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LEGISLATIVE COUNCIL

Tuesday 17 November 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.

CENTENARY OF FIRST WORLD WAR

The PRESIDENT: Ambrose Campbell Carmichael, the Labor member for Leichhardt from 1907 to 1919, one-time Minister and Acting Treasurer of New South Wales, was among those remarkable State parliamentarians who took leave from the House to render active service. However, Carmichael not only took himself off to the Western Front—where he fought with distinction, was several times wounded and won the Military Cross—but also took hundreds of others with him. As the steady tide of early volunteers began to recede, political leaders such as Prime Minister Hughes and Premier Holman encouraged a series of recruiting marches, which were held across the State and led by prominent community figures.

In the first of these marches, known as the Cooee March, 26 men left Gilgandra on 10 October 1915 led by the captain of the local rifle club. They shouted "cooee" to attract recruits as they marched through each town, and by the time they had covered the 320 miles to Sydney on 12 November, their numbers had grown to 263 recruits. It was very special to see that march re-enacted a century later and concluding at the Cenotaph on Remembrance Day last week. A similar march, known as the Waratah March, left Nowra in November 1915. The 18-day march travelled along the Princes Highway, through the South Coast and Illawarra, towards Sydney. A re-enactment of this march will be taking place at the Nowra School of Arts on Sunday 29 November, at which the speeches made by the original participants 100 years ago will be used.

Carmichael initiated another march, and after touring the State he had recruited the best part of 1,000 volunteers, men who were to form a large part of the 36th Battalion. He left with his recruits on the *Beltana* in May 1916 and they headed directly to the front at Armentieres. They served through massive losses at Passchendaele and the glorious victory at Villiers Brettoneux. In his taking leave of the House on 23 November 1915, Carmichael spoke of "doing what is possible, even in a small way, towards taking one's part in the great issue which overshadows the country".

Despite his wounds, when Carmichael returned to Australia in February 1918 he immediately set about raising another contingent of volunteers, with whom he duly left these shores once again in June 1918, participating in the last days of the Great War and returning to resume his parliamentary duties in February 1919. Although he failed in his bid for re-election in 1920, Carmichael remained politically active, eventually joining the National Association of New South Wales, one of the antecedents of the Liberal Party. He died in Darlinghurst in 1953 at the age of 86. He was one of the 14 members of this Parliament to serve in the Great War—a man who went fearlessly where he encouraged others to go and led by example. Lest we forget.

PARIS TERRORIST ATTACKS

Ministerial Statement

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the

Executive Council) [2.37 p.m.]: We have all watched with horror the events that unfolded over the weekend in Paris. Sadly and increasingly, this is not an isolated event, with other equally terrible crimes having been committed in places such as Lebanon, Iraq and Kenya. The New South Wales Government offers its deepest condolences to the victims of these reprehensible and cowardly acts of terrorism. In the words of the Premier, "Our hearts have been broken but our spirits have not."

An unbreakable bond exists between the people of France and Australia, initiated in the time of the early explorers such as La Pérouse. That bond was forged on the Western Front 100 years ago and today our flags fly together on the Sydney Harbour Bridge and above this Parliament as symbols of solidarity. We here in New South Wales will stand together with Australia and the rest of the world to condemn these acts of terror. The Minister for Multiculturalism will be moving a motion today for debate on Thursday so that all members of this Chamber can make a contribution and offer their condolences.

The Hon. ADAM SEARLE (Leader of the Opposition) [2.38 p.m.]: On behalf of the Labor Opposition I support the statement by the Leader of the Government and record our condolences for those affected by the tragic events in Paris. Darkness has descended on the City of Light. On Friday evening 132 lives were lost in Paris and no doubt more will be identified in the coming days. They were gunned down as they broke bread, as they watched a concert, as they walked the streets. There was no warning given, and no mercy shown. The victims were simply enjoying the bustle and beauty of life in one of the world's greatest cities and their lives were ended in a callous and calculated act of shocking brutality.

Paris is not simply a city. It was home to the Enlightenment and it remains a crucible of culture, philosophy and religion. This was not simply an assault on the people of Paris or France, or the West; it was an assault against all of us who believe in the universal values of liberty, fraternity and equality. We mourn the loss of life in Paris, but if we are to remain true to these universal values we must acknowledge those lost to terror elsewhere.

We should remember that a day before the tragic events in Paris 43 lives were lost in a bombing in Beirut. Two weeks earlier more than 200 lives ended when a plane was wrenched from the sky over Egypt. This year alone hundreds have been lost to terror across the world in places such as Iraq, Afghanistan, Tunisia and Kenya. Each of these lives matters and today we must acknowledge their passing as well. On social media there have been many posts about what happened in Paris, and rightly so, but many more drawing attention to the fact I have just drawn attention to. We must make sure that all lives matter. New South Wales is not insulated from this cruelty of hateful ideology. We must join together to stand against these events.

PARLIAMENTARY ETHICS ADVISER

Report

The President tabled, pursuant to the terms of the agreement made with the Clerk of the Parliaments and the Clerk of the Legislative Assembly, the annual report of the Parliamentary Ethics Adviser for year ended 30 June 2015.

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

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business item No. 521 outside the Order of Precedence objected to as being taken as formal business.

VETERANS' CENTRE SYDNEY NORTHERN BEACHES

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

(1) That this House acknowledges the Veterans' Centre Sydney Northern Beaches, which provides care and assistance for veterans, their spouses, family, relatives and friends, in the Sydney Northern Beaches area.

(2) That this House notes that:

(a) the Veterans' Centre Sydney Northern Beaches was established in 2011 as an autonomous organisation to coordinate the pension and welfare activities of the ex-service organisations on the Northern Beaches in providing support for current and ex-service personnel and their families;

(b) the Veterans' Centre Sydney Northern Beaches was based at RSL Life Care Collaroy Plateau from 2011 to 2015, with an initial emphasis on qualifying pension and welfare officers and establishing administrative procedures;

(c) on 16 October 2015, the Veterans' Centre Sydney Northern Beaches officially opened its doors at its new location at Dee Why RSL Club, attended by the Hon. Natasha Maclaren-Jones, MLC, representing the Hon. Mike Baird, MP, Premier of New South Wales, and the Hon. David Elliott, MP, Minister for Veterans Affairs;

(d) the Veterans' Centre Sydney Northern Beaches also unveiled new regional support services, designed for younger veterans and aimed at preventing any Australian Defence Force member or veteran and their family from living in crisis;

(e) the Veterans' Centre Sydney Northern Beaches is unique in providing support and assistance to veterans and their families, irrespective of whether they are members of an ex-service organisation or not; and

(f) the opening of the new premises and launch of the centre's new services coincided with Veterans' Health Week, an opportunity for veterans, war widows, widowers, current and ex-Australian Defence Force members and their families to participate, connect and influence the health and wellbeing of themselves and their friends.

(3) That this House congratulates the Veterans Centre Sydney Northern Beaches on their outstanding and important work providing care and assistance to veterans and their families, particularly:

(a) Benjamin Webb, the Veterans' Centre Manager, a passionate advocate for improved support services for veterans and their families, and a former serviceman who was medically discharged from service in 2013; and

(b) the Executive Board of the Veterans Centre Sydney Northern Beaches, including Chairman, Graham Sloper, and committee members, Bill Hardman, Robin Tapp, Lindsay Godfrey, Adrian Talbot and Grant Easterby.

DELPHI BANK GREEK FILM FESTIVAL

Motion by the Hon. SOPHIE COTSIS agreed to:

(1) That this House notes that:

(a) the twenty-second Delphi Bank Greek Film Festival was held from 14 October 2015 to 1 November 2015 at Palace Cinemas, featuring an extensive program of contemporary Greek cinema both local and international;

(b) the Delphi Bank Greek Film Festival is the largest Greek Film Festival outside of Greece, with screenings across Australia in Sydney, Melbourne, Canberra, Brisbane and Adelaide;

(c) the festival costs $150,000 to stage and is an integral contributor to the local economy, creating jobs and attracting people from across New South Wales to be part of the film festival; and

(d) over the two weeks of screening, over 5,000 guests attended the film festival in Sydney.

(2) That this House:

(a) congratulates the Greek Orthodox Community of New South Wales on hosting and presenting another exceptional film festival;

(b) commends the work of Festival Chair, Nia Kateris; Festival Director, Pamela Proestos; and the entire Festival Committee, including Harry Danalis, President of the Greek Orthodox Community [GOC] of NSW; and Michael Tsilimos, Secretary of the GOC of NSW; and

(c) acknowledges festival partners Emirates and Palace Cinemas, Greek Film Festival sponsors, State and national media partners, as well as staff and volunteers for the successful running of the film festival.

"SCREEN IT" 2015 COMPETITION

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

(1) That this House notes the Australian Centre for the Moving Image's "Screen It" competition, an opportunity for primary and secondary school students across Australia to learn about and experience the production and creation of animated films, live action films and video games.

(2) That this House notes that:

(a) the purpose of the "Screen It" competition is to educate, encourage and foster the next generation of young moving image makers; and

(b) the theme for the competition in 2015 was "Change", and competitors were encouraged to express the theme of change throughout their entry piece.

(3) That this House acknowledges the competition finalists from New South Wales, including:

(a) in the Primary Animation category:

(i) *Changing the World* by Cabramatta Public School, Cabramatta; and

(ii) *Loose Change* by Cabramatta Public School, Cabramatta.

(b) in the Primary Live Action category:

(i) *The Goal* by Gladesville Public School, Gladesville;

(ii) *Rewind* by Gladesville Public School, Gladesville; and

(iii) *The Future is Bright, Bright is the Future* by Kooringal Primary School, Wagga Wagga.

(c) in the Secondary Videogame category, *Vis Demutator (Force Manipulator*) by Harold S from Port Macquarie.

(4) That this House notes that the student team from Kooringal Public School was comprised of 14 students, who worked on the film in their own time and produced every aspect of their project, including writing the script, acting and editing, writing lyrics and recording the soundtrack.

(5) That this House congratulates all the participants and finalists in the "Screen It" competition for their creativity and enthusiasm to learn and develop new skills.

DEMOCRACY IN BURMA

Dr JOHN KAYE [2.42 p.m.]: I seek leave to amend Private Members' Business item No. 553 outside the Order of Precedence for today of which I have given notice by inserting, "including all ethnic groups," after the words "the people" in paragraph (c).

Leave granted.

Motion by Dr JOHN KAYE agreed to:

That this House:

(a) notes that elections in Burma appear to have produced a democratic outcome and congratulates the people of Burma and the democracy activists whose movement has struggled for more than half a century against a military dictatorship;

(b) notes that the constitution of Burma remains a deeply flawed document that denies the voters the ultimate say over who holds key positions in the Government and reiterates its call for reform;

(c) calls for the military and its allies to respect the outcome of the election and allow the will of the people, including all ethnic groups, to be expressed in the new parliament and Government; and

(d) expresses its support for the Burmese journey towards democracy lead by Daw Ang San Suu Kyi, the National League for Democracy and the Burmese democracy movement.

TABLING OF PAPERS

The Hon. Niall Blair tabled the following papers:

(1) Annual Reports (Departments) Act 1985—Reports for year ended 30 June 2015:

Crown Solicitor's Office
Judicial Commission
Ministry of Health, together with financial statements, volumes 1, 2 and 3
Office of Environment and Heritage
Office of the Director of Public Prosecutions
Office of Sport

(2) Annual Reports (Departments) Act 1985 and Annual Reports (Statutory Bodies) Act 1984—Department of Planning and Environment, incorporating the Building Professionals Board

(3) Annual Reports (Statutory Bodies) Act 1984—Reports for year ended 30 June 2015:

Australian Technology Park Sydney Ltd
Centennial Park and Moore Park Trust
Central Coast Regional Development Corporation
Destination NSW
Environment Protection Authority
Fair Trading Administration Corporation and Motor Vehicle Repair Industry Authority Health Care Complaints Commission
Historic Houses Trust of New South Wales Hunter Development Corporation
Jenolan Caves Reserve Trust
Landcom (trading as UrbanGrowth NSW)
Legal Aid Commission of New South Wales
Legal Profession Admission Board
Lord Howe Island Board
Multicultural NSW New South Wales Institute of Sport
NSW Architects Registration Board
NSW Environmental Trust
Parramatta Park Trust
Rental Bond Board
Royal Botanical Gardens and Domain Trust
State Sporting Venues Authority
Sydney Olympic Park Authority
NSW Trustee and Guardian
UrbanGrowth NSW Development Corporation
Venues NSW
Western Sydney Parklands Trust
Zoological Parks Board of New South Wales, trading as Taronga Conservation Society Australia

(4) Annual Reports (Statutory Bodies) Act 1984 and Health Practitioner Regulation National Law (NSW)—Report of Health Professional Councils Authority volumes 1, 2 and 3 for year ended 30 June 2015, incorporating:

Aboriginal and Torres Strait Islander Health Practice Council
Chinese Medicine Council
Chiropractic Council
Dental Council
Medical Council
Medical Radiation Practice Council
Nursing and Midwifery Council
Occupational Therapy Council
Optometry Council

Osteopathy Council
Pharmacy Council
Physiotherapy Council
Podiatry Council
Psychology Council

(5) Anti-Discrimination Act 1977—Report of Anti-Discrimination Board of New South Wales for year ended 30 June 2015

(6) Association Incorporation Act 2009—Report of NSW Fair Trading and NSW Department of Finance and Services on review of Act, dated 2 November 2015

(7) Civil and Administrative Tribunal Act 2013—Report of NSW Civil and Administrative Tribunal for year ended 30 June 2015

(8) Health Administration Act 1982—Report of New South Wales Health Foundation for year ended 30 June 2015

(9) Health Practitioner Regulation National Law (NSW)—Report of Australian Health Practitioner Regulation Agency for year ended 30 June 2015, together with an erratum

(10) Law Enforcement (Powers and Responsibilities) Act 2002—

(a) Report of NSW Crime Commission under section 242A with respect to covert search warrant for year ended 30 June 2015

(b) Report of NSW Police Force under section 242A with respect to covert search warrants and criminal organisation search warrants for year ended 30 June 2015

(c) Report of Ombudsman entitled "Report under Section 242(3) of the Law Enforcement (Powers and Responsibilities) Act 2002—Covert Search Warrants", dated August 2015

(d) Report of the Ombudsman entitled "Report under Section 242(3C) of the Law Enforcement (Powers and Responsibilities) Act 2002—Criminal Organisations Search Warrants—for the period ending 7 August 2015", dated October 2015

(11) Law Reform Commission Act 1967—Reports for year ended 30 June 2015:

Law Reform Commission
New South Wales Bar Association

(12) Legal Profession Uniform Law (NSW)—Report of the Office of the Legal Services Commissioner for year ended 30 June 2015

(13) National Health Reform Act 2011 (Cth) and Public Service Act 1999 (Cth)—Report of National Health Funding Body for year ended 30 June 2015

(14) Public Service Act 1999 (Cth)—Report of National Health Funding Body for year ended 30 June 2015

(15) Surveillance Devices Act 2007—Report of Attorney General according to section 45 of the Surveillance Devices Act 2007 for the period ended 30 June 2015

(16) Terrorism (Police Powers) Act 2002—Report of New South Wales Crime Commission under section 27ZB of Terrorism (Police Powers) Act 2002 for year ended 30 June 2015

Ordered to be printed on motion by the Hon. Niall Blair.

LEGISLATION REVIEW COMMITTEE

Report

The Hon. Greg Pearce tabled a report entitled "Legislation Review Digest No. 11/56", dated 17 November 2015.

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

GENERAL PURPOSE STANDING COMMITTEE NO. 1

Report: Budget Estimates 2015-2016

Reverend the Hon. Fred Nile, as Chair, tabled report No. 43 of General Purpose Standing Committee No. 1, entitled "Budget Estimates 2015-2016", dated November 2015, together with transcripts of evidence, tabled documents, correspondence, answers to questions on notice and supplementary questions.

Report ordered to be printed on motion by Reverend the Hon. Fred Nile.

Reverend the Hon. FRED NILE [2.45 p.m.]: I move:

That the House take note of the report.

I thank the seven members of the committee for their cooperation and six other members of the House who shared in the hearings as the committee investigated the budget estimates for Finance, Services and Property, The Legislature, Treasury, Industrial Relations, Premier and Western Sydney.

Debate adjourned on motion by Reverend the Hon. Fred Nile and set down as an order of the day for a later hour.

GENERAL PURPOSE STANDING COMMITTEE NO. 2

Report: Budget Estimates 2015-2016

The Hon. Greg Donnelly, as Chair, tabled report No. 43 of General Purpose Standing Committee No. 2, entitled "Budget Estimates 2015-2016", dated November 2015, together with transcripts of evidence, tabled documents, correspondence, answers to questions on notice and supplementary questions.

Report ordered to be printed on motion by the Hon. Greg Donnelly.

The Hon. GREG DONNELLY [2.47 p.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Greg Donnelly and set down as an order of the day for a later hour.

GENERAL PURPOSE STANDING COMMITTEE NO. 3

Report: Budget Estimates 2015-2016

Ms Jan Barham, as Chair, tabled report No. 33 of General Purpose Standing Committee No. 3, entitled "Budget Estimates 2015-2016", dated November 2015, together with transcripts of evidence, tabled documents, correspondence, answers to questions on notice and supplementary questions.

Report ordered to be printed on motion by Ms Jan Barham.

Ms JAN BARHAM [2.48 p.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by Ms Jan Barham and set down as an order of the day for a later hour.

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Report: Budget Estimates 2015-2016

The Hon. Robert Borsak, as Chair, tabled report No. 32 of General Purpose Standing Committee No. 4, entitled "Budget Estimates 2015-2016", dated November 2015, together with transcripts of evidence, tabled documents, correspondence, answers to questions on notice and supplementary questions.

Report ordered to be printed on motion by the Hon. Robert Borsak.

The Hon. ROBERT BORSAK [2.49 p.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Robert Borsak and set down as an order of the day for a later hour.

GENERAL PURPOSE STANDING COMMITTEE NO. 5

Report: Budget Estimates 2015-2016

The Hon. Robert Brown, as Chair, tabled report No. 42 of General Purpose Standing Committee No. 5, entitled "Budget Estimates 2015-2016", dated November 2015, together with transcripts of evidence, tabled documents, correspondence, answers to questions on notice and supplementary questions.

Report ordered to be printed on motion by the Hon. Robert Brown.

The Hon. ROBERT BROWN [2.50 p.m.]: I move:

That the House take note of the report.

Debate adjourned on motion by the Hon. Robert Brown and set down as an order of the day for a later hour.

GENERAL PURPOSE STANDING COMMITTEE NO. 6

Report: Budget Estimates 2015-2016

The Hon. Paul Green, as Chair, tabled report No. 2 of General Purpose Standing Committee No. 6, entitled "Budget Estimates 2015-2016", dated November 2015, together with transcripts of evidence, tabled documents, correspondence, answers to questions on notice and supplementary questions.

Report ordered to be printed on motion by the Hon. Paul Green.

The Hon. PAUL GREEN [2.51 p.m.]: I move:

That the House take note of the report.

I am pleased to present this report entitled "Budget Estimates 2015-2016". The annual inquiry into budget estimates ensures that parliamentary oversight of the budget provides important mechanisms for the accountability of the Executive Government to the Legislative Council. This inquiry consisted of four hearings to examine the following portfolios: Innovation and Better Regulation; Local Government; Regional Development, Skills, Small Business; and Corrections, Emergency Services, Veterans Affairs. On behalf of the committee, I thank the members, Ministers and their officers who assisted the committee throughout this important inquiry.

Debate adjourned on motion by the Hon. Paul Green and set down as an order of the day for a later hour.

AUDITOR-GENERAL'S REPORT

The Clerk announced the receipt, pursuant to the Public Finance and Audit Act 1983, of a financial audit report of the Auditor-General entitled "Volume Five 2015, focusing on Premier and Cabinet", dated 20 November 2015, received out of session and authorised to be printed this day.

BUSINESS OF THE HOUSE

Withdrawal of Business

Private Members' Business item No. 541 outside the Order of Precedence withdrawn by Dr Mehreen Faruqi.

Precedence of Business

Motion by the Hon. Duncan Gay agreed to:

That Government business take precedence of debate of committee reports this day.

OFFENSIVE GESTURES IN THE CHAMBER

The PRESIDENT: During question time on Thursday 12 November the Hon. Dr Peter Phelps took a point of order that Mr Jeremy Buckingham, while himself at the lectern taking a point of order, had made a gesture that in Australian Sign Language [Auslan] is an offensive word. The Hon. Dr Peter Phelps added that, "While it was non-verbal, anyone who is deaf or hearing-impaired who was watching these proceedings would have seen him sign an offensive word in this place. He should be called to order." I reserved my ruling. The tradition upon which proceedings in this House, and indeed all parliamentary Chambers in the Westminster system, is based is that of oral debate—an exchange of ideas in which members reason with one another verbally. That is why the use of props and the wearing of clothing with slogans is disorderly. Members make their point through the spoken word. There is no place in debate in

this Chamber for hand gestures that are offensive, either in Auslan or in some other way.

I am advised that the footage of the incident shows only the end of the apparent making of a hand gesture. I am also advised that is not clear to whom the gesture is directed. I am not in a position to determine whether it is appropriate to call the honourable member to order in this instance. I also note that other members previously have made hand gestures, which could be seen to have been designed to distract members, or worse. If members wish to be taken seriously, they would be well advised to behave in a professional and mature manner and worthy of the high office to which they have been elected. The making of a hand gesture of an offensive word or phrase, should that occur, would be disorderly and would do nothing to enhance the reputation of a member making it, or the Chamber as a whole. The same goes for other forms of disorderly behaviour.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 1 and 2 postponed on motion by the Hon. Duncan Gay and set down as orders of the day for a later hour.

STATE REVENUE LEGISLATION AMENDMENT BILL 2015

Second Reading

The Hon. SARAH MITCHELL (Parliamentary Secretary) [3.16 p.m.], on behalf of the Hon. Niall Blair: I move:

That this bill be now read a second time.

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

Leave granted.

The State Revenue Legislation Amendment Bill 2015 introduces significant reforms to the administration of fines and taxes by the Office of State Revenue [OSR].

The main reform is contained in amendments to the Road Transport Act 2013 and the Fines Act 1996 to provide for universal electronic nomination for penalty notices issued for camera-recorded traffic offences and parking offences.

The OSR issues penalty notices and manages subsequent processes in relation to camera-recorded offences under the Road Transport Act 2013, including the issue of penalty reminder notices under the Fines Act 1996.

Because parking offences or speed or red light camera offences are detected without identifying the driver or person in charge of the vehicle, the "responsible person for the vehicle", usually the registered operator, is deemed to have committed the offence. These offences are known as operator-onus offences.

However, the responsible person is required to nominate the person who was in charge of the vehicle at the time of the offence to allow liability to be effectively transferred to the actual offender.

The OSR processes between 350,000 and 400,000 nomination notices annually. Currently, individuals can only nominate by way of statutory declaration under the Oaths Act 1900, but

corporations can nominate electronically. The current requirement for nominations to be made by statutory declaration adds little value to the process, because verifying signatures in such a high volume process is not practical. The overwhelming majority of nominations contain correct information about the driver.

The reform will extend the benefits of electronic nomination to all road users, including small companies and individuals. This will provide a simpler, faster and more convenient service available 24/7 through a Service NSW mobile app and the Service NSW and OSR websites.

To ensure the integrity of this process, the nominator will be required to provide sufficient identification information to verify the accuracy of the nomination, such as the date of birth and driver licence number of the nominated driver.

The OSR will also continue its successful practice of prosecuting people who make a false nomination. The bill doubles the maximum penalty for that offence, in recognition of the seriousness of attempting to avoid liability for the offence, especially where the offence incurs driver licence demerit points.

Statutory declarations will still be required for evidentiary purposes if a matter goes to court.

The bill also adds a littering offence relating to vehicles to the nomination process under the Fines Act to integrate that offence into existing OSR processes.

The bill makes one other improvement to the Fines Act 1996 to provide a simpler means of mitigating hardship caused by a strict application of enforcement processes.

One of the civil enforcement powers of the OSR is to make garnishee orders, which require a financial institution to transfer funds from a fine defaulter's account. More than 500,000 bank garnishee orders will be issued by the OSR this financial year.

In a small number of cases, withdrawal of the funds can result in hardship to the account holder. The bill authorises the OSR to refund to the account holder amounts received under garnishee orders if the OSR is satisfied that the person has suffered or may suffer hardship as a result of the transfer. The refund would not affect the person's liability to pay the relevant fines, which would continue to be subject to recovery action by the OSR.

The bill also contains three amendments to State revenue legislation to improve tax administration and to modernise two exemptions from duties.

The bill removes an anomaly in the Taxation Administration Act 1996 whereby a taxpayer may be entitled to a refund of self-assessed tax going back more than five years. Where the OSR assesses the taxpayer, the right to a refund is generally limited to five years from the date of the initial assessment. It appears the five-year limit may not apply to taxpayers who self-assess and pay tax without receiving an assessment from the OSR.

Most payroll taxpayers self-assess. Refunds of overpayments totalling several million dollars are made each year, arising from tribunal and court decisions or mistakes by taxpayers in self-assessing their tax liabilities. If the five-year limit on refunds does not apply to taxpayers who self-assess, the cost of refunding overpayments would increase substantially.

In addition, taxpayers and the OSR would need to keep records of self-assessed tax payments for an indefinite period. The State's exposure to refund overpaid self-assessed taxes would be limited only by the taxpayer's capacity to provide adequate evidence of overpayments. The bill therefore makes it clear that the five-year limit applies from the date on which a return is

assessed by the Chief Commissioner.

