for some time. It is something that was put through, as I said, when I was the Minister.

Under the legislation now before us we will see a consumer complaints register established that will enable, with particular criteria, Fair Trading to publish the names of recidivists so far as consumer complaints are concerned. In that regard, members will be very surprised when the first register is published to see some of the prominent company names on the register. I think it will act as an incentive for some of those prominent enterprises to lift their game, to improve their form and to ensure that consumer complaints are dealt with at source and expeditiously rather than left to fester and create negative outcomes for consumers. So this is an important initiative. It is another area where the Government is embracing open data, contrary to the comments made by the Hon. Peter Primrose. What could be more open than giving consumers access to information on complaints, gathered by this Government, so that they can make an informed decision about whether to use a trader who is the subject of many complaints?

The bill also contains safeguards to ensure that traders are not published vexatiously on a list. There are indeed rights of procedural fairness in that regard also. This bill puts the onus back on traders to ensure that they do not allow complaints against them to escalate and they provide the best customer service they can. I think this will improve outcomes in the economy generally and in respect of individual consumers. It is good legislation that is long overdue. Again, I commend the commissioner, all the staff of Fair Trading, and the Minister and his office for bringing this bill to the Parliament. I strongly commend the bill to the House.

Dr JOHN KAYE [8.58 p.m.]: On behalf of The Greens I address the Fair Trading Amendment (Information About Complaints) Bill 2015 and say at the outset that The Greens enthusiastically support this legislation. This is a step in the right direction—or should that be the left direction. In any case, it is a step towards more open information and a step towards making sure that traders who repeatedly irritate consumers and violate their rights are exposed. That much can be achieved, even when it is not possible, for legal technical reasons, to impose a penalty against them. It will provide an opportunity for a name-and-shame website.

The bill will insert new section 86AA, which will give the secretary—who in this case is the Commissioner for Fair Trading, Mr Rod Stowe, and his successors—the ability to publish information about complaints. The information will include the identity of the person or the business about whom a complaint has been made and can include information about complaints made before the commencement of the section. New section 86AA will protect the secretary—the commissioner—from being sued by creating qualified privilege in proceedings for defamation. The significance of this provision is that currently the commissioner keeps a log of complaints. In a world in which the principles of open government are such that information that can be published should be published, the log creates useful and valuable public information.

Presumably the public will learn to use this information and become accustomed to dealing with it, understand its quality, understand that some complaints are more serious than others, and understand that it is important to read the entire complaint before discriminating against a particular trader. Unfortunately, in our society there are a number of traders who get away with selling faulty goods and providing services and goods that are not what has been advertised or marketed. In the end they abuse the rights of consumers. A name-and-shame website such as the one proposed by the bill will cause traders to think very carefully before they treat consumers as mugs, before they breach the law and

before they breach the common sense rights of consumers. New section 86AA will have a salutary effect on New South Wales traders. It is a positive step forward and The Greens support it.

I ask the Parliamentary Secretary for the Hunter and Central Coast, Mr Scot MacDonald, to give consideration during his reply to the claim made by the Hon. Matthew Mason-Cox that protections are built into the bill. Actually they are not, and that statement was unfortunately misleading. There may be other protections in the Act that schedule 1 to the bill will trigger, but there is no protection. The commissioner will have an unmitigated right. There is nothing in new section 86AA that will prevent the Commissioner for Fair Trading from publishing complaints that are vexatious. There is nothing in new section 86AA, taken alone, that would prevent the commissioner leaving complaints on the website after a matter has been well and truly remedied or expurgated or is no longer relevant. There is nothing in the legislation that, for example, would prevent the Commissioner for Fair Trading from leaving complaints on the website that are very old and not relevant to current management in circumstances in which there might have been a change of management. There are no such protections in this legislation. The bill may trigger other provisions in the Fair Trading Act, but I am unaware of them.

When I first saw this legislation I was minded to move an amendment to require guidelines to be established that would be disallowable instruments. Those guidelines would specify matters such as how the Commissioner for Fair Trading dealt with vexatious complaints, how he dealt with complaints that had been expurgated or otherwise remedied and the period for which the commissioner could retain matters on the website. However, time defeated me and prevented me from doing that. While I strongly support the intent of this legislation, I believe a principle may be established by it that needs to be dealt with very carefully. I refer to the power of the commissioner—a bureaucrat, although a very fine one—to exercise a power in the absence of guidelines. I make no adverse reflection against Mr Stowe. I have been involved in matters that Mr Stowe has dealt with over the years. He is extremely good, extremely knowledgeable and a man of extreme integrity. In some senses, at times his integrity has caused him some difficulties.

The Hon. Duncan Gay: I knew there would be trouble for him somewhere.

Dr JOHN KAYE: No, not at all. I am a genuine admirer of Rod Stowe. I have stated that publicly on previous occasions, particularly when he was stood aside, unfairly and inappropriately, by the former Minister. I am not at all worried about what Mr Stowe will do with this legislation. It is probably very unlikely that any Commissioner for Fair Trading in the foreseeable future would do anything other than act to protect consumers and act fairly in their dealings with traders who are named. However, there is a principle attached to creating a power without a requirement for guidelines that could be seen by Parliament and disallowed by Parliament if they were not appropriate, or at least, under the threat of disallowance by Parliament, a requirement for the creation of guidelines that would be seen by Parliament to be appropriate. That is not going to happen, but I ask the Parliamentary Secretary to address my concerns during his reply. How will we ensure that future Commissioners of Fair Trading do not use this power adversely against traders or to unfairly damage traders who may have irritated a consumer but have not necessarily done anything wrong, or even anything vaguely immoral?

The Hon. Catherine Cusack: I like to hear you sticking up for business.

Dr JOHN KAYE: Those who would describe me as pro-business probably have not been paying sufficient attention to understand what I am saying. This is a matter of principle. If I have misquoted the Hon. Catherine Cusack, I apologise.

The Hon. Catherine Cusack: I meant that genuinely.

Dr JOHN KAYE: That is exactly the problem. My concern is for the principle that is at stake. That being said, I reiterate The Greens support for the bill. The Greens look forward to the Parliamentary Secretary's response to the concerns I have expressed. The Greens support the legislation before the House.

Reverend the Hon. FRED NILE [9.07 p.m.]: I state for the record the support of the Christian Democratic Party for the Fair Trading Amendment (Information About Complaints) Bill 2015. The Christian Democratic Party commends the Government for this initiative, which further provides open government and transparency in relation to consumer complaints. Each year 45,000 complaints and one million inquiries are received. They will be made public, which will assist in warning consumers, when necessary, about businesses or companies they should avoid. Publication also will be an incentive for businesses to clean up their act and provide genuine customer service—real fair trading.

The bill protects the identity of people who make complaints, which is desirable, and the Christian Democratic Party supports that provision. The Christian Democratic Party also believes that this initiative will assist in promoting better quality transactions and fair trading in the State at all levels of trade. For the reasons I have stated, the Christian Democratic Party supports the bill.

Mr SCOT MacDONALD (Parliamentary Secretary) [9.08 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank the Hon. Peter Primrose, the Hon. Matthew Mason-Cox, Dr John Kaye and Reverend the Hon. Fred Nile for their contributions to debate on the Fair Trading Amendment (Information About Complaints) Bill 2015. The main question was raised by Dr John Kaye in relation to new section 86AA. The Commissioner for Fair Trading is required to act in good faith in undertaking his or her functions under the Fair Trading Act.

