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LEGISLATIVE COUNCIL

Tuesday 15 March 2016

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.

LEGISLATIVE COUNCIL CHAMBER WATER LEAKAGE

The PRESIDENT: Earlier this morning some water penetration occurred along the northern end of the Legislative Council Chamber roof during heavy rain. Re-roofing works above the historic section of Parliament House, including the Legislative Council Chamber, are still ongoing. The contractor responsible for the works has addressed the cause of today's water penetration. Final completion and inspection of all the works are due early April, subject to weather. Members will note that one of the benches along the northern wall, which is indicated by signage, remains wet. Members are asked to use alternative benches for today. Some issues with the condition of the wallpaper in the Legislative Council Chamber predate this incident and the Department of Parliamentary Services is investigating options for its replacement.

CENTENARY OF FIRST WORLD WAR

The PRESIDENT: A century ago this week the first Australian troops arrived in the port city of Marseilles to contribute to the defence of France on the Western Front. Most arrived from their homeland but many disembarked already battle hardened from Gallipoli and in the Middle East. Within weeks they had travelled north by train to the battlefields. By early April they had taken over sectors of the front line and engaged with the enemy. They remained until the end of the war. In total some 295,000 of our countrymen were to serve on the Western Front. Nearly half became casualties and more than 46,000 lost their lives. As the Australian troops were arriving in Marseilles on 19 March 1916 the longest and most costly battle in history was just unfolding.

The Battle of Verdun commenced on 21 February 1916 and lasted until 19 December that year. In a geographical area only about 10 times the size of Centennial Park, over the course of an interminable 303 days, two armies engaged in endless slaughter in atrocious conditions. Over a quarter of a million were killed: more than the current population of Hobart. A further 700,000 were casualties: a number exceeding the combined populations of Newcastle and Wollongong today. This was the terrible, true face of the so-called Great War. German General Erich von Falkenhayn stated his objective was to make the forces of France and its allies "bleed to death". French General Robert Nivelle replied, "On ne passe pas"—they shall not pass. Looking back, one can but say, "Lest we forget."

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

BUSINESS OF THE HOUSE

Formal Business Notices of Motions

Private Members' Business items Nos 634, 636 and 650 outside the Order of Precedence objected to as being taken as formal business.

CLIMATE CHANGE AND GLOBAL TEMPERATURE

Motion by Ms JAN BARHAM agreed to:

- (1) That this House notes that:
 - (a) the United States Government's National Oceanic and Atmospheric Administration's [NOAA] analysis showed that the global annually averaged temperature in 2014 was hotter than any other year since records began in 1880;

- (b) NOAA's analysis showed that the global annually averaged temperature in 2015 was hotter than the previous year, making last year the hottest on record;
 - (c) NOAA's most recent monthly analyses show that December 2015 and January 2016 are the first two months on record in which global annually averaged temperatures have been more than one degree Celsius above pre-industrial levels, and that January 2016 was the ninth consecutive month in which the monthly temperature record has been broken; and
 - (d) although NOAA's analysis of the February 2016 temperature data has not yet been released, two independent preliminary analyses of temperature data reported by meteorologist Mr Eric Holthaus at *Slate* on 3 March 2016 suggest that the global average temperature in February 2016 may have been even hotter than the previous month, and that for the first time on record the monthly averaged temperature for the Northern Hemisphere exceeded two degrees Celsius above pre-industrial levels.
- (2) That this House notes that global temperatures continue to rise and without urgent action across all countries, levels of government and sectors of society and industry to reduce greenhouse gas emissions global warming will present an increasing risk to the natural environment, biodiversity and human health and wellbeing.

TABLING OF PAPERS

The Hon. Niall Blair tabled the following paper:

Community Services (Complaints, Reviews and Monitoring) Act 1993—Official Community Visitors 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. 15/56", dated 15 March 2016.

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

BUSINESS OF THE HOUSE

Routine of Business

[During the giving of notices of motions]

The PRESIDENT: Order! I remind members that when their notices of motions are lengthy they may read them in an abridged form and give them to the Clerks. The full text of notices of motions is available online or in the *Notice Paper* the following day.

CHARLES BARDEN AND LUCY SMITH RETIREMENT

The PRESIDENT: I take this opportunity to inform the House of the imminent departure of two of our longest serving and most respected parliamentary staff, Mr Charles Barden and Mrs Lucy Smith. Charles and Lucy have chosen to accept voluntary redundancy packages and their last sitting day will be Wednesday 23 March, immediately before the Easter break. I ask members to note in their diary that I will be hosting an afternoon tea after the House rises on Wednesday 23 March to provide an opportunity to farewell these two much-loved staff who have served us all so well for many years.

ROAD TRANSPORT ACT 2013: DISALLOWANCE OF ROAD TRANSPORT LEGISLATION AMENDMENT (BICYCLE RIDERS) REGULATION 2016

The PRESIDENT: Pursuant to standing orders the question is: That Business of the House Notice of Motion No. 1 proceed as business of the House.

Question resolved in the affirmative.

Motion by Dr Mehreen Faruqi agreed to:

That the matter proceed forthwith.

Dr MEHREEN FARUQI [3.02 p.m.]: I move:

That, under section 41 of the Interpretation Act 1987, this House disallows item [2] of schedule 2 of the Road Transport Legislation Amendment (Bicycle Riders) Regulation 2016 published on the New South Wales Legislation website on 26 February 2016.

On behalf of The Greens I have moved this motion to disallow item [2] of schedule 2 to the Road Transport Legislation Amendment (Bicycle Riders) Regulation 2016. At the end of last year the Government announced the Go Together measures that it says will benefit motorists and cyclists, provide safety for both groups and encourage more civility and tolerance on the roads. If only that were the case. The measures, while containing the positive inclusion of the long-awaited one metre passing rule, are in many ways misguided. The disallowance motion I bring before the House today seeks to rein in specifically the massive increases to fines payable by cyclists for certain offences on New South Wales roads. All cycling groups have been opposed to these punitive rules from the start. I thank them for their advocacy and activism on this important issue. I also acknowledge the presence of representatives of those groups in the gallery.

Go Together is the latest of stunts by a government that is attempting to appear as though it is doing something for cyclists in New South Wales but which in fact is doing next to nothing. In some respects it is making things worse. The annual New South Wales budgets allow for a relatively tiny spend on active transport infrastructure. Meanwhile more rules are being introduced and the scant bicycle infrastructure we have is either being ripped up, in the case of the College Street cycleway, or wasted on projects that cyclists do not want, such as the \$40 million Tibby Cotter Walkway.

There are some good aspects of the new rules. The one metre passing law is a welcome addition and is really a no-brainer. Bike riders are some of the most vulnerable road users and a clear rule to outlaw unsafe passing has been a long time coming. But to be effective there must be investment in an education campaign about the one metre passing rule so that all road users are aware of the rule and its effects. In respect to the compulsory identification aspect of the Go Together package, like many cyclists I have spoken to, I am glad that this useless rule has been pushed back for another year—to a start date of 1 March 2017. The Government says that this was always the plan but the Go Together website indicates a proposed 1 March 2016 start date, so it is clear that there has been a delay. This useless rule needs to be scrapped altogether before it becomes a regulation.