Finally, the bill includes two amendments to the Duties Act 1997.

Registered clubs under the Registered Clubs Act 1976 operate for the benefit of members and the local community. A transfer of property to give effect to the amalgamation of two clubs is already exempt from duty.

In 2012 the Registered Clubs Act 1976 was amended to require clubs to de-amalgamate prior to an amalgamation. A duty exemption should have been provided at that time. In October 2014, the Government made a commitment to "review the rules regarding club amalgamations and de-amalgamations with a view to streamlining both processes and allowing clubs to merge and de-merge as their local situation requires".

The bill provides an exemption from duty for transfers arising from the de-amalgamation of clubs, together with the transfer of club premises and car parks in association with amalgamations and de-amalgamations, with effect from 2012.

A concessional rate of landholder duty applies to the acquisition of 90 per cent or more of a listed entity. An exemption from marketable securities duty also applies to transfers of quoted securities of listed entities. An entity is listed if its securities are quoted on the Australian Securities Exchange or an exchange of the World Federation of Exchanges. The London Stock Exchange and the New York Stock Exchange have ceased to be members of the World Federation. The bill includes those exchanges as exchanges to which the concessional rate of landholder duty and exemption from marketable security duty apply, effective from when the exchanges ceased membership of the World Federation.

The State Revenue Legislation Amendment Bill 2015 is part of an ongoing process of reform of fines and revenue legislation.

The reform to allow for universal electronic nomination will provide a simpler, faster and more convenient way for the overwhelming majority of road users who wish to comply with penalty notice nomination procedures.

I commend the bill to the House.

The Hon. PETER PRIMROSE [3.17 p.m.]: The Opposition does not oppose the State Revenue Legislation Amendment Bill 2015. The Minister in his second reading speech in the other place referred to the bill as being a "significant reform" of existing legislation. In reality, of course, it seeks merely to make a number of minor amendments to the legislation: It is more tinkering than full-scale refurbishment. In the instance of the bill's amendment to the Duties Act, relating to allowing a duties exemption to clubs, the Government is now tidying up a mess that it in fact created in 2012. It seems almost perverse to describe a reform as sweeping and significant when it is merely fixing up one's own mess. But this Government has shown few scruples in that regard.

The State Revenue Legislation Amendment Bill 2015 seeks to do five things. First, it extends exemptions from duty on transactions relating to amalgamations of registered clubs and de-amalgamation of registered clubs and related transfers of club premises and car parks. Secondly, it updates references to stock exchanges so that concessions applicable to other stock exchanges will apply in the case of entities or securities listed or quoted on the London Stock Exchange, including the Alternative Investment Market [AIM] and the New York Stock Exchange. Thirdly, the bill will update procedures for nomination of persons in charge of vehicles or vessels who have committed offences by persons who otherwise would be responsible for the offences and to make other amendments relating to nominations. Fourthly, the bill will enable refunds, in cases of hardship, of payments under garnishee orders issued against fine

defaulters. Finally, the bill clarifies the status of calculations of self-assessed tax liability by the Chief Commissioner of State Revenue.

As noted in the Minister's second reading speech, the duty exemption provided for clubs has been in place for some years. It is specifically for the purpose of amalgamations. The rationale behind this was that clubs provide such a broad and encompassing service to their communities that the New South Wales Government can and should assist by waiving their duty tax during processes of amalgamation. It is a reality that amalgamations have become more frequent, as the smaller neighbourhood clubs struggle to survive.

Often the only lifeline available to small clubs is to seek amalgamation with a larger and wealthier club so that the wealthier club can provide an injection of funds and the local community can continue to receive the benefits of having a local club. In 2012, during the process of amending the Registered Clubs Act 1976, this Government took the step of—and I will quote from the Minister's second reading speech—"requiring clubs to de-amalgamate prior to an amalgamation". Consequently, while the duty exemption was in place for amalgamations, de-amalgamations—and in fact clubs were forced by this Government to de-amalgamate—were not covered by the duty exemption. This bill seeks to remedy the injustice imposed by the Government.

Once this bill is enacted, clubs will enjoy a legislated duty exemption during both the amalgamation and de-amalgamation process. The Labor Opposition supports this measure but requests the Parliamentary Secretary in her reply to provide details of the estimated annual cost of this measure to the New South Wales budget. The second purpose of this bill is to clarify within the definitions of the Duties Act 1997 the presence of the London Stock Exchange and the New York Stock Exchange. This is necessary simply because the London and New York stock exchanges have ceased to be members of the World Federation of Exchanges.

In the Duties Act 1997 definitions of listed companies, listed trusts and other listings, there is direct reference to the Australian Securities Exchange, the New Zealand Stock Exchange and the World Federation of Exchanges. When they were members, the London and New York stock exchanges were included in the World Federation of Exchanges definition. As this is no longer the case, this proposal is a sensible adjustment to the definitions of the existing Act. But it is hard to conceive of it as being a "significant reform", as was claimed by the Parliamentary Secretary in her second reading speech.

The third change proposed by the bill, again, is a technical update to an existing Act. It is aimed at registered owners of motor vehicles who are currently subject to an issued fine in instances where a car make or model and numberplate are identifiable for indiscretions such as speeding, parking or driving through a red light. If the registered owner was not the driver at the time the offence was committed, then he or she has the option to nominate who the actual driver of the vehicle was. Currently, that is done by way of a written and signed statutory declaration. The change proposed in this bill will make it possible for a registered vehicle owner to nominate the responsible driver by way of electronic lodgement.

To reinforce to registered owners that a false or misleading nomination of another driver is a serious offence—for example, if someone was getting low in points on their licence—penalties for making a false claim will double from $5,500 to $11,000 for individuals and from $11,000 to $22,000 for corporations. In the event that a matter goes before a court, statutory declarations will be required to be tendered in writing to the court. The fourth proposal in this bill allows for the Office of State Revenue [OSR] to make a refund if it becomes apparent that the enactment of a garnishee order has created a hardship. Each year the OSR uses garnishee orders to realise payment for some 500,000 fines.

A garnishee order allows the OSR to source payment for fines directly from someone's financial institutions. People are often dumbfounded when they go to their bank accounts and realise that a fine payment has been deducted. This can cause unscheduled and unpredicted financial hardship for some. Under the proposed amendment—which is a very sensible one—a person who suffers financial hardship

as a result of an OSR garnishee order can seek a refund while still having the liability to pay the fine. However, it was not made clear in the Parliamentary Secretary's second reading speech, or in the wording of the bill, the process and means by which a hardship claim can be made, how quickly it will be processed and how quickly the funds might be returned to the person.

An unexpected disruption to a person's bank account, sometimes for many hundreds if not thousands of dollars, is an immediate and significant imposition. It can immediately and without warning leave their families without money for food or other necessities. This often imposes burdens on other family members as well as on charities and similar welfare agencies that are called upon to try to fill the gaps. For this refund mechanism to be useful, the Parliamentary Secretary will need to ensure that the process can be implemented quickly. I request that in her reply the Parliamentary Secretary outline how the process will actually work.

The final amendment in this bill relates to regulations around time limits for the claiming of refunds for the overpayment of payroll tax. As noted in the Parliamentary Secretary's second reading speech, there are instances where a payroll tax overpayment has been made as a result of a self-assessment that has overestimated business turnover and income. When the OSR performs an assessment, any subsequent potential for reassessment is limited to five years. However, in the majority of cases the OSR does not make an assessment and the taxpayer's self-assessment is accepted, as is the subsequent payment of payroll tax.

The problem is that a five-year limit does not clearly apply in instances where the OSR does not make an assessment of the submitted self-assessment. This change will make it clear that the five-year limit applies in all instances. Again, that is a sensible proposal. The Parliamentary Secretary in her second reading speech referred to millions of dollars in refunds each year. I ask the Parliamentary Secretary in her reply to give more specific details about the total value of refunds each year and to clarify how much of that refund total is within the five-year time limit and how much is outside it. More specifically, the Parliamentary Secretary might clarify whether the revenue of the New South Wales Government will be better or worse off as a result of the changes in this bill.

The Parliamentary Secretary also mentioned that without this amendment and clarification there would be a need for the OSR to keep records beyond five years. In the other place, my colleague Mr Clayton Barr drew the Minister's attention to section 9 of the Tax Administration Act 1996, where there is clear and specific scope for reassessment well beyond the five-year limit under certain conditions and circumstances. I hope the appropriate records have been kept to account for those conditions and circumstances. I request that the Parliamentary Secretary clarify whether the Minister intends any change to the interpretation or activation of section 9 of the Tax Administration Act 1996 as a result of this amendment.

The Opposition encourages the Government to continue to make minor amendments to legislation in order to remedy the messes it has created through previous legislation and to stay abreast of modern technological changes. I have asked the Parliamentary Secretary to address a number of issues in her reply, in the interest of transparency concerning any decision or adjustment to any piece of legislation that has a financial impact on the State's budget. The New South Wales Labor Opposition will not oppose this bill.

Dr JOHN KAYE [3.27 p.m.]: On behalf of The Greens I address the State Revenue Legislation Amendment Bill 2015. The Greens concur with the majority of this bill. In fact, as the Hon. Peter Primrose pointed out, the bill contains a number of sensible minor clean-ups and fixes and other matters of benefit, both large and small, to the people of New South Wales. However, there is one provision within this bill The Greens oppose—that is, the exemptions from duties for transactions relating to de-amalgamations of registered clubs and related transfers of club premises and car parks. The Greens will be moving an amendment at the Committee stage to remove this section of the bill.

I turn to other provisions within this bill that update the reference to stock exchanges and clarify the status of calculations of self-assessed tax liability by the Chief Commissioner of State Revenue. These non-controversial and sensible measures will facilitate the orderly collection of revenue by the New South Wales Government. The provision to enable refunds in the case of financial hardship as a result of garnishee orders issued against fine defaulters is, as described by the Hon. Peter Primrose, a sensible measure that will allow refunds without a reduction in liability for the original fine.

It is a sensible move to relieve hardship on individuals who have their wages or other payments garnisheed. The section of the bill The Greens find troubling is the extension of the exemption from duties for transactions relating to amalgamation to de-amalgamation of registered clubs and related transfers of club premises and carparks. This is another chapter in a long saga that grew out of the 2010 memorandum of understanding between former Premier Barry O'Farrell, the then gaming and racing Minister, George Souris, and Clubs NSW. That memorandum of understanding created a commitment that the New South Wales Government would move to allow clubs to amalgamate and de-amalgamate without the loss of any poker machine entitlements. That part of the deal was enacted in the Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011. It removed the forfeiture requirements entirely when transferring gaming machines within amalgamated clubs.

Subsequently, it was recognised that amalgamation and de-amalgamation involved duty payments and those duty payments have been removed progressively, first, at the amalgamation stage by an amendment to the Duties Act 1997; and, secondly, through the bill before the House that will remove duties associated with de-amalgamation. What does this enable? A big club with a large number of poker machines might set its sights on a smaller club in a more advantaged socioeconomic area where the poker machines, because of the size of the club and nature of the local community, make a relatively small amount of money. A club with 30 or 40 poker machines in a well-off area would expect each poker machine to earn $2,000 to $3,000 per year. However, if that poker machine is in a large club in a disadvantaged area it will make $40,000 to $60,000 per year. There is a tenfold increase in the value of that poker machine when moved from an advantaged area with a small club to a disadvantaged area with a large club.

The bill before the House closes the loop on the process of a large club, somewhere such as Fairfield, amalgamating with a smaller club, taking the poker machine entitlements with no forfeiture, and the minimal inconvenience of a local impact assessment process, then spitting out the amalgamated club and at no stage paying duty. It facilitates the concentration of poker machines into areas where they will do the most damage. The Productivity Commission informed Australians that 40 per cent of profits on poker machines come from people who are problem gamblers. From the work of people such as Charles Livingstone at Monash University we know that the larger the venue is and the more disadvantaged the area in which it resides the more money an individual poker machine will make.

This is about maximising profits. It is about moving poker machines from clubs where they do a relatively small amount of damage to clubs where they will do a large amount of damage. It is a free ride to greater concentrations of poker machines in areas where they will do the greatest damage to problem gamblers, their families and communities. This is the continuation of a process that the Liberals and The Nationals have been engaged in since the first memorandum of understanding was signed with Clubs NSW. It is a process that will make clubs wealthier and bigger, and hence capable of doing more damage. It is a process fed by the misery of problem gamblers, their families and damage to the community. This is a process that should not be allowed to continue.

The process suits the club mandarins who want to preside over larger and larger empires at the expense of working-class Australians, people without jobs and people from non-English speaking backgrounds who are trapped in a cycle of destructive gambling. It beggars belief that a modern Government would play this game and allow itself to be suckered into this behaviour by Clubs NSW and the mandarins who operate the massive clubs. It beggars belief that the political process in New South Wales is incapable of standing up to the clubs. Perhaps that is because politicians are scared of what

clubs will do after the mandatory precommitment fiasco. Perhaps they hope one day, because the clubs are not captured by the embargo in the Election Funding, Expenditure and Disclosures Act 1981, they will receive financial contributions to political parties. Or perhaps there is naive stupidity that says it does not matter if clubs concentrate poker machines in disadvantaged areas.

The evidence is in. The evidence is that allowing concentration of poker machines in those areas will create more human misery. The Chamber has the opportunity to stop the process before it gets up a head of steam. Clubs must pay duty at the final stage of the amalgamation, stripping out of poker machines and de-amalgamation process. The one opportunity to stop the process is to support The Greens amendment. It is not perfect. By voting against the process and warning the Chamber about the consequences The Greens have attempted to stop it at every step. This is the last opportunity to stop it. When this legislation is passed the process will be complete and the outcome is clear: There will be a concentration of poker machines where they will do the greatest amount of damage. It is a free ride to the clubs movement and to more problem gambling—and that is an outcome this Chamber should not contemplate. Apart from that aspect of the bill, The Greens raise no objections to other provisions. That provision of the bill must be deleted and The Greens will move an amendment to do so.

Reverend the Hon. FRED NILE [3.36 p.m.]: The Christian Democratic Party supports the bill before the House. The State Revenue Legislation Amendment Bill 2015 deals with five areas of financial management in this State. Instead of having separate bills, the common practice of combining the legislation has occurred. The matters that are involved in the legislation are relatively minor matters such as: to extend the existing exemption of duty for transactions relating to the amalgamations of registered clubs to de-amalgamations of registered clubs and related transfers of club premises and carparks. Dr John Kaye stated that The Greens would not favour any activity that increases the harmfulness of poker machines in this State. The Christian Democratic Party agrees with that statement. I do not personally think this legislation does that. We ask the Government to monitor the situation very closely to see that these amalgamations do not result in some of the large clubs becoming even larger, with 1,500 poker machines and so on, particularly in the western suburbs in the working-class areas.

The bill will update references to the stock exchange by making concessions presently applicable to other stock exchanges applicable in the case of entities or securities listed or quoted on the London Stock Exchange and the New York Stock Exchange. The bill will modernise procedures for nomination of persons in charge of vessels or vehicles who have committed offences by persons who would otherwise be responsible for the offences and to make other amendments relating to nominations. It does seem that this particular amendment has made it simpler for some people to evade detection. It appears that they are no longer required to provide a statutory declaration. If you are not the driver when a criminal offence occurred and want to nominate the person who was the driver it has previously been through the process of a statutory declaration.

Given the way in which the bill is worded, it appears that that may not always be required. The bill also modernises procedures and helps fine defaulters where a garnishee order has been issued and where they are experiencing hardship in making payments. Finally, the bill clarifies the status of calculations of self-assessed tax liabilities by the Chief Commissioner of State Revenue. Obviously taxation is a Commonwealth matter, but there are areas in which tax must be handled by the Chief Commissioner of State Revenue. The Christian Democratic Party accepts that that amendment has practical value and supports the bill.

The Hon. SARAH MITCHELL (Parliamentary Secretary) [3.40 p.m.], on behalf of the Hon. Niall Blair, in reply: I thank honourable members for their contributions to the debate on the State Revenue Legislation Amendment Bill 2015. The Government is committed to having best-practice revenue laws, and the bill contains amendments that reflect this. The proposed amendments to the Fines Act will extend arrangements allowing companies to lodge electronic nominations so that they are universally available. It is estimated that up to 240,000 additional electronic nominations will be made each year. Businesses and individuals will no longer need to find a justice of the peace to witness statutory declarations, and will

avoid associated postage and related costs to mail hard copies to the Office of State Revenue [OSR]. Cost savings to business and the community from red tape reduction will amount to up to $5.8 million per year, and application of demerit points and collection of fines from at-fault drivers will occur sooner.

In the case of the garnishee orders issued by the Commissioner of Fines Administration, in a relatively small number of cases vulnerable clients have been left with no money in their account. When the OSR receives complaints from vulnerable people who have been left without access to funds, the practice has been to make an immediate refund of $100 and to consider larger refunds if the account holder provides evidence that they will suffer hardship as a result of the garnishee order. The bill confirms this practice.

This issue was raised by the Hon. Peter Primrose in his contribution to the second reading debate. A client will generally contact OSR by telephone to apply and OSR will immediately deposit $100 into their account by electronic transfer. Additional amounts may be refunded if evidence of hardship is provided and if the applicant agrees to an instalment arrangement to repay the fine. The offender remains liable to pay the fine and the bill confirms that this is the case. The Duties Act currently provides an exemption from duty for transactions relating to amalgamations of registered clubs. The bill extends that exemption to the reverse process of de-amalgamations, including the related transfers of club premises and car parks. That has been estimated to cost $500,000 per annum. The bill updates references to stock exchanges following the decisions of the London and New York stock exchanges to cease their membership of the World Federation of Exchanges.

The bill includes an amendment to the Taxation Administration Act to clarify the status of calculations of self-assessed tax liability by the Chief Commissioner of State Revenue. This will confirm an existing five-year time limit on reassessments and refunds of overpayments of tax, but does not prevent the Chief Commissioner from reassessing tax beyond five years if a taxpayer fails to disclose relevant information. These are important amendments that ensure State tax and fines legislation keeps pace with change. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

The CHAIR (The Hon. Trevor Khan): If there is no objection, the Committee will deal with the bill as a whole.

Dr JOHN KAYE [3.44 p.m.]: I move The Greens amendment No. 1 on sheet C2015-148:

No. 1 **Exemption from duty for registered club changes**

Page 3, schedule 1 [1], lines 2-15. Omit all words on those lines.

This amendment proposes to remove schedule 1 [1] from the bill. Schedule 1 [1] allows clubs to de-amalgamate without paying duty on transfers, particularly of property and car parks. As I said in the second reading debate, this amendment will close the loop in a process that will allow poker machines to be concentrated in larger clubs in areas of greater socioeconomic disadvantage, where they will earn more profit for the club. If this provision stands, it will be financially worthwhile for clubs to amalgamate, pay off the original club to buy its poker machine licences and then de-amalgamate, and it will be able to do so for free. Reverend the Hon. Fred Nile in his contribution to the second reading debate agreed with me that it would be a terrible thing to allow poker machines to be concentrated in areas of high

socioeconomic disadvantage and in larger clubs, where they would do more damage. However, he said that he doubted this legislation would have that effect. I believe he has that doubt.

Reverend the Hon. Fred Nile: It deals with stamp duty; it has nothing to do with amalgamation.

Dr JOHN KAYE: I acknowledge that interjection. This is about amalgamation and de-amalgamation of clubs. The Minister's second reading speech refers specifically to this being about amalgamation and de-amalgamation. In fact, the Minister—

Reverend the Hon. Fred Nile: It is about stamp duty.

Dr JOHN KAYE: It is about stamp duty on the transfer of property when clubs are amalgamated and de-amalgamated. The bill extends the existing exemptions from duty for transactions relating to amalgamation of registered clubs to de-amalgamation of registered clubs. It is specifically about amalgamation and de-amalgamation.

Reverend the Hon. Fred Nile: It is about stamp duty.

Dr JOHN KAYE: Yes, I acknowledge that. If this provision remains in the legislation, stamp duty will be removed for de-amalgamation, which will mean that it will be free and clubs will be able to amalgamate, transfer poker machine licences and then de-amalgamate.

Reverend the Hon. Fred Nile: They can amalgamate now.

Dr JOHN KAYE: That is correct; they can now amalgamate without paying stamp duty without this legislation. However, the issue is de-amalgamation, which is an essential part of the amalgamation/de-amalgamation process. The issue before the Committee is whether clubs should be allowed to de-amalgamate. De-amalgamation is an essential part of this amalgamation process. Clubs will amalgamate, strip the poker machine licences and move them to the new venue and then de-amalgamate. That process is complete only once the de-amalgamation has occurred, and this legislation facilitates that process.

Reverend the Hon. Fred Nile asked the Parliamentary Secretary to explain whether I was or was not correct. The Parliamentary Secretary did not mention this issue in her response, and it will be interesting to see whether she addresses it now. The Greens have looked at this legislation for a long time and we have taken expert advice. That advice is that if this change is agreed to, just as the earlier changes to the legislation were agreed to, it will complete those earlier changes. The amended legislation will allow clubs to amalgamate, which they can already do, transfer poker machine licences, which they can also already do, but then, critically, they will be able to de-amalgamate. They will be able to reject the part of the club that has had its poker machine licences stripped and establish it as a separate club.

That would be very attractive to a small club that has poker machines that are not making much money. It would be able to amalgamate with a larger club in a disadvantaged area that has many poker machines. The club would then be able to sell off its poker machine licences without any forfeiture. The amalgamation and de-amalgamation process is critical because it means there will be no forfeiture. The poker machine licences will be moved to the larger club and the de-amalgamation would follow. The old club would be able to continue to operate with the injection of cash from the amalgamation/de-amalgamation, and it is all done without incurring any costs.

At no stage in the transfer of the property is there any loss of money or of poker machines. The legislation before us today—and Reverend the Hon. Fred Nile is correct on this—is only about the last bit of the process, where the club that has been amalgamated, which it can already do without paying duty, is being de-amalgamated and spat out the other end. It is only that part. But at least if we take out this section we put some brake on the process of small clubs in relatively advantaged areas transferring their

poker machines to large clubs in disadvantaged areas, where they will do more damage. We will take away the final part of the process being for free—that is the de-amalgamation process. This is an important social justice measure. It is an important measure to protect low-income households, people from non-English speaking backgrounds, those who are vulnerable to problem gambling. It is an important measure to slow down the amalgamation and de-amalgamation process, to stop that concentration of poker machines. I commend the amendment to the Committee.

Reverend the Hon. FRED NILE [3.50 p.m.]: My understanding of the legislation is that it is not legalising amalgamations or de-amalgamations. That is already a commercial right the clubs have. It is only about whether they pay stamp duty when they do it. That is how I understand the legislation.

The Hon. SARAH MITCHELL (Parliamentary Secretary) [3.50 p.m.]: The Government will be opposing The Greens amendment. I have been advised that under the Registered Clubs Act 1976 amalgamations and de-amalgamations need to comply with specific provisions, including completing a community impact statement. This requires community consultation. The community impact statement ensures that any potential increase in gaming is properly assessed before it is approved. The Duties Act 1997 exempts transfers of properties to give effect to the amalgamation of registered clubs. There is no exemption for transfers to give effect to the de-amalgamation of clubs.

Registered clubs are permitted to merge and de-merge in certain circumstances. The section of the bill that this amendment proposes to omit is a necessary section as it will allow merged clubs to separate for the benefit of members and the local community where their circumstances have changed. The clubs sector provides community benefits that can assist in increasing visitors and attracting additional investment and jobs, particularly in regional New South Wales. For those reasons the Government will oppose the amendment.

The Hon. PETER PRIMROSE [3.51 p.m.]: As I outlined in my speech during the second reading debate, we believe this proposed amendment in fact corrects an error in the Government's 2012 legislation that required de-amalgamation in relation to the payment of stamp duty. We believe that has now been identified. This is a correction that the Government is making—correcting a mess of its own making in 2012. We have indicated that as we supported the bill at the second reading stage we will not support the amendment moved by Dr John Kaye.

Dr JOHN KAYE [3.52 p.m.]: Reverend the Hon. Fred Nile is completely correct: It is now possible for two clubs to amalgamate, transfer their poker machine entitlements without loss or forfeiture—the only impediment there would be a local impact assessment statement, which is not a particularly good instrument—and then de-amalgamate. That is all legally possible now. The difference is that this legislation, if it goes through, will mean that de-amalgamation will happen without the payment of duties, so it makes it a more attractive proposition to amalgamate. The Greens are moving this amendment to stop it becoming a more attractive proposition to amalgamate and de-amalgamate—to at least put some brakes on the process that involves a concentration of poker machines in larger clubs where there is access to a disadvantaged community.

The Parliamentary Secretary's defence seems to me to be that it is all about how good clubs are, what a great job they do and how they are valuable members of the community. Our concern with that statement is it ignores the fact that 40 per cent of the revenue that goes into clubs, according to the Productivity Commissioner, comes from problem gambling. I go to clubs. They serve a useful social purpose. But they are paid for by a fundamentally immoral source of revenue—a source of revenue that is about human misery; a source of revenue that is coming from broken homes, lives smashed up on poker machines, people addicted to problem gambling. This is the modern opium den. Clubs are a behemoth of their own. There is not a single intelligence that is doing this. But this is allowing clubs to continue to propagate and grow that level of misery. Our amendment does not stop it but at least it does not make it worse, whereas our concern is if we do not pass this amendment the bill will make it worse.