The commissioner cannot claim the protections against legal action provided in the Fair Trading Act unless he or she has acted in good faith. The Commissioner for Fair Trading will issue guidelines about the operation of the consumer complaints register. It is not appropriate for these to be included in the legislation or regulations as they need to provide NSW Fair Trading's customer service officers with flexibility to deal with the circumstances of individual complaints and negotiate appropriate solutions acceptable to both parties. 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 Mr Scot MacDonald, on behalf of the Hon. John Ajaka, agreed to:

That this bill be now read a third time.

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

STATE ARMS, SYMBOLS AND EMBLEMS AMENDMENT (FOSSIL EMBLEM) BILL 2015

Second Reading

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [9.11 p.m.]: I move:

That this bill be now read a second time.

The State Arms, Symbols and Emblems Amendment (Fossil Emblem) Bill 2015 seeks to introduce into

the inventory of State arms, symbols and emblems Mandageria fairfaxi as the official State fossil emblem of New South Wales. As members will be aware, currently there is no legislated form of State fossil emblem in New South Wales. This bill seeks to remedy that and to put in place a State fossil emblem that has special palaeontological significance to New South Wales. The fossil will join our other familiar State emblems: the animal emblem, the platypus; the bird emblem, the kookaburra; the fish emblem, the blue groper; the gemstone emblem, the black opal; and, of course, our wonderful floral emblem, the waratah. The inclusion of Mandageria fairfaxi in New South Wales' officially recognised emblems is supported by a wide range of palaeontologists and geologists alike, such as those at the Australian Museum and the Geological Survey of NSW.

Mandageria fairfaxi roamed freshwater rivers and lakes around the State a mere 370 million years ago. This period, the Devonian period, was also known as the Age of Fish, and is recognised as an era in which fish life ruled supreme throughout the ecosystem. The fossil was discovered in a most innocuous manner. Midway through 1955, just outside the town of Canowindra in the Central West a bulldozer driver carrying out roadworks in the area was excavating some rock slab. Upon turning one piece of slab, he noticed some marks on the rock that he had never encountered before. Thinking that this could be something special, he put the slab to one side, and in early 1956 it was moved to the Australian Museum in Sydney for storage and analysis. However, nearly 40 years passed before further exploration of the site was undertaken. It proved to be the richest fish fossil site of its kind in the world.

Eight types of long-extinct fish were discovered, the largest being Mandageria fairfaxi. The fossil was first thoroughly described by Dr Zerina Johanson, followed by the Australian Museum in Sydney, after which the Natural History Museum gave the fossil its final description. Significantly, the head region of the fossil was preserved and demonstrated that Mandageria fairfaxi had a functional neck joint—the first discovery of this in those types of fishes. Mandageria fairfaxi takes its name from the Mandagery sandstone formation in which it was found in 1993, as well as from Mr James Fairfax, whose kind financial support to Canowindra fish fossil research has made finds such as these possible. I take this opportunity to offer my congratulations to the Fairfax Trust on the work it continues to do in so many areas.

The naming of Mandageria fairfaxi as the State fossil emblem of New South Wales is just recognition for a fossil of such paleontological significance to the State and the people of New South Wales. The Division of Resources and Energy is starting a naming competition among the State's primary school students to establish a nickname for the fossil. I look forward to reporting the results of this competition to the Parliament. In all my years in this place this is the first time that I have seen a colour picture and a descriptor included in legislation. I am looking at the table staff, the keepers of the wisdom, and at Hansard but I cannot see anyone nodding in agreement that this has been done before. It is the first example I have seen; that does not mean there have not been others. It is with much pleasure on behalf of the people of Canowindra in particular, who rejoice in the importance of this discovery to their community, that I commend the bill to the House.

The Hon. ADAM SEARLE (Leader of the Opposition) [9.17 p.m.]: I lead for the Opposition on the State Arms, Symbols and Emblems Amendment (Fossil Emblem) Bill 2015. The Opposition does not oppose the bill. I note at the outset that Western Australia is the only other Australian jurisdiction to have a State fossil emblem. The proposed new emblem will join the State bird emblem, the kookaburra; the State animal emblem, the platypus; the State fish emblem, the blue groper; and the State gemstone emblem, the black opal. The waratah, of course, remains the official State floral emblem.

The Geological Survey of NSW conducted extensive consultations with relevant experts and institutions to select a worthy State fossil emblem. Mandageria fairfaxi is unique to New South Wales and with its moveable neck marks a critical stage in vertebrate evolution. It comes from the time when fish ruled the world and animals were only on the verge of walking the planet. It marks the bridge from water- to land-based creatures. The fossils of this fish and many other important fossils are housed in the Age of Fishes Museum, which is run by the Cabonne Shire Council and was established in 1998. It is one of only

two fish fossil museums in the world and is a national heritage site due to its scientific significance. Located in the New South Wales country town of Canowindra, it houses a huge collection of fish fossils from the Devonian era, about 360 million years ago. Famous naturalist and broadcaster Sir David Attenborough, who visited the site in 2013, has pronounced the collection to be both "extraordinary" and of "world class". That speaks very highly of the sophistication of the collection and the care and attention that has gone into its assembly and curation.

The site where the fossils were found contains hundreds of prehistoric fish that perished at the bottom of a small lake or billabong that dried up nearly 400 million years ago, and is one of this country's most impressive fossil deposits. In 1955 the roadworks near Canowindra uncovered a large rock slab covered with unusual impressions, which was then placed by the side of the road, as mentioned by the Minister. A local apiarist, or beekeeper, later found the slab, believed the impressions to be fossils and contacted the Australian Museum. In 1993 a palaeontologist and senior researcher at the Australian Museum, Dr Alex Ritchie, a world authority on early fish, led the only excavation at the site, which led to the removal of about 70 tonnes of rock slab and revealed more than 3,000 fish fossils from the Devonian era. It is believed that the site may also contain some of the earliest evidence of tetrapods, the first animals to walk on land.

The fish fossil, Mandageria fairfaxi, is the largest fish from the Canowindra site. The 13 or so specimens of the fish were found in 1993 and were described and named in 1997 by Dr Zerina Johanson of the Australian Museum with Dr Per Ahlberg, who was then at the Natural History Museum in London. Nearly two metres long, it was the apex predator in the Canowindra fish community, and its long torpedo-shaped body resembles the modern pike, to which it is not, however, related. I note that the Minister's media release of 13 August this year claimed that the fossil was named in part after a local creek, which is not correct. It is named after the Mandagery sandstone formation in which the fossils were found and which also gave its name to the local waterway.

It is, however, correct that the fossil is named after the publisher James Fairfax, who financially supported research into the fish fossil. As the Minister indicated, the department is conducting a competition, which I believe closed on 18 September, to nickname the fossil. I will not make any predictions about any favourite names but we look forward to the Minister's report to the House as to the results. The selection of a fish fossil emblem recognises the significant scientific heritage of the State and this country, fitting for what is, after all, the oldest continent on the face of the planet.