Documents I received just days ago under the Freedom of Information Act revealed that about half a million people in New South Wales above the age of 18 years do not have a licence or photo identification and will be locked out of cycling next year. That is almost one in 10 adults. In order to obtain the privilege of riding a bicycle they will have to pay \$51 to get photo identification [ID]. The Government has this information but does not seem to care that these rules will affect hundreds of thousands of people, many of whom are among the most vulnerable in the community. The Minister for Roads, Maritime and Freight has said that ID is needed in order to assist emergency services. Where is the information to back up this claim? Are people who have an accident and do not have ID not receiving emergency care?

If that is the case, should pedestrians and passengers in motor vehicles and buses also be forced to carry ID? The fact is that there have been no good policy reasons made public for the ID rule or the fine increases. We have seen no evidence that either compulsory ID or massive fines will make people any safer on the roads. I now turn to the fines and to the specific subject of this disallowance motion. The relevant fines are being jacked up enormously. The fines for not wearing a helmet or for holding onto a moving vehicle are up from \$71 to \$319. The fines for running a red light, riding dangerously or not stopping at certain crossings are up to \$425. Penalties for various other cycling offences are up from \$17 to \$106. I have received countless emails, letters and phone calls from people who are very concerned about these high fines. I read from one of those letters which states:

I believe the new fines structures are unfair and disproportionate, a barrier to the continuation and growth of commuter cycling (and the broader issue of encouraging public transport), and potentially discriminating with the police being instructed to enforce laws for which there is no cycling infrastructure existing within our current road system (example, the inability of a bicycle to trigger a change to green at traffic lights, yet a huge fine is imposed if a cyclist proceeds safely through an unchanging red light).

I am strongly against mandatory identification, and particularly fee-paying licensing, as an invasion of privacy and a further barrier to the uptake of cycling. I agree that there is no evidence to support a benefit to cyclists or society through this imposition.

That is one of the many letters and messages I have received. The Greens support penalties that are proportionate to the unlawful action. This is a basic principle of the common law and something that should be

reflected in the way we legislate and regulate in this place. The punishment should fit the act. The Greens believe that penalties should be exacted for breaking road rules but in no sane world are \$425 fines for basic cycling offences proportionate to the offence.

I recently had a phone call from a gentleman in Orange who raised the impact of these new rules on people who live in regional and rural New South Wales, especially low-income groups. In many regional and rural areas around New South Wales it is back luck if someone does not have a car. Public transport is infrequent and, in many cases, non-existent. Under those circumstances it is not fair that someone should be fined \$319 for not putting on a helmet to cycle to the shops. The fine for not wearing a helmet has been raised to \$319—almost double the fine a motorist receives for driving into a bike lane.

People in the community are rightly angry and correct to see this for what it is—blatant revenue raising and a potential deterrent effect on people cycling at all. We regularly see members of the NSW Police Force stopping and fining cyclists for small offences such as not wearing a helmet and not stopping fully at stop signs. The Greens also have concerns about the general idea that cyclists and motorists should be treated as equal dangers to road safety in this way. The Go Together website states:

Fines for five offences will increase so that bicycle riders receive the same fines as motorists for high risk behaviour.

These increases are intended to deter unsafe behaviour and bring penalties for high-risk behaviour in line with those for motorists. This view implies that cyclists and motorists are equal threats to road safety. This is a misleading and incorrect assumption to make. Obviously cyclists and motorists are both examples of road users, but we cannot say that a bike, which is pedal driven and made of rubber and wire, presents the same danger to others on the road as a two-tonne motorised hunk of metal. The road safety implications of a cyclist travelling through a red light when the intersection is clear, for instance, are clearly less than a motorist undertaking this action. These things need to be considered in our laws.

From my former career as an engineer I am familiar with risk analysis and evaluation, which has as a basic rule that risk management measures must be based on the level of risk posed. Many cyclists who sometimes travel through red lights have told me that they do not do so lightly. They do so because that is how they feel safe. It allows them to be out ahead of traffic when the intersection is clear, rather than locked in tandem with motorists and at risk of being squashed when the lights turn green. They are travelling through red lights as part of their survival strategy on the road.

Paris is the latest of a number of European and American cities and regions to review its strict policy on riding through red lights and allowing cyclists to travel through red lights in certain circumstances where the road safety benefits are clear. Variations on the so-called Idaho law may allow for bike riders to turn left at red lights when safe to do so or to treat red lights as stop signs. This law has been in operation in Idaho since 1982 and is worthy of consideration in New South Wales. I visited Portland, Oregon, in the United States of America, a couple of months ago. It is a city that epitomises how public and active transport should be in the twenty-first century. Together, community activism and political leadership have made it America's best bike city. It has hundreds of miles of bike paths, thousands of publicly installed bike racks, measures such as bicycle boxes at intersections to raise the visibility of cyclists and much more. This is what we should strive to do.

We must move to make cycling attractive and safe. This is about not just minimising congestion and getting cars off the road but also social justice and health. It is about social justice because we know that many people cycle to save money and avoid the massive expenses associated with owning a car or paying for the train every day. It is about health because we know the huge benefits of keeping active and exercising on a regular basis. I urge my crossbench colleagues to seriously consider the implications of the exorbitant fines. At the very best they are window-dressing. At worst they are unfair, unjust and will do nothing to improve safety but they will discourage people from using a cheaper, more sustainable way of getting around in cities, towns and regions. Being serious about safety means investing in cycling infrastructure; it does not mean persecuting, disproportionately fining and discouraging people from using a sustainable and healthy mode of transport. I commend the motion to the House.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) [3.12 p.m.]: The Government opposes this motion. The motion seeks to disallow the part of the regulation that increases penalties for cycling offences, announced as part of a comprehensive cycling safety package. With cycling injuries remaining high in New South Wales, the Government had no choice but to look at tougher deterrents and increased enforcement to improve safety for cyclists and other road users, such as

pedestrians. We do not want to see another dollar in fines come into the coffers. I hope to see a reduction in cyclist injuries and fatalities. One pays a fine only if one breaks the law. This law is about safety, about wearing helmets, for instance. It is pretty straightforward—if people do the right thing they have nothing to worry about.

These changes are about improving safety. They will not affect the 99.9 per cent of cyclists who do the right thing. New South Wales has on average 11 pedal cyclist fatalities a year. Last year, the provisional toll was seven, which is a great result compared to 14 in 2014, but it is still seven too many. More alarmingly, there are on average 1,500 bicycle rider serious injuries every year in New South Wales. That is 1,500 of our bicycle riders admitted to hospital every year. In 2014 that figure rose to more than 1,800, and the number has been increasing since 2011. Penalties, along with education, behaviour change, safer roads and safer vehicles, contribute to road safety. There is no silver bullet. A combination of all the measures will make a difference. The fines are lower than in many other States.

This disallowance motion is another example of The Greens wasting time. The Greens do not want safer riders and safer roads; they want to pander to an uninformed fringe group of cyclists. But the debate on the motion provides me with an opportunity to dispel many myths that have emerged about the changes. Far from discouraging cycling, as many of these groups have said, the measures have had the opposite effect. I am advised that new bikes, big and small, expensive and inexpensive, on road and off road, were still rolling out of the door at one of the larger southern Sydney bike retailers last week, despite the implementation of the new regulations and the adjustment of penalties. Despite the baseless claims made by certain groups, the Bicycle Network proudly reported that the annual Super Tuesday bike count showed that cycling in Sydney continues to increase.