Mr DAVID SHOEBRIDGE [3.54 p.m.]: Without this amendment, the State Revenue Legislation Amendment Bill 2015 basically legitimises a rort. A club in, say, the eastern part of Sydney can have a bunch of poker machines not producing the profits they like, so they identify a club in south-western Sydney with a community from whom they think they can fleece greater profits for every poker machine. So they come up with an arrangement where they amalgamate the two clubs. Because the Government removes the duty, they can transfer the poker machines from the east, where they are not making as great a profit, to south-west Sydney, where they think they can exploit a vulnerable community. They do not have to pay transfer duty on it. And then, having amalgamated and transferred the poker machines, they can just de-amalgamate and do that as well without having any transfer duty payable, without having any kind of social constraint on that because of the cost of doing it.

What the Government is trying to do here is legitimise a rort. What The Greens amendment is trying to do is not only expose the Government's culpable inaction or panhandling to the clubs of New South Wales but also fix the problem. If the Government thinks the number of poker machines should not be expanded in vulnerable communities—and on one view, although it is hard to quite discern from the comments of the Parliamentary Secretary, it has concerns about the number of poker machines in vulnerable communities—and if the Government is genuine about that, it should not legislate for a rort as it is proposing to do with this bill.

Question—That The Greens amendment No. 1 [C2015-148] be agreed to—put.

The Committee divided.

Ayes, 6

Mr Buckingham
Dr Kaye
Mr Pearson
Mr Shoebridge

Tellers,
Ms Barham
Dr Faruqi

Noes, 31

Mr Ajaka
Mr Amato
Mr Blair
Mr Borsak
Mr Brown
Mr Clarke
Mr Colless
Ms Cotsis
Ms Cusack
Mr Donnelly
Mr Gay
Mr Green
Mrs Houssos
Mr MacDonald
Mrs Maclaren-Jones
Mr Mallard
Mr Mason-Cox
Mrs Mitchell
Mr Mookhey
Mr Moselmane
Reverend Nile
Mr Pearce
Mr Primrose
Mr Searle
Mr Secord
Ms Sharpe
Mrs Taylor
Mr Veitch
Mr Wong

Tellers,
Mr Franklin
Dr Phelps

Question resolved in the negative.

The Greens amendment No. 1 [C2015-148] negatived.

Title agreed to.

Question—That this bill as read be agreed to—put and resolved in the affirmative.

Bill as read agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Sarah Mitchell, on behalf of the Hon. Niall Blair, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Sarah Mitchell, on behalf of the Hon. Niall Blair, agreed to:

That this bill be now read a third time.

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

Pursuant to sessional order business interrupted for questions.

VISITORS

The PRESIDENT: I draw the attention of members to the presence in the gallery of Ms Norma-Jean Newbold, who is visiting our Parliament from Thunder Bay, Ontario. She is a guest of the Deputy Leader of the Opposition. She and Mr Secord attended university together and were active in student politics in Toronto, Canada, almost 30 years ago. She is visiting briefly so we welcome her to the Legislative Council Chamber, and hope she enjoys her visit to Parliament House today.

QUESTIONS WITHOUT NOTICE

———————

HUME COAL PROJECT

The Hon. ADAM SEARLE: My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given that the Minister is responsible for water and given that Southern Highlands rural contractor Matt Mitchell has said, "The mining will certainly impact the groundwater" at the proposed Hume coalmine, what steps has he or his department taken to ensure the mine will not affect groundwater?

The Hon. NIALL BLAIR: As I stated in the House on 13 August 2015, questions relating to the proposed Hume Coal Project should be addressed to Minister Ajaka, representing the Minister for Planning. However, given that the Leader of the Opposition has asked about my position as a member of the Southern Highlands community, I am happy to provide further information. First, as is appropriate, I have declared that I have an interest in this matter due to the location of my primary place of residence, which is where I have lived since 2006—long before I considered entering New South Wales Parliament. I reiterate that I have, at all times, fulfilled the requirements under the ministerial code of conduct.

I wish to make a few points about the ABC story that aired on television on Sunday night and which featured the person that the Leader of the Opposition has mentioned in his question. First, I have not made any representations nor have I been consulted on changes to the proposed Hume coal project area. The scope and boundaries of the project area are entirely a matter for the company. As I understand the general process, the purpose of an exploration title is to do exactly that—explore for a mineral. I am advised that it is standard practice for the holder of such a title to continually refine project boundaries in order to focus on the resource it is looking for. Secondly, as a local resident I have received the same information relating to the project as have other members of the Southern Highlands community.

Thirdly, and more to the point of the question asked by the Leader of the Opposition, the robust consideration by the Department of Primary Industries of the impacts on lands and water throughout the approval process will be in no way affected by the fact that I have declared an interest in this matter. I have the utmost confidence in the Department of Primary Industries to assess the impacts to land and water that the proposed project may cause and to provide advice to relevant decision-making authorities, as it does with all projects of this nature. This is what would the normally happen, even if my primary place of residence was not located anywhere near this proposal. However, as an added precaution, the Secretary of the Department of Primary Industries has put in place arrangements to ensure that any potential conflicts are avoided.

REGIONAL INFRASTRUCTURE

The Hon. TREVOR KHAN: My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on how many further jobs will be created because of the New South Wales Government's infrastructure wave in regional New South Wales?

The Hon. DUNCAN GAY: Yesterday was a great day for me. I was out in Dubbo. That area is a great part of the State.

The Hon. Dr Peter Phelps: There is a great local member.

The Hon. DUNCAN GAY: Yes, as the Government Whip says, there is a great local member for Dubbo.

The Hon. Greg Donnelly: Just ask Gabrielle.

The Hon. DUNCAN GAY: The honourable member is back; I will talk about him later.

The PRESIDENT: Order! There is far too much noise on both sides of the Chamber. I am having difficulty hearing the Minister give his answer.

The Hon. DUNCAN GAY: The Deputy Premier and I announced that more than 200 new jobs will be created across the State as a result of a program of work called the "infrastructure wave". Over the next five years we will be investing $16 billion in road upgrades alone. In 2017 New South Wales will be delivering more road construction than Victoria, South Australia, the Australian Capital Territory and Queensland—all the red States—combined. The New South Wales Government has established five program offices to focus specifically on this ambitious five-year forward work program: Freight and Regional, Easing Sydney Congestion, Western Sydney, Pacific Highway and Greater Sydney. Each office will be based on the program office delivery model, which has been used to successfully deliver upgrades to the Pacific and Hume highways over the past 20 years.

Dubbo has been chosen as one of the five program office hubs and will head up the Freight and Regional Program for New South Wales. Dubbo is set to be a major beneficiary of this wave of work, with

more than 20 new staff to be employed in this office over the next six months. Each new employee will be central to delivering the State's biggest ever regional roads infrastructure program. The new Dubbo office will focus on signature regional road projects, including the Newell Highway, which is having half a billion dollars invested in it as part of Rebuilding NSW. It is hard to imagine something as terrific as this, but people are getting used to this kind of thing from this Government.

This funding will go towards delivering vital projects along this stretch, such as the $50 million duplication of the LH Ford Bridge, which connects the Dubbo central business district to the highway. The Dubbo office will support some of our other flagships programs in country New South Wales, including Bridges for the Bush and the Princes Highway upgrade, both of which are integral to improving regional connectivity across the State. The Freight and Regional Program head office in Dubbo will also be supported by a number of other Roads and Maritime Services offices including Grafton, Wagga Wagga, Newcastle, Wollongong and Parkes. Those offices will all receive extra staff. This historic rollout of regional road projects will generate new jobs right across regional New South Wales by benefitting locals, their communities and their businesses. This is more great news for this great State.

HUME COAL PROJECT

The Hon. WALT SECORD: My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water, in his ministerial capacity and representing the Minister for Industry, Resources and Energy. Given the proposed new coal project excises the Minister's family property, will the Government assure the Southern Highlands community that it will protect the interests of other local properties?

The Hon. NIALL BLAIR: I will reiterate a couple of points and point out others. There is no application, at this stage, for that mine. Once that application is put to the Government the approval processes will be adhered to. The issue of the scope and boundaries of the project are entirely a matter for the company. When the approval process is worked through, the Department of Primary Industries will provide advice on the water matters. I have outlined to the House, both during my answer earlier in question time and previously, the procedures that have been put in place by the Department of Primary Industries to address those issues to ensure that they are conducted appropriately. Because of the nature of that project I am sure there will also be a role for the Federal Government to play in that approval process. I would imagine that process has a long way to go once that application is received.

PSYCHOACTIVE DRUG FLAKKA

The Hon. PAUL GREEN: My question without notice is directed to the Minister for Roads, representing the Premier. The psychoactive synthetic drug flakka has been described as a turbo-charged version of ice. It has become a huge problem in areas of the United States and Europe. Given that there have been reports of the increased use of flakka in Australia in recent months, will the Minister update the House on what is being done to further prevent the use of this damaging drug.

The Hon. DUNCAN GAY: I know the member's background and work in emergency services and St John Ambulance mean he has knowledge of what drugs do to young people. I am unaware of the details of this particular drug but I take the concerns of the honourable member at face value. I will pass the question across to the Premier for a detailed answer.

MULTICULTURAL NSW RESPONSE TO TERRORISM

The Hon. CATHERINE CUSACK: My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister inform the House of what is being done to ensure social cohesion and community harmony in response to international conflict?

The Hon. JOHN AJAKA: I am sure I speak on behalf of all honourable members when I say that

our hearts and prayers go out to the families and friends of victims in the aftermath of the tragic attacks around the world in recent days. Australians have shown that they stand united in the face of such terror. These acts of hate and violence are intended to divide us, and as a society we need to continue to work hard to maintain community harmony. New South Wales sets an example to the rest of the world as a peaceful, harmonious and multicultural society. In New South Wales, the Premier's actions have reminded us all that we are stronger when we are together and that simple acts of kindness and compassion here in New South Wales can add invaluable weight to the global response of unity with those in need.

Last night I attended mass at St Mary's Cathedral, where his Excellency the Governor attended, as well as the Premier and the French Consul-General, together with many members from this Chamber and the other place, and members of the general public. The mass was attended by religious and community leaders from diverse faiths who joined together in solemn prayer as testament to the universal values we all hold dear. As we know, the Premier arranged for the Opera House to be lit in the blue, white and red of France as well as for flying the French flag above our Parliament and the harbour bridge. Indeed, our hearts break for the victims and their families of all terror events across the world. At the weekend we learned that at least 132 people were killed in multiple attacks in Paris; apparently more than 200 have been injured, 80 seriously. On Thursday of last week at least 43 people were killed and more than 200 wounded in southern Beirut. On Friday last week there was an attack in Baghdad where an explosion killed 21 people and wounded at least 46. We grieve for those nations, the victims and their families.

My department, Multicultural NSW, has a charter to build and maintain a cohesive and harmonious society that enriches the lives of all the people of New South Wales. Building social cohesion and maintaining community harmony is a Government priority and is embedded in the Multicultural NSW Act 2000. I have been speaking with Muslim community leaders as well as leaders of other faiths, who are working tirelessly to prevent their children from falling victim to the lure and manipulation of violent extremism. Only this morning I attended the Australian Partnership of Religious Organisations' interfaith forum along with Senator the Hon. Concetta Fierravanti-Wells, who is the Federal Assistant Minister for Multicultural Affairs; the Hon. Sophie Cotsis, who is the shadow Minister for Multiculturalism; and the Hon Walt Secord, who is the Deputy Leader of the Opposition. The theme of the forum is "Building a community where we all belong". It was great to see religious leaders come together to advance our efforts to create and maintain a harmonious multi-faith society.

The New South Wales Government, through Multicultural NSW, continues to be vigilant in monitoring and managing these issues. Racism and bigotry have no place in Australia, particularly in the State of New South Wales. We must all stand by each other to safeguard our hard-won social cohesion against those divisive elements. The New South Wales Government is working to address violent extremism, in partnership with communities, non-government organisations, sporting groups, religious leaders, academics and the media. Recently I was pleased to announce the Multicultural NSW compact that is aimed at protecting young people and safeguarding social cohesion against extremist hate, violence and division. The new program is a pact between the New South Wales Government and the people of New South Wales. Such new programs will bring young Australians together to promote positive behaviours and engage critically, creatively and constructively in relation to local and global issues that impact on social cohesion and community harmony. [*Extension of time agreed to.*]

The program is founded on an approach that recognises that, whatever may be taking place in the complex world in which we live, solutions start at home. It starts with local communities working together, supporting each other, and building on the strengths of our culturally diverse success story. We must stand united—as we have been, and as we must continue to be, in a bipartisan manner in this Parliament—in the face of events both locally and abroad. I thank the House for granting me the extension of time.

LAND AND PROPERTY INFORMATION OFFICE SCOPING STUDY

Dr JOHN KAYE: In directing my question without notice to the Minister for Roads, Maritime and Freight, representing the Treasurer, I point out that my question again refers to the Treasurer's media release dated 18 September 2015 announcing a "comprehensive scoping study to investigate future options for LPI including possible private investment". I ask: Will the Minister provide details of the scoping study, including who is conducting it, what are the terms of reference and when will it report? Furthermore, what instructions has the Treasurer provided to the consultants who are conducting the scoping study in regard to the definitional differences between regulatory and operational functions of Land and Property Information?

The Hon. DUNCAN GAY: I thank Dr John Kaye for his question. I remind him that, as the Treasurer stated on 18 September, the New South Wales Government launched a comprehensive scoping study to investigate future options for the Land and Property Information [LPI] office, including possible private investment. The scoping study will examine whether the private sector is better positioned than government to run the operational side of LPI's business in an efficient and cost-effective manner. Any potential future private sector involvement in LPI will proceed only should the scoping study conclude that that is in the best interests of the people of New South Wales and the agency's workers in Sydney, Bathurst and across regional New South Wales. I emphasise that no decision has yet been made. The Government is continuing to prove its commitment to efficient and cost-effective services to better deliver for the people of New South Wales. The Government will provide an update at the relevant time when matters move a little further forward.

Dr JOHN KAYE: I ask a supplementary question. Will the Minister elucidate his answer by indicating who is conducting the scoping study, what are the terms of reference, and when will it report?

The Hon. DUNCAN GAY: I thank Dr John Kaye for his supplementary question, which sounded remarkably similar to his original question and one I was tempted to suggest would better have been put on notice, given the detail he sought. But given that Dr John Kaye made the question more discrete the second time, I will accept the question and pass it on to the Treasurer for a response.

MEMBER FOR COFFS HARBOUR

The Hon. SOPHIE COTSIS: My question is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Given that The Nationals member for Coffs Harbour, Andrew Fraser, stated, "Australia does not need Middle Eastern refugees or Islamic boat people! … Close our borders we have enough anarchists already resident in Australia …", and that the Minister has refused to condemn Reverend the Hon. Fred Nile's preference deal with the anti-Islamic party, Australian Liberty Alliance, why has he, as the Minister for Multiculturalism, been on the silent anti-Muslim remarks of the member for Coffs Harbour?

The Hon. JOHN AJAKA: I thank the Hon. Sophie Cotsis for her question. I state at the outset that I do not agree with the member for Coffs Harbour. I do not agree with his statement in any way whatsoever.

The Hon. Walt Secord: Condemn it!

The Hon. JOHN AJAKA: I am sure that other members in this Chamber also do not agree with it.

[*Interruption*]

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

The Hon. JOHN AJAKA: I am sure there are other members of this Chamber who do not agree

with that comment made by the member for Coffs Harbour, Andrew Fraser. The Hon. Sophie Cotsis may not realise this but my heritage is from the Middle East. My parents arrived in this country from Lebanon in the 1950s. This answer gives me an opportunity to reflect also on other aspects of the question that has been asked by the Hon. Sophie Cotsis. From my perspective, those terrorist acts must be condemned by all. I condemn any terrorist act. I do not agree with any person who does not condemn a terrorist attack. I do not know whether I can make that any clearer.

There is no excuse or justification whatsoever for any terrorist act. Terrorists are nothing more than the worst criminals; in fact, they are nothing more than animals, as far as I am concerned. Those animals do not care whether they kill men, women or children. They do not care whether they kill Christians or Muslims or a person from any other religious or non-religious faith, or whether they are men, women or children. They do not care whether they kill anyone from Europe, Asia, the Middle East or from our Australia.

The Hon. Walt Secord: Point of order: My point of order goes to relevance. The Minister is not responding to the question. The Hon. Sophie Cotsis asked the Minister to comment on the statement by the member for Coffs Harbour that, "Australia does not need Middle Eastern refugees or Islamic boat people!"

The PRESIDENT: Order! The Minister was quite within order.

The Hon. JOHN AJAKA: Let me give one of many reasons why I do not agree with what the member for Coffs Harbour said. It is clear that what those terrorists want is to divide us. It is clear that they want us to argue with each other. I do not intend to do that; I intend always to maintain a position of peace and harmony. These animals want us to turn on each other. They want us to blame each other. They want us to attack each other. They do not want us to be united. They do not want us to stand together because they know that if we stand together and are united we stand together united against them. Again, I do not—

The PRESIDENT: Order! I call Mr David Shoebridge to order for the first time. I call Mr David Shoebridge to order for the second time.

The Hon. JOHN AJAKA: This is what I do not intend to do. I have made my position clear and I make clear that we will always stand united. As the Minister for Multiculturalism, I will always seek peace and harmony.

The PRESIDENT: Order! I call the Hon. Shaoquett Moselmane to order for the first time.

The Hon. JOHN AJAKA: I believe I have made my point very clear.

The Hon. SOPHIE COTSIS: I ask a supplementary question. In light of the Minister's answer saying he does not agree with the comments of the member for Coffs Harbour, can he elucidate his answer and advise the House whether he has spoken with the member for Coffs Harbour to advise of the Government's position?

The Hon. JOHN AJAKA: I speak with the member for Coffs Harbour on numerous occasions. In fact, I spoke with the member for Coffs Harbour only this morning.

ARCHIBULL PRIZE AWARDS

The Hon. BRONNIE TAYLOR: My question is addressed to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister inform the House about the inspiring work of this year's Archibull Prize winners and Young Farming Champions?

The Hon. NIALL BLAIR: I thank the member for her question. Last week I had the great pleasure of announcing the winners of the 2015 Archibull Prize awards—better known as the "Archibull". The awards were presented at Sydney Showground last week, where I met with students and saw all the brilliant artworks and projects completed during the program. The event was also a wonderful opportunity to meet the 2015 Young Farming Champions, a group of inspiring young men and women who are passionate about agriculture in this State.

The Archibull Prize and the Young Farming Champions are the two signature programs of the organisation Art4Agriculture. Art4Agriculture is a network of young people who share a passion to tell others about the pivotal role that Australian farmers play in our nation's food production. Now in its fifth year, the Archibull Prize is an agricultural and environmentally themed art competition for primary and secondary school students, which helps to bring the farm into the classroom. It aims to bring the next generation of consumers and food and fibre producers together to learn all about agriculture and generate conversations through art and multimedia.

In this exciting initiative schools are assigned a particular fibreglass cow to decorate, and a Young Farming Champion as a supporter and mentor who links them with industry. Students must research the threats and opportunities to their assigned industry, produce multimedia presentations and express their findings in art form as they decorate their "Archie" cow. Schools involved competed for the awards of Best Artwork, Best Blog, Best Multimedia Presentation and Best Infographic, with the overall winner being awarded the title of Grand Champion Archibull.

I am pleased to announce the 2015 winner of the prestigious Grand Champion Archibull award was Matraville Sports High School, from Chifley in the State's east. Students should be proud of the work they achieved in their design of a fiberglass cow as a "cow-ch", which is artistic and informative but acts as a functional seat. I will enjoy seeing this work in my office reception every day. This year for the first time, the New South Wales Government, through the Department of Primary Industries, sponsored a new prize category for secondary schools themed around biosecurity, which was won by Hurlstone Agricultural High School with a colourful infographic about biosecurity and keeping food safe.

Teaming up with school students and acting as mentors while providing real-life advice were Young Farming Champions from around the State. The Young Farming Champions Program is a platform for emerging agricultural leaders to engage in and promote their interests and work within the wider community. The program they undertake includes a series of workshops where they are mentored by experts in communication, marketing and professional development, and learn skills to equip them to be leaders of their generation. Through these workshops and the program's lifetime mentorship opportunities, they gain unique insights into all aspects of the agricultural supply chain as well as consumer attitudes and trends.

These Young Farmers are some of agriculture's youngest advocates, representing all different aspects of primary industries and providing a link between life on the farm and the classroom. I was delighted to meet with this year's champions, who have now joined alumni of 50 members. These young farmers are the future of our primary industries—they were passionate and engaged, and will be the driving force of our industries by being innovative, progressive and pushing the envelope to ensure this State's sector is the envy of every other State. Recently I had the pleasure of having morning tea with last year's winners and have hosted their award-winning bull in my foyer. I look forward to the opportunity to do the same for the 2015 winners. I recently hosted a parliamentary delegation from France. They took many photos of the bull and are aiming to roll out a similar program in France.

RETAIL TRADING LEGISLATION

Reverend the Hon. FRED NILE: My question without notice is directed to the Leader of the House, representing the Premier. In regard to Sunday trading and workers' rights, are there any disparities between the current Sunday trading laws and the new Boxing Day trading laws and, if so,

why? Is the Government aware of any coercion of workers who choose not to work on Sundays? What protections are currently available to workers who choose not to work on Sundays?

The Hon. Walt Secord: Point of order: Mr President, I put to you that Reverend the Hon. Fred Nile's question is reflecting on a decision of the House.

The PRESIDENT: Order! There is no point of order. However, I generally remind members that they must not reflect on a vote of the House in their remarks.

The Hon. DUNCAN GAY: I thank the honourable member for his question about any disparities between that bill and another one, whether there is any coercion and whether there are any protections. Many members will remember when that bill that went through, the Retail Trading Bill 2008, which was akin to a Sunday trading bill—52 Sundays, 52 days of worship—

The Hon. Walt Secord: Point of order: The Hon. Duncan Gay would be well aware that all statements are to be directed through the Chair and not to the backbench.

The PRESIDENT: Order! I did not hear the member speaking to someone else. The Minister has the call. I call the Hon. Greg Donnelly to order for the second time.

The Hon. DUNCAN GAY: We recently had a bill through the House which is a trading bill as well. This particular bill was moved by the Hon. Penny Sharpe, who said it was her "privilege" to introduce a shop trading bill. This bill was supported by The Greens and the Labor Party. Clearly Dr John Kaye said he would not be opposing it. I remind members this was a bill that allowed trading on Sundays—52 Sundays of the year.

The Hon. Adam Searle: Point of order: Mr President, the Minister is clearly not addressing his comments through the Chair. His back was to this side of the Chamber and he was addressing his backbench and not the Chair, as is required.

The PRESIDENT: Order! The standing order relating to remarks being addressed to the Chair is not so specific as to require members to have a particular posture while they are on their feet. There is no point of order.

The Hon. DUNCAN GAY: I do not why those opposite are so sensitive about this. I looked at the *Hansard* for this particular bill. I noticed it was introduced by the Hon. Penny Sharpe as the Parliamentary Secretary. It was supported by Dr John Kaye. The Hon. Mick Veitch voted for it. The Hon. Lynda Voltz—

The Hon. Penny Sharpe: Point of order: I know the Minister is trying to cover for some of the bad decisions made last week—

The PRESIDENT: Order! The member is making a debating point and should resume her seat. I call the Hon. Penny Sharpe to order for the first time. The Minister has the call.

The Hon. Penny Sharpe: Point of order: My point of order is relevance. The question related to the protection for workers, not to decisions made in this House more than five years ago.

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

The Hon. DUNCAN GAY: I looked to *Hansard* and at the list of people who voted for the bill to enable trading on Sundays. I noticed the Hon. Greg Donnelly at the bottom of that list. He not only voted for it, but he also whipped the House that day. He was the teller for the ayes. I take you forward a few years—

The Hon. Walt Secord: Mr President—

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

The Hon. DUNCAN GAY: I hear the hypocrisy of those opposite having a go at Reverend the Hon. Fred Nile about this same issue. They were advocating this bill in 2008. The hypocrisy of members of the Labor Party and their friends in The Greens is gobsmacking. Opposition members should apologise to Reverend the Hon. Fred Nile for their hypocrisy. Those opposite removed 52 Sundays of leisure and the Hon. Greg Donnelly was the guy to ring them out. The Hon. Greg Donnelly was the ringer yet he is sitting mute.

The PRESIDENT: Order! Members will be careful not to reflect on other members of the Chamber. Does the Minister have anything further he wishes to add?

The Hon. DUNCAN GAY: No.

REFUGEE RESETTLEMENT

The Hon. DANIEL MOOKHEY: I direct my question to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Given the comments by Coffs Harbour Nationals member of Parliament Andrew Fraser, has the Government revised its plans to resettle refugees on the mid North Coast?

The PRESIDENT: Order!

The Hon. JOHN AJAKA: I have stated my position in this House on numerous occasions, including only a few minutes ago, in regard to this issue being continually raised. I refer to my previous answers.

The Hon. Peter Primrose: You said you did not even talk to him; you did not raise it with him.

The Hon. JOHN AJAKA: That is not correct.

The PRESIDENT: Order! If the Hon. Peter Primrose has a point to make he can ask a question. The Minister has the call.

The Hon. Sophie Cotsis: What about the refugees?

The Hon. JOHN AJAKA: I note the interjection of the Hon. Sophie Cotsis in relation to the refugees. Premier Mike Baird strongly welcomed the Prime Minister's decision to receive into Australia 12,000 additional refugees dislocated by the conflicts in Syria and northern Iraq.

The PRESIDENT: Order!