Dr JOHN KAYE [9.21 p.m.]: On behalf of The Greens, I support the State Arms, Symbols and Emblems Amendment (Fossil Emblem) Bill 2015, and I will avoid making any poor puns or comments. This bill is important for the reasons that have been outlined. This is an important step forward largely because Mandageria fairfaxi is more than just an emblem for the State; it is an emblem for the science of evolution and it is a critical link between Devonian fish and the quadrupeds that came after it. In the freshwater lakes of Canowindra—I think back in the Devonian period it was actually called "Cano-windra"—

The Hon. Duncan Gay: It'll still look the same in *Hansard.*

Dr JOHN KAYE: —and in the salty seas of Tethys, which is where Pakistan is today, and in various other freshwater and saltwater lakes and brackish lakes where sea level changes were creating swampy areas, evolution was driving fish to end up with an advantage from three critical things: firstly, being able to breathe air; secondly, being able to move on land or at least in very shallow water as their fins slowly adapted into what became legs; and, thirdly, neck joints and being able to move their heads to see behind them. When one is in the water one can move quickly; if one is on land and cannot move one's head and there is a predator close behind, one is in trouble. It would not have been such a problem for our friend Mandageria fairfaxi because he and she were top predators. But for their evolutionary predecessors it would have been an important characteristic.

It was also important to catch prey. Those three critical characteristics gave rise to not only land dwelling animals and eventually humans but also all mammals, including those that sensibly, I suspect, went back into the sea in the form of whales and dolphins, the cetaceans. It is totally appropriate that New South Wales takes on board a fossil that plays such a critical role in evolution, to understand the critical role that the fossil record has played in our understanding of where we came from and how we got to look and act the way we do, based on our evolutionary past.

Mandageria fairfaxi is significant to New South Wales because it is the best example of particular kinds of air breathing, almost walking and almost head-turning fish in the world. The Canowindra discovery was the biggest and most significant discovery. Indeed, it significantly changed the understanding of not only human evolution but also cetacean evolution. It is totally appropriate that we recognise the role that New South Wales physically played not only in understanding evolution but also the role played by a rather remarkable scientist Dr Zerina Johanson from the Australian Museum in Sydney, adding to a long list of remarkable contributions that the Australian Museum in Sydney has made to evolution, palaeontology, biology and the various earth sciences. For many years it has punched above its weight and continues to do so.

In many senses this is a tribute not only to evolutionary scientists around the world but also to palaeontologists at the Australian Museum, because their classification and recognition of the significance of this fossil has led to it being encoded into our State emblems. In conclusion, the bill is entirely symbolic. It probably will not generate a lot of jobs or create any particular act of wealth, but it will create a significant sense of our geographic and geobiological identity.

The Hon. Duncan Gay: It's not to be underestimated in Canowindra.

Dr JOHN KAYE: I acknowledge the Minister's interjection. I have been to Canowindra many times; nothing is to be underestimated, least of all what happens to a person if they say "Cano-windra" while there. I make that observation for the benefit of the Leader of the Opposition. Our bird emblem is the kookaburra, the animal emblem is the platypus, the fish emblem is the wonderful blue groper and the gemstone emblem is the black opal. These are all emblematic but they are more than that. They partly define our relationship with our little slice of this continent, the land that is bound by the Darling Basin to the west, the Pacific to the east, the Murray to the south and Queensland to the north. Something bad must happen to us somewhere along the line.

The Hon. Lynda Voltz: Somewhere random.

Dr JOHN KAYE: I suppose the Tweed to the north.

Mr David Shoebridge: The former part of New South Wales that is now called Queensland.

Dr JOHN KAYE: The part we lost in a poker game. The significance of these to us is important, particularly as we now have an emblem that talks specifically to the science of evolution. I make one final observation, specifically for the benefit of the Government Whip. This fleshy-finned fish evolved during the Devonian period. For those of us who are concerned about increasing levels of carbon dioxide, the Devonian period is important because during that period—I know the Hon. Rick Colless is about to jump ahead of me and say this—the mean atmospheric concentration of carbon dioxide was 2,200 parts per million. That is about eight times the pre-industrial level.

The Hon. Lynda Voltz: It's a good thing they were all reptiles then.

Dr JOHN KAYE: I am getting to that. They were not reptiles; they were fish. It was about five times the current concentration of carbon dioxide in the atmosphere. As a result of that and other factors, the mean surface temperature across the entire planet was 20 degrees Celsius. That is about six degrees higher than the temperature in the modern period. If planetary changes had not absorbed the carbon

dioxide and brought the temperature down, evolution would not have led to the existence of humanity.

To put that the other way around, if we allow the concentration of carbon dioxide to rise to that level, we run the risk of returning to the climate of the Devonian period, including a sea level that was 189 metres at the beginning of the Devonian period and fell to 120 metres. That is significant because the sea level created the inland lakes and seas where fish evolved. Their evolution would have ceased if there had not been a significant change to the planet that brought down the carbon dioxide level. Perhaps the fossil emblem, the Mandageria fairfaxi, will remind us of the importance of not damaging our planet, not wilfully inflicting on the planet an increase in carbon dioxide concentrations. Perhaps it will remind us of the impact that that would have on the climate and the habitability of the planet for humans and animals.

The Hon. BEN FRANKLIN [9.30 p.m.]: I speak on the State Arms, Symbols and Emblems Amendment (Fossil Emblem) Bill 2015. One might ask why someone in the Parliament might speak so enthusiastically on fossils. By many people's standards this is perhaps not the most exciting bill we have seen, but it represents a piece of the puzzle that makes up the extensive history of terrestrial life on this planet. Mandageria fairfaxi is a fish from the Devonian period, which was 419 million to 358 million years ago. To put that into perspective, it was 157 million years before the Jurassic period, or the Age of Reptiles, when dinosaurs roamed the Earth. While I thoroughly enjoyed the *Jurassic Park* franchise, I do not expect Hollywood to release *Devonian Park* or *Devonian World* any time soon because it was notably the Age of Fish. The forms of fish we recognise today dominated aquatic life. It was also when plants began to spread across dry land, forming extensive forests. While I and many others, I am sure, find that interesting, it is probably not quite dramatic enough to make a Chris Pratt film out of.

The Devonian was the period in which the Earth's first four-limbed vertebrates began adapting to walking on land. Their pectoral and pelvic fins gradually evolved into legs. This is the famous link in Darwin's evolutionary chain that we see in diagrams depicting fish crawling out of water and learning to walk. The bones inside the fins of Mandageria fairfaxi are directly comparable to our own limb bones, with a humerus, radius and ulna. Furthermore, its movable neck is considered by scientists to represent a critical stage in vertebrate evolution. It is part of the group tetrapodomorphs, which are considered to be the ancestors of all land vertebrates, including humans.

The Mandageria fairfaxi fossil was originally found near Canowindra, in the Central West, in 1955, during roadworks. It was not until 1993 that the significance of the Canowindra site was realised and the importance of the fossil to the Devonian period was understood. The creature is integral to the ecosystem of that period. The fossil was located in a former billabong that dried up approximately 370 million years ago. The billabong preserved thousands of fish fossils from the late Devonian period, of which Mandageria fairfaxi is the largest and the top predator.