Implicit in the contribution of Dr Mehreen Faruqi to the debate was that the new regulations would reduce participation in cycling. In fact, I am told the word across the shop counter is that since the new regulations came into force on 1 March there has been a run on the purchase of cycle bells—a longstanding and inexpensive safety requirement under the existing road rule, regulation 258. For the cost of a couple of coffees, cyclists can purchase a decent bell or, if they prefer, a horn that can be used to avoid incidents that put their safety and the safety of other people, including pedestrians, at risk. The fact is that a bell is a simple but important piece of safety equipment, whether one is an avid cyclist, a regular cycle commuter or a family rider enjoying a shared path in the local park.

While road rule 258 has long been in place, the enforcement campaign by the NSW Police Force and the increase in penalties for not having a bell seem to have had an effect of nudging some cyclists to finally comply with simple safety laws. A point often overlooked is that the reforms were developed in close consultation with key stakeholders via a series of roundtables. Members of the Roundtable on Cycling Safety and Compliance included the Amy Gillett Foundation, Bicycle NSW, Cycling NSW, the Bicycle Network—

The Hon. Penny Sharpe: None of whom endorses this.

The Hon. DUNCAN GAY: All of whom stood beside me at the announcement of the regulation and endorsed it.

The Hon. Penny Sharpe: I think you are verballing them, Minister.

The Hon. DUNCAN GAY: I am not. They were at the press conference when this was announced. Other stakeholders at the launch included the Pedestrian Council of Australia, the NRMA, the Australian Medical Association and government agencies such as the NSW Police Force and the NSW Centre for Road Safety. Unfortunately, as is the case with most roundtables, every stakeholder could not get 100 per cent of what they wanted. But good government is about making decisions by balancing the needs of everyone, not just agreeing to the wants of a few. The Government has received support from many cyclists and cycling groups. For instance, Triathlon NSW, which represents the views of 6,500 members, wrote to me supporting the whole package of measures. It stated:

We strongly support adherence to the road rules and understand it is important for police to enforce these rules for all users.

Based on advice and feedback from the roundtable meetings, the Government introduced changes for motorists, namely, the minimum passing distance law. I refer to the "A Metre Matters" campaign strongly advocated by the Amy Gillett Foundation. This requirement is first and foremost about targeting risky and dangerous behaviour on our roads. New South Wales is not alone in trialling a minimum passing distance law for

motorists, with other States, such as Queensland, and the Australian Capital Territory having already introduced trials. South Australia has introduced it as law. As members would know, the package included a change to come into effect from March 2017 requiring cyclists to present identification to police if they commit an offence. This is not about penalising a particular class of road user. Its intention is to ensure that family members can be notified if there is a crash and to assist emergency services staff in their provision of medical support.

Dr Mehreen Faruqi, who moved this motion, asked whether cyclists needed identification to get emergency care. Everyone gets emergency care, whether or not they carry identification. This is about making sure that people get the best emergency care so that those treating them can access their medical records and be aware of pre-existing conditions and, importantly, are able to contact their family. Recently, a Liberal Party employee was knocked unconscious and remained unconscious for several hours. His family would not have known and his treating doctors would not have access to his records had he not been carrying identification. The Greens who are interjecting do not understand. They want to play silly games.

The Hon. Robert Brown: Point of order: I cannot hear the Minister over all the babble in the Chamber. The members who are interjecting are being disorderly.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! All interjections are disorderly. Members will cease interjecting and allow the Minister to complete his remarks.

The Hon. DUNCAN GAY: The form of identification used when cycling can include a driver licence or government-issued photo identification card, such as the one that is used to enter a club. An interstate equivalent identification card is valid, as is a passport. People can show an identification photo on their mobile phone. The Government is trying to make this as convenient as possible. It is worth noting that adult cyclists will not be stopped by police to identify themselves unless they have done the wrong thing.

Mr David Shoebridge: Point of order: The Minister is not being relevant to the disallowance motion, which is about the fines, not about the licensing arrangements.

The Hon. DUNCAN GAY: To the point of order: The mover of the motion went into detail on this issue. I am addressing the points that she raised.

Mr David Shoebridge: To the point of order: The Minister's contribution is irrelevant. It is not relevant to respond to other speakers' comments. This is a disallowance motion about the fines. The Minister's contribution is irrelevant to the disallowance motion.

The Hon. Ben Franklin: To the point of order: The Minister is providing context about this new system, which is important to understand when considering the specifics of this issue.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! The usual practice is that members are entitled to refer to statements made by the mover of the motion. The Minister may continue.

The Hon. DUNCAN GAY: This is a package and one section cannot be discussed without referring to the others. Dr Mehreen Faruqi, who moved the motion, spoke to this issue and I also am talking about it. It is worth noting that adult cyclists will not be stopped by police to identify themselves unless they have done the wrong thing. I would hope that most people would support police being able to identify and potentially fine a cyclist who runs a red light, hits a pedestrian at speed or does not stop at a school crossing. As for not wearing a bike helmet, research shows bike helmets reduce head injuries by up to 74 per cent in crashes with motor vehicles. New South Wales crash data also show a clear association between helmet non-use and crash severity.

Over the five-year period 2009 to 2013, at least 24 per cent of pedal cycle fatalities, 19 per cent of pedal cycle serious injuries and 15 per cent of all pedal cycle casualties involved a bicycle rider not wearing a helmet. It is like making it compulsory to wear a seatbelt in a car; there is no difference. Where possible, the Government provides dedicated infrastructure and separated bike lanes. Since 2011, the Government has invested historic levels of funding into building cycleways and pedestrian infrastructure, including \$57 million allocated in the 2015-16 State budget. But the Government is not just investing money; this package will put cycling safety at the forefront of people's minds. If taken as intended, motorists will be mindful of the minimum passing distance requirements and cyclists will ride more safely and avoid high-risk behaviour.

This package of changes, including the changes to fines, is designed to reduce unsafe cycling and intimidating behaviour by motorists. It is a good outcome for cyclists, pedestrians and the wider community. As I have indicated, the Government will be opposing the motion before the House. Recently, upon returning to my house in Redfern, my wife said that I had had a visitor, a lady had called and left me a cake. I said, "What for?" She said that the lady, an Australian Labor Party [ALP] supporter who has worked and fundraised for the ALP in the past, had called around to congratulate me on being what she called "the local politician of the year" for enforcing rules to protect pedestrians. She had been injured recently by a cyclist who had knocked her over, rode away and not offered assistance. We all know that cyclists like that are in the minority. But, sadly, accidents like the one that involved this lady do occur. This gorgeous lady is getting on in years and this accident was potentially quite harmful.

There are always several sides to a story, and the Government has tried to find a balance. Unlike The Greens who are playing politics and appealing to a minority group, the Government has tried to get the best outcome for everyone, whether it is cyclists or pedestrians. Yesterday morning I stopped off at Cooma for a cup of coffee and I happened to call into a coffee shop where the cyclists go. They were sitting around, in their lycra, drinking coffee. One of them noticed me and, with great alacrity, invited me to join them. I have to say that the feedback was not all praise. But overall, after we sat down and talked, they understood and were supportive of what the Government is doing. This Government talks to the people and helps them to understand, unlike The Greens who raise issues in order to divide the community.