The Hon. JOHN AJAKA: The Premier has set in motion a substantial response. Recent events around the world will not sway the New South Wales Government from doing its part to assist with the humanitarian crisis. The New South Wales Government acknowledges that the Commonwealth Government has responsibility for various checks in relation to the refugees. At the same time we have made it clear that we will assist in every respect with regard to this issue. I have also stated clearly that the New South Wales Premier appointed the former head of the Australian public service, Dr Peter Shergold—

The Hon. Shaoquett Moselmane: Point of order: My point of order is relevance. The question is specific and relates to the Government's revised plan in the refugee area. That is the question.

The Hon. Duncan Gay: To the point of order: The Minister was answering directly. He was talking about the people that we put in place to allow that to happen.

The Hon. Peter Primrose: To the point of order: The specific question related to a region where the local member has indicated these people are not welcome. The question was whether those comments, suggestions and allegations from a senior member of the Government cause it to change—

The PRESIDENT: Order! I am reminded of a ruling that the Hon. Peter Primrose made when he was President in relation to a certain amount of generality being permitted while a Minister is answering questions. The general information that the Minister is providing is relevant, but only up to a point. The Minister is in order.

The Hon. JOHN AJAKA: As I indicated, the Premier appointed the former head of the public service, Dr Peter Shergold, as the New South Wales coordinator general for refugee resettlement. I have indicated clearly what Peter Shergold is doing to help this Government settle the refugees throughout New South Wales. We are waiting for all the details from Peter Shergold in relation to the necessary preparations and the coordination between all government departments and agencies, including my agency, Multicultural NSW. That is what is occurring and that will continue to occur. To make it very clear: Any comment by Andrew Fraser makes no difference whatsoever to the work being undertaken by Peter Shergold and all the New South Wales government agencies, including my agency, Multicultural NSW.

HEAVY VEHICLE ROAD SAFETY

Mr SCOT MacDONALD: I address my question to the Minister for Roads, Maritime and Freight. Will the Minister update the House on the role of the New South Wales Government at the national level to help improve the safety of trucks on our roads?

The Hon. DUNCAN GAY: I thank the Hon. Scot MacDonald for that great question. I indicate that two weeks ago—

The Hon. Mick Veitch: He is "Mr Scot MacDonald". He no longer uses "the Hon.".

The Hon. DUNCAN GAY: I am sorry, Mr Scot MacDonald. He is more honourable than a lot of people around here. I had the pleasure of attending the fourth meeting of the Transport and Infrastructure Council of Australia to help continue progressing safety improvements to trucks on our roads. There are approximately 420,000 truck trips on New South Wales roads each day and many vehicles originate from other States, notably Victoria and Queensland. In fact, around 65 per cent of all trucks operating out of Victoria, Queensland and South Australia travel through New South Wales at some stage of their trip. As the through State for the eastern seaboard of Australia, New South Wales has little choice but to be at the forefront of helping to enhance the road worthiness of the national trucking fleet.

On this critical safety issue I am delighted to say that I have always enjoyed bipartisan support from the Labor Opposition, notably the Hon. Penny Sharpe and the Hon. Mick Veitch. Tony Sheldon from the Transport Workers Union of Australia has been supportive with regard to road safety. New South Wales has the toughest and the most active heavy vehicle compliance and enforcement regime in Australia. For instance, all New South Wales registered trucks are checked for compliance during annual rego check. It is worth knowing that some States rely purely on a limited number of random inspections, whereas in New South Wales we undertake both yearly checks and a huge number of on-road spot inspections.

In fact, annually Roads and Maritime Services carries out around 560,000 truck inspections and more than three million compliance checks at heavy vehicle safety stations across the New South Wales road network. New South Wales surveys have found vehicles with more frequent inspections as a

condition for annual registration have lower defect rates than the rest of the national fleet. As part of ongoing national reforms, I am pleased to say that New South Wales has retained the ability to continue to require annual inspections as a precursor to truck registration. This was something I was absolutely determined that New South Wales would maintain.

Beyond our State borders, a key step forward is the council agreeing to conduct a national study to determine baseline levels of roadworthiness across all jurisdictions. Put simply, this study will expose any shortcomings across the country. The National Heavy Vehicle Regulator has prioritised this work and New South Wales agencies such as Roads and Maritime Services have offered to share their expertise to assist because we have been undertaking roadworthiness surveys every three years since the 1990s. Roads and transport Ministers at the council also agreed to start moving to a more risk-based approach to periodic inspections to ensure that all States do more to lift the safety standards of heavy vehicles. We are not there yet, but we are moving forward. As I said, this is one of the areas where our predecessors in government did some good work. We are partly standing on their shoulders, but I think members will agree that this Government has taken on this issue.

DOUBLE JEOPARDY LAW REFORM

Mr DAVID SHOEBRIDGE: I direct my question to the Minister for Ageing, representing the Attorney General. Will the Minister update the House on the status of Justice Wood's report on double jeopardy law reform? In addition, when will the families of Colleen Walker, Clinton Speedy-Duroux and Evelyn Greenup be provided with a copy of Justice Wood's report and the Government's response?

The Hon. JOHN AJAKA: I thank the member for his question. The Government acknowledges the pain experienced by the families. I am sure that I speak on behalf of all members in extending our deepest sympathies to them. At the heart of the Government's response to the Legislative Council Standing Committee on Law and Justice's report is a focus on better helping Aboriginal people who are affected by crime. Importantly, the Government supports recommendation 8 in the report, which calls for a review of the operation of the double jeopardy provision in section 102 of the Crimes (Appeal and Review) Act 2001. As indicated by the member, a review has been conducted by the Hon. Justice James Wood, AO. The Government will look closely at the findings of Justice Wood's independent and comprehensive review, and they will be publicly released shortly.

HUME COAL PROJECT

The Hon. GREG DONNELLY: I direct my question to the Minister for Primary Industries, and Minister for Lands and Water. Given that the Minister's published diaries do not show any meeting with POSCO or Hume Coal, why did his office on the weekend refuse to answer questions about whether he had ever met with representatives of Hume Coal to discuss the mine?

The Hon. NIALL BLAIR: I thank the honourable member for his question. He is absolutely correct: My diary is published and is publicly available, and it does not show any meetings with the entities referred to in his question. It is that simple.

The Hon. GREG DONNELLY: I ask a supplementary question. In light of the Minister's answer, I ask: Why did his office refuse to answer questions on the weekend about whether he had ever met with representatives of Hume Coal to discuss the mine?

The PRESIDENT: Order! The member's supplementary question was not seeking an elucidation of any aspect of the Minister's answer. It is therefore out of order. I remind the Hon. Walt Secord that he is on two calls to order.

YOUNG CHILDREN WITH DISABILITY

The Hon. MATTHEW MASON-COX: I address my question to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister inform the House about what the New South Wales Government is doing to support early intervention services for young children with a disability?

The Hon. JOHN AJAKA: As members will be aware, a number of fantastic organisations across New South Wales provide early intervention services for young children with disability and developmental delays. Last Friday I was delighted to attend the SDN Children's Services afternoon tea at Government House, which was held to mark the 110th year of its operations. SDN Children's Services was established in 1905 and now supports more than 4,500 children every year. The organisation was originally formed as the Sydney Day Nursery Association, and marked the beginning of formalised early childhood services for children from birth to school age. Over the past 110 years, SDN has grown into one of Australia's most respected children's services organisations.

SDN is governed by a volunteer board of directors and its chief executive officer, Ms Ginie Udy, with the support of her fantastic team. SDN provides a range of services to families and communities, including early childhood education, preschool programs, playgroups, disability services for children, parenting programs, family support and resources, and mentoring for practitioners. I am pleased to advise the House that the New South Wales Government provides SDN Children's Services with funding for disability services, including recurrent funding for early childhood intervention, intensive support, and individual therapy services.

SDN uses a best-practice model of early childhood intervention for children with disability or developmental delays and their families. Services are delivered mainly through SDN's Early Childhood Links model. This model works closely with parents and carers to identify and support goals for their child and delivers integrated services so that families receive a responsive and flexible service. It also uses a strengths-based family-centred approach so that children, families and educators benefit from access to a team of early childhood and allied health professionals. This model also facilitates links with other services, and builds the knowledge, skills and capabilities of families and educators.

SDN has demonstrated its ability to provide high-quality support to the community, which is evident through SDN Beranga, an autism-specific early childhood education and care demonstration centre in greater Western Sydney. This centre, which was officially opened in June 2013, provides an autism-specific service that integrates early childhood intervention and mainstream early childhood education. SDN also provides support to families through its Child and Family Resource Centre at Granville. This centre is dedicated to supporting families by providing sensory toys on loan for a small yearly fee.

As members will be aware, earlier this year the Baird Government announced a commitment to implement the National Disability Insurance Scheme [NDIS] a year ahead of schedule in the Nepean-Blue Mountains area, and it commenced on 1 July 2015. SDN was at the forefront of this announcement and highlighted the benefits this would bring for children with disability and their families. As a result of the experiences and lessons learnt from the early rollout of the NDIS in the Nepean-Blue Mountains, SDN will continue to be a key provider of services to children with disability and their families in the greater Sydney area. I am proud to say that New South Wales continues to lead the nation in the NDIS and disability reform. As I have said on numerous occasions, this Government cannot do this alone. Providers like SDN help to serve those in our communities who need assistance. I recognise and thank all service providers for their dedication and continued support of the people of New South Wales.

KOALA PARK SANCTUARY

The Hon. MARK PEARSON: I direct my question to the Minister for Primary Industries, and Minister for Lands and Water. Earlier this month the Koala Park Sanctuary in Sydney pleaded guilty to, and was convicted of, three charges under the Prevention of Cruelty to Animals Act for failure to provide

veterinary treatment to emaciated koalas. The sanctuary had also been found previously to have breached the general standards for exhibited animals. Given this conviction and proven breaches of the standards, why has the departmental secretary not exercised his authority under section 30 (1) (a) of the Exhibited Animals Protection Act to cancel the park's licence?

The Hon. NIALL BLAIR: The Koala Park Sanctuary has entered a plea of guilty to three charges of failing to provide veterinary treatment to five koalas in its care. The charges were laid by the RSPCA under the Prevention of Cruelty to Animals Act 1979. The failure to provide veterinary treatment related to the failure to investigate emaciated body condition and eye complaints, and the failure to provide treatment for dehydration and chlamydia infections.

The matter has been adjourned to 2 February 2016 at Parramatta Local Court for sentence. In addition to the proceedings initiated by the RSPCA under the Prevention of Cruelty to Animals Act, the Department of Primary Industries has issued the Koala Park Sanctuary with seven directions with regard to koalas and other animals in the park. The directions issued include keeping animals' records up to date, fixing enclosure fences, providing adequate shelter, removing debris within enclosures and providing adequate veterinary treatment for the koalas.

The park has recently been criticised in the Sydney press and in a United Kingdom media article. That article raised several concerns. Some of these relate to the appearance of the facility and the perceived value for money of the entry fee. These are matters for prospective attendees to make up their own mind about. While some of the journalist's conclusions about the state of the animals clearly are not an expert's opinion, the article and supporting photographs suggest some animals are not in good condition and that a number of management standards are not being followed. The department will continue to work with the Koala Park Sanctuary to ensure compliance. It should be noted that a conviction under the Prevention of Cruelty to Animals Act is a ground for suspension or cancellation of an exhibitor's authority, and the department is mindful of this in its dealings with Koala Park Sanctuary.

The Hon. MARK PEARSON: I ask a supplementary question. Will the Minister elucidate as to why the mindfulness has not moved to the cancellation of the Koala Park Sanctuary's licence?

The Hon. NIALL BLAIR: As I said, the matter has been adjourned until 2 February 2016 at Parramatta Local Court for sentence. The department will continue to work with the park to ensure compliance. Also as I noted, a conviction under the Prevention of Cruelty to Animals Act is grounds for suspension or cancellation. I suspect that we will know more about this matter once it has returned to court.

WILLIAMTOWN LAND CONTAMINATION

The Hon. PENNY SHARPE: My question without notice is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, representing the Minister for Health. Given the health department has now advised Williamtown residents that they can have perfluorooctinoic acid and perfluorooctane sulfonate tests done for $580, what steps is the Government taking to make sure that these tests are affordable for pregnant women and women who are breastfeeding so that they can decide whether it is safe?

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

ANIMAL WELFARE ADVISORY COUNCIL

The Hon. RICK COLLESS: My question is addressed to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister update the House on the reinvigorated Animal Welfare Advisory Council?

The Hon. NIALL BLAIR: Protecting the welfare of the State's animals is unquestionably an important focus that requires our full attention. I assure the House that it is being given the focus it deserves. One of the tools we have to ensure this—one tool amongst a suite of many—is the Animal Welfare Advisory Council [AWAC]. AWAC was originally established in 1979 to provide expert advice to the Government on animal welfare matters. One of my early meetings as Minister was with the independent AWAC chair, renowned animal behaviour specialist Dr Kersti Seksel. At this meeting, we agreed on the importance of AWAC and discussed expectations in relation to the focus and outcomes of the council.

As well as Dr Seksel, the council comprises 11 representatives from industry, government, animal welfare organisations and professional bodies who provide a spectrum of views and balanced advice. The diversity of this team ensures that the council's decisions take into account a range of opinions, community attitudes and scientific evidence in any advice period. Some members of the council include representatives from the Department of Primary Industries, the Australian Veterinary Association, the Livestock and Bull Carriers Association, Local Land Services, RSPCA NSW, the Animal Welfare League NSW, Wildlife Rescue, the Australian Rodeo Federation and NSW Farmers.

The first meeting of the reinvigorated council was held in late August to discuss its direction and to lay the foundation for a solid body that can confront these serious issues and provide robust advice to Government. The next meeting will be in early December. We will be in the driver's seat looking into what issues need our attention. AWAC recognises the positive health and social impacts of pet ownership and the value of productive animals in our economy. It is conscious of the community's expectations in relation to animal welfare. For these reasons we have bolstered the team and are taking a fresh approach to animal welfare, protection and advice.

I am confident that the members of the council are able to provide the right advice to me and bring expertise from a range of different stakeholder groups on issues of animal welfare. Matters for which expert advice may be provided include recommending revisions and amendments to New South Wales animal welfare legislation, policy, strategies and programs. Consideration will be taken of good practice, national and international trends, practicalities, public opinion, scientific knowledge and the economic implications for those concerned.

The council will continue to monitor community attitudes and trends, identify current and emerging animal welfare issues and put forward options to manage concerns. The group will also advise on contemporary standards and guidelines on animal welfare for individual animal species and classes of animals, and for the care, treatment or use of animals. It will monitor educational and training programs designed to increase public awareness of existing and potential animal welfare problems, and to develop community attitudes that will lead to informed self-regulation of animal welfare standards.

The members will provide advice to the Government on animal welfare research priority areas and submissions from animal welfare organisations and agencies. This Government is committed to the welfare of animals across New South Wales and AWAC is an important tool in that endeavour. The renewed direction of AWAC will form the basis of a powered approach to protecting the welfare of this State's animals and ensuring their welfare remains at the forefront of New South Wales' priorities into the future.

The Hon. DUNCAN GAY: If members have any further questions, I suggest they place them on notice.

The Hon. Walt Secord: In partnership with The Greens.

The Hon. DUNCAN GAY: You wasted the first hour; why would I give you another hour?

The Hon. Walt Secord: You and The Greens, always pushing back question time.

The Hon. Greg Donnelly: The grump, Duncan.

The PRESIDENT: Order! I remind the Hon. Walt Secord and the Hon. Greg Donnelly that they are on two calls to order.

VOLKSWAGEN VEHICLE EMISSIONS

The Hon. DUNCAN GAY: On 13 October 2015 the Hon. Adam Searle asked me a question about Volkswagen vehicle emissions. I provide the following response:

I am advised:

> This is a matter for the Federal Government. The Australian Competition and Consumer Commission is handling a product safety recall.
>
> Roads and Maritime Services will work with the Department of Infrastructure and Regional Development to assist or carry out testing as required.

INJURED WILDLIFE ROAD SIGNS

The Hon. DUNCAN GAY: On 13 October 2015 the Hon. Mark Pearson asked me a question about injured wildlife road signs. I provide the following response:

I am advised:

> WIRES is responsible for making and installing WIRES road signs. Roads and Maritime Services assesses sign design and provides approval of new signs on the State's road network. Roads and Maritime is working with WIRES to identify which signs require updating.

COUNTERTERRORISM LEGISLATION

The Hon. DUNCAN GAY: On 13 October 2015 Mr David Shoebridge asked me a question about terrorism legislation. The Premier has provided the following response:

> The New South Wales Government tabled the statutory review of the Terrorism (Police Powers) Act 2002 on 20 October 2015. The report outlines the operational issues relating to Preventative Detention Orders raised by the NSW Police Force and notes that discussions to address these issues are being progressed at the national level.

INDUSTRIAL RELATIONS COMMISSION APPOINTMENTS

The Hon. DUNCAN GAY: On 13 October 2015 the Hon. Robert Borsak asked me a question about the Industrial Relations Commission. The Minister for Industrial Relations has provided the following response:

> The Government is currently considering the matter of appointments to the Industrial Relations Commission. An update will be available shortly.

RACIAL VILIFICATION LEGISLATION

The Hon. JOHN AJAKA: On 13 October 2015 Mr David Shoebridge asked me a question about

racial vilification legislation. The Attorney General has provided the following response:

> The New South Wales Government intends to release for public consultation an exposure draft bill regarding racial vilification, with legislation to be introduced to Parliament in the first half of 2016.

FUNNEL WEB AND SNAKE ANTIVENOM

The Hon. JOHN AJAKA: On 13 October 2015 the Hon. Peter Primrose asked me a question about funnel web and snake antivenom. The Minister for Health has provided the following response:

I am advised by the Minister for Health:

> The NSW Health guideline that covers this issue is the Snakebite and Spiderbite Clinical Management Guidelines 2013—Third Edition which is available at: *http://www0.health.nsw.gov.au/policies/gl/2014/pdf/GL2014_005.pdf.*

SOLAR PLANTS

The Hon. NIALL BLAIR: On 13 October 2015 Mr Jeremy Buckingham asked me a question about solar plants. The Minister for Industry, Resources and Energy has provided the following response:

> The New South Wales Government remains committed to a secure, affordable, reliable and clean energy future.
>
> To support large-scale solar in New South Wales, the Government has contributed $64.9 million in funding for the development of the Solar Flagships projects in Nyngan and Broken Hill. Together, these solar plants will generate enough electricity to power more than 50,000 homes across New South Wales.
>
> Supporting construction of the Solar Flagships projects is a key action in the Renewable Energy Action Plan and is playing an important role in advancing knowledge and expertise around large-scale solar. It also sets an example that will help drive further investment and jobs in renewable energy in regional New South Wales.
>
> The Division of Resources and Energy has a dedicated Energy Investment team, which is working hard to facilitate the development of new energy projects in New South Wales. Working alongside the Renewable Energy Advocate, the team provides focused support to solar companies looking to invest in New South Wales, helping them to navigate planning processes, network connections and leverage funding available through the Commonwealth Government's Australian Renewable Energy Agency [ARENA] and Clean Energy Finance Corporation [CEFC].
>
> New South Wales has two major active solar projects with planning approval at Manildra and Bungendore, and a further four progressing through the planning system at Forbes, Parkes, Gilgandra and Griffith. Once constructed, these projects will reinforce our lead as the number one State for large-scale solar.
>
> The Renewable Energy Action Plan—the Plan—was released in 2013 to help increase renewable energy at least cost to energy customers and with maximum benefits to the state. The Plan's first annual report demonstrates the significant progress that has been made in implementing the Plan's goals and actions. This includes:
>
> - Appointment of Australia's first Renewable Energy Advocate, Ms Amy Kean.

- Expansion and improvement of the Office of Environment and Heritage's Regional Clean Energy Program to give communities across NSW a say on decisions that affect them.

- Release of the Energy from Waste Policy Statement to introduce a more flexible regulatory framework for biomass projects in New South Wales.

- Establishment of the NSW Energy Innovation Knowledge Hub in Newcastle to foster research and development in renewable energy.

- Release of the NSW Smart Meter Policy, which supports a market-led rollout of smart meters in New South Wales that promotes competition in metering services and customer choice.

Supporting energy storage technologies will also be a critical part of our energy solution. Energy storage will revolutionise the way we harness, market and use energy. With over 315,000 households and small businesses already having installed rooftop solar PV, New South Wales is particularly well-placed to benefit from the growth of this emerging sector. Energy storage also supports the Government's commitment to expand energy choices for New South Wales customers.

The Government will continue to work hard to ensure New South Wales is at the forefront of renewable energy innovation.

DESIGN CENTRE ENMORE LAND

The Hon. NIALL BLAIR: On 13 October 2015 the Hon. Ernest Wong asked me a question about the Design Centre Enmore. The Minister for Regional Development, Minister for Skills, and Minister for Small Business has provided the following response:

Surplus land at Enmore College is currently leased to Marrickville Council to be used for community purposes.

Questions without notice concluded.

FIREARMS AND WEAPONS PROHIBITION LEGISLATION AMENDMENT BILL 2015

SECURITY INDUSTRY AMENDMENT (REGULATION OF TRAINING ORGANISATIONS) BILL 2015

Second Reading

Mr SCOT MacDONALD (Parliamentary Secretary) [5.09 p.m.], on behalf of the Hon. Duncan Gay: I move:

That these bills be now read a second.

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

Leave granted.

The amendments to the Firearms Act 1996 and the Weapons Prohibition Act 1998 give effect to the recommendations of the joint Commonwealth and New South Wales Martin Place Siege Review Report to strengthen the laws relating to illegal firearms.

The aim of this bill is to impose strict controls on the use, supply and manufacture of illegal

firearms and to improve public safety.

Some firearms have characteristics that present a greater risk to public safety or are more likely to be used for a criminal purpose. In New South Wales, the maximum penalties currently available for offences involving such firearms are often set at a higher level than for other firearms, but there has not been a consistent approach across offences or the penalties imposed for such offences.

Nor is there, surprisingly, an offence for the possession of a stolen firearm.

Stolen firearms present a significant risk to public safety. Around 700 firearms are stolen each year in New South Wales.

The majority of firearm thefts appear to be opportunistic; however, there are still many thefts that are found to be targeted.

The recovery of stolen firearms is historically low, and analysis of recovered stolen firearms indicates that a single firearm can circulate within the illicit market for between 10 and 20 years.

In the wrong hands, these firearms pose a very high risk to the community. Therefore, the Firearms and Weapons Prohibition Legislation Amendment Bill 2015 creates a new offence for the possession of a stolen firearm, which would carry a maximum penalty of 14 years imprisonment.

The new offence would include a defence to prosecution that the defendant did not know and could not reasonably be expected to have known that the firearm was stolen.

Aside from stolen firearms, other firearms are recognised in legislation as posing a greater risk to public safety or of being used for a criminal purpose.

For example, the Firearms Act currently provides for higher maximum penalties for the illegal possession of a pistol or prohibited firearm (which carries a maximum penalty of 14 years imprisonment), compared to any other type of firearm (which generally carries a maximum penalty of five years).

Separate penalties also apply for firearms that are unregistered, or which have had their identifying serial numbers removed. These offences and the penalties they carry are, however, inconsistent and do not reflect the serious risk that such firearms are most likely to be used in the commission of serious crimes.

Accordingly, this bill will amend key firearms offences to provide a consistent maximum penalty of 14 years imprisonment for the possession, use, supply or acquisition of a firearm, where the firearm involved is a pistol, a prohibited firearm, defaced (that is, has its identifying marks or numbers removed), unregistered, stolen, or not authorised by licence or permit to be in possession of that person.

As with the proposed new offence for possession of a stolen firearm, the amended offence for a defaced firearm includes a defence to prosecution that the defendant did not know and could not reasonably be expected to have known that the firearm was defaced.

This bill will deliver some of the strongest penalties for illegal firearm possession and supply in Australia.

In detail, the Firearms and Weapons Prohibition Legislation Amendment Bill 2015 includes the

following amendments.

Sections 10 and 30 will be amended to provide that section 12 of the Criminal Records Act 1991 does not apply in relation to an application for a firearms licence or an application for a permit to acquire.

This will enable the Commissioner of Police to consider a spent conviction, along with other matters, when determining if a person is fit and proper to be granted a firearms licence or a permit.

A number of firearms offences will have penalty increases from 10 years imprisonment to 14 years. These include:

> Section 36 (1), the supply, acquisition, possession or use of an unregistered firearm;
>
> Section 50, the acquisition of firearms without a licence or permit if the firearm is a pistol or a prohibited firearm;
>
> Section 50AA (2), the acquisition of firearm parts that relate to a pistol or prohibited firearm without a licence or permit;
>
> Section 51BA (2), the restrictions on the supply of firearm parts, specifically, where the part relates to a pistol or prohibited firearm, unless the supplier or the other person is authorised by licence or permit;
>
> Section 62 (1), the offence of shortening of firearms (other than a pistol), possess a shortened firearm or supply or give possession of a shortened firearm to another person;
>
> Section 63, concerning the conversion of firearms, such as into a pistol, or altering the construction or action of a pistol so as to convert it to a prohibited pistol; and
>
> Section 70, relating to the making of false or misleading applications under the Act.

The new bill also creates new sections. The first two, sections 51F and 51G, relate to digital blueprints. Section 51F provides that a person must not possess or control a digital blueprint for the manufacture of a firearm on a 3D printer or an electronic milling machine. The maximum penalty will be imprisonment for 14 years.

For the purposes of this section, digital blueprint means any type of digital (or electronic) reproduction of a technical drawing of the design of an object.