Why is this important? It is important because the discovery of evolutionary history not only helps us to understand the science behind life on Earth but captures the imagination of children and adults alike. This prehistoric creature may not have the size and ferocity of a Tyrannosaurus rex, but it is a vital link in the chain from a formative time for life on Earth. Just as the study of dinosaurs captures the imagination of schoolchildren, so can the Mandageria fairfaxi help to explain how vertebrates came to walk the Earth. Fittingly, the fossil will be given a nickname upon completion of the naming competition being conducted by NSW Resources and Energy, which was open to schoolchildren and closed on 18 September.

Most importantly, this fossil will contribute to the identity of New South Wales. To qualify as an emblem, a fossil needs to be unique to the State or at least represent the best known example ever found. When this fossil was found in Canowindra in 1955 it was the first ever seen by humans. Unique to New South Wales, it is part of our story and raises awareness of the importance of the geological history of the State. It provides an opportunity to boost ecotourism and geotourism across regional New South Wales. The naming of Mandageria fairfaxi as a State emblem is an exciting part of the history of New South Wales. I commend the bill to the House.

The Hon. WALT SECORD (Deputy Leader of the Opposition) [9.34 p.m.]: As Deputy Leader of the Opposition I add my support to the State Arms, Symbols and Emblems Amendment (Fossil Emblem) Bill 2015 and recognise Mandageria fairfaxi as a State emblem. It joins the animal emblem, the platypus; the bird emblem, the kookaburra; the floral emblem, the waratah; the gemstone emblem, the black opal; and the State fish, the blue groper. I remember when Premier Bob Carr designated Bluey the blue groper as the State fish in 1998. He described Bluey the groper as his mate. I remember the great sadness that descended over the office when we discovered that Bluey the groper had been speared and killed off Clovelly. This is a historic bill. I concur with the Hon. Duncan Gay that it is the first bill before this Parliament to include an illustration as part of the explanatory notes. For that reason I chose to add my voice to the debate. I wholeheartedly endorse the bill.

Reverend the Hon. FRED NILE [9.36 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the State Arms, Symbols and Emblems Amendment (Fossil Emblem) Bill 2015, which adds to the list of officially recognised State arms, symbols and emblems. The animal emblem is the platypus. The bird emblem is the kookaburra. The floral emblem is the waratah. The State fish is the blue groper. The gemstone emblem is the black opal. Mandageria fairfaxi will become the fossil emblem. I thought this bill might be named after the Fairfax press as a joke. The fish is named after Mr James Fairfax, of the Fairfax family. The bill highlights the importance of a particular fossil. I live in Gerroa. At Black Point at Gerroa the ocean has carved away the headland. Fossils can be seen in the cliff face. It is one of the few places where council signs warn people of the penalty for removing fossils. I am unsure what those fossils are. The Mandageria fairfaxi fossil was found at Canowindra in 1955. It is now on permanent public display in the Age of Fishes Museum in Canowindra. I commend the bill to the House.

The Hon. Dr PETER PHELPS [9.38 p.m.]: I am pleased to speak in debate on the State Arms, Symbols and Emblems Amendment (Fossil Emblem) Bill 2015. I will not give a lecture on Latin pronunciation and whether the "g" in "Mandageria" is hard or soft. I suggest that the fossil be named Fairfax. Let us look at the world that Fairfax lived in 400 million years ago, which was a water world. There was a single land mass, Pangaea. Fairfax swam in the rivers of Pangaea. Of course, the world was much warmer at that stage and the sun was hotter. There were 4,000 parts per million of carbon dioxide in the atmosphere at one stage in the Devonian period and yet surprisingly there was not runaway climate change on this planet. It did not become a superheated planet, which turned into Venus, and by the end of the Devonian period carbon dioxide in the atmosphere was down to some 1,000 parts per million, which is still 2½ times the current level of carbon dioxide in the atmosphere. We are supposed to be afraid of the current level, and yet through millions of years there was thriving, teeming life on planet earth.

The world was much warmer and the sun shone down and reflected off the rivers. Fairfax swam along those rivers of gold through Pangaea, gobbling up smaller competitors. Fairfax was at the top of the food chain, glorious and magnificent, zooming along while smaller fish could only nibble at its tail. But then unfortunately climate change in the form of global cooling started to shrink Fairfax's environment. What a shock it was for poor old Fairfax that global cooling could have such detrimental consequences for its very existence. Yes, climate change is shocking with growth of polar icecaps and a diminution of water levels. Fairfax suddenly came upon hard times. It now found swifter and more agile competitors for food and Fairfax became more decrepit and slower.

As its rivers of gold dried up, it floundered in the mud desperately seeking air and a modus vivendi that had been destroyed by forces beyond its control. Poor Fairfax was unable to adapt to the new conditions. It lay in the mud and slowly decayed, presumably—like most fish—from the head to the tail. Fairfax was unable to change with the times and its eyes glazed over. It became perpetually encased in a layer of mud which turned it into a fossil. In the past it was a brilliant and beautiful creature, but now poor Fairfax was in a fossilised form and would never have been seen again had it not been for the progressive roadbuilders of this State deciding to disinter him from his tomb.

The Hon. Duncan Gay: Or her.

The Hon. Dr PETER PHELPS: Or her. The great thing about this is we now know what Fairfax looked like in its golden days. Let us put out of our minds the sad mess that Fairfax became in the end and remember it in its glory days swimming through the rivers of gold across the grand continent of Pangaea.

The Hon. LYNDA VOLTZ [9.43 p.m.]: I suspect one good reason for having fossil emblems is that in reality the previous speaker does not recognise the relationship between levels of carbon dioxide and different types of life on the planet—fish, reptiles, mammals. There is no way mammals could have survived under those conditions and that is why, when temperatures dropped, mammals, who burn high levels of oxygen and on whom carbon dioxide has a detrimental effect, became the dominant species on earth.

Mr David Shoebridge: Meteorites helped, too.

The Hon. LYNDA VOLTZ: Meteorites helped as well, but that goes to the same argument. I have been travelling around the State talking about what Parliament will be debating this week and I told people one of the bills coming before Parliament was the State Arms, Symbols and Emblems Amendment (Fossil Emblem) Bill 2015. People looked askance and their eyes glazed over so it was hard to impress on them the importance of this bill. One of the reasons this bill is important is given by John Long, the Strategic Professor in Palaeontology at Flinders University. He discovered the first fossil emblem in Australia, the Western Australian fossil emblem. Professor Long says:

> The idea came from the US where every state has an official state fossil emblem as well as floral, faunal and mineral emblems. The first states to embrace the fossil emblem were Louisiana (petrified palmwood), Maine (the prehistoric plant *Petrica quadrifaria*) and Georgia (shark tooth), which designated their state fossils in 1976.
>
> Even today it is important to emphasise that teaching evolution is fundamental to understanding biology, as some US states still challenge it. Simply having the states recognise an official fossil emblem was a significant breakthrough for public education in the US.

This shows scientists putting their mark against creationist theories still being taught in schools and so allowing children to deal with the facts of evolution. That is why having fossil emblems is so important. Professor Long is wrong—or perhaps not so wrong—to say that all US States have an official fossil emblem. In South Carolina eight-year-old Olivia McConnell put forward the idea of having the woolly mammoth, which became extinct 12,500 years ago, as the official fossil. This idea languished for months as lawmakers, many of them creationists, ground the legislation down. Originally the text simply read that the woolly mammoth is designated as the official State fossil of South Carolina.