The Hon. PENNY SHARPE [3.30 p.m.]: On behalf of the Labor Opposition I support this disallowance motion. Labor opposes the massive penalty increases for cyclists that have been introduced by this Government. It is an unjustified overreach by the Minister for Roads, Maritime and Freight. We oppose the penalty increases because they are not about improving safety. They will have the effect of deterring people from taking up cycling at a time when almost two-thirds of Australians are overweight or obese and we are looking down the barrel of a diabetes epidemic. Anything that stops people from taking up exercise is a bad idea. Labor opposes the increases in fines because we are committed to more livable cities—and livable cities embrace cycling, not deter it.

The increases in fines are part of an ongoing discussion that we have heard time and again from this Government. Cycling has been caught in the middle of a type of culture war—a war that is being waged on cyclists by a Minister who is proud to call himself the biggest bike sceptic in the Government. No-one is saying that there should not be enforcement of the road rules or cyclists should not obey the rules. But a 500 per cent increase in fines, coupled with the overzealous enforcement that we have seen in the past couple of weeks, is simply not justified. These changes more than quadruple some fines for cyclists.

The penalty for riding without a helmet now incurs a fine of \$319, up from \$71. The offence of riding dangerously includes, among other things, riding on the footpath. Recently a woman was stopped for riding dangerously because she was wearing jeans and high heels. With these changes, she could now incur a fine of \$425. By comparison, the fine for a motorist travelling more than 20 kilometres over the speed limit is \$436, just \$11 more. The Government says that it is massively increasing the penalties for bicycles in order to bring them into line with the penalties for cars. But that makes absolutely no sense and also ignores the fact that motorists who disobey road rules can and do cause significantly more harm than do cyclists.

A recent Australian study which looked at police data on road crashes in Sydney over a four-year period estimated that the relative risk of a fatality for a cyclist in Sydney was approximately 11 to 19 times higher than for a person in a car. Labor understands that there are real problems relating to the safety of cyclists but the answer is not simply to jack up fines. Studies have shown also that in collisions between motor vehicles and bicycles, drivers were predominantly at fault. In one study, drivers were at fault 79 per cent of the time. Since the introduction of these new rules earlier this month, I have heard stories from bike commuters and read about the crackdowns by police on cyclists. Cyclists are being fined for having loose helmet straps or not having a bell. One report suggested that a female cyclist was fined for dangerous cycling because she was wearing jeans and high heels.

Last weekend I was in Jervis Bay where locals told me that police were targeting students, who were using a separated cycleway on their way to school, for missing reflectors and bells. I am also aware of reports that at least one cyclist has been cited for track standing while waiting for a traffic signal to change and allegedly was fined \$425 for dangerous riding. For those who do not know, track standing is when cyclists who are clicked into their pedals are balancing while waiting at traffic lights. They are not breaking any law. The cyclist was fined \$425 because the police decided that that was dangerous riding.

Around the world, major cities like London, Paris and Barcelona are encouraging commuters to take up cycling. The government in Milan is keen on encouraging cyclists. In an effort to improve congestion and reduce pollution levels in the city, it is considering paying commuters who choose to ride a bike. It is not the only global city considering such measures. In France a pilot program was tested in 2014 and smaller towns have tested reverse tolls for pedestrians and cyclists. Belgium, the Netherlands, and the United Kingdom have all trialled paying commuters to bike, at rates equivalent to about 30¢ a mile tax free. The City of Melbourne would like to see cyclists make up one-quarter of morning traffic into the city centre by the end of this decade. To achieve this, the City of Melbourne is installing more bike storage and filling in the many gaps in Melbourne's bike lane network. In so doing, it hopes to encourage more novice riders to cycle into the city and relieve pressure on congested roads and crowded public transport services.

In Sydney, the roads Minister wants to do exactly the opposite. The Minister has ripped up the College Street cycleway and left unfinished the improvements to our cycleway network. Cycling and public health advocacy groups have come out against these changes citing concerns that the changes will deter commuters taking up active transport at a time when we need more people on bikes. It was very disingenuous of the Minister in his contribution to this debate to verbal cycling groups. Of course they support the one-metre rule because it enhances safety for cyclists, but the Minister tried to imply that they did not get everything they wanted because he jacked up this raft of fines by more than 500 per cent. I agree with the Minister that bike sales are up and car sales are down.

The Hon. Duncan Gay: Car sales are up as well.

The Hon. PENNY SHARPE: Not in the same proportion. As we know, most households have at least one bike and the numbers are growing constantly. Approximately 1.25 million people cycle each week and about one-third of those commute. Young children have the highest levels of cycling participation but the numbers drop when kids hit 10 years old. These numbers are likely to get worse under this new regime, with fines and identification requirements creating a barrier to the uptake of cycling. This is not something that we should be supporting.

Last week the Minister proudly announced that there were more people cycling than ever. But this will change under these new rules. Sydney's traffic is already choked. Traffic congestion costs are in the billions of dollars in lost revenue. Cars are crawling along at the slowest rate ever. Cycling offers an environmentally friendly and healthy alternative. If the Government really wanted to improve the safety of cyclists it would encourage more women to take up cycling rather than fining them for inappropriate attire. In Sydney, men are more likely to cycle than are women, with 22 per cent of men riding each week compared to 13 per cent of women. As we know, encouraging more women to cycle makes the whole system safer. According to the Association for Pedestrian and Bicycle Professionals [APBP], women riding bicycles in general contributes to the overall bicycle safety in a city. It states:

It is understood women are catalysts for safe pedestrian and bicycle friendly design, thus bicycling women help progress the livability of a place.

If the Government really wanted to improve the safety of cyclists on the roads it would be investing in, rather than ripping up, cycling infrastructure. Separated cycling infrastructure significantly improves safety for cyclists, pedestrians and motorists. At the State election, Labor promised to build and maintain cycling infrastructure, including building the inner-west GreenWay and keeping the College Street cycleway. Just last week Labor's Federal shadow Minister for Transport and Infrastructure, and shadow Minister for Cities, Anthony Albanese, launched Labor's Smart Infrastructure and Active Transport Policy. Mr Albanese said:

... it's no secret that an increasing number of Australians are using bicycles or walking to avoid traffic jams and improve their health.

So when we build a new road or railway line, we should consider whether it would make sense to include an adjacent cycling or walking track. So we are providing options not only for cars but also for those who want to leave their cars at home.

Putting the two together, a new road equipped with smart infrastructure will reduce traffic congestion.

But if it also makes it easier for people to leave their cars at home by incorporating provision for active transport, the community gets a triple pay-off—less congestion, a better road and the positive health outcomes that come with people walking or cycling to work.

NSW Labor believes that cycling is good not just for cyclists but also for the environment and public health and for reducing congestion in our cities. Labor will always take a proactive approach to active transport, including

cycling. Labor welcomes the minimum passing distance laws. These laws bring New South Wales into line with Queensland, South Australia and the Australian Capital Territory where minimum passing distances are improving driver behaviour and making the road safer for everybody. But we cannot and will not support penalising cyclists without a shred of evidence that these fines will assist in improving safety. Finally, I want to address the crossbenchers and libertarians in our midst about their consideration of this disallowance motion. This is an extremely heavy-handed regulation from this Government that will simply deter people from cycling and stop them from doing what they love to do, that is, get on a bike and ride around free from government interference. I urge those members to support the disallowance motion.