Possession of a digital blueprint includes possession of a computer or data storage device holding or containing the blueprint or of a document in which the blueprint is recorded. Possession also includes control of the blueprint held in a computer that is in the possession of another person (whether the computer is in this jurisdiction or outside this jurisdiction)—for instance, where the blueprint may be held in a "cloud" or on a server outside of New South Wales or Australia.

Section 51G deals with the defences to these offences.

It is a defence in proceedings for an offence if the defendant can prove that:

> the defendant did not know, and could not reasonably be expected to have known, that he or she possessed the digital blueprint concerned;

the digital blueprint concerned came into the defendant's possession unsolicited and the defendant, as soon as he or she became aware of its nature, took reasonable steps to get rid of it;

the conduct engaged in by the defendant was of public benefit and did not extend beyond what was of public benefit such as enforcing or administering the law, monitoring compliance with, or investigating a contravention of a law in those jurisdictions, or the administration of justice.

The question of whether a person's conduct is of public benefit is a question of fact.

It is also a defence that the conduct engaged in by the defendant was necessary for or of assistance in conducting scientific, medical, educational, military or law enforcement research.

The research must be approved by the Attorney General in writing and not contravene any conditions of that approval.

This will ensure that, with the Attorney General's approval, research can still be conducted about these emerging and changing technologies to ensure law enforcement can keep pace.

The other new provisions relate to stolen and defaced firearms.

The new section 51H provides that a person must not use, supply, acquire or possess a stolen firearm or firearm part or give possession of a stolen firearm or firearm part to another person. The maximum penalty is imprisonment for 14 years.

It is a defence to a prosecution for an offence under this section if the defendant proves that the defendant did not know and could not reasonably be expected to have known that the firearm or firearm part concerned was stolen.

This section will apply in relation to a stolen firearm or firearm part regardless of whether it was stolen before or after the commencement of this section.

This will ensure that if a firearm is found to be stolen months from now but the person in possession of the firearm is aware that it is stolen, once this bill is enacted, they will be captured under this provision and could be subject to 14 years maximum imprisonment. There is no good reason why someone should have a stolen firearm in their possession, and if they do there is now a very harsh penalty for this serious offence.

Section 66 has been redrafted to better reflect the seriousness of defacing a firearm. Section 66 provides that a person must not, unless authorised by the commissioner to do so, deface or alter any number, letter or identification mark on any firearm or a firearm part.

The amended section 66 will go even further and make it illegal for a person to use, supply, acquire or possess a defaced firearm or a defaced firearm part or give possession of such a firearm or firearm part to another person.

The maximum penalty for these offences will be 14 years imprisonment.

The defence to a prosecution for an offence under this section will require the defendant to prove that they did not know and could not reasonably be expected to have known that the firearm or firearm part was defaced.

The amended section 66 will now also include what a defaced firearm or firearm part is, which includes a firearm or firearm part on which any number, letter or identification mark has been defaced or altered.

The new sections—sections 51F and 51H—will also be included in section 84 (2) of the Firearms Act concerning the election of proceedings in court.

The bill also amends the Weapons Prohibition Act 1998 to duplicate the offences for digital blueprints of firearms to also include weapons.

The new section 25B in the Weapons Prohibition Act will provide for the possession of digital blueprints for prohibited weapons. A person must not possess or control a digital blueprint for the manufacture of a prohibited weapon on a 3D printer or an electronic milling machine.

In this section, digital blueprint means any type of digital (or electronic) reproduction of a technical drawing of the design of an object.

For the purposes of this section, possession of a digital blueprint includes:

> possession of a computer or data storage device holding or containing the blueprint or of a document in which the blueprint is recorded, and
>
> control of the blueprint held in a computer that is in the possession of another person (whether the computer is in this jurisdiction or outside this jurisdiction).

The same penalty that will apply to the manufacture of firearms using digital blueprints will also apply to weapons that are made using digital blue prints—a maximum of 14 years imprisonment.

The same exclusions and defences apply in this Act as those in the Firearms Act, and will be inserted as section 25C. These include:

> the defendant did not know, and could not reasonably be expected to have known, that he or she possessed the digital blueprint concerned;
>
> the digital blueprint concerned came into the defendant's possession unsolicited and the defendant, as soon as he or she became aware of its nature, took reasonable steps to get rid of it;
>
> the conduct engaged in by the defendant was of public benefit, and did not extend beyond what was of public benefit such as enforcing or administering the law, monitoring compliance with, or investigating a contravention of, a law of those jurisdictions or the administration of justice; and
>
> the conduct engaged in by the defendant was necessary for or of assistance in conducting scientific, medical, educational, military or law enforcement research that has been approved by the Attorney General in writing.

The new section 25B (1) will also be included in section 43 (2) of the Weapons Prohibition Act concerning the election of proceedings in court.

These amendments to the Firearms Act and Weapons Prohibition Act are part of a suite of initiatives to better control and manage illegal firearms in our State.

As members have heard today, they are not targeted at legitimate, licensed firearms owners.

Rather, those criminals out there who think they can steal or modify firearms or manufacture firearms from 3D blueprints and skirt the law will find themselves facing some of the toughest penalties for firearms offences in this country.

I commend the bill to the House.

The aim of the Security Industry Amendment (Regulation of Training Organisations) Bill 2015 is to provide clarity and certainty as to the powers of the NSW Police Force to regulate and audit registered training organisations that offer security industry training in New South Wales.

The New South Wales private security industry is large and provides a range of key services to businesses across New South Wales.

The largest sector of the security industry, the manpower sector covers crowd controllers or bouncers, guard dog handlers, bodyguards, and armed guards. It is important that these roles are performed competently and safely and that businesses and the general public can have confidence that this is the case. A few years ago this was certainly in doubt.

In 2009 the Independent Commission Against Corruption's Operation Columba investigated reports of corrupt conduct by certain companies providing training services to the New South Wales private security industry.

Essentially, the corrupt conduct identified centred on training certificates being issued for licensing purposes without being legitimately attained.

This would mean, for example, that security industry licensees were able to present evidence of training requirements necessary for a licence without, for example, having undertaken training units in areas such as managing conflict through negotiation, protecting the safety of persons, and preparing and presenting evidence in court.

The Independent Commission Against Corruption [ICAC] investigation, which spanned approximately 12 months, included covert operations as well as public hearings held during August and September 2009. In its report on Operation Columba, the ICAC made a number of recommendations including that in relation to security training assessment and certification the Commissioner of Police should assume responsibility for all integrity-related functions including fraud and corruption detection and investigation.

Police have over the past few years worked hard to implement this recommendation. This has included, for example, the establishment of a 12-person team within the NSW Police Force's Security Licensing and Enforcement Directorate dedicated to auditing and regulation of registered training organisations that provide security industry training.

In addition, over the past few years the Commonwealth has established a national training regulator, the Australian Skills Quality Authority, or ASQA.

On 1 July 2011, ASQA became the regulatory body for the vocational education and training [VET] sector for the Australian Capital Territory, the Northern Territory and New South Wales through a referral of powers.

However, the National Vocational Education and Training Regulator Act 2011, under which ASQA operates, provides provisions which allow jurisdictions to create "carve-outs", thereby allowing New South Wales and other jurisdictions to continue to regulate training providers as determined.

It was for this reason that section 6A was inserted into the Security Industry Act 1997 in 2012 to

ensure that the NSW Police Force could continue with its good work in ensuring security industry training was offered in a high-integrity environment that was free from corruption. However, recently the effectiveness of section 6A has been called into question, the concern being that it may give rise to conflicts between the operation of State and Commonwealth legislation.

The bill before the House addresses this to provide absolute clarity and certainty of the powers of the NSW Police Force to continue to regulate registered training providers to the same high standard as has been the case over the past few years.

New South Wales registered training providers will still continue to have to abide by Commonwealth legislation. Section 6A merely ensures that where there is legislative conflict New South Wales legislation will take precedence.

The bill does not seek to expand or change the currently regulatory approach merely to ensure its ongoing effectiveness and allow the NSW Police Force as the regulator to continue to monitor and ensure crowd controllers, armed guards and other licensees have properly achieved the competencies necessary to be issued a licence.

I commend the bill to the House.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.10 p.m.]: I lead for the Opposition in debate on the Firearms and Weapons Prohibition Legislation Amendment Bill 2015 and cognate Security Industry Amendment (Regulation of Training Organisations) Bill 2015. The Opposition does not oppose either of the bills. The Firearms and Weapons Prohibition Legislation Amendment Bill 2015 is particularly important because it gives effect to recommendations related to the review of the Martin Place siege.

As the Opposition spokesperson in the other place noted, rather than the Government consulting with the Opposition about the bill or giving us sufficient time to deal with its contents before it was debated in the other House, the bill was dropped on us at short notice. That is most regrettable when dealing with matters of great significance. The Minister, in his second reading speech in the other place—and I apprehend in the incorporated second reading speech given by the Parliamentary Secretary in this place—indicated that the bill deals with recommendations of the joint Commonwealth and New South Wales review of the Martin Place siege, which reported in January 2015. The report of the review said:

> … the Commonwealth and the states and territories should give further consideration to measures to deal with illegal firearm.

The report found that Man Haron Monis had a pump-action shotgun in his possession. He did not have a firearms licence, and the gun may have been a "grey market firearm". Most gun owners in this State do the right thing. This bill is aimed not at them but at those who would engage in criminal activity. As the Minister outlined, certain firearms present a greater risk to public safety than do others as they are more likely to be used for a criminal purpose. The Firearms and Weapons bill deals with those firearms.

The Firearms and Weapons Prohibition Legislation Amendment Bill seeks to rectify the fact that there is currently no offence for the possession of a stolen firearm, as indicated by the Minister in his second reading speech. It seeks to do so by introducing a new offence. The bill increases the maximum penalty for a number of offences, which is aimed at reflecting the serious risk posed by some firearms. The bill provides for a consistent maximum penalty of 14 years imprisonment for the possession, use, supply or acquisition of a firearm where the firearm is a prohibited firearm; has had its identification marks, numbers or letters defaced or altered; is unregistered; is stolen; or is not authorised by licence or permit to be in the possession of that person.

Section 51F provides that a person must not possess or control a digital blueprint for the manufacture of a firearm on a 3D printer or electronic milling machine. The maximum penalty for this

offence is 14 years imprisonment. Importantly, the bill recognises advances in the online environment and in technology and it captures blueprints held in a cloud environment or by a server outside of New South Wales or Australia. This new offence is appropriate at this time. It recognises the important role we play in the Houses of Parliament in reacting to issues as they arise and to change, particularly in technology. While the Opposition will not oppose the bill, we have some concerns about the amendments to sections 10 and 30 of the Firearms Act which allow for the Commissioner of Police to consider the spent convictions of applicants for firearms licences and permits.

These amendments allow for section 12 of the Criminal Records Act not to apply in relation to an application for a firearms licence or permit. Spent convictions apply to those convictions where a bond was given or a sentence of less than six months was imposed. For a conviction to be spent, an adult must be crime free and must not have been in prison for the past 10 years, and for a child the applicable period is three years. Whether those spent offences impact on a person's application for a firearms licence or permit is left to the discretion of the Commissioner of Police. It is hoped that discretion is used wisely, given these people have done their time and their sentence was less than six months. As I have said, we have concerns about that aspect of the bill, but it will not lead us to oppose the bill overall.

I turn now to the Security Industry Amendment (Regulation of Training Organisations) Bill 2015. This is important legislation which ensures the NSW Police Force has the requisite authority to regulate and audit private training providers who offer security training qualifications in our State. The importance of the quality of well-trained security officers cannot be overstated. They are often the first line of defence at community, entertainment and sporting events across New South Wales. It is therefore imperative that they have the knowledge and skills to deal with complex security issues in a professional and secure manner. Unfortunately, the security industry in this State has not always been characterised by these high expectations of service delivery.

In 2009 the Independent Commission Against Corruption [ICAC] Operation Columba inquiry shone a light on the provision of security training in New South Wales. The corrupt conduct that was uncovered as part of that inquiry was a wake-up call on just how important this issue is and why we all must work together to ensure security officers have completed all the necessary training and gained the appropriate skills, as well as the piece of paper that is said to be the qualification, and that the training and qualifications are of a sufficiently high standard as expected by the wider community. One of the key recommendations of that review was for greater oversight and quality control by the NSW Police Force. While the NSW Police Force has taken important steps towards the practical implementation of this recommendation, it is important that after six years this recommendation is enshrined in legislation so that there is no conflict with Commonwealth laws.

This bill amends the Security Industry Act 1997 to ensure that the NSW Police Force has total certainty with regard to its role and responsibilities as the key regulator of the New South Wales security industry. The Opposition is pleased the Minister has confirmed that the Commonwealth supports the continued involvement of the NSW Police Force in regulating the security industry. The Opposition does not oppose the bills, but we are disappointed that once again it was not given sufficient time in the other place to deal with the legislation before they were rushed through.

These are important bills that deal with the recommendations of the New South Wales Martin Place Siege Review report. We note, for example, the significant difference in the way in which Parliament was able to handle the Government's ICAC package with bipartisan support and the recent bumpy landing of the Courts and Other Justice Portfolio Legislation Amendment Bill, which also impacted on the operation of the ICAC bipartisanship in important areas, particularly public security and public safety, as well as important matters of corruption that should also be conducted on a bipartisan basis.

Mr SCOT MacDONALD (Parliamentary Secretary) [5.16 p.m.], on behalf of the Hon. Duncan Gay, in reply: I thank the Hon. Adam Searle for his contribution to this important debate. I am pleased to support these bills which go to the heart of the community's expectation of tough penal sanctions for

those who engage in gun crime and terrorise our communities. I commend the bills to the House.

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

Motion agreed to.

Bills read a second time.

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

Third Reading

Motion by Mr Scot MacDonald, on behalf of the Hon. Duncan Gay, agreed to:

That these bills be now read a third time.

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

PRIVACY AND PERSONAL INFORMATION PROTECTION AMENDMENT (EXEMPTIONS CONSOLIDATION) BILL 2015

The Hon. DAVID CLARKE (Parliamentary Secretary) [5.18 p.m.], on behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

At the outset, I indicate that the Government will move amendments regarding proposed section 19 (2) of the bill, which contains the trans-border disclosure provisions. These amendments will ensure that personal information disclosed outside of New South Wales will have similar protections as to disclosure within New South Wales. The amendments were requested by the Privacy Commissioner.

I seek leave to incorporate the balance of my second reading speech in *Hansard*.

Leave granted.

The Government is pleased to introduce the Privacy and Personal Information Protection Amendment (Exemptions Consolidation) Bill 2015.

This bill helps to simplify and clarify the way New South Wales public sector agencies manage personal information.

This bill represents the culmination of an extended process to address the fact that New South Wales public sector agencies have been relying on public interest directions that have been made by the Privacy Commissioner under section 41 of the Privacy and Personal Information Protection Act and renewed on a rolling basis.

Section 41 of the Privacy and Personal Information Protection Act allows the Privacy Commissioner, with the approval of the Attorney General, to make a written direction that a public sector agency is not required to comply with obligations under the Privacy and Personal Information Protection Act where the public interest in requiring the relevant agency to comply is outweighed by the public interest in making the direction.

There are currently 11 public interest directions in force. Seven of these public interest directions give exemptions from the Privacy and Personal Information Protection Act which are relied on by

many public sector agencies in their day-to-day operations and are therefore needed on a long-term basis.

Public interest directions were intended to provide short-term exemptions until longer term solutions could be put in place. Relying on the rolling renewal of public interest directions made by the Privacy Commissioner has been identified as unsatisfactory on a number of occasions, including by the New South Wales Law Reform Commission in its report No. 127 titled "Protecting Privacy in New South Wales".

This bill implements the commission's view that "a statutory basis for long-term exemptions is vastly preferable to the use of [public interest directions]". In the commission's view, public interest directions should only be used as temporary measures. The New South Wales Privacy Commissioner, Dr Elizabeth Coombs, shares this view and has indicated she will not continue to renew long-term public interest directions, which would be better reflected in legislation. This aligns with the approach the Privacy Commissioner is now taking in relation to the making of new public interest directions.

The bill therefore moves the substance of seven existing long-term public interest directions either into existing legislation or to supplement the Privacy Code of Practice (General), which already contains a number of exemptions similar to existing directions.

Although incorporating these public interest directions into legislation and the Privacy Code of Practice requiring minor drafting changes to the terms of existing exemptions, the bill is not intended to introduce any significant policy changes. Rather, this bill aims to preserve the status quo in relation to the management of personal information by New South Wales public sector agencies in the areas in which the directions applied. This will ensure that New South Wales public sector agencies continue to be able to operate in the same way as when the directions were in place. However, it will also have the benefit that it is no longer necessary to rely on a fragmented and ad hoc approach to such exemptions.

The long-term public interest directions which the bill incorporates into other legislation or instruments are:

1. Direction on Processing of Personal Information by Public Sector Agencies in relation to their Investigative Functions

2. Direction on Information Transfers between Public Sector Agencies

3. Direction for the Department of Family and Community Services and Associated Agencies

4. Direction on the Collection of Personal Information about Third Parties by NSW Public Sector (Human Services) Agencies from their Clients

5. Direction on the Disclosure of Information to Victims of Crime

6. Direction on Disclosures of Information by the New South Wales Public Sector to the National Coronial Information System

7. Direction on Disclosure of Information to Credit Reporting Agencies.

I will address the substance of the directions and the amendments intended to replace them later.

The bill also introduces a new exemption for general research to replace the public interest direction on Disclosures of Information by Public Sector Agencies for Research Purposes, which I

will discuss in more detail later, as it is proposed to update and clarify that public interest direction rather than merely incorporate its substance.

In other respects, the bill will improve privacy protections by addressing gaps in the application of the Privacy and Personal Information Protection Act.

The bill will insert new provisions regulating the disclosure of personal information outside of New South Wales and to the Commonwealth. Due to the way that the former Administrative Decisions Tribunal interpreted the relevant provisions of the Privacy and Personal Information Protection Act in the decision of *GQ v New South Wales Department of Education and Training*, there are effectively no limits on the transfer of personal information outside of New South Wales.

Such a situation is anomalous in light of the protections placed on the management of personal information within New South Wales. Consequently, the bill proposes to address this anomaly by placing some parameters on such disclosures and providing clarity to both New South Wales public sector agencies and individuals in New South Wales about when such disclosures are permitted.

The bill also confirms the extraterritorial application of the terms "law enforcement purposes", "offence" and "public revenue" as used in the Privacy and Personal Information Protection Act. This amendment will provide certainty to public sector agencies sharing law enforcement information interstate.

I wish to emphasise that the Privacy Commissioner has been consulted throughout the drafting process of this bill, and she has indicated that she is satisfied with the bill and the amendments it proposes and is pleased that it is being introduced today. I wish to join the Attorney General in thanking the Privacy Commissioner for her contribution to the development of this bill.

I turn now to the provisions of the bill.

Schedule 1 provides for amendments of the Privacy and Personal Information Protection Act to incorporate a number of the public interest directions and clarify other aspects of the Act's operation.

Clauses 1 and 5 extend the meaning of an "investigative agency" to include certain additional public sector agencies with investigative functions or that conduct investigations on behalf of other public sector agencies with investigative functions. They will allow an agency undertaking a lawful investigation to:

- use personal information for the purpose of exercising its complaint handling functions or other investigative functions, or

- disclose such information to a complainant for certain purposes. These amendments transfer the provisions of the Direction on Processing of Personal Information by Public Sector Agencies in relation to their investigative functions into the Act, subject to minor amendments to streamline the direction into the Act's existing exemptions.

New section 27A will provide an exemption to allow public sector agencies to exchange information to allow them to deal with correspondence from Ministers and members of Parliament or other inquiries and for auditing purposes. This transfers parts of the Direction on Information Transfers between Public Sector Agencies into the Act. The remaining substance of Direction on Information Transfers between Public Sector Agencies relates to certain transfers of information for law enforcement purposes. Clause 3 of schedule 1 adds this to the law enforcement exemptions already contained in section 23 of the Act.

New section 27C will provide an exemption to allow certain public sector agencies to share information with certain credit agencies about whether a person is or was a debtor under a default judgment. This transfers the content of the direction relating to the Disclosure of Information to Credit Reporting Agencies into the Act.

Schedule 2.1 amends the Coroners Act 2009. The proposed amendments enable the Attorney General, on behalf of the State, to enter into information sharing arrangements with certain kinds of persons or bodies responsible for the creation or maintenance of databases under which specified New South Wales coronial information can be provided and included in the databases. The amendment also allows New South Wales coronial information to be provided in accordance with such an arrangement despite any prohibition in or the need to comply with any requirement of any Act or law.

The amendment will replace the Direction on Disclosures of Information by the New South Wales Public Sector to the National Coronial Information System (NCIS) with some additional safeguards modelled on equivalent provisions which apply in other Australian jurisdictions.

The bill also amends the Privacy Code of Practice (General) to transfer the substance of two directions relating to information transfers by human services agencies into the Privacy Code. These provisions permit human services agencies to collect personal information about individuals other than their clients if the information is reasonably relevant and reasonably necessary to enable the agency to provide services to a relevant client.

Additionally, they update which agencies are covered by the exemptions to reflect changes in agency composition and responsibilities since the relevant directions were drafted. They transfer the provisions of the Direction on the Collection of Personal Information about Third Parties by New South Wales Public Sector (Human Services) Agencies from their Clients and the Direction for the Department of Family and Community Services and Associated Agencies to be incorporated into the General Privacy Code.

Schedule 2.3 amends the Victims Rights and Support Act 2013 to allow certain public sector agencies to:

- disclose information to which a victim of crime or family victim is entitled under the Charter of Victims Rights, or to collect, use or disclose information that is incidental to that purpose, or

- disclose information that is reasonably necessary to inform a victim of crime or a family victim about the general location or movements of a serious offender of which they were the victim.

These amendments transfer the provisions of the Direction on the Disclosure of Information to Victims of Crime into the Victims Rights and Support Act 2013.

In addition to replacing the long-term public interest directions, the bill aims to clarify the Privacy and Personal Information Protection Act in relation to research and the disclosure of personal information across jurisdictional borders.

The proposed amendment to section 19 will allow New South Wales public sector agencies to disclose personal information with interstate persons or bodies or Commonwealth agencies for certain purposes, as well as clarify the basis on which disclosures of information outside New South Wales can occur. These are both areas in which there is currently some uncertainty. Adoption of provisions equivalent to those in the Health Records and Information Privacy Act will

aid to clarify how personal information can be managed in these two situations and to provide for greater consistency between the two Acts.

When it was initially enacted, section 19 of the Privacy and Personal Information Protection Act was intended to allow disclosure of personal information by New South Wales public sector agencies to someone outside of New South Wales and to Commonwealth agencies where another recognised privacy law would apply to protect the information, or where disclosure would be permitted under a privacy code of practice made by the New South Wales Privacy Commissioner. However, no such code of practice has been made by the Privacy Commissioner.

As I noted earlier, the former Administrative Decisions Tribunal interpreted section 19 of the Privacy and Personal Information Protection Act in such a way that it found there are no restrictions on the disclosure of personal information by New South Wales public sector agencies to someone outside of New South Wales or to a Commonwealth agency. Consequently, the existing regime for the trans-border disclosures of personal information is ineffective.

To address this gap in the protection of personal information transferred outside of New South Wales, this bill repeals the existing ineffective provisions governing trans-border disclosures—namely sections 19 (2) to (5)—and instead replaces them with provisions modelled on the approach taken in the Health Records and Information Privacy Act 2002. These are also similar to provisions governing the trans-border disclosure of personal information in the privacy legislation of Victoria, Queensland and the Commonwealth.

The amendment will impose some additional requirements upon New South Wales public sector agencies when disclosing personal information outside of New South Wales (as originally intended) compared with current practice, where there are presently no restrictions. This will increase the level of protection for the personal information of New South Wales citizens when it is transferred out of New South Wales, whilst ensuring New South Wales public sector agencies retain flexibility to share information across borders.

Schedule 1 clause 4 is intended to clarify the situation in relation to extraterritorial transfers of personal information in relation to law enforcement. These are not subject to the provisions of section 19 but instead fall within the scope of the law enforcement exemptions in section 23 of the Act. It will ensure that agencies may share information for law enforcement purposes, for investigation of an offence or for the protection of the public revenue where, for example, an offence has occurred outside of New South Wales.

For example, it would allow the disclosure of registration information to the police in Queensland or Victoria where a New South Wales registered vehicle is involved in the commission of an offence in Queensland. These changes will ensure New South Wales public sector agencies can assist interstate agencies with law enforcement investigations without contravening the Privacy and Personal Information Protection Act.

This clarification is required due to the former Administrative Decision Tribunal's comments in the GQ decision potentially limiting the extraterritorial application of these exemptions due to interpretive presumptions that they are only intended to apply within New South Wales, in the absence of any explicit contrary intention.

The insertion of proposed section 27B into the Privacy and Personal Information Protection Act will permit public sector agencies to collect, use and disclose personal information for certain research purposes, based on existing exemptions applicable to health information under the Health Records and Information Privacy Act 2002. These provisions will replace the existing Direction on Disclosures of Information by Public Sector Agencies for Research Purposes.

Currently, the Direction on Disclosure of Information for Research Purposes facilitates access to personal information for research provided certain safeguards are in place. However, the direction is obscurely drafted. It is also inconsistent with the equivalent exemption in the Health Records and Information Privacy Act, which applies to health information and is much simpler and clearer in the requirements it contains.