However, that bill was amended on 9 April to state, "The Columbian mammoth, which was created on the sixth day with the other beasts of the field, is designated as the official State fossil of Carolina and must be officially referred to as the Columbian mammoth which was created on the sixth day with the other beasts of the field." This is the antithesis of what a fossil emblem should do. The woolly mammoth was extinct 12,500 years ago, but children in South Carolina are being taught that it was created on the sixth day with the other beasts of the field. I am not sure what that means, but this is the same kind of argument being put forward by members opposite in regard to the Devonian period and the relationship between climate change and evolution.

The reality is that I am proud that New South Wales has recognised the science and thinks it is important to teach evolution to our children. The Select Committee on Home Schooling learned that people still teach creationist theory and as long as they stick to the basic syllabus they can add whatever they like, but at the end of the day children in New South Wales will know that there is an important State

emblem that represents evolutionary theory, and the way real science and the facts work. I am proud that the Government has recognised that by bringing on this legislation. I am proud that New South Wales has beaten Queensland to the post and that New South Wales is the second State to recognise a fossil emblem, although a killer kangaroo will make a good fossil at some stage. We do not need to go as far as places like Louisiana that has official cuisines, including jellies. There are also official poems and that might not be a bad thing; perhaps we could talk about that at some stage. Recognising the importance of teaching science and an understanding of science by our children in the public and private educational system are enhanced by this emblem.

Mr DAVID SHOEBRIDGE [9.48 p.m.]: I endorse the words of my colleague Dr John Kaye, but the words of the Government Whip confirm a rumour spreading through the House that the hard right in the Liberal Party sought to amend the explanatory memorandum by deleting reference to the Devonian period and replacing it with the pre-Menzian period. Having lost that, they sought to delete reference to the age of the fishes being around 370 million years ago and replace that with 4,000 BC. Having lost both of those, I am told they were very disappointed and then moved a further amendment seeking to amend the reference to the Mandageria fairfaxi to the Mandageria news corpi. I am told that was very close in the Liberal Party room but that, unfortunately, it was lost at the end of the debate.

I am glad that at some point we have got some decency, some science and some rationality, and that the kind of bizarre contribution we heard from the Government Whip—denying science, effectively joining the anti-intellectual, anti-evidentiary, anti-evolutionary part of his party—did not succeed in the party room and that, for once, this House recognises evidence in going about its decision making.

The Hon. MATTHEW MASON-COX [9.50 p.m.]: I want to briefly commend the State Arms, Symbols and Emblems Amendment (Fossil Emblem) Bill 2015 to the House and put in context the contribution of Mr David Shoebridge, which, of course, was a complete load of nonsense. There have been some very good contributions to this bill and there is no doubt the bill is something to celebrate. I acknowledge the hard work of the member for Orange in promoting this very important find, and I acknowledge the Deputy Premier and the Minister for Industry, Resources and Energy. It is a terrific discovery that has been promoted in the town of Canowindra.

I do not know whether members have been to Canowindra recently, but I had the pleasure of going there a few weeks ago with my family and we dropped into the Age of Fishes Museum. My children were impressed with the exhibition and they learnt a great deal in the two hours we spent there. The museum is beautifully set up and it is a credit to the town and to the local community. The community is passionate about the museum. When we walked in volunteers spent a good five minutes talking to us about the exhibits and they gave us a recording that we took around that explained all the different stations around the museum.

There is a time continuum which puts in context the Devonian period of some 350 million to 370 million years ago and how that looks across the whole age of evolution. It is a wonderful tourist attraction and this bill will add to its appeal. It will encourage people to visit Canowindra—a wonderful little community which I have had quite a deal of contact with over the years—which is situated on the Belubula River. Ballooning out there is sensational and the town has a lot of character and history. It has the windiest street in New South Wales. I commend Canowindra to members and I encourage them to visit the Age of Fishes Museum. I commend the bill to the House.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [9.52 p.m.], in reply: I thank members for their detailed, thoughtful, in most cases erudite, sometimes humorous and sometimes not quite so humorous contributions to debate on the State Arms, Symbols and Emblems Amendment (Fossil Emblem) Bill 2015. In particular, and probably most importantly, I thank those who have worked to bring this significant piece of history to its rightful place as the State's fossil emblem. I particularly thank Dr Zerina Johanson, who first described the fossil, the staff of the Age of Fishes Museum and the staff of the Division of Resources and Energy Geological Survey,

all of whom are remarkable public servants who give so much to this great State. I place on record the support of this House and its thanks for their decision. 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. Duncan Gay agreed to:

That this bill be now read a third time.

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

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council [9.53 p.m.]: I move:

That this House do now adjourn.

NARRABRI BUSINESS AWARDS

The Hon. SARAH MITCHELL (Parliamentary Secretary) [9.53 p.m.]: Recently I had the pleasure of representing Minister John Barilaro, the Minister for Regional Development, Minister for Skills, and Minister for Small Business, at the Narrabri Business Awards. The gala dinner was exceptionally well attended, with more than 320 people coming together for the evening to celebrate the role of business in the Narrabri community. As we are all aware, small businesses play a vital role in adding to the vibrancy and diversity of regional and rural economies. There is truly no greater State for entrepreneurship and a thriving small business economy than New South Wales.

The New South Wales Government understands that small business is the backbone of our economy. Our businesses must be flexible and responsive, and quick to adapt and grab opportunities. On 26 August the New South Wales Government announced Jobs for New South Wales, a new initiative designed to support the creation of sustainable jobs of the future. Jobs for NSW will help us focus our efforts on further diversifying and strengthening regional economies by supporting the industries that will lead to the biggest jobs gains. Jobs for NSW is a game-changer for our State. A new Jobs for NSW Fund will deliver the New South Wales Government's commitment of $190 million over four years to support business development. Thirty per cent of the Jobs for NSW Fund will be dedicated to regional job creation, and Jobs for NSW will investigate the opportunities and challenges facing regional areas and will advise Government on how regional areas can expand and improve their competitive advantages.

I was happy to inform people at the dinner in Narrabri about Jobs for NSW and I can inform the House that it was very well received. The awards evening paid particular homage to the influx of young professionals to the Narrabri region over recent years. Young people have wonderful opportunities in rural New South Wales to have their voice heard and to participate in the civic life of their community. They play a crucial role in the future economic prosperity of their communities. They bring energy, diversity, creativity and fresh ideas to all aspects of rural life, particularly to business, which is certainly the case in Narrabri. By coming together and forming the NextGen group, young entrepreneurs in the Narrabri region

have the ability to meet like-minded individuals and build their network for future enterprises.

NextGen allows young professionals the opportunity to network and discuss key issues facing their region. Co-hosting the gala dinner alongside the Narrabri Chamber of Commerce Business Awards night, the young networkers introduced a new award category, the NextGen Young Person in Business award for a young person who owns, operates or is employed in business and has shown exceptional work ethic, passion and enthusiasm for his or her industry. I was delighted to present that award on the night to Stacey Taylor of Narrabri Freight, with Adam Ledger of Reflex Mining the runner-up. It is exciting to see business alive and well out west, particularly in community groups such as NextGen, who will ensure that young people will always have a place to learn from their peers and connect in the regions.