Mr DAVID SHOEBRIDGE [3.37 p.m.]: I associate myself with the remarks of Dr Mehreen Faruqi and the cogent reasons she put on record in support of this disallowance motion. This motion was moved because this Government is at war with cyclists. It is doing everything in its power to punish, penalise and discourage cycling in this State because it thinks roads are only for cars. This Government's only view of cities is that they should have a congested series of privatised motorways linking supermarkets to suburban backyards and that roads are not designed to move people around or to encourage active transport.

This Government has made a series of draconian increases in fines for cyclists because at its core it loathes cyclists. The idea that somebody might get fit and enjoy themselves from active transport seems to be a bridge too far for this Government, which is so addicted to the motor vehicle and the fossil fuel lobby. I will highlight the nonsense of this Government's proposed new penalties. The proposal for riding a bicycle without wearing an approved bicycle helmet will increase from \$71 to \$319. What does that mean in practice?

That means that a cyclist who has a brand new helmet but the sticker confirming that it complies with the current Australian standard has fallen off will be fined \$319, courtesy of the Hon. Duncan Gay and his bizarre new laws aimed at cyclists. It means that cyclists caught riding on the footpath when it is too dangerous to ride on the road, because this Government refuses to provide bike lanes, will face a \$425 fine. They will be fined for acting to protect themselves because this Government will not build the basic cycle infrastructure needed to keep them safe.

This is a timely motion. It may not succeed today, but there is a growing movement around this State that is dead against this Government's anti-cycling agenda and absolutely for encouraging and supporting cyclists. This State is full of people who want to ride their bike to the beach without needing to take their passport. That is not what the Hon. Duncan Gay wants. He wants people to have to pack their passport before they cycle to the beach. That is how insane the anti-cycling agenda has become. It is time that as a parliament we stood up and formed a majority that says we care about people's freedoms and liberties and want to encourage cycling.

The Hon. Duncan Gay: You didn't hear when I spoke about the passport photo, even though you were in the room?

Mr DAVID SHOEBRIDGE: I hear the sotto voce interjection from the Hon. Duncan Gay. He says people can carry a photo of their passport. Here is some news for him: many people do not like taking their smart phone to the beach. People like to jump on their bike and go to the beach without worrying about someone nicking their phone. Maybe the Hon. Duncan Gay has not been to a beach recently. I urge him to get out and talk to ordinary Australians who know what a nonsense the Government's anti-cycling agenda is. This is a good and timely disallowance motion. If it does not succeed today it will succeed in the future.

The Hon. DANIEL MOOKHEY [3.41 p.m.]: I support the motion moved by Dr Mehreen Faruqi and will outline how this Government's agenda compares with the efforts of other cities in the past three years to boost cycling in their jurisdictions. I make clear that I have gathered this information from an article published by Wired on the internet listing the world's most bike-friendly cities. Let us start with world leader Copenhagen, a city that has a uniform network of urban design for bicycles. Copenhagen is investing in a bicycle bridge over a motorway north of the city and opened two new bridges over the canal in December 2014. The famous Bike Snake, an elevated bike ramp, provides an important mobility link across the harbour. Four new bicycle bridges are planned to be delivered, while cross-town routes will be upgraded. The second highest ranked bike-friendly city is Amsterdam.

The Hon. Shaoquett Moselmane: Point of order: There is too much conversation among Government members. I would like to be able to hear the member tell us about the cities.

The Hon. Dr Peter Phelps: Why don't you just google it?

The Hon. DANIEL MOOKHEY: The difference is I acknowledge when I have googled something.

The ASSISTANT-PRESIDENT (Reverend the Hon. Fred Nile): Order! Members who wish to conduct private conversations will do so outside the Chamber.

The Hon. DANIEL MOOKHEY: Amsterdam is fixing the ragtag spider's web of curious infrastructure styles into something far more intuitive. The city of Utrecht is investing in a massive amount of bike parking facilities and channelling all new investments around transport storage into bike parking, not car parking. Strasbourg has achieved a record increase in cycling, which is the result of a generation of planners who insisted on cycling as transport. The article states that there are 333 miles of cycle routes in the city and surrounding metro area, and the city has a unique bike-share system that lets people get bikes from docking stations and also has long-term rentals. The city enjoys 15 per cent modal share in the city centre and 8 per cent in the metro area.

Eindhoven has plans to build a floating roundabout exclusively for the use of cyclists. In 2013 a bicycle parking facility at the train station in Malmö, Sweden, was opened and the city has a continued focus on investment. The city also ran one of the world's most well-regarded advertising campaigns, the "No Ridiculous Car Trips" behavioural campaign, which used the greatest insights of behavioural science to facilitate modal shift. Bordeaux continues to take bicycle transport seriously and its investment in several tramlines has helped boost cycling by providing a traffic calming effect. The city's famous VCub bike sharing system is rolling on and there is an excellent gender split among cyclists, which is a sign that cycling is becoming more mainstream. Antwerp in the Netherlands has an impressive modal share for bicycles and cycling is embraced by all ages. The city is ensuring that every future train station will have bike parking and showering and storage amenities for all commuters.

Seville in Spain went from 0.2 per cent modal share for bikes to 7 per cent in three years. City leaders invested in a broad network of bicycling infrastructure and a comprehensive bike sharing scheme. Barcelona, another city in Spain, has launched what is regarded as one of the best bike-sharing programs in the world as measured by usage rates. It has also invested in intermodality in the city and surrounding areas. The city's "Superblocks" initiative, although not focused on bicycles, will ensure that bicycle transport is not limited to the urban core but also takes place in the urban fringes.

The Hon. Matthew Mason-Cox: What about Canberra?

The Hon. DANIEL MOOKHEY: Not on the list. For that matter, neither is Sydney—shock, horror. Slovenian capital Ljubljana started investing in cycling in the late 1960s and early 1970s with 25 miles of Copenhagen-style cycle tracks. Chosen as the European Green Capital in 2016, it is focused on investing in cycling to make the city one of the most livable in its part of the world. There is a current 12 per cent modal share and the city has 83 miles of bike lanes and 45 miles of cycle tracks. Buenos Aires is a new entrant into the list of the world's top cycling cities. It has succeeded in modernising itself to include bicycles as transport in the past three years by installing more than 87 miles of bicycling infrastructure and implementing a bike-sharing program. Buenos Aires is one of the more congested cities and is a good example of a city being quite creative in its use of cycling. Dublin, which rounds off the list, was one of the first European cities to pioneer cycling and is reclaiming its leadership position by implementing an epic bike-sharing scheme.

Those world cities see cycling for what it is: an irreversible trend that is changing the urban landscape and which should be invested in. In contrast to those cities, this Government came to office pledging to rip up cycleways, and it has done so. The Government has doubled fines and is punishing cyclists for putting their health and amenity first and also making our city far more livable. Sydney will not come close to making the list of the most bike-friendly cities for as long as this Government is in power and continues its war on cycling.

Dr MEHREEN FARUQI [3.48 p.m.], in reply: I thank the Hon. Duncan Gay, the Hon. Penny Sharpe, Mr David Shoebridge and the Hon. Daniel Mookhey for contributing to this debate. I will respond to some comments and statements by the Hon. Duncan Gay.

The Hon. Dr Peter Phelps: He is right.