Rather than incorporating this public interest direction into legislation or regulation like the other seven public interest directions I have already referred to, the bill inserts a new exemption to the collection, use and disclosure principles in the Privacy and Personal Information Protection Act for research purposes, in circumstances consistent with those described in the Health Records and Information Privacy Act. Such an amendment will simplify policy and practice for those public sector agencies that handle both personal information and health information. The proposed research exemption is equally appropriate for non-medical research and has the benefit of being simpler and clearer than the current public interest direction.

In closing, this bill will reduce the fragmentation and complexity of New South Wales privacy law. It will make the substance of the exemptions that are currently regulated by public interest directions more accessible and will assist to promote greater transparency in the operation of the privacy law regime in New South Wales.

I commend the bill to the House.

The Hon. ADAM SEARLE (Leader of the Opposition) [5.19 p.m.]: I lead for the Opposition on the Privacy and Personal Information Protection Amendment (Exemptions Consolidation) Bill 2015. The Opposition does not oppose the bill and will be supporting the Government's amendments to its bill for the reasons outlined by the Parliamentary Secretary, that is, that the Privacy Commissioner has requested those changes to the bill before the House. The bill has two broad objects. The first object is to consolidate and rationalise exemptions to the information protection principles under the primary Act, the Privacy and Personal Information Protection Act 1998, known as the PPIPA Act, which previously have been long-term exemptions under public interest directions [PIDs] by the Privacy Commissioner. This is achieved by amendments to legislation in this bill and amendments to the Privacy Code of Practice.

The second object is to provide amendments to the principal Act which allow the disclosure of personal information for research purposes; make it clear that current exemptions concerning law enforcement include for the purposes of another State, Territory or the Commonwealth; and extend the meaning of "investigative agency" to include additional public sector agencies with an investigative role. In relation to the first of these objectives, the Attorney General in the other place has provided an assurance that no change in policy or practice is intended. I assume that the same assurance is given by the Parliamentary Secretary in this place. The first of these objectives relates to public interest directions issued under section 41.

These are directions made in writing by the Privacy Commissioner, with the approval of the Minister—in this case the Attorney General—indicating that an agency is not required to comply with an information protection principle or a privacy code of conduct. Section 41 (3) requires that the Privacy Commissioner be satisfied that the public interest in requiring the agency to comply with the principle or code is outweighed by the public interest in the commissioner making that direction. The issue is that such directions were intended to apply only temporarily until a more permanent and formal solution was determined. That is not quite what has happened with PIDs, as public interest directions are sometimes called in practice. Paragraph 7.68 of the New South Wales Law Reform Commission report "Protecting Privacy in New South Wales", published in May 2010, states:

However, out of the 11 PIDS currently in place, eight have been in place for over six years, and the remaining three have unspecified end dates.

Paragraph 7.69 states:

> This confirms the observations made above with respect to privacy codes, namely that there exist significant practical shortcomings with the current system and that, similarly to privacy codes, the use of PIDS has been "stretched" to allow agencies to function properly.

The report then proceeds to quote from a statutory review of the Privacy and Personal Information Protection Act 1998, which states:

> The main problem with the use of section 41 directions is that what should be a short-term solution to an information management problem becomes the effective long-term solution. The directions are simply re-made continuously as they expire because of lack of satisfactory progress on negotiating a more long-term solution.

At paragraph 7.70 of its report, the commission concludes:

> We are of the view that a statutory basis for long-term exemptions is vastly preferable to the use of PIDS, and that the use of PIDS should be limited to the original intent behind the provisions—as temporary measures.

I understand that at least one of the PIDs has been in existence for up to 12 years. The PIDs that are dealt with by the bill include: direction on information transfers between public agencies; direction for the Department of Family and Community Services and associated agencies; direction on the processing of personal information by public sector agencies in relation to their investigative functions; direction on the disclosure of information to credit reporting agencies; direction on disclosures of information by the New South Wales public sector to the National Coronial Information System; direction on the collections of personal information about third parties by New South Wales public sector human services agencies from their clients; and direction on the disclosure of information to victims of crime.

This is undoubtedly a positive development but some practical issues arise. The use of PIDs and the reissuing of them could provide a review mechanism of their terms and whether they need to remain in the same terms. That level of flexibility is lost in pursuing a statutory version. There also remain weaknesses in the regime. There is no mandatory reporting to the Privacy Commissioner of serious breaches of the principles. In that context, I note recommendation 9.2 of New South Wales Law Reform Commission report No. 127. This bill conveys the sense of cherrypicking from the recommendations of the commission's report. I also note that this recommendation was contained in the report of the Privacy Commissioner dated May 2015 and tabled in the Parliament.

The lack of resources for the Privacy Commissioner exacerbates this weakness. Resourcing issues were also raised in the Privacy Commissioner's report and have attracted the attention of the parliamentary oversight committee, of which both I and the shadow Attorney General in the other place are members. Given the rapid development we are seeing in the privacy space, driven by the technological revolution of the internet and social media, there is a compelling case for a much better resourced and full-time privacy commissioner for this State—one with more teeth and more equipment in her toolbox.

The bill also includes provisions that are outside the scope of the PID issue. The definition of "investigative agency" is expanded to become more general, as well as specifying particular agencies. This seems reminiscent of some of the recommendations in the New South Wales Law Reform Commission report to which I have referred. Section 19 is amended by this bill as it imposes restrictions on disclosure to a person or body in a jurisdiction outside New South Wales or to a Commonwealth agency. This follows a 2008 decision by the Administrative Decisions Tribunal. Trans-border disclosure will be regulated by this new provision, which is said to be based upon the Health Records and Information Privacy Act 2002.

Similarly, the extraterritorial transfer of personal information concerning law enforcement is amended to take account of the 2008 decision by the Administrative Decisions Tribunal. Proposed section 27B provides a new exemption relating to research. This has replaced another PID but in different and hopefully clearer terms. As I indicated at the outset, the Opposition does not oppose the bill and will support the Government's amendments.

Mr DAVID SHOEBRIDGE [5.25 p.m.]: I speak on behalf of The Greens in this debate on the Privacy and Personal Information Protection Amendment (Exemptions Consolidation) Bill 2015. The Greens do not oppose the bill. Indeed, The Greens support the direction in which the Government is seeking to move the privacy laws, although this is a modest set of reforms that is being proposed. The bill proposes a number of amendments. Its first object is to amend the Privacy and Personal Information Protection Act, also known as PPIPA. These amendments will allow public sector agencies to disclose personal information to interstate persons or bodies or Commonwealth agencies for prescribed purposes, and to collect, use and disclose personal information for certain research purposes, based on existing exemptions that are applicable to health information under the Health Records and Information Privacy Act.

The Health Records and Information Privacy Act works in tandem with the Privacy and Personal Information Protection Act. Ensuring that those Acts have similar provisions, as far as possible, and have consistency is supported not just by The Greens but also by the Law Reform Commission, the Privacy Commissioner and others. The second object of the bill is to make clear that the exemptions in the Act relating to law enforcement and related matters extend to law enforcement and related matters for the purposes of another State or Territory or the Commonwealth. Increasingly, when police are dealing with organised crime, terror-related offences or even bread-and-butter crime rings, interstate issues arise and cooperation is required with Commonwealth, State or Territory police forces outside of New South Wales. Allowing for the sharing of information between those law enforcement agencies is sensible and rational.

The third object of the bill is to extend the meaning of "investigative agency" to include a number of additional public sector agencies that have recognised investigative functions or that can conduct an investigation on behalf of another public sector agency. There is a limited corpus of investigative agencies being proposed in this legislation. Each of them has that type of role. Ensuring consistency in how they deal with the privacy of personal information is important. The legislation also seeks to amend the Privacy and Personal Information Act and a number of other Acts to consolidate and rationalise those exemptions to the information protection principles under the Privacy and Personal Information Act. As the Hon. Adam Searle made clear, this bill seeks to legislate for a series of rolling exemptions which previously have been made on an annual basis by the Privacy Commissioner.

I note at the outset that each of the provisions of the bill has been supported by all the stakeholders that we have consulted, although a number of them have said that the bill should go further and that there should be additional provisions. In relation to the proposal for statutory form rolling exemptions, the Attorney General in the other place stated:

> Section 41 of the Privacy and Personal Information Protection Act allows the Privacy Commissioner, with the approval of the Attorney General, to make a written direction that a public sector agency is not required to comply with obligations under the Privacy and Personal Information Protection Act where the public interest in requiring the relevant agency to comply is outweighed by the public interest in making the direction. There are currently 11 public interest directions in force. Seven of these public interest directions give exemptions from the Privacy and Personal Information Protection Act that are relied on by many public sector agencies in their day-to-day operations and are therefore needed on a long-term basis. Public interest directions were intended to provide short-term exemptions until longer-term solutions could be put in place.

The Privacy Commissioner, in her May report to Parliament, indicated her support for that type of

statutory reform. As the exemptions have been proven to be needed for the better part of 10 years—it is essentially the same form and is just routinely being made on an annual basis—there is strong argument that the very limited resources of the Privacy Commissioner are better directed to other essential tasks under the Act than simply remaking instruments on an entirely predictable annual basis after consultation with the Attorney General. I note the comments made by the Hon. Adam Searle, who indicated that there is some potential benefit in making exemptions on a rolling basis insofar as it allows them to be reviewed annually. However, our consultation indicated that there was not a substantive review of those exemptions as they are being remade from year to year.

The bill not only puts in place statutory alternatives, it actually revokes all the directions that have been made by the Privacy Commissioner under section 41. As we read through those directions, we realise why they need to be made across the public service. They are: direction on the disclosure of information for research purposes; direction relating to the disclosure of information to credit reporting agencies; direction on information transfers between public sector agencies; direction on processing of personal information by public sector agencies in relation to their investigative functions; direction on disclosures of information by the New South Wales public sector to the national coronial information system; direction on the collection of personal information about third parties by New South Wales public sector human services agencies from their clients; direction from the Department of Family and Community Services and associated agencies; and direction on the disclosure of information to victims of crime. Each of those directions was renewed between June and July this year to extend through to 31 December 2015. As I understand it, the Government's intention with this bill is to have it receive assent and make it operative before the expiration of those directions on 31 December 2015. Perhaps the Parliamentary Secretary will confirm that during his reply.

One of the other important elements of the bill is the proposed amendment of section 19 of the Privacy and Personal Information Protection Act, which is headed "Special restrictions on disclosure of personal information". Section 19 does a couple of things, but for present purposes one of the most important things that section 19 was intended to do, when it was originally passed, was to put in place additional requirements before information is disclosed from a New South Wales public sector agency to an interstate entity or to any entity outside the borders of New South Wales. Obviously, there is a need to put in place additional protections because as soon as information leaves New South Wales and goes to an outside jurisdiction the protections that otherwise would apply to personal information under the Privacy and Personal Information Protection Act no longer apply as they have no extraterritorial operation.

However, in a number of cases the current section 19 has been interpreted as, rather than putting in place additional protections before information is disclosed outside New South Wales, putting in place a wholly independent and complete code to which public agencies must have regard before they disclose information outside the borders of New South Wales. Why is that important? That is important because, on that reading—which is the reading by the appeal panel of the then Administrative Decisions Tribunal [ADT] when it found that the current section 19 (1) overrides section 18 in relation to the disclosure of sensitive personal information in *Director General, Department of Education and Training v MT (GD*) [2005] NSWADTAP 77—the then Administrative Decisions Tribunal also found that section 19 (2) overrides section 18 in relation to disclosures of information outside New South Wales in *GQ v NSW Department of Education and Training (No 2)* [2008] NSWADT 319 as well as, more recently, the case of *Bevege v Commissioner of Police, NSW Police Force* [2014] NSWCATAD 22.

In each of those cases the tribunal effectively found that the very perfunctory considerations in section 19, which relate to considerations by a public sector agency before it is allowed to transmit information outside New South Wales, operate to the exclusion of the general provisions in section 18. Before a public sector agency seeks to disclose personal information within New South Wales—for example, to a journalist or a third party who wants to have some information about a particular issue, or an academic who is doing a study on a particular area—section 18 provides important limits on when disclosure of personal information can occur. Section 18 provides:

(1) A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:

Thereafter appear a series of criteria, which state:

(a) the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or

(b) the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or

(c) the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

Section 18 (2) states:

(2) If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.

Section 18 sets in place some important controls and constraints on when personal information can be disclosed. Each of those considerations is relevant; indeed, every provision is as relevant to the disclosure of information from New South Wales to any jurisdiction or agency outside New South Wales as it is relevant to disclosure within New South Wales. The proposed amendment to section 19 (2) will put in place additional factors—or that is what it should be doing. It should be expressly stating additional factors that must be considered by a public sector agency before it discloses information outside New South Wales. A reading of new section 19 (2) in item [2] of schedule 1 to the bill appears to make that clear. It states:

A public sector agency that holds personal information about an individual must not disclose the information to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:

(a) the public sector agency reasonably believes that the recipient of the information is subject to a law, binding scheme or contract that effectively upholds principles for fair handling of the information that are substantially similar to the information protection principles …

In other words, this is to make sure there are some protections in their own jurisdiction, which is sensible. It continues:

(b) the individual consents to the disclosure, or

The Government is bringing an amendment to make that an express consent, and that is an amendment The Greens wholeheartedly support. It continues:

(c) the disclosure is necessary for the performance of a contract between the individual and the public sector agency, or for the implementation of pre-contractual measures taken in response to the individual's request, or

(d) the disclosure is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the public sector agency and a third party, or

(e) all of the following apply:

(i) the disclosure is for the benefit of the individual,

(ii) it is impracticable to obtain the consent of the individual to that disclosure,

(iii) if it were practicable to obtain such consent, the individual would be likely to give it, or

(f) the disclosure is reasonably believed by the public sector agency to be necessary to lessen or prevent:

(i) a serious and imminent threat to the life, health or safety of the individual or another person, or

(ii) a serious threat to public health or public safety, or

(g) the public sector agency has taken reasonable steps to ensure that the information that it has disclosed will not be held, used or disclosed by the recipient of the information inconsistently with the information protection principles, or

(h) the disclosure is permitted or required by an Act (including an Act of the Commonwealth) or any other law.

Obviously, each of those factors is relevant when considering whether or not to give information to a body that is not bound by the protection principles in New South Wales. But equally each of the provisions in section 18 should also be considered and factored in because this section is the meat and potatoes, if you like, of privacy protection in New South Wales and should always be considered when a public sector agency is considering disclosing information, whether within New South Wales or outside New South Wales. The Greens will move an amendment seeking to make that expressed. It may well be that the Government intends the law to be read in the way that we have proposed, with the section 18 requirements being cumulative to section 19 requirements. If so, it would be good to have that put on the *Hansard* so that we can correct that ongoing error, as The Greens see it, in the NSW Civil and Administrative Tribunal.

The Hon. PAUL GREEN [5.41 p.m.]: On behalf of the Christian Democratic Party I address the Privacy and Personal Information Protection Amendment (Exemptions Consolidation) Bill 2015. The bill helps to reduce the fragmentation and complexity of privacy law in New South Wales, in particular by incorporating into legislation long-term exemptions to New South Wales privacy obligations. Those exemptions are currently contained in separate public interest directions made by the NSW Privacy Commissioner. The Privacy and Personal Information Protection Act 1998, known as PPIPA, imposes obligations on New South Wales public sector agencies in relation to handling personal information. Under the Privacy and Personal Information Protection Act the Privacy Commissioner may, with the approval of the Attorney General, make a written public interest direction that an agency is not required to comply with privacy obligations where there is a stronger public interest in the agency not complying. The bill reflects a recommendation of the NSW Law Reform Commission, and implements a request by the NSW Privacy Commissioner to incorporate substantial or permanent exemptions into legislation.

The bill makes a number of amendments to the Privacy and Personal Information Protection Act

and other legislation including to incorporate, with no substantive policy changes, the following long-term public interest directions: direction on processing of personal information by public sector agencies in relation to their investigative functions; direction on information transfers between public sector agencies; direction for the Department of Family and Community Services and associated agencies; direction on the collection of personal information about third parties by New South Wales human services agencies from their clients; direction on the disclosure of information to victims of crime; direction on disclosures of information by the New South Wales public sector to the National Coronial Information System; and direction relating to the disclosure of information to credit reporting agencies.

We note this bill introduces new protections for personal information shared by New South Wales agencies beyond New South Wales's geographical borders, similar to provisions governing trans-border disclosure of information in the privacy legislation of Victoria, Queensland and the Commonwealth. It will ensure personal information will be subject to privacy requirements. The bill also makes it clear that New South Wales agencies can share personal information with other jurisdictions for law enforcement purposes, the protection of public revenue or to investigate an offence. Finally, the bill will update the framework governing disclosure of personal information for research purposes for New South Wales government agencies. The Christian Democratic Party commends the bill to the House.

The Hon. DAVID CLARKE (Parliamentary Secretary) [5.44 p.m.], on behalf of the Hon. John Ajaka, in reply: I thank the Hon. Adam Searle, Mr David Shoebridge and the Hon. Paul Green for their contributions to this debate. This bill is a positive development for the New South Wales privacy law regime. It helps to simplify and clarify the way New South Wales public sector agencies manage personal information. In particular, the amendments in this bill will consolidate and rationalise exemptions to the information protection principles under the Privacy and Personal Information Protection Act. These exemptions are currently contained in seven long-term exemptions under public interest directions made by the Privacy Commissioner under section 41 of the Act. Public interest directions were intended to provide short-term exemptions until longer term solutions could be put in place. As the shadow Attorney General noted in the other place, while public interest directions may provide a degree of flexibility, the Government is listening to the advice of both the Privacy Commissioner and the NSW Law Reform Commission in providing a more certain and transparent approach to these exemptions.

The bill also will amend the provisions of the Privacy and Personal Information Protection Act relating to trans-border disclosures of personal information to clarify the circumstances in which personal information may be disclosed outside New South Wales, including clarifying that the law enforcement exemptions in the Act apply extraterritorially. The new provisions will give protection to personal information disclosed outside New South Wales. Such protection is currently lacking. Finally, the bill includes new provisions in the Privacy and Personal Information Protection Act relating to disclosures of personal information for the purposes of research. These will replace the existing public interest direction on research and will simplify policy and practice for agencies while maintaining appropriate privacy protections. The bill will make the substance of the exemptions that are currently regulated by public interest directions more accessible and will assist to promote greater transparency in the operation of the privacy law regime in New South Wales. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

The CHAIR (The Hon. Trevor Khan): If there is no objection, the Committee will deal with the bill as a whole. I have two sets of amendments: Government amendments appearing on sheet C2015-136 and The Greens amendments appearing on sheet C2015-158. I propose to proceed with the Government

amendments first.

The Hon. DAVID CLARKE (Parliamentary Secretary) [5.48 p.m.], by leave: I move Government amendments Nos 1 and 2 in globo:

No. 1 **Restrictions on disclosure of personal information**

Page 3, schedule 1 [2], line 36. Insert "expressly" after "individual".

No. 2 **Restrictions on disclosure of personal information**

Page 4, schedule 1 [2], lines 5–9. Omit all words on those lines. Insert instead:

(f) the disclosure is reasonably believed by the public sector agency to be necessary to lessen or prevent a serious and imminent threat to the life, health or safety of the individual or another person, or

The Government is moving two minor amendments to the transport and disclosure provisions in the bill. These amendments have been requested by the Privacy Commissioner and will ensure that personal information disclosed outside New South Wales will have similar protection to that when disclosed within New South Wales. The original proposal in the bill was to align the trans-border disclosure provisions in the Privacy and Personal Information Protection Act 1998 with the Health Records and Information Privacy Act 2002. It is intended that section 19 operate in the same way as the health privacy principles in the Health Records and Information Privacy Act and equivalent privacy principles in other jurisdictions' privacy legislation in relation to trans-border disclosures of personal information.

New section 19 sets out a list of criteria that must be satisfied before information can be disclosed outside New South Wales. The criteria mirror those in the equivalent provisions in the Health Records and Information Privacy Act. These amendments will further tighten those criteria and enhance protection of an individual's privacy outside New South Wales by aligning the criteria more closely to the criteria for disclosing personal information within New South Wales while still retaining broad consistency with the equivalent health information provisions. The amendments are: first, amending new section 19 (2) (b) so it will now require an individual's express consent for a New South Wales agency to provide personal information to a person or an agency that is outside New South Wales or a Commonwealth agency; second, deleting new section 19 (2) (f) (ii) that would allow a New South Wales agency to disclose information outside New South Wales where that agency believes there is serious threat to public health or safety. I commend the amendments to the House.

The Hon. PENNY SHARPE [5.51 p.m.]: These are very sensible amendments and Labor will be supporting them.

Mr DAVID SHOEBRIDGE [5.51 p.m.]: The Greens support both of the amendments and commend the Government for not only consulting but listening to the advice received from the Privacy Commissioner. Ensuring express consent is important and ensuring that, as far as possible, new section 19 is consistent with the Health Records and Information Privacy Act 2002 is a worthy goal.

Reverend the Hon. FRED NILE [5.51]: The Christian Democratic Party is pleased to support these amendments on the advice of the Privacy Commissioner and other recommendations made.

Question—That Government amendments Nos 1 and 2 [C2015-136] be agreed to—put and resolved in the affirmative.

Government amendments Nos 1 and 2 [C2015-136] agreed to.

Mr DAVID SHOEBRIDGE [5.52 p.m.]: I move The Greens amendment No. 1 on sheet C2015-158:

No. 1 **Disclosure of personal information to persons or bodies outside of this State**

Page 4, schedule 1 [2]. Insert after line 15:

(3) Subsection (2) is in addition to the requirements of section 18.

This amendment places a new provision in section 19, new subsection (3). It provides that the proposed new subsection (2) is in addition to the requirements in section 18. Why is this important? I covered this in my second reading contribution and I do not intend to rehash it. There are at least three cases that have said that section 19, in so far as it relates to a disclosure from a public sector agency to an agency outside New South Wales, effectively forms a code and the public sector agency does not have to have regard to the standard principles in section 18.

That appears to be contrary to the original intent of the Act, which was to provide that section 18 considerations should be in addition to the considerations in section 19 when there is a disclosure outside New South Wales. The section 18 principles are clear and important. This amendment would make that clear to the tribunals and correct what appears to be an ongoing misfiring in terms of public policy. The former Administrative Decisions Tribunal and now NSW Civil and Administrative Tribunal is saying that section 19 considerations are a code and public sector agencies do not have to have regard to section 18 requirements. This amendment makes it explicit. Under this amendment the section 19 (2) considerations are cumulative on the section 19 (1) considerations. A public sector agency would have to consider section 18, section 19 (1) and section 19 (2) before making a disclosure outside New South Wales. The Greens believe that is how the law should work and that is why we move the amendment.

The Hon. DAVID CLARKE (Parliamentary Secretary) [5.54 p.m.]: The Government does not support The Greens amendment. Doubt about the interaction between sections 18 and 19 of the Privacy and Personal Information Protection Act 1998 arose only because the Administrative Decisions Tribunal, and subsequently the NSW Civil and Administrative Tribunal, interpreted section 19 (2) to (5) as displacing restrictions on disclosure in section 18. It is clear that this interpretation was mistaken. Section 19 is headed "Special restrictions on disclosure of personal information". This is because these were intended to be additional restrictions that applied on disclosure of information outside New South Wales. By inserting provisions modelled on those in health privacy principle 14, which relates to trans-border transfers of information, it is intended to replicate the approach taken in that Act.

As such, the new section 19 (2) should be understood as adding additional requirements to disclosures of information outside New South Wales. Therefore, if an agency proposes to disclose personal information to another jurisdiction it will need to demonstrate that it satisfies any of the criteria in section 18 as well as the criteria in section 19 (2). For example, the agency would need to demonstrate that under section 18 the disclosure was directly related to the purpose for which the information was collected and the agency had no reason to believe that the individual concerned would object to the disclosure and, under section 19 (2), that the recipient of the information was subject to a privacy regime with privacy principles equivalent to those of the information protection principles in the Privacy and Personal Information Protection Act.

As the Attorney General pointed out in her second reading speech, these provisions are intended to impose additional requirements on agencies when disclosing personal information outside New South Wales, as had been originally intended. It would, however, be a mistake to try to modify the proposed provisions of section 19 (2) to provide explicitly that it applies in addition to section 18. Such a change would cast doubt on the proper interpretation of the equivalent provisions of the Health Records and Information Privacy Act. These have been in place since 2002 and are working well. It would be unwise to modify these amendments in a way that could disturb the settled operation of the health privacy

legislation.

The Hon. PENNY SHARPE [5.57 p.m.]: I have listened carefully to the case put by The Greens, I have consulted with the shadow Attorney General, and I have listened closely to what the Parliamentary Secretary said. The Opposition will not support the amendment. It agrees with the Government that there has been a key problem in terms of interpretation. The Parliamentary Secretary's explanation has made it abundantly clear for anyone seeking to deal with this matter in the future. The Opposition does not support The Greens amendment.

Mr DAVID SHOEBRIDGE [5.58 p.m.]: The courts are already applying this differently. I will read from the case of Bevege, which makes it clear why The Greens amendment is required for clarity. Last year the tribunal stated in paragraph 14:

> I am satisfied, in this instance, that section 18 (1) is a general provision limiting the disclosure of personal information, whereas section 19 (2) is a specific provision dealing with disclosure of personal information to a person or body outside NSW. The effect of the application of the *generalia specialibus* presumption, there being no indication that the presumption should not be applied, is that the specific provision—section 19 (2)—prevails to the extent of any repugnancy with the general provision—section 18 (1). Thus, section 18 (1) does not apply in respect of the disclosure of personal information by a public sector agency in NSW, such as the Department, to any person or body in a jurisdiction outside NSW or to a Commonwealth agency.