I would also like to briefly mention a few other awards that were presented at the ceremony. The winner in the manufacturing/industrial and agribusiness category was Australian Recycled Plastics. This innovative company processes used plastic bottles and containers drawn from the east coast of Australia to produce clean plastic flakes ready for manufacture into new products. The plant has the capability to sort and clean about 60 tonnes—or around four million—of plastic bottles and containers each day. With an estimate that the business will employ around 30 people, there is no doubt that it will become an important employer for Narrabri in the years ahead, which, importantly, is not tied to seasonal conditions.

Congratulations also go to the winner in the not-for-profit category and community organisations category, Skid n Cruz, for its sixth motor show in Narrabri. I also believe that the runner-up in the not-for-profit category deserves particular praise for their efforts in both the Narrabri and Moree communities. Shared Table Community Kitchen, first launched in Narrabri in 2013 and now operating in Moree as well, provides hot meals and company to those in need. The community-run organisation offers emergency food parcels and affordable groceries to those who are struggling or have met with hard times. I congratulate all the nominees and all the other award winners on the night.

Finally, I had the pleasure of joining my State colleagues the Hon. Niall Blair, the Hon. Rick Colless and the Hon. Bronnie Taylor, and my Federal colleague Mr Michael McCormack at the annual Henty Machinery Field Days a few weeks ago. While AgQuip is still the largest agricultural field day in the Southern Hemisphere, Henty Machinery Field Days are regarded as southern Australia's single biggest agricultural event, showcasing the latest in machinery and farm equipment, agronomy and agribusiness. Of course, The Nationals volunteers were out in force with regulars such as David Muller, Lindsay Cutler, Colin Wood, Kel Harpley and the vice chairman of The Nationals, Grant McMillan, and his wife, Nick, putting in the long hours to ensure that those who wanted a chat and a cuppa would not be disappointed. This year a record crowd of 70,000 people viewed a record 870 exhibitors. It is an amazing event. I encourage anyone who has not been to Henty to go next year. I congratulate the organisers on yet another fantastic event.

PARLIAMENTARY STUDY TOUR

The Hon. WALT SECORD (Deputy Leader of the Opposition) [9.58 p.m.]: I draw the attention of the House to my study tour of Germany, Spain, Hong Kong, Finland and Singapore. In a job that can be overwhelmed by representations and briefings, I still find that seeing things firsthand provides a great insight. My study tours are structured around my key political, historical and cultural interests. As members know, while nominally Christian, I am interested in other faiths and how they influence cultural and political histories. I also believe that study tours assist in developing better understanding of our local Australian communities.

In that vein, I recently travelled to pursue my interest in Jewish and Muslim issues. I visited Germany to study the Holocaust and Spain to study the Moorish legacy, including the ancient Caliphate of Cordoba and the expulsion of the Jews and Muslims in the 1400s. However, before arriving in Europe, I visited Hong Kong, and the historic Ohel Leah Synagogue, which was officially opened in April 1902. This amazing place of worship is undergoing major restoration to protect its beautiful and historic granite

columns. I also visited Hong Kong's oldest Islamic place of worship during evening prayers. The Jamia Mosque was built in 1890. Neither the Jewish faith nor the Islamic faith may leap to mind when one thinks of Hong Kong, but they are there and they have been for generations. Similarly, in Singapore I visited a variety of synagogues, mosques and Hindu and Tibetan temples, including the Sultan Mosque.

In a geographical contrast, in Finland in perhaps a more predictable vein I visited Helsinki Cathedral and the Uspenski Cathedral, western Europe's largest Orthodox church. In Spain, I visited the historic sites of Cordoba, Granada, Toledo and Madrid. Incidentally, the visit coincided with Yom Kippur. It was moving to see in the ancient Jewish and Muslim quarters in Toledo and Cordoba three ancient medieval Sephardi synagogues—the Sinagoga del Transito, the Sinagoga de Santa Maria La Bianca and a 700-year-old family synagogue in Cordoba. I also saw the Gate of the Jews; the Street of Samuel Levi, named after the royal treasurer of King Pedro I, who was tortured and killed during the Inquisition; a monument to Jewish philosopher Moses Maimonides; the UNESCO World Heritage listed Alhambra; the Sephardi Jewish history museums; and the breathtakingly beautiful Cordoba Mezquita or mosque.

Much has been written about a so-called golden age of Jewish/Muslim/Christian coexistence in Cordoba during the early Middle Ages. While there is no doubt that southern Spain was more harmonious than many parts of Europe at the time, I tend to agree with some historians who are now saying that this golden age of coexistence is often overstated. Nonetheless, the visit was incredible and puts the dynamism and prominence of Jews during the Muslim era in Spain into perspective. Like Germany, Spain is a nation that has a strange way of grappling with its past and the ramifications of its earlier actions. More than 500 years after the fact, Spain is now navigating how it will enact an extraordinary piece of legislation passed in June offering citizenship to descendants of Jews expelled under the Alhambra Decree of 1493. One wonders how it will work on a practical level, taking into account surname changes and vast migrations over the past five centuries. The practicalities are complex, but I applaud the ambition and the reconciliation it pursues.

Germany's open confrontation with its past is evident everywhere. I explored numerous sites related to the Shoah, Jewish history and contemporary issues such as the current refugee crisis in Europe as well as Cold War sites. The highlights included the Neue Synagogue; the national Holocaust memorial, known as the Memorial to the Murdered Jews of Europe; the Bundestag; remnants of the cold war era, including the Berlin Wall; the Pergamon Museum; the Museum of Islamic Art; deportation points to the camps; and the Jewish Museum Berlin and its extraordinary Garden of Exile. To prove that the tour did not involve only serious study, I ate at a wonderful Israeli restaurant spruiking peace named Hummus and Friends.

However, the central purpose of my visit to Berlin was to see firsthand how Germany is handling the massive influx of Syrian refugees. On 29 September I witnessed the refugee crisis firsthand at Berlin's largest refugee processing centre. Europe is experiencing the largest movement of people since the Second World War and, with the cooperation of the Australian Embassy, I became the first New South Wales parliamentarian to visit the Arbeiterwohlfahrt Refugee Processing Centre. I will not speak about the processing centre visit because I canvassed it extensively in my 9 October opinion piece in the *Australian* entitled "Germany's Past Dictates its Refugee Response".

For the record, I paid for all my flights and hotel accommodation. I thank the Australian Embassy for arranging transport and translation services at the refugee camp and for an English-language tour of the Jewish Museum Berlin. I thank Aubrey Pomerance, the Jewish Museum Berlin's head of archives; Sherlyn Wong, Singapore Art Museum's international relations manager, for arranging a tour of Five Stars, an exhibition marking Singapore's Golden Jubilee; and Australian Embassy research officer John Kidd, and Günter Schlothauer, the embassy's public affairs manager. I thank the House for its consideration.

WORLD ANIMAL DAY

Dr MEHREEN FARUQI [10.03 p.m.]: World Animal Day, which was marked on 4 October 2015, is a reminder to each and every one of us to increase awareness and education about animal welfare and to make the world a better place for animals. Unfortunately in Australia we are all too familiar with animal cruelty. Time and again, shocking incidents of systematic animal cruelty are brought to light. In the past few years alone, investigations carried out by animal welfare organisations have uncovered many cases of animal cruelty. In January 2013 Hawkesbury Valley Meat Processors was charged with animal cruelty. The RSPCA led an investigation after viewing horrific footage of mistreatment released by Animal Liberation.