Dr MEHREEN FARUQI: Never. The Minister has been calling cyclists a fringe group, a minority. That is highly offensive.

The Hon. Duncan Gay: Point of order: I ask the member to withdraw that comment because it is a dreadful distortion. I said "uninformed fringe cycling groups", not all cyclists.

Dr MEHREEN FARUQI: If that is case, then I withdraw my comment. In this State people from all walks of life ride bikes, and those who make the healthy and sustainable choice to do so should be respected. The Minister also said that Bicycle NSW and Bicycle Network were at the press conference at which the compulsory identification and fines were announced. Bicycle Network has just said that that was not the case. Finally, the Minister might consider a debate on this issue a waste of time, but if the Minister and the Government are serious about road safety then they should acknowledge that horns, bells, compulsory identification and exorbitant fines will not keep people safe; rather, people are kept safe by the tried and tested ways that have been implemented in other cities. If we want to keep all road users safe we must provide better cycling infrastructure, of which I have given several examples. I commend the disallowance motion to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 17

Ms Barham	Mr Pearson	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	Mr Wong
Dr Faruqi	Mr Secord	<i>Tellers,</i>
Mrs Houssos	Ms Sharpe	Mr Donnelly
Mr Mookhey	Mr Shoebridge	Mr Moselmane

Noes, 22

Mr Ajaka	Mr Farlow	Mrs Mitchell
Mr Amato	Mr Gallacher	Reverend Nile
Mr Blair	Mr Gay	Mr Pearce
Mr Borsak	Mr Green	Mrs Taylor
Mr Brown	Mr MacDonald	
Mr Clarke	Mrs Maclaren-Jones	<i>Tellers,</i>
Mr Colless	Mr Mallard	Mr Franklin
Ms Cusack	Mr Mason-Cox	Dr Phelps

Question resolved in the negative.

Motion negatived.

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

QUESTIONS WITHOUT NOTICE

ORANGE CITY COUNCIL WATER ASSETS

The Hon. ADAM SEARLE: My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given the Government failed to include Orange City Council's \$318 million water assets in its financial viability assessment for council mergers, will the Minister guarantee that Orange's local water assets will continue to remain in local hands?

The Hon. NIALL BLAIR: Submissions and assessments for the Fit for the Future process are obviously issues for the Minister for Local Government to provide information on. But if the assertion of the Opposition is that there is something going on with Orange City Council water assets and that there is some grand plan about those, the only response I have is that the Leader of the Opposition is mistaken.

DALGETY BRIDGE

The Hon. BRONNIE TAYLOR: My question is addressed to the Minister for Roads, Maritime and Freight. Can the Minister update the House on his trip to the Monaro and the completion of major upgrades to Dalgety Bridge?

The Hon. DUNCAN GAY: Yesterday I had the great pleasure of being in the Monaro—which those opposite incorrectly pronounce as the name of a motorcar—to mark the completion of major upgrades to Dalgety Bridge. Also present were the local member and great champion for the Monaro, John Barilaro, more than 20 students from Dalgety Public School and many people from the community. The bridge has been a critical road link for Dalgety residents and businesses for more than 130 years. We looked at photographs of the original opening of the bridge and noted that more people attended yesterday than attended the original opening. That is how important this bridge is for the community.

The bridge is an iconic structure, representing a time in Australian history when our economy rode on the sheep's back, and it deserved a makeover, at a cost of more than \$4.5 million. It is basically a steel bridge but old timbers forming the deck and piers of the bridge have been replaced. Importantly, the heritage value and charm of the original 132-year-old structure has been preserved. Not only was the bridge looking worn out, it was becoming increasingly unsafe for the many vehicles travelling over it each day on the Snowy River Way. The bridge is also located on an important freight route for graziers and livestock carriers. Past Labor governments only ever undertook token patchwork repairs to the road and the bridge.

The Hon. Dr Peter Phelps: They didn't care.

The Hon. DUNCAN GAY: They didn't care. A major upgrade was necessary to ensure the bridge could continue to safely carry freight trucks carting livestock to surrounding farms and regional saleyards. The upgrade included replacing the worn-out deck and its spans and piers with new timber; replacing each end of the bridge with concrete foundations covered with timber veneers; and building new road approaches, including upgraded barriers on either end of the bridge. To minimise the impacts of these works on the local community, work was completed using an innovative bridge closure program. The program involved six Roads and Maritime bridge crews, who were able to complete the work in a matter of days due to the number of staff on the ground. Usually that work takes weeks to complete.

Major bridge closures took place in May and October to remove and replace each end of the bridge, with new decking installed in the centre of the bridge. Earthwork for the new road approaches was also completed during the major closures. The upgraded 169-metre long bridge is a perfect example of the New South Wales Government's commitment to deliver new and improved road infrastructure for the Monaro. We thank the people of Dalgety for their patience with the bridge closures and the noise. Two great things happened yesterday: one was the opening of the bridge and the other was lunch provided by the local Country Women's Association. There was not a person who was not in praise of or not satisfied with the great spirit of the Country Women's Association and its great spread.

SYD EINFELD DRIVE FLOODING

The Hon. WALT SECORD: My question without notice is directed to the Minister for Roads, Maritime and Freight. Given that on 21 October 2015, in a supplementary answer to this Chamber, the Minister guaranteed that November maintenance works would fix flooding on Syd Einfeld Drive at Bondi Junction, why was there massive flooding this morning on Syd Einfeld Drive and has the Minister misled the House?

The Hon. DUNCAN GAY: As members know, it would be a very silly Minister who took as written any statement from the Hon. Walt Secord.

The Hon. Walt Secord: Point of order: To assist the House and to assist the Minister, I have his full statement, which I will provide.

The PRESIDENT: Order! The Hon. Walt Secord knows full well that is not a point of order. The Minister has the call.

The Hon. DUNCAN GAY: Given the off-chance that the member might be close to being correct, which is a mighty concession given his track record, I am informed that heavy rainfall causes local flash

flooding on the Sydney road network, including Syd Einfield Drive at Bondi Junction, and that during these events Syd Einfield Drive may be closed to traffic. It is a road, dare I add, that was not built in this Government's time and anything that has the name of Syd Einfield probably was not built by the Tories. That does not mean it was not a good project; it just may not have been built properly.

In the event of flooding, traffic crews are deployed to the site to help manage the incident by clearing drains and safely managing traffic, if necessary. Heavy rainfall overnight caused local flash flooding on Syd Einfield Drive and traffic crews were deployed to assist. Assertions have been made that flooding is forcing motorists to travel on the wrong side of the road on Syd Einfield Drive. But drivers cannot physically cross onto and drive on the wrong side of the road due to barriers between the eastbound and westbound lanes. Work to clean the network of drains that help clear water from Syd Einfield Drive and closed-circuit television camera investigation were recently completed. Further work to repair the main drain was identified and a proposal in that regard is being finalised.

The Mayor of Waverley has written to me to request a meeting on this issue. Following community consultation about the work schedule, this additional work is expected to be completed next month, weather permitting. The Roads and Maritime Services regularly carries out maintenance work relating to drainage at Syd Einfield Drive, most recently throughout January 2016. Preventive maintenance and incident response activities related to Syd Einfield Drive have been undertaken on 3, 6, 11, 15, 25 and 30 November 2015; 16 and 22 December 2015; and on 4, 5, 14, 15, 21 and 29 January 2016. Clearly, from what we have seen there is more work to be done and my office has requested an urgent update on the work that is still needed.