The tribunal went on to state in paragraph 19 of the same decision:

> The above leads me to conclude that section 18 (1) of the PPIP Act does not apply to disclosures of personal information to a person or body outside NSW. Thus, GQ is unable to pursue a remedy against the Department. Any remedy would have to lie under section 19 (2), but that provision is not yet in operation as a result of the Privacy Commissioner not having made the relevant privacy code of practice necessary to bring section 19 (2) into operation pursuant to section 19 (5).

The courts are already saying that the interpretation the Attorney General has put on the record is not the way the law operates. I agree and I would hope that is the way the law operates, but the tribunal has said the opposite. The tribunals are getting it wrong, and everyone in the House agrees that they are. However, they are getting it wrong based on a set of principles that if applied to this bill would continue to lead them into error. Given that they are getting it wrong and that we have an opportunity to correct the legislation, why do we not do it now and make it abundantly clear? If there are concerns about consistency with the health records privacy legislation, let us make it consistent. Members are making bare assertions without even engaging with the case law, which is directly contrary to what the Attorney General has said. It is frustrating and demonstrates the lack of rigour that this Parliament generally engages in when debating legislation.

The Hon. Penny Sharpe: We just won't listen.

Mr DAVID SHOEBRIDGE: I am not asking the shadow Attorney General to listen to me but to read the cases before she speaks about the law. I can see that my amendment will not succeed, but I hope that the kumbaya response, or general feeling, that has been put on the record will lead tribunals away from the error that they have repeatedly made despite the terms of the legislation.

Question—That The Greens amendment No. 1 [C2015-158] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2015-158] negatived.

Title agreed to.

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

Bill as amended agreed to.

Bill reported from Committee with amendments.

Adoption of Report

Motion by the Hon. David Clarke, on behalf of the Hon. John Ajaka, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. David Clarke, on behalf of the Hon. John Ajaka, agreed to:

That this bill be now read a third time.

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

CONVEYANCING AMENDMENTS (SUNSET CLAUSES) BILL 2015

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

Question—That the bill be considered an urgent bill—put and resolved in the affirmative.

Declaration of urgency agreed to.

Second Reading

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [6.04 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce the Conveyancing Amendment (Sunset Clauses) Bill 2015.

This bill has been introduced on an urgent basis to counter the conduct of some developers using the sunset clause in off the plan contracts to disadvantage purchasers.

The growth and strength of the New South Wales economy in the past four years has led to an increase in demand for housing, particularly in Sydney. This has caused a marked rise in the number of off the plan contracts.

An "off the plan contract" is one where the parcel of land or the unit being sold does not exist at

the time the contract is entered into. Land can be sold before the developer has finished constructing roads and installing services. Contracts for the sale of a strata unit can be exchanged before the building is completed, well before the strata plan is drawn, approved and registered.

In these cases the purchaser is not buying an asset that can be seen and inspected. Instead, they are buying an idea that relies on the terms of the contract plus the goodwill and expertise of the developer to complete.

To guarantee the sale, the purchaser will pay a deposit, normally 10 per cent of the purchase price. The purchaser then waits for the unit to be constructed or the land to be developed.

An important feature of most off the plan contracts is the sunset clause. This clause allows either the vendor or purchaser to rescind and terminate their contractual obligations if the development is not completed by a specified date.

The sunset clause has important benefits for both parties. It prevents a purchaser being tied to the contract indefinitely and allows a developer to end the arrangement if they cannot proceed due to factors beyond their control.

However, the rise in the property market has seen increased reports of developers using the clause to obtain an unjust enrichment at the expense of homebuyers.

There has been an increased incidence of developers delaying projects until the sunset date is reached. The developer can then rescind the contract and resell the property, sometimes for hundreds of thousands of dollars more.

The purchaser will eventually receive their deposit back, but they lose any capital appreciation their lot has accrued. In addition, they are prevented from purchasing another property while their funds are tied up in the developer's hands.

Whether a developer is entitled to rescind the contract will depend on the contract terms, the reason for the delay and the extent to which the developer has acted reasonably. But to test these factors the purchaser must take court action.

As well as being costly and time consuming, the purchaser must prove the delay was unreasonable based on facts they are not able to access. The prospect of protracted litigation is often too daunting for purchasers so the action of the developer is often unchallenged.

Like the Minister for Better Regulation and Innovation, I have heard from many people affected by this practice whose dream of homeownership is now out of reach. The rise in property prices since their original purchase, combined with legal costs, has meant raising another deposit is no longer possible.

The Minister for Better Regulation and Innovation recently met with a group of purchasers of off the plan apartments in Wolli Creek who had their contracts rescinded. Many of these people were first homebuyers, who have spent more than five years waiting and fighting in court for their homes.

To fully understand the magnitude of this problem, the Government launched an online survey on off the plan sales in September. Six hundred and thirty nine responses were received, equating to more than 30 every day-a record for this type of survey.

During this process it became clear that urgent action was required and that the solution must

assist purchasers in current contracts under immediate threat of losing their home.

Following this consultation the Minister for Better Regulation and Innovation chaired a roundtable discussion with industry and other stakeholders to develop a solution. I extend the Government's thanks to all those involved in this process including:

Australian Bankers Association

Estate Agents Co-operative

Housing Industry Association [HIA]

Owners Corporation Network [OCN]

Australian Institute of Conveyancers

Property Council; Real Estate Institute of NSW

Law Society; Urban Taskforce

Urban Development Institute of Australia [UDIA]

Their participation has allowed for the swift introduction of this bill, providing certainty and confidence to homebuyers and the housing sector.

This bill will protect purchasers by only allowing developers to rescind a contract when the sunset date is reached and require the Supreme Court to review the circumstances to make sure the rescission is just and equitable in all the circumstances.

The bill inserts a new provision in the Conveyancing Act 1919 which, with its attendant regulations, is the main piece of legislation governing conveyancing in New South Wales.

"Off the plan contract" is defined as a contract for the sale of a residential lot that has not been created at the time the contract is entered into. A lot is created when the plan that defines the lot has been lodged and registered by the Registrar General.

A sunset clause is a provision in a contract that allows the contract to be rescinded if the lot being sold has not been created by a specified date.

The legislation will apply to residential property only. It will be applicable to the sale of both strata units and lots in a proposed land subdivision.

Proposed section 66ZL lists the circumstances under which a vendor can use a sunset clause to rescind a contract and sets the procedure that must be followed.

Before any proposed rescission the vendor must serve a notice on the purchaser that sets out the reasons and provides an explanation for the delay. The notice must be given at least 28 days before the proposed rescission.

This notice period gives purchasers time to consider their position. It will provide information that will help them assess whether the vendor has acted reasonably or whether the vendor's actions have been arbitrary and capricious.

The vendor will only be entitled to rescind an off the plan contract under a sunset clause if the

purchasers give their consent or if the rescission was required because of a reason set out in regulations.

In any other circumstance the vendor will have to approach the Supreme Court for an order that will be made only if the court is satisfied that the rescission is just and equitable in all the circumstances.

What the court is to take into account when deciding if the rescission was just and equitable is set out in section 66ZL (7). These include:

the terms of the contract;

whether the vendor has acted unreasonably or in bad faith;

the reason for the delay;

the likely date that the plan will be registered and the lot created;

whether the lot has increased in value;

the effect on the purchaser of the rescission; and

any other matter that the court deems relevant or that may be prescribed by the regulations.

This new regime does not arbitrarily intrude into existing contractual arrangements or impose an unusual obligation on vendors. Rather, it reinforces existing consumer law and well-accepted common law and equitable principles.

At the centre of this bill is our resolve to prevent a developer manufacturing delays to obtain an unjust benefit. This reform will ensure developers are unable to unjustly benefit at the expense of homebuyers through the sunset clause.

It is accepted that in seeking to rescind a contract a vendor must not act arbitrarily or capriciously or unreasonably. Section 66ZL supports these equitable principles by removing any incentive a vendor may have to manipulate the progress of a development, in a manner not available to the purchaser, to take advantage of windfall profits in a rising market.

Importantly, the court will consider any rise in value of the lot from the original purchase price.

If the value of the lot has increased significantly, the exercise of the sunset clause is prima facie unfair. In these cases the developer has received an unjust enrichment in the form of the lot's capital appreciation at the expense of the purchaser.

This provision will help prevent developers using manufactured or false delays to justify an intention to rescind to the court.

The notice provisions and the need to obtain purchasers consent will encourage better communication between the parties. If it is clear that a development will not be finalised or will take significantly longer to complete than predicted, purchasers are unlikely to want to remain tied to the contract with their deposit lying dormant.

If the developer has acted reasonably, rescission of a contract in these circumstances should be in the interests of both parties. The consent of the purchaser should be easily obtained.

It is only where the rescission is dubious that a need should arise for court action. Under this legislation, in these questionable cases, it is the vendor who will be required to go to court to justify their actions rather than the purchaser being forced to take action to prevent an injustice.

To further even the balance of power between the parties, the vendor will be liable to pay the purchaser's costs of the proceedings, unless it can be shown that the purchaser's refusal to consent to the rescission was unreasonable.

This bill does not affect any rights of the purchaser. The purchaser will be able to exercise whatever rescission rights they had under their existing contract.

One final important feature of the bill is the date on which it will take effect. The bill will apply to any rescission purported to have been made from the date that I announced this legislation would be brought before Parliament. That date was 2 November 2015.

The effects of the bill's transitional provisions mean that no rescission made by a vendor on or after 2 November will have been made in accordance with the contract unless the required notice was served on the purchaser and the rescission otherwise complied with section 66ZL.

This retrospective provision is the strongest protection the Government can provide for homebuyers. It prevents any developers from rushing to use a sunset clause on existing contracts to obtain an unjust benefit over purchasers.

It is for this reason that I bring this bill to the House as a matter of urgency. We have heard the plight of homebuyers, consulted with industry and responded to this matter swiftly and strongly.

This bill provides purchasers with the utmost confidence to buy land or property off the plan in New South Wales. This will ensure developers doing the right thing can access the finance they need to get projects off the ground.

The response to this bill has been overwhelming.

The Minister for Better Regulation and Innovation recently met with Simon Hill, who along with a group of other purchasers had their contracts for land packages in Kellyville rescinded. Upon hearing the announcement Mr Hill wrote to say:

> I cannot thank you enough for acting so quickly on this. My wife and I had resolved to the fact that we were going to lose our dream as we could not afford a lengthy court battle, you have given us hope.

The Owners Corporation Network of Australia, the peak body representing residential strata owners and residents have expressed their support, stating:

> It [OCN] is delighted that off-the-plan purchasers in New South Wales will soon be afforded protection against profiteering developers.

The broader development industry has also endorsed this important reform. Stephen Albin, Chief Executive of the Urban Development Institute of Australia stated:

> We are pleased to see the Minister has been swift in his efforts to close this loophole as the behaviour of a few unethical developers needs to be stopped.

This bill is a strong first step in tackling the off the plan property market, but it is not the last.

There have been reports of developers substantially altering the proposed development after contracts have been exchanged. One-bedroom apartments have become studios; lot sizes have been substantially reduced so that more units can be squeezed onto the site.

There have also been complaints about the length of contracts and the one-sided terms that unfairly favour developers. In the rush to exchange contracts there is often no time for a purchaser to properly consider the contract and negotiate more favourable terms.

The Government fully recognises these concerns. The bill that we have brought before the Parliament today does not end our resolve to improve this important sector of the market.

Off the plan contracts are critical for our construction industry to thrive and for our record housing starts to continue. They allow developers to commence projects and provide our State with the housing we need. It is the entrepreneurial developers that help to accommodate our expanding population and keep the economy generating jobs and opportunity.

So next year we will look at issues like disclosure, standard terms and cooling off periods to provide both clarity and certainty in the marketplace.

This legislative measure that we propose today will give certainty to the conveyancing process and operate as a consumer protection for purchasers in the increasingly crowded residential property market.

This bill is a great example of the Government, community and industry coming together to bring enduring benefits to New South Wales. I am confident this reform will protect homebuyers and deliver a stronger, more sustainable development industry.

In closing, I thank the affected purchasers, industry members and other stakeholders for bringing this issue to the Government's attention and coming together to develop a solution.

I also thank Leanne Hughes and Tony Booth from Land and Property Information, as well as Matt Dawson and Martin Gray from the Minister's office for their efforts in developing this bill.

I commend the bill to the House.

The Hon. PETER PRIMROSE [6.05 p.m.]: The Opposition does not oppose the Conveyancing Amendment (Sunset Clauses) Bill 2015. This is a sensible piece of legislation that responds to a concern that has been highlighted too many times and has been subject to consultation with key stakeholder groups. We welcome the legislation, but as with other bills presented by this Minister, while the media releases have flowed thick and fast for months, the bill was presented to the Parliament only last week. This may meet the requirements of the standing orders but it does not allow adequate time for full scrutiny of the wording of the legislation. I remind the House that with another bill presented last week by this Minister, he forgot to include the Privacy Commissioner as one of those to be involved in oversighting privacy safeguards.

The object of this bill is to prevent developers from manufacturing delays to gain an unjust benefit by unreasonably rescinding off the plan contracts for residential lots under sunset clauses. An off the plan contract is a contract for the sale of a residential lot that has not been created at the time that the contract is entered into. A lot is created when the plan creating the lot becomes a registered plan. A sunset clause is a provision of an off the plan contract that allows for the contract to be rescinded by either the vendor or the purchaser if the subject lot is not created by the sunset date, being the latest date by which the subject lot must be created.

Purchasers normally pay a deposit of about 10 per cent of the purchase price, which the developer can use as capital. However, with rapidly increasing property prices, there has been a significant increase in the incidence of developers delaying projects until the sunset date is reached, rescinding the contract then selling the property for hundreds of thousands of dollars more. The purchasers eventually get their deposit back, but they lose any capital appreciation on their lot. Legal action by the purchasers to prove that the delay was unreasonable is lengthy and costly, and it requires facts to which that the purchasers do not have ready access.

To remedy this situation, the bill requires that before vendors can use a sunset clause they must give notice of at least 28 days to the purchaser setting out the full reasons for the delay. The vendors will then be able to rescind the contract only if the purchasers give their consent or for reasons set out in the regulations. In any other circumstances, the vendors will need to approach the Supreme Court and show the rescission is just and equitable. The vendor developer will be required to pay the purchaser's costs of the proceedings unless it can be shown that the purchaser's refusal to consent was unreasonable. If the value of the lot has increased significantly, the exercise of the sunset clause will be held to be prima facie unfair.

The legislation will be retrospective to the day on which the measures were announced by the Minister, that is, 2 November 2015. The bill will apply to any rescission claimed to have been made from this date. No rescission made by a vendor on or after 2 November will have been made in accordance with the contract unless the required notice was served on the purchaser and the rescission otherwise complied with proposed section 66ZL. While we always have concerns about retrospective legislation, in this case this bill will prevent developers from rushing to use a sunset clause on existing contracts to obtain an unjust benefit, and therefore we believe it is both just and justified.

The second reading speech indicates that the Government proposes to introduce additional measures next year to deal with other aspects of the off-the-plan property market, including instances where developers alter proposed developments after contracts have been exchanged, such as substantially reducing lot sizes. I and I know all members of both Houses have received voluminous correspondence from people who have been victims of these practices. I will not read that correspondence onto the record because I believe that the problem is self-evident. This legislation addresses one of their concerns and should prove capable of resolving them. The Opposition looks forward to seeing the remainder of the legislation that the Government intends to introduce addressing this important issue. The Opposition urges the Government to consult and to introduce the relevant bills as soon as possible.

The Hon. PAUL GREEN [6.10 p.m.]: On behalf of the Christian Democratic Party I contribute to the debate on the Conveyancing Amendment (Sunset Clauses) Bill 2015. There have been numerous reports of developers manufacturing delays and terminating off-the-plan apartment and land contracts through sunset clauses, only to resell them the same day for a windfall profit. While this practice is undertaken by only a small minority of developers, it can undermine investor confidence in off-the-plan sales. This process is not only dodgy but I would also call it dishonest.

The proposed amendment aims to insert new provisions into the Conveyancing Act 1919 to limit the use of sunset clauses in off the plan contracts and therefore prevent this dishonest practice. The limitations in this amendment are the requirement that application of leave be requested to the Supreme Court if the purchaser does not consent to the termination or if the rescission was required due to a reason set out in the regulations; that the Supreme Court order for termination will be made only if the court is satisfied that the rescission is just and equitable in all the circumstances; and that the court will take into account if the vendor has acted in good faith if the value of the lot has increased and the effect of the rescission on the purchaser.

The vendor will also be required to pay the purchaser's costs of the application to the Supreme Court, unless the purchaser acted unreasonably in not consenting to the rescission. The provision, if

passed, will have retrospective effect from 2 November, the date that the Hon. Victor Dominello, the Minister in the other place, announced this legislation. Many key stakeholders in the broader development industry are in support of these legislative changes. These stakeholders include the Urban Development Institute of Australia, the Property Council of Australia, the Owners Corporation Network and the Property Owners Association.

In summary, the bill inserts a new provision into the Conveyancing Act 1919 limiting the circumstances when a vendor can rescind an off the plan contract using a sunset clause. If the purchaser does not give their consent then a developer will be required to apply to the Supreme Court for leave before any termination can take effect. The provision will mean a vendor will be allowed to rescind only if the purchasers consent to the rescission; or the vendor obtains an order from the Supreme Court, which will be made only if the court is satisfied that the rescission is just and equitable in the circumstances; or under specified grounds that may be prescribed in the regulations.

The new provision will also apply to the sale of lots in a proposed strata scheme as well as lots in a proposed land subdivision, and only if the lots are residential property. In reviewing the rescission the court is to take into account a number of matters, including whether the vendor has acted unreasonably or in bad faith, as I mentioned, whether the lot has increased in value, and the effect of the rescission on the purchaser. The vendor will be required to pay the purchaser's costs in the Supreme Court unless the purchaser acted unreasonably, as I mentioned, and the proposed provision will apply to existing and future contracts, which is important. A sunset clause is a provision in a contract that allows the contract to be rescinded if the lot being sold has not been created by a specified date.

All members have probably had representations on this matter. This is a shocking outcome for many who in good faith have put their heart and soul and finances into these investments, believing the very best of their days were ahead of them, that their castle will eventually be built for them—either to make a buck out of it due to wise investment or for it to be their future home. It is absolutely shameful that unscrupulous organisations will take advantage of them to make a buck and use a get-out-of-jail-free clause to profit from such circumstances. It is shameful. It is great that the Minister yet again has used his powers to bring such legislation to this House. The Government is to be commended on this bill. The Christian Democratic Party totally supports this bill.

The Hon. ERNEST WONG [6.15 p.m.]: I speak on the Conveyancing Amendment (Sunset Clauses) Bill 2015, which prevents developers from manufacturing delays to gain an unjust benefit by unreasonably rescinding off the plan contracts for residential lots under sunset clauses. I welcome the bill; it is significant legislation because it protects the rights of apartment purchasers when they are under undue duress. But if this bill is so significant, why is it being rushed through in the last week of Parliament sitting? Why has the Minister not provided adequate time for us to go through the detail of the bill, which has been introduced after months of aggressive media coverage and the inundation of complaints from vulnerable citizens?

Last month I dedicated an adjournment speech to a housing forum I hosted in the parliamentary theatrette on Friday 7 August 2015, so I will contribute only briefly in this debate. The forum came about in response to a huge demand from local residents who were reaching out to me, almost on a daily basis, for assistance. Dozens and dozens of ordinary consumers who purchased off-the-plan apartments have lobbied me and continue to lobby me relentlessly to help them recover from the financial whitewash they have experienced as a result of sunset "claw-back" clauses.

A sunset clause is a provision of an off the plan contract that provides for the contract to be rescinded by either the vendor or the purchaser. However, with rapidly increasing property prices, some developers have abused the clause by delaying projects until the sunset date is reached, rescinding the contract and then selling the property for hundreds of thousands of dollars more. Legal action by the purchaser to prove that the delay was unreasonable is lengthy and costly and requires facts to which the purchaser does not have ready access. Every person who attended the forum I conducted, at their

request, had been adversely affected by this clause and each one highlighted the struggles that real, ordinary people face as a consequence.

I cite again the situation of a group of victimised young couples who worked hard to save to buy their first home. After five years they lost their apartments, they lost money and, worst of all, their young dream of buying a home was harshly crushed by the greed of developers. They have even lost hope to save up adequate money for another property. It was a very sentimental forum and was well attended by more than 160 victims. I was pleased that the media picked the issue up very promptly, which pumped up the enthusiasm of the Minister to react.

In the planning stages of the forum, one of the first invitations I extended was to the Minister for Innovation and Better Regulation, the Hon. Victor Dominello, to engage with this group. However, the Minister declined my invitation. This issue was as serious and as prevalent at the time of the forum I hosted in August as it was when the Minister decided to open it up for public consultation the following month. The public could have been consulted on 7 August; all 160 of them were readily accessible in the grounds of Parliament House for that very purpose.

The Minister knew at that time the severity of this issue, because the people lobbying me for help were the same people lobbying him. Whilst I was quick to respond to the escalating urgency of this matter, I was disappointed that the Minister was unable to avail himself of the opportunity to even call in and briefly acknowledge their plight or advise them that the Government was working towards an acceptable resolution which soon would be opened up for public consultation. Despite the overdue remedy to this situation, the bill before the House at least requires that before a vendor can use a sunset clause they must give notice of at least 28 days to the purchaser and set out the full reasons for the delay. A vendor will only be able to rescind a contract if the purchasers give their consent or for the reasons set out in the regulations.

The Hon. Trevor Khan: It is a good bill.

The Hon. ERNEST WONG: It is a good bill, but it should have been introduced earlier in the year. In any other circumstances, the vendor will need to approach the Supreme Court to show that the rescission is just and equitable. The vendor developer will be required to pay the purchaser's costs of the proceedings unless it can be shown that the purchaser's refusal to consent was unreasonable. If the value of the lot has increased significantly, the exercise of the sunset clause will be held to be prima facie unfair. Whilst I welcome the protection that this proposed legislation offers purchasers from 2 November 2015, I do not believe it goes far enough in assisting those who have suffered significant financial and emotional hardship prior to the Minister's announcement.

The reforms offer cold comfort for the thousands of buyers who have already been unfairly disadvantaged by the original Act, and in many instances quite deliberately by unscrupulous and greedy developers. The Government must do more to ensure that all retrospective property rescissions issued by the vendor were done so in a just, equitable and legitimate manner and only after all other viable options had been exhausted. Where there is unsupportive or conflicting evidence of this, I believe the Government should move swiftly to extend the same level of recourse and consumer protection that the new provisions offer. In addition, I believe that any vendors who are found to have behaved in an unreasonable and unethical manner should be subject to a lifetime ban and subsequently subject to prosecution. Anyone who aims to profit off the backs of ordinary, hardworking Australians must be aware in no uncertain terms that there is no place for them or their shonky practices in this or any other industry in this country. I will continue to work with my community to ensure that this is the case.

Dr JOHN KAYE [6.21 p.m.]: On behalf of The Greens I address the Conveyancing Amendment (Sunset Clauses) Bill 2015. The Greens welcome this legislation. This is good law that will hit the bad guys in the neck while looking after the good guys. People who seek to exploit their power positions will lose the capacity to do so and thus a fairer market will be created. This is how legislation should work. I

do not say that this legislation is too late. Of course, it would have been nice to have it 20 years ago but the Minister understood the outcry when he read about it in the "Domain" section of the *Sydney Morning Herald*. I congratulate the *Sydney Morning Herald* journalists, in particular Sue Williams who continually raised this issue. The Minister identified the problem, consulted briefly and acted. Well done, Minister Dominello. It is a good bill that will achieve its aim.

Some developers who are deeply reprehensible individuals use the sunset clause as an opportunity to exploit purchasers. Purchasers who buy off the plan pay a 10 per cent deposit, which provides a handy cash flow for the developer. The developer then uses the money from purchasers, which provides security for him or her to go ahead and develop. Purchasers may have to wait three or four years. In the meantime, property prices go up. The developer waits out the period, rescinds the contract for sale once the necessary period has expired and sells the development on to other purchasers who can afford to pay more. That is nice for the developer but lousy for those who have purchased off the plan. In that time property prices have not only gone up but the original purchasers have not been active in the market. They would have set aside enough money to complete the contract but not enough to buy into the new market and many of them will have lost the opportunity to climb the escalating ladder of Sydney property prices. This rort—and it is a rort—has attracted the low-life people that are involved in property development in New South Wales.

A large number of contracts were rescinded in Wolli Creek. Contracts relating to 40 to 44 John Street, Lidcombe, which is run by the family of Auburn Deputy Mayor Salim Mehajer, were also rescinded. Mr Mehajer is accused of many things but in this instance he inflicted direct pain on individuals who were told that if they chose to commit to their purchase the size of their apartment would change. For example, people who bought an apartment that was 140 square metres in size were told they would now be 90 square metres. It was a rat act by Mr Mehajer's family company—an act that, hopefully, will never happen again under this legislation. The legislation provides that a sunset clause cannot be exploited by a developer acting in bad faith. It does so by requiring a developer to provide a written explanation why the purchase should be rescinded. The purchaser has a right to accept or reject those reasons. If they reject it, the developer has to attend at the Supreme Court and runs the risk of a costs order being made against him or her.