The RSPCA had inspected Hawkesbury Valley Meat Processors four times in the year before the footage was recorded, which leads us to question what happens to the animals in such facilities when the inspectors are not present. This is why we need mandatory closed-circuit television cameras [CCTV] in abattoirs providing video and audio recordings of the movement, holding and slaughter of animals to ensure their humane handling before and during the slaughter process. We also need routine, regular and independent monitoring of CCTV footage to ensure that basic animal welfare standards are being met.

This year *Four Corners* and Animal Liberation Queensland released an exposé of one of the largest animal cruelty investigations in Australian history. The investigation revealed that piglets, rabbits and possums were affixed to mechanical lures, catapulted around greyhound tracks several times and eventually mauled to death. Live baiting is illegal, but it was revealed as being widespread and high-profile people in the industry have been implicated. This exposé shook the Australian public, causing them to question how such barbaric cruelty was able to continue for so long. Animal abuse does not end there. Thousands of greyhounds are killed each year because they are too slow or they have been injured on the track. Others are kept in terrible conditions and denied their basic welfare needs. This cruelty must end.

It is clear that the current regulatory system is failing the State's animals and eroding public trust. The system is also failing because it is all too common for commercial interests to take priority over animal welfare. Our laws and their enforcement are not strong enough to protect voiceless victims. Many factory-farmed animals live in terrible and cruel conditions. Battery chickens can spend their lives in a cage that would fit within the perimeter of a piece of A4 paper, and pregnant female pigs are kept for up to 16 weeks in a sow stall barely large enough for a fully grown female pig to take a single step forward or backward, and they are unable to move sideways at all. The evidence of animal cruelty in puppy factories is very clearly documented. It is time to act by abolishing these practices.

The New South Wales Government is quick to initiate inquiries soon after animal cruelty exposés. However, it is often slow to implement any solid regulatory protections that prevent these things from happening in the first place. Animal welfare is now front and centre for the people of New South Wales. I stand with every compassionate Australian who seeks enhanced protections for animals. That is why I am advocating the establishment of an independent office of animal welfare. It would monitor, enforce and drive change in animal welfare law and practice in New South Wales. Its establishment would also mean stripping the Department of Primary Industries of its role as the key animal welfare regulator so that all conflicts of interest are removed. A well-resourced independent office of animal welfare will put reactionary politics in the past, and move us towards a progressive climate that seeks to prevent animal cruelty. I renew my calls for the Government to act urgently to improve animal welfare. I hope that by World Animal Day 2016 we will have made some progress towards protecting our furry, scaly and feathered friends.

ANTIQUE FIREARMS

The Hon. ROBERT BORSAK [10.08 p.m.]: I inform the House of the current plight of antique firearms collectors relating to inappropriate legislation, especially for period handguns. These priceless artefacts are under threat of being lost to overseas buyers or of decaying in storage, without being able to

be studied or appreciated by the wider public. Law-abiding firearms owners often bear the brunt of increased regulation after critical incidents and I am sure that we will have this forced upon us again after the tragic shooting of Curtis Cheng in Parramatta earlier this month and the threat of a shooting yesterday at the University of New South Wales. This is despite the overwhelming majority of all firearms used in crime being obtained illegally.

Firearms regulations in New South Wales are a dog's breakfast and the impact on lawful firearm owners is not considered. Those wishing to collect antique firearms are exempt from any licensing or permit to acquire under section 6A (1) of the Firearms Act 1996. The Commissioner of Police must have also determined that the ammunition is no longer commercially available. If the owner wishes to fire it however, he or she must obtain a firearms licence. The firearms under this exemption have percussion or pre-percussion firing mechanisms and require black powder to be loaded directly into the muzzle, along with the projectile, in a process that is slow and unwieldy for the uninitiated. This exemption, however, does not apply to percussion revolvers or to revolvers taking commercially unavailable ammunition.

Despite their treatment under the law, using a pre-1900 revolver does not in any way resemble using any modern pistol. Loading such a firearm involves a similar drawn-out process for each chamber in the revolver as muzzle-loaded arms, and they are inaccurate compared to modern variants. A licence is required to obtain the black powder and the appropriate moulds are difficult to procure. The main point I wish to make is that the overwhelming majority of people who possess such antique firearms do not want to fire them. Given their age, it takes only one misfire from overloading the black powder, or a minor structural defect, to turn a prized historical artefact purchased for thousands of dollars into scrap metal. Competitions for black powder enthusiasts are often opened up for replica entrants because of the huge loss of so many original period pieces during events.

Our laws for antique firearms do not reflect this reality. Current licensing and registration requirements serve as a disincentive for the next generation of collectors partaking in the hobby, with the current custodians of history being a dying breed. These antiques should be able to be appreciated for what they are—an important part of our history. The risks for misuse are minor, given their fragility when fired and their unsuitability when compared to modern versions. The treatment of these on the same level as modern handguns is only a recent addition to our regulations. Prior to 1992 antique firearms were simply recorded by the owners. These registers of ownership, sale and disposal were then inspected annually by the NSW Police Force. In 1992, however, these requirements were removed completely for antiques. It beggars belief that they were treated the same as modern handguns in the 2003 handgun buyback. Furthermore, the global standard for antique firearms is that they are not registered or licensed—rather they are treated as curios.

A tragic example is the antique firearm collection held at the Powerhouse Museum. After the 2003 buyback, that collection now sits decaying in the basement. Among these are 63 percussion firearms, including a LeMat revolver from the American Civil War donated, in 1982, along with another 130 antique firearm exhibits, by colourful Perth businessman Warren Anderson. The museum also had firearms exhibits pulled from a World War I centenary display in May this year by the NSW Police Force, despite meeting the pre-arranged security requirements that were arbitrarily deemed inappropriate by police during a snap inspection. It is tragic that these artefacts are treated with such disdain due to bureaucratic nonsense. I hope these laws can be amended in time for the relocation of the Powerhouse Museum to Parramatta so that these pieces of history can be properly appreciated for their worth and so that private collectors are no longer penalised.

FREE TRADE AGREEMENTS

The Hon. LYNDA VOLTZ [10.13 p.m.]: Over the past year a plethora of trade agreements have been under negotiation around the world. The reality not only for Australians but also for other countries is that negotiations are undertaken behind closed doors until the agreements are signed. We know little of the contents of the agreements until they are signed and even then it takes time for the details to become

clear. In a world of decreasing global trade, the recent focus of these trade negotiations has been less on dismantling tariff barriers and more on tackling issues such as intellectual property and labour and environmental standards. This has caused them to be the focus of debate, not only within Australia but also around the world and in particular throughout Europe under the Transatlantic Trade and Investment Partnership [TTIP] negotiations.

Labor governments have a history of support for free trade agreements. They have previously negotiated free trade agreements with Malaysia, Chile, the 10 member states of the Association of Southeast Asian Nations [ASEAN] and New Zealand. Labor also recognises China's importance to Australia as our biggest export market for resources and energy, which accounts for approximately $77 billion. That is why the Labor Party sees economic engagement with China as critical for Australia's future to drive growth, create jobs and improve living standards.