MULTI-FAITH EDUCATION

The Hon. MARK PEARSON: My question is directed to the Minister for Primary Industries, and Minister for Lands and Water, representing the Minister for Education. Will the Minister advise whether the New South Wales education curriculum has provision for teaching school students about the fundamental core beliefs and principles of all the major religions, including Judaism, Christianity, Islam, Hinduism, Daoism and Buddhism, irrespective of whether a school is aligned with a particular religion, and if not, why not?

The Hon. NIAL BLAIR: I thank the Hon. Mark Pearson for his question. I was looking to see whether I had information at hand to be able to answer that question. In light of the detail for which the member has asked in his question and as he asked me to take it on behalf of the Minister for Education, I am happy to refer the question to the Minister for Education for an answer.

NATIONAL DISABILITY INSURANCE SCHEME

The Hon. NATASHA MACLAREN-JONES: My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. How will the National Disability Insurance Scheme benefit the New South Wales economy?

The Hon. JOHN AJAKA: I thank the Hon. Natasha Maclaren-Jones for her question. The National Disability Insurance Scheme [NDIS] is the most ambitious social reform in more than a generation. When we think about this life-changing and long overdue scheme we focus on all the benefits that it brings to people with disability, their families and carers.

The PRESIDENT: Order! I call the Hon. Sophie Cotsis to order for the first time.

The Hon. JOHN AJAKA: We focus on how people with disability can choose the support and services they need and we focus on how people with disability have real choice and control over their own lives. This transformational reform will benefit everyone in New South Wales. Yesterday the National Disability Insurance Agency released its New South Wales market position statement. The statement gives incredible insight into the emerging disability services marketplace and helps existing and potential providers make decisions about the future. The statement is great news for New South Wales.

The statement is further proof that everyone in New South Wales—not just people with disability—will share in the bounty of benefits flowing from the NDIS. The market position statement reveals that we are on the verge of a disability services boom in New South Wales, the biggest winners being people, communities and businesses in Western Sydney. Put simply, the NDIS means more money, more people receiving support, more

jobs and more growth. It is estimated that the NDIS in New South Wales will support an additional 64,000 people with disability, generating up to 28,900 extra jobs and doubling the size of the disability services market from \$3 billion to over \$6 billion over the next three years.

Western Sydney, the economic and social heart of New South Wales, is the biggest winner. The injection of close to \$400 million in extra funding, combined with an estimated 8,000 more people with disability receiving support, will create more than 3,000 extra local jobs. Additionally, almost a quarter of the providers in Western Sydney are expecting their businesses to double in size. Further, the market position statement is a big tick of approval for the disability services sector in New South Wales. The sector will be ready and able to step up come 1 July 2016. This reflects the substantial investment of the New South Wales Government and the hard work of our partners in the non-government sector.

The Government has invested more than \$30 million in sector and workforce development. Furthermore, only recently I announced an extra \$5 million to be provided to remote and regional providers to help them get ready for the NDIS under the transitional assistance program. This has given providers the tools they need to thrive once we transition to the NDIS. Also, with the NDIS rolling out across half of New South Wales in just over 100 days, this market position statement is further proof that the NDIS is good for New South Wales. It is good for our people, good for our communities and good for our economy. It is confirmation that this Government is doing a good job in the way it is delivering the NDIS. Members of this Chamber and people with disability should be confident that the NDIS will be delivered in New South Wales in accordance with the bilateral agreement we signed with the Commonwealth.

LOCAL GOVERNMENT AMALGAMATIONS

Mr DAVID SHOEBRIDGE: My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Minister for Local Government. Given that in early January the Government pushed 35 forced council merger proposals, then in February increased the number to 40 and that there are now 45 separate merger proposals on the Council Boundary Review website, many contradicting each other, when will this stop? When will the last merger proposal for 2016 find itself on the website and what is the last date for submissions?

The Hon. DUNCAN GAY: I thank Mr David Shoebridge for his question and indicate that I am informed that in addition to the Government's 35 original merger proposals some councils have made their own proposals under the Local Government Act. The Government welcomes these because that is what democracy is about. The Minister for Local Government has referred these to the Chief Executive of the Office of Local Government for examination and report, along with three consequential Government proposals for adjacent areas. As with the current progress, the chief executive has arranged for delegates to undertake the functions of examining and reporting on these proposals in accordance with the Local Government Act. These include examination of financial considerations, communities of interest, service delivery impacts, representational issues, employment impacts, and community attitudes.

The reports of the delegates will be provided to the independent Local Government Boundaries Commission for its review and comment. Once the Minister has considered the delegates' reports and the comments of the Boundaries Commission, he will consider whether to make recommendations to the Governor for any new local government areas. The Government's consideration of council-initiated proposals demonstrates our commitment to work with councils on local government reform and underscores the fact that no final decision has been made about any merger proposal. This Government is about democracy and about listening to the views of the community. Councils have been advised that any further proposals will be dealt with subsequently to ensure that the Government adheres to the mid-year time frame that has been set to finalise the process and provide councils and communities with certainty.

Mr DAVID SHOEBRIDGE: I ask a supplementary question. Will the Minister elucidate his answer by advising the House when this piecemeal process will come to an end?

The Hon. DUNCAN GAY: Had the member not closed his ears and closed his mind he would have heard the answer to that question in the answer that I have given.

QUEANBEYAN MOSQUE

The Hon. SOPHIE COTSIS: My question is directed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Given the current community consultation process that is

underway, what is the Government's response to community concerns about the disruption to community harmony by opponents, particularly those who are active on social media, to the proposed construction of a mosque on Gilmore Road in west Queanbeyan?

The Hon. JOHN AJAKA: I thank the Hon. Sophie Cotsis for her question. The one thing that the member and I completely agree about is that New South Wales is and will remain the most harmonious State in Australia.

The Hon. Sophie Cotsis: Don't verbal me.

The Hon. JOHN AJAKA: I note the interjection. The Hon. Sophie Cotsis does not want to agree that New South Wales is the most harmonious State. I accept that. She does not want me to make that comment. This Government and I as Minister will always defend the rights of all multicultural communities. I will always defend the rights of all religious communities. I have stated it before. The people of this State come from 225 different birthplaces. There are more than 125 different religious beliefs in this State. We respect the fact that those who want to construct a place of worship have the right to do so.

The Hon. Walt Secord: Here are the notes.

The Hon. JOHN AJAKA: I thank the Leader of the Government, but I do not need the notes.

The PRESIDENT: Order! The Minister has the call.

The Hon. JOHN AJAKA: Thank you, Mr President. Communities have the right to practise their religion in their place of worship. They have the right to seek the construction of a place of worship. The only reason that a place of worship should not be approved through a development application process is if it does not comply with the planning rules. If it complies, then simply objecting to it on the basis of religious belief is, as far as I am concerned, unacceptable. I will never accept that. That cannot be a reason to reject a place of worship, irrespective of the religious belief, whether it is Islam, Christianity or any other religious belief. I have always stood for that.