The reasons the developer has to satisfy under proposed section 66ZL (7) are strong. They include the terms of the contract; whether the vendor has acted unreasonably or in bad faith; the reason for the delay; the likely date that the plan will be registered and the lot created; and whether the lot has increased in value. If a developer has rescinded a contract simply to gouge funds from the purchaser because there has been an increase in value, the Supreme Court will be able to find against that developer and force him or her to complete the construction of the apartment. There is no question that this legislation is needed. I voted for its urgency because it is genuinely urgent. An evil is being committed and this legislation will stop it. The Greens welcome the fact that the legislation is backdated to 2 November. Any attempt to rescind contracts from 2 November will be challenged if the developer has not obeyed those provisions. No harm will be done to a developer who has genuinely been hit by hard times and cannot complete the contract.

The Hon. John Ajaka: Or cannot get approval.

Dr JOHN KAYE: Or cannot get approval, or for any other reason. Those possibilities are accounted for in the reasons stated under proposed section 66ZL (7). The retrospective nature of this legislation is justified by the cause. When the Minister made his announcement that the legislation would be backdated to 2 November, he put a stop to the honey pot effect—when developers would dive in and cancel contracts. I thank the Minister's staff for the way they have engaged with The Greens about this legislation. We support this legislation wholeheartedly. It is a step forward for people attempting to purchase their first apartment or investment property. It is a valid consumer protection that should be welcomed by all members of this Chamber.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [6.28 p.m.], in reply: I thank the Hon. Peter Primrose, the Hon. Paul Green, the Hon. Ernest Wong and Dr John Kaye for their contributions. As honourable members have heard, the Government is committed to providing the utmost protection for purchasers and certainty for industry in the sale of off-the-plan land and apartments. The Conveyancing Amendment (Sunset Clauses) Bill 2015 prevents developers from terminating off the plan contracts to reap a windfall profit at the expense of homebuyers. I congratulate the Minister for Innovation and Better Regulation, the Hon. Victor Dominello, on bringing this bill before Parliament. I also indicate that under this bill developers will be required to obtain the consent of purchasers to rescind a residential off the plan contract. I commend the bill to the House.

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

Motion agreed to.

Bill read a second time.

In Committee

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

The Hon. ROBERT BORSAK [6.29 p.m.], by leave: I move Shooters and Fishers Party amendments Nos 1 and 2 on sheet C2015-170 in globo:

No. 1 **Rescission under sunset clauses**

Page 3, schedule 1 [2], proposed section 66ZL (4), line 30. Omit "a term". Insert instead "an essential term".

No. 2 **Rescission under sunset clauses**

Page 4, schedule 1 [2], proposed section 66ZL (7). Insert after line 5:

(g) whether, at the time that the off the plan contract was entered into, there were reasonable grounds for believing that the subject lot could be created by the sunset date,

The aim of this bill is to protect purchasers who have off the plan contracts. Having regard to the recent practice of developers rescinding contracts in order to obtain an increased purchase price, the aim of the bill should be applauded. However, the two amendments that the Shooters and Fishers Party propose will further tighten the protections for purchasers with off the plan contracts. Under proposed section 66ZL (3) (c), the Government reserves the right to make regulations that will permit a vendor to rescind under a sunset clause. We have not seen the regulations, nor have we heard what they will contain. Will the rights of purchasers be watered down by the regulations? Proposed section 66ZL (4) states that "It is a term of an off the plan contract". As the courts sometimes grapple with essential or non-essential terms, our amendment No. 1 simply inserts the word "essential" before the word "term". We also propose to add a new paragraph (g) in section 66ZL (7), so that it reads:

(g) whether, at the time that the off the plan contract was entered into, there were reasonable grounds for believing that the subject lot could be created by the sunset date,

There have been many cases where a vendor has done everything possible to have the plan registered within the time frame under the contract but it was clear that the project could not be completed or the

plan registered within the stated time frame. Therefore if a vendor developer enters into a contract knowing that the plan cannot reasonably be registered within the time frame, it could be said that the vendor has been reckless in entering into the contract and ought not to have the benefit of the clause. Section 66ZL (7) (b), which states "whether the vendor has acted unreasonably", may not apply because it could be construed the vendor was acting unreasonably after the contract was made. These two simple and straightforward amendments clarify and extend the rights of the purchaser under off the plan contracts.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [6.32 p.m.]: The Government does not support the Shooters and Fishers Party amendments Nos 1 and 2. I do not wish to criticise the honourable member who has moved the amendments, but the Government has not had time to properly consider these amendments, having only just seen them. I understand the amendments have come in late because the bill has been dealt with as an urgent bill. The first amendment insists on the insertion of "an essential term", which would mandate the use of a sunset clause in a contract where the developer did not intend to include one. Therefore, it would suddenly create an extra provision that may not be necessary. One has to read subsection (4) of section 66ZL in conjunction with the earlier subsection (3). Section 66ZL (4) states:

> (4) It is a term of an off the plan contract that a vendor who is proposing to rescind the contract under a sunset clause must serve each purchaser under the contract notice in writing …

That means that details need to be provided. On that basis, under section 66ZL (3) (a) and (b) a purchaser would have to consent to the rescission or the vendor would have to seek an order of the Supreme Court. Put simply, if there is no sunset clause in a contract there is no need to go down this path. If there is a sunset clause in a contract, then whether it is an "essential term" or a "term" becomes irrelevant because the vendor still needs to obtain the consent of the purchaser or an order of the Supreme Court.

I respectfully submit that we should not proceed along the path of having an essential requirement put into the legislation when one is not necessary. In relation to amendment No. 2, all contracts are entered into with the parties believing that the development will be completed before the sunset. We do not want to put in an extra requirement that the purchaser has to prove to the court that the contract was entered into with that genuine belief. That amendment poses a risk that we are putting an additional obligation on the purchaser, and we submit that that is not necessary in the circumstances.

The Hon. PAUL GREEN [6.35 p.m.]: It is very rare that the Shooters and Fishers Party bring amendments to this House. The Christian Democratic Party sees the wisdom of having the great weight of this matter fall on the side of the most vulnerable. The Christian Democratic Party supports the amendments moved by the Shooters and Fishers Party. It is unfortunate that the Government has not seen that the weight of this legislation should fall on the side of the purchaser rather than on the vendor.

The Hon. PETER PRIMROSE [6.35 p.m.]: As has been indicated in other debates, this is a vexing issue. Like the Government, we only received these two proposed amendments very recently. We clearly believe that the mover of these amendments is acting in good fact, and I know that the Government does not suggest anything to the contrary. The Minister has provided to the House the advice that the Government has received. The Opposition has not been able to obtain independent legal advice on this matter. Given the advice provided by the Minister, it would be prudent for the Opposition to be cognisant of that advice and oppose these amendments at this time. If we are given an opportunity to consider these amendments appropriately the Opposition may change its view. The Opposition is operating on the good faith of the mover but also with respect to the information that has been provided by the Government in good faith. Accordingly, the Opposition will not be supporting these amendments.

The Hon. ROBERT BROWN [6.37 p.m.]: Because the bill was urgent, the Shooters and Fishers Party apologises to the House for the lateness of our amendments. The amendments were drafted by a

barrister, so we were happy to test them against the Government's advice on the basis that they were sound in law. I appreciate the position of the Opposition and the Government with respect to the short notice. Unfortunately, that is the way the matter fell.

Dr JOHN KAYE [6.37 p.m.]: The Greens are in the same position as the Opposition. We do not know what these amendments mean. There are a number of definitional issues associated with the proposed amendment to section 66ZL (4). I am not clear about the implications. I am concerned that the addition of another matter to be taken into account could work against the purchaser. I might be wrong. At this stage we have to use the precautionary principle and oppose the amendments. I appreciate the spirit in which they were brought to the House. I have no doubt that that was done with good will. I encourage the Government to consider the two proposed amendments and when we reconvene next year to provide an opportunity for those amendments to be brought back.

Question—That Shooters and Fishers Party amendments Nos 1 and 2 [C2015-170] be agreed to—put and resolved in the negative.

Shooters and Fishers Party amendments Nos 1 and 2 [C2015-170] negatived.

Title agreed to.

Question—That this bill as read be agreed to—put and resolved in the affirmative.

Bill as read agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. John Ajaka agreed to:

That the report be adopted.

Report adopted.

Third Reading

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [6.40 p.m.]: I move:

That this bill now read a third time.

The Hon. ROBERT BROWN [6.40 p.m.]: I will not unduly delay proceedings, but I wish to ensure it is recorded that the Hon. Robert Borsak and I and the Hon. Paul Green as a representative of the Christian Democratic Party voted with the ayes on the Shooters and Fishers Party amendments. We would have liked the Government to have adopted them, but we have heard what members have said. We hope that the Government will take the issues under advisement and revisit them next year.

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

Motion agreed to.

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

ADJOURNMENT

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [6.41 p.m.]: I move:

That this House do now adjourn.

MARRIAGE EQUALITY

The Hon. TREVOR KHAN [6.41 p.m.]: As this is my final opportunity this year to speak during the adjournment debate, I draw to the attention of the House controversy that has arisen in Tasmania and threatens to spread throughout Australia. I am sure all members of this House have received a number of emails expressing concern that freedom of speech is under threat in the context of the marriage equality debate. The concern arises as a result of a complaint by Ms Martine Delaney to the Tasmanian Anti-Discrimination Tribunal. Ms Delaney's complaint is in response to actions of Archbishop Julian Porteous in distributing what is described as a pastoral letter to, as I understand it, all children attending Catholic schools in Tasmania. It sets out the Catholic Church's view on the current campaign for marriage equality and on the very concept of marriage.

I point out that the document, which is described as a pastoral letter, is a pamphlet or booklet of several pages. It has been prepared and distributed not only in Tasmania but in New South Wales and, I expect, probably in the other States. The issue in dispute arose in Tasmania and no doubt reflects the wording of the anti-discrimination legislation in that State. I do not wish to repeat the contents of the pastoral letter. Deputy-President (the Hon. Paul Green) will not be surprised when I say that I do not agree with the underlying propositions upon which it is based. Nevertheless, I note that in recent times Archbishop Porteous has been quoted as having said:

> The first thing I want to say to Martine is look, I regret if you've felt that, it was not my intention and not the intention of the Catholic Bishops to cause that offence …
>
> It's just simply us representing what we believe to be right and true and good …

I accept entirely what Archbishop Porteous said in that regard. I also accept that Ms Martine Delaney is offended by the pastoral letter and I empathise with her in that respect. However, while I am sympathetic, I cannot agree with her actions in bringing this complaint. I am reminded of the words of the English author, Evelyn Beatrice Hall, who when writing her 1906 biography of Voltaire, *The Friends of Voltaire*, wrote:

> I disapprove of what you say, but I will defend to the death your right to say it.

If the marriage equality debate is to proceed in the new year, as indeed it will, much will be said, and some of the statements will be hurtful to one or other side. If we are to make progress, which I sincerely believe we will, we must go through a little pain for a time for the sake of a better future. With every fibre of my being I remain committed to seeing the outcome of a change to the marriage Act. I am sure not everyone in this House will agree with me in that regard, but I again express the hope that we are able to maintain a degree of civility towards each other, that we progress this matter through to a conclusion, and that, having negotiated the process towards an outcome, we will remain courteous and, indeed, friends with each other.

WILLIAMTOWN LAND CONTAMINATION AND FISHING INDUSTRY

The Hon. MICK VEITCH [6.45 p.m.]: This evening I will share some of the stories and the heartache of commercial fishers and their families who have been affected by the contamination of Port Stephens and Hunter River waterways around the Williamtown Royal Australian Air Force [RAAF] base. The lives of those proud fishing families have been turned upside down by the events through no fault of

their own, and it is imperative that the best possible assistance is provided to them. The history of this situation goes back a long way but really hit public attention, the media gaze and the scrutiny of politicians in September this year when a temporary fishing closure was introduced at Fullerton Cove and Tilligerry Creek after the discovery of legacy firefighting chemicals that had been used at the Williamtown RAAF Base.

The community was advised to not drink bore water or eat fish caught in the nearby area or to eat eggs from backyard chickens that had been drinking bore water in the area. On 27 October it was announced that a further eight-month precautionary fishing closure would be implemented for affected areas of Port Stephens and the Hunter River until the end of June 2016. There since has been significant confusion among local residents over how long the potential contamination had been known about, how far it extends, and how long they can expect it to remain. I know that many members of the local fishing industry, and indeed the broader local community, have struggled with the apparent lack of understanding shown by both State and Federal governments of the human side of this disaster. Those families want politicians and government agencies to comprehend what it means to be faced suddenly with a struggle to put food on the table at home, to be forced to change or completely cancel plans for Christmas, to tell their kids they will not be able to do certain things or buy the Christmas presents their children would like.

If this human impact is properly understood, the response must be more sincere and substantial, and it must be delivered in a way that respects the dignity of those families. I am heartened by the determination of my colleague the member for Port Stephens, Kate Washington, to make sure her constituents are being heard as loudly as possible. They have an excellent representative in Kate, who I know is fighting hard for them. The Opposition asked a number of questions in this place to seek clarification from the Government on behalf of the local community. The Minister's response to our questions followed a carefully crafted script. He has not ventured from that script one iota. I understand that his responses relate to his portfolio areas. I am quite worried about the role of the Environment Protection Authority in this matter. I understand that that is not one of the Minister's responsibilities.

I am genuinely concerned that fishers and the industry's direct and indirect labour force could lose their businesses and livelihoods off the back of these fishing closures, which are in place until July next year. Urgent assistance is needed to ensure that this does not happen and to make sure livelihoods and lives are not harmed any further. I call on the New South Wales Government to step in immediately to do the job that the Federal Government is shirking and provide an interim one-off payment to affected fishers now. This would mean they can put food on the table, pay the mortgage and have some sort of a Christmas instead of a holiday season strained by anxiety and worry for the future. It also would give them some hope that they will be looked after, as they should be, when their own government has damaged their businesses and income.

The local community has been clear that the response of the Federal Government, particularly the arrangements for compensation recently announced by the Commonwealth, have been woefully slow, confused and inadequate in the context of the scale of damage on these families and the local fishing industry. The New South Wales Government could help to fix this right now by using its significant resources to take the monetary burden off the shoulders of the innocent fishing community in Port Stephens and the Hunter River and seek redress from the Commonwealth at a later date. I urge Premier Baird and his Government to take the reins of this situation and provide succour for these families in their time of need; if ever there was a time for targeted and respectful disaster assistance, this is it. In conclusion, I will read some comments from affected fishers and their families; I cannot illustrate the situation any better. From a commercial fisherman:

> They have said that if you have any money in the bank you can't get support. Well even if we have money in the bank why should we have to wait till we are in dire straits to get assistance? None of this is our fault and again we are paying the price because of what someone else has done ...

From the wife of a fisherman:

> We continue to be totally confused by the entire contamination situation. All week, depending on what time and day you call Centrelink, the information changes.

From the wife of another fisherman:

> Due to no income, we are struggling to put food on the table for our two young children and ourselves. We are also struggling to make our home loan repayments, our car payments, utility bills and insurance payments ...
>
> I am extremely stressed and worried about the future of our business. I strongly believe that if immediate support is not granted then we will have to declare bankruptcy ...

The Commonwealth Government is responsible for this disaster and has to accept ownership, but I urge the State Government in the interim to provide assistance and then seek recompense from the Commonwealth.

SNOWY MOUNTAINS TROUT FESTIVAL

The Hon. ROBERT BROWN [6.50 p.m.]: Honourable members will not be surprised that both the Hon. Robert Borsak and I are passionate about protecting people's rights to pursue their outdoor activities without hindrance. Often we find that city-based bureaucrats and politicians blunder about with public policy and law changes, ignorant of the wider implications of their actions. One such incident that comes to mind is the recent Snowy Mountains Trout Festival, which ran from 31 October to 6 November.

During the months of spring and summer, anglers from far and wide are drawn to the clear waters of the Snowy Mountains. The region offers a myriad of fishing environments, ranging from alpine streams to world-renowned rivers and lakes such as Eucumbene and Jindabyne, and champion fish. With a New South Wales fishing licence, you simply need to cast your line. Even if you are a beginner, there are numerous operators in Jindabyne and Thredbo who are ready to offer beginner lessons in what is one of Australia's favourite outdoor activities.

In its forty-second year, the Snowy Mountains Trout Festival remains a tourism drawcard for the local community. It is also a great celebration of the pastime that is fishing. Visitors to my office, as Government and Opposition members would be aware, would see a 13-pound brown trout mounted on the wall. I am certainly no stranger to wetting a line or flicking a fly. The largest catches during the festival can be quite impressive, even by international standards. John Herzog caught the largest brown trout of the festival on day three, his catch weighing in at 2.8 kilograms, after it was gutted and gilled. The largest rainbow trout was caught by Peter Chapman on day four, and it weighed in at well over 1.6 kilograms—a fine catch by each angler.

This great festival was under threat, however, by an environmental water release from Jindabyne Dam scheduled to take place one week before the festival was due to commence. I recently questioned the Minister on this matter to see if he could assure anglers that this would have no impact on the competition. It could be devastating for a competition such as this because reducing the water level of Jindabyne Dam would reduce the shallow water available for trout to feed, thus reducing many prime fishing spots. As trout anglers would know, the best time to catch fish is on rising water levels.

Minister Blair's hands largely were tied on this matter, however, because the environmental water release is federally mandated. The idea of the water release is to replicate the natural water flows that existed from the melting snow at the end of winter before the dam's construction. I have no problem with this as it preserves the native habitats downstream and preserves native fish stocks for budding anglers. The point I do take issue with, however, is that given this water release was not for irrigation, there is no

reason why it could not have been delayed by a week until after the festival had concluded. Given that many rural communities struggle to encourage tourists to venture west from the coast and that the Snowy Mountains Trout Festival is such a long-running institution—an annual institution held on the same weekend every year—it is astonishing that this festival and the revenue it brings to the local communities were put at risk by the stroke of a pen from a Canberra-based pencil neck.

MULTICULTURAL AND INDIGENOUS MEDIA AWARDS 2015

The Hon. SHAOQUETT MOSELMANE [6.54 p.m.]: On Wednesday 11 November I, as convener of the Multicultural and Indigenous Media Awards, had the honour of holding the fourth awards presentation night in the presence of a number of distinguished guests including: the Hon. Leslie Williams, Minister for Aboriginal Affairs, representing the Premier, the Hon. Mike Baird; the Hon Linda Burney, shadow Minister for Aboriginal Affairs and Deputy Leader of the Opposition, representing the Hon. Luke Foley, the New South Wales Labor Opposition Leader; the Hon Sophie Cotsis, shadow Minister for Multiculturalism; Mr Chris Minns, the member for Kogarah and chair of the Wastewatch committee; Mr Steve Kamper, the member for Rockdale and co-chair of the Wastewatch committee; as well as his Excellency Mr George Bitar-Ghanem, Consulati-General of Lebanon.

Our awards judges were Ms Majida Abboud Saab, Professor Gerry Georgatos, Dr Zoran Becvarovski and Dr Fawzy Solomon. Also present, of course, were our sponsors: Ben Au and David Gau from the ATax Financial Group; Adam Malouf and staff of the Arab Bank, with special thanks to its director and chief executive officer, Joe Rizk; and Rick Mitry, Mitry Lawyers. I am grateful for their fantastic support because without sponsorship the dinner presentation night would not happen. Our keynote speaker was Jeff McMullan, AM, a man of great insight and knowledge. It was an honour and a privilege to have him grace our event. It was an honour and a privilege also to have so many special guests present including emcee Liz Deep-Jones, a former journalist with SBS, and special guests from ABC Television Hayden Cooper and Lisa Main, as well as many other distinguished from multicultural and Indigenous media—too many to mention by name.

I was greatly honoured to be running the fourth annual awards to celebrate the achievements of remarkable people in multicultural and Indigenous media. The night was all about the journalists in our communities who are on the front line of multiculturalism and Indigenous Australia. This was but a small tribute to the tireless work that they do. Australia's ethnic media have come a long way from the foreign language press, as it was called, who were viewed with suspicion and as a hindrance to assimilation, to an important voice serving multicultural Australia. Similarly, Indigenous-specific media have made significant strides in promoting community issues and putting the community agenda on the national platform. From grassroots origins Indigenous media are staking a place in the mainstream while retaining authenticity and Indigenous political discourse. This empowerment of Indigenous people through Indigenous-specific media and their highlighting of Indigenous issues long untold are engaging the highest public institutions in our nation.

The Multicultural and Indigenous Media Awards are intended to recognise excellence among journalists, photographers, editors and publishers, as well as to encourage and recognise their significant service to multicultural and Indigenous Australia. As with all awards, only a few nominees will receive awards; of course, some will have another opportunity at next year's awards. In my eyes, though, they were all winners. I commend every media outlet for bringing the multicultural and Indigenous story to the front and centre of our Australian story. A strong field of contenders fought it out for the seven categories.

The News Reporting Award was won by Mr Pawan Luthra of Indian Link Media Group; and Online News Coverage was won by Mr Shant Soghomonian of Armenian Media Incorporated. The Indian Link Media Group continued its successful evening by Mr Sachin Wakhare taking out the award for Photographer of the Year. Ms Margherita Angelucci of Il Globo-La Fiamma won the award for Editorial Reporting, and this award was accepted on her behalf by La Fiamma Chief Editor, Armando Tornari. Ms Violi Calvert of the Filipino Australian was humbled by her victory in the category of Coverage of

Community Affairs. I was proud to present the Encouragement Award to 13-year-old Ms Natalie Sukkarieh, who impressed the crowd with her speech noting her love for investigative journalism and bringing the truth to light.

The Hall of Fame Award had two recipients: Editor in Chief of the *Annahar* Arabic newspaper, Mr Anwar Harb, who has been in the media business since 1978; and the chief executive officer of the *Sing Tao Daily,* Mr Simon Ko, who has been at the helm for 17 years bringing local and international news and the views of fellow migrants to the Chinese Australian community. The Young Journalist of the Year was won by the *Indian Telegraph*'s Arijit Banarjee. The most prestigious award of the night was won by Ms Natalie Ahmat of NITV News, who dedicated her award to her small but hardworking team of colleagues.

SURF LIFE SAVING NSW

The Hon. NATASHA MACLAREN-JONES [6.59 p.m.]: This evening I will speak about the outstanding contribution that Surf Life Saving NSW makes to water safety. The estimated economic value to New South Wales of its drowning prevention and rescue activities is more than $1.9 billion. In New South Wales there are over 77,000 members across 129 clubs and 11 branches, and collectively they protect close to 1,600 kilometres of coastline from Fingal Beach in the north to Pambula Beach in the south. The origins of Surf Life Saving NSW can be traced back to a local of Manly Beach, Mr William Gocher. In September 1902 Mr Gocher defied the law by bathing during prohibited hours, which were during daylight. He and others forced the recognition of daylight bathing and the pastime of surfing became part of our national culture.

It was not long before the dangers of surfing and bathing became apparent, which led to experienced regular surfers working together to form lifesaving clubs to assist those who required rescuing. In October 1907 the New South Wales Surf Bathing Association was formed to unite all clubs with the motto of "Vigilance and Service"—a motto that still exists today. Surf lifesavers patrol our beaches from September to April each year and volunteer over 500,000 hours patrolling the coastline. Since recording began in 1949, Surf Life Saving NSW has saved more than 345,000 lives. Surf Life Saving NSW is the State's peak coastal water safety, drowning prevention and rescue authority, protecting more than 8.5 million beachgoers each year. It performs thousands of rescues, preventative actions and first aid treatments.

The junior program, known as Nippers, is extensive. Resources and assistance are provided to clubs to help them deliver the program to more than 30,000 members under the age of 14. A number of development programs provide personal development and leadership training. These include: Junior Lifesaver of the Year, with 22 finalists from across the State aged under 14 years; youth opportunity makers workshop, which is open to members aged between 15 and 17 years; and the development networking program for members aged between 18 and 25 years. Member recognition is extremely important and there are annual awards for excellence. I note that the Northern Beaches branch received the 2015 award for excellence for its outstanding achievements on behalf of surf lifesaving. There are a number of awards to acknowledge the volunteers, including New South Wales Volunteer of the Year, New South Wales Sports Federation award, and the Coastal Environment award.

Surf Live Saving NSW is a not-for-profit organisation that relies on government grants, sponsorship, fundraising and donations. The total estimated economic value of Surf Life Saving's program is more than $1.9 billion per year. To break that down, the estimated value of Surf Life Saving volunteer lifesavers in preventing drowning is $1.3 billion and in preventing permanent incapacity $565 million. Figures reveal that without surf lifesaving activities during 2014 and 2015 an additional 320 deaths by drowning would have occurred and a further 234 rescues would have resulted in permanent incapacity and 1,091 would have resulted in minor injury needing first aid treatment. Surf Life Saving NSW has an emergency response system coordinated through the Surf Life Saving NSW State operations centre. The system has been responsible for saving hundreds of lives over the past few years, most of them outside patrol hours or at unpatrolled and remote locations.

A team of dedicated volunteers known as State duty officers are the backbone of the operation. They respond to callouts from police or ambulance 24 hours a day and attend the scene of any coastal accidents or emergencies. Incidents range from swimmers in distress, rock fishing mishaps, shark attacks and searches for missing persons to offshore boating accidents, coastal aircraft crashes and medical emergencies. With the support of the New South Wales Government Water Safety Black Spot Fund, Surf Life Saving NSW has embarked on a major project to help reduce coastal drownings. Using its expertise relating to the coastline, Surf Life Saving NSW will assess every beach and rock platform in New South Wales over the next few years and develop a blueprint that will keep the public safe.

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

Motion agreed to.

The House adjourned at 7.04 p.m. until Wednesday 18 November 2015 at 11.00 a.m.