Recently my parliamentary colleague the member for Kogarah wrote an opinion piece entitled "Time is right to sign up to the China FTA". I must say I was surprised at this simplistic assessment of the complexities of modern politics. In his article, the member for Kogarah makes two claims: first, that Australia is not taking advantage of the Asian century with more private sector direct foreign investment in New Zealand than Asia combined and, secondly, that the Labor Party is walking away from our Asian future in an attempt to sink the entire deal. Neither of those statements is true. First, the statement regarding the level of Australian investment overseas fails to hold up. Australians do not have greater direct foreign investment in New Zealand than all of Asia combined. According to the Australian Bureau of Statistics, foreign direct investment in New Zealand is 5.21 per cent, whilst foreign direct investment in Asia is 15 per cent. Perhaps the member for Kogarah could benefit from his own advice and spend a week in work experience with an economist.

Importantly, the ASEAN-Australia-New Zealand Free Trade Agreement has been signed since 2010 yet it seems to have made little difference to foreign direct investment in ASEAN countries. More importantly, the argument by the member for Kogarah ignores the type of direct investment in New Zealand by Australians. Overwhelmingly, this is dominated by the financial and insurance industry. Over 85 per cent of New Zealand's banking assets are owned by the four major Australian banks. The link is obvious, particularly in a State whose parliament included New Zealand as an early protectorate and in a country where nearly one in five New Zealand citizens live. Conversely, Australian investment in China is dominated by manufacturing, as is our investment in Malaysia, Singapore and the United States—the nation of our largest foreign direct investment, accounting for 30 per cent of all Australian investment.

It is disingenuous of the member for Kogarah, in his opinion piece, to accuse the Labor Party of walking away from Asia just as it is disingenuous of him not to address the concerns that have been raised by the Labor Party. At no point has the Federal Labor leader said he is walking away from the agreement; quite the opposite. But he has asked the Federal Government to sit down before enacting the enabling legislation in order to nut out the best legislation possible. Not one of the free trade agreements negotiated by Labor has removed labour market testing for workers in trades such as electricians, motor mechanics and carpenters. The Federal Liberal Government's decision not to enshrine in legislation existing labour standards is not one that should be waved through. There is also a significant difference between Labor's enterprise migration agreements [EMAs] and the investment facilitation arrangements being introduced under the China-Australia Free Trade Agreement [ChAFTA]. EMAs had a $2 billion threshold and are available for projects in the resources industry only. Investment facilitation arrangements have a threshold of only $150 million and have been extended to telecommunications, tourism, transport and food.

It is worth noting the report by Dr Joanna Howe of the Adelaide University regarding 457 visas. Given the recent revelations that hundreds of thousands of temporary foreign workers in Australia at any one time are being underpaid and exploited, it behoves the Federal parliamentary Labor Party to ensure that legislative protections are embedded to protect our labour standards, particularly for vulnerable overseas workers. These are standards that the Federal Liberal Government professes to support. It is a

pity that the member for Kogarah failed to address these issues in his opinion piece.

MULTICULTURALISM

The Hon. Dr PETER PHELPS [10.18 p.m.]: On 8 September, in an adjournment speech on Syrian refugees, I made extensive use of an article in the *Mail on Sunday* written two days earlier by Peter Hitchens on the same topic. I apologise to Mr Hitchens for my failure to correctly attribute the quotations that I used on that occasion. That being said, the points that he and others have made in relation to "traditions, habits and memories" also have a resonance for immigrant societies such as Australia. This came to the fore about three weeks ago when I was driving home from Sydney on a Sunday night and I was listening to the ABC's "Religion and Ethics Report". In it the reporter was interviewing a young Muslim social worker and he posited the question, "What do you say to those people who are concerned about the dominant culture of Australia?"

The young Muslim social worker could have said a range of things. He could have said, "Well, basically we support a full separation of church and State." He could have talked about the grand traditions of Sufism within Islamic religion. He could have rejected Salafism. He could have said that immigrants to this nation recognise that there is a dominant culture that provides a modus vivendi for people in it. He could have talked about the grand traditions of Maimonides and the polyglot cultures of earlier Islamic empires. Instead what he said was that people who are concerned about the dominant culture in Australia are Islamophobes.

The simple fact is this: We have been a successful immigrant nation. As I have said before, we have been a successful immigrant nation because while we are multiethnic we are not multicultural, at least in our public culture. If one goes through the list of the six key determinants of culture—language, law, religion, food, clothing and entertainment—one finds that they are overwhelmingly British or, if one extends the cultural terms a little further, there is Anglo-American dominant culture in this nation.

Waves of migrants have come in over time and those waves of migrants have fitted in with the established modus vivendi, which allowed them to deal not only with the existing dominant Anglo culture but also with immigrants from other cultures. In the immediate post-war period when a German met a Pole he understood what it meant to be an Australian; when a Serb and a Croatian met in that immediate post-war period they understood what it meant to be an Australian. And while people reject the notion of a physical Bonegilla, what one can say about Bonegilla is that it at least provided an indicator to new migrants of what it meant to be Australian. They may reject that, but they at least had some sort of understanding.

I feel sorry for post-1975 communities who arrived in Australia because as a political class we have sold them a dud. We have sold them multiculturalism as an absolute value when what we have really meant—and this was first read down by the Hawke Government—is that we will accept certain cultural practices that do not threaten or impinge upon the existing cultural traditions of the Anglo mainstream. That is something that we should recognise. In 1766 when Richard Bland was talking about this he said that expatriation is an implicit rejection of the social contract. He said:

> … when men exercise this right, and withdraw themselves from their country, they recover their natural freedom and independence …

He went on to say that a man tacitly consents to the social contract of a society if he "refuses to exercise his natural right of quitting the country"—something that the chairman of the Parramatta Mosque said in almost as many words recently—"If you do not like Australia, you should leave". We would not accept the situation if a North Korean refugee were to arrive in Australia suggesting that he wished to establish an Australia with a Juche ideology. If it is true then for an ordinary immigrant, how much more true is it for refugees and asylum seekers who are fleeing the very cultures that put their lives, their prosperity and their families under threat? The key to our success has been that we have been welcoming but we expect

that there be a level of conformity to the existing rules of this nation. Groups like Hizb ut-Tahrir want to divide the world into Dar al-Islam and Dar al-Harb which is fine but Dar al-Islam stops at your front door.

People like Ben Carson have made the stupid suggestion that in no way should a Muslim be President of the United States. That is as idiotic as saying no Catholic or Jew should be President of the United States. By the same token, if a Catholic said, "I wish to become the leader of this country and impose canon law", we would rightly look askance at him. If a Jew said, "I wish to impose Mosaic law as the law of the land on this country", we would look askance at him. This is what we should have said: "You are welcome to our country. We will greet you, but we expect certain conditions to be met in relation to cultural assimilation."

NATIONAL RUGBY LEAGUE

Mr SCOT MacDONALD (Parliamentary Secretary) [10.22 p.m.]: I point out to the House a grave oversight by this House, that is, in not acknowledging the absolute dominance of Queensland in the National Rugby League [NRL] this year. Queensland won the State of Origin 2-1 and two Queensland teams contested the NRL final. We should note our awe and wonderment at Johnathan Thurston. Congratulations, Queensland.

[*Time for debate expired.*]

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

Motion agreed to.

The House adjourned at 10.23 p.m. until Wednesday 14 October 2015 at 11.00 a.m.