We hear of organisations opposing this. We hear about organisations that want to reclaim Australia. Reclaim Australia from whom? Are they reclaiming it from me or my family? Are they reclaiming it from the Hon. Shaoquett Moselmane or the Hon. Sophie Cotsis? Are they reclaiming it from the Hon. Walt Secord? What nonsense. Who are they reclaiming Australia for—Indigenous Australians? What nonsense. The majority of Australians, the majority of communities living in New South Wales reject this nonsense. They reject any nonsense that is clearly based on prejudice. This Government, my agency, Multicultural NSW, will continue to work—*[Time expired.]*

HAWKESBURY SHELF MARINE BIOREGION

Mr SCOT MacDONALD: My question is addressed to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister update the House on how the Government is addressing threats and risks to the Hawkesbury Shelf marine bioregion?

The Hon. NIALL BLAIR: I thank the Mr Scot MacDonald for his question. Last month the Minister for the Environment, Mark Speakman, and I announced eight initiatives to enhance marine biodiversity conservation in the Hawkesbury Shelf marine bioregion. The bioregion extends along the New South Wales coast from Stockton Beach at Newcastle to Shellharbour near Wollongong. It takes in numerous estuaries, coastal lakes, lagoons, beaches and the coastline itself and extends to the ocean waters out to the continental shelf. It is an iconic area in New South Wales. Two-thirds of the State's population of seven and a half million people live on the coast within the bioregion.

That is why the New South Wales Government is determined to strike the right balance, through these initiatives, for multiple uses of the bioregion. The initiatives have been designed to enhance marine biodiversity for future generations while maintaining accessibility for recreational and commercial pursuits. It is a stunning environmental land and seascape, but there is no question that this area also makes an enormous social and economic contribution to local communities, whether it is families enjoying the beach or as a focus for recreation and tourism. It is also home to this State's major ports, which underpin our global and national trade.

In 2014 the Government asked the Marine Estate Management Authority to carry out an assessment of the bioregion and to develop options to improve its management. The authority consulted broadly with communities and other stakeholders to seek views on the values, benefits, threats and management opportunities of the bioregion and asked them to identify sites for further consideration. This work culminated in more than 1,700 residents and visitors being surveyed, 1,500 web portal entries and 2,300 written submissions being received. Seven face-to-face workshops with stakeholders and Aboriginal people and eight meetings with local councils were also held. The outcomes from this community engagement then fed into an evidence-based threat and risk assessment.

This involved independent and agency expert workshops where the risk of each threat was rated for environmental assets within the bioregion, such as its clean waters, threatened species, seagrass and rocky reefs, and for the social and economic benefits we as a community derive from the bioregion. The authority is now in the process of assessing the management options to address the priority threats and has proposed eight initiatives that will work to address the priority threats to the bioregion. The initiatives include improving water quality and reducing marine litter; on-ground works for healthy coastal habitats and wildlife; marine research to address shipping and fishing knowledge gaps; spatial management for biodiversity conservation and use sharing—

The PRESIDENT: Order! I call Mr Jeremy Buckingham to order for the first time.

The Hon. NIALL BLAIR: Further initiatives include improving boating infrastructure, reducing user conflicts in Pittwater, improving accessibility, and land use planning for coasts and waterways. I acknowledge the enormous amount of work done by the community to inform the threat and risk assessment process and management responses. I encourage the community to continue this great work and to have their say by taking part in a series of workshops to provide feedback on the initiatives. Consultation with the community is essential in helping us to further evaluate the management responses and to inform the final recommendations to the New South Wales Government later this year.

We are serious about enhancing the marine biodiversity conservation of this region and developing a crucial blueprint for its future management. One thing we are doing differently from the Opposition in government is that we are consulting widely with all the user groups. We are making sure that this is a science- and risk-based program. It is not just about drawing lines on the map and saying, "We can lock out fishers in this area or stop activities here." This is about making sure that we assess the risks and consult with user groups to get the balance right for all users of the bioregion.

OPAL CARD TOP UP MACHINES

Dr MEHREEN FARUQI: My question is directed to the Minister for Roads, Maritime and Freight, representing the Minister for Transport and Infrastructure. In late October 2015 the Minister reported to the House that 102 Opal top-up machines had been installed to service the ferry and train networks, with a total of 350 to be installed by early 2016. Noting that it is now mid-March and that many commuters are still facing long queues to top up, how many top-up machines have been installed to date?

The Hon. DUNCAN GAY: I thank Dr Mehreen Faruqi for her question. I am advised that we have 102 top-up machines—

Dr Mehreen Faruqi: So there are still 102 machines?

The Hon. DUNCAN GAY: Does Dr Mehreen Faruqi want to hear the answer?

Dr Mehreen Faruqi: Yes.

The Hon. DUNCAN GAY: I am advised that we have 102 top-up machines at train stations and wharves, and another 255 are on the way. Soon we will have more than 350 top-up machines across the public transport network. Top-up machines are being rolled out across the majority of train stations, ferry wharves and light rail stops, providing coverage for the vast majority of customers. Top-up machines will be installed at the busiest parts of the Opal transport network. During 2016 at least one Opal top-up machine will be installed at most Sydney Ferries wharves and light rail stops, the majority of Sydney Trains stations and the busier New South Wales TrainLink intercity network stations.

The major method of topping up by customers is done via the more than 2,100 Opal retailers. So whilst there are 102 top-up machines at train stations and another 255 on the way, critics ignore the fact that there are

2,100 Opal retailers. These retailers are located across metropolitan Sydney and regional areas. They include Woolworths, 7-Eleven, newsagents and 32 Service NSW centres. Around 60 per cent of seniors and pensioners opt to use retailers for top-ups, while 50 per cent of adults and others customers use the retail network.

Topping up online is popular among seniors and pensioners, with around 10 per cent of Gold Opal cardholders doing this over the web, compared to 8 per cent of other Opal customers. Only 2 per cent of Gold Opal cardholders use top-up machines and 13 per cent of adult, concession and child youth cardholders top up with this method. So we have 102 machines, with another 255 to come. The fact is that only 2 per cent of people with Gold Opal cards use this particular form of topping up. I would have thought that the Minister is doing a damned good job. The installation of even more top-up machines when this category is used by only 2 per cent of cardholders would indicate that the Minister was wasting resources.

LEO MCCARTHY MEMORIAL PARK

The Hon. SHAOQUETT MOSELMANE: My question is directed to the Minister for Roads, Maritime and Freight. Given community concerns that recent work by the Roads and Maritime Services [RMS] at the Leo McCarthy Memorial Park in Smithfield has highlighted the possible removal of the war memorial, will the Minister advise the RMS to support the rezoning of the war memorial from an infrastructure classified road zoning to a private recreational zoning to protect the memorial from road widening works?

The Hon. DUNCAN GAY: My department is most careful in relation to the types of memorials as indicated in the question. Looking across the State at remembrance driveways, the roadside stops that recognise Victoria Cross recipients and the way we respect private citizens memorials to family members who have been killed on the roads, one could not say that the department is not careful in the way it approaches memorials.

The PRESIDENT: Order! If the Hon. Walt Secord wishes to coach the Opposition Whip he should do so after question time. The Minister has the call.

The Hon. DUNCAN GAY: I have been informed that, as the Hon. Shaoquett Moselmane indicated, Leo McCarthy Memorial Park is located on the Cumberland Highway at Smithfield. The Roads and Maritime Services is committed to actively engaging and working with local communities and with council. It is seeking further feedback from the community on potential future projects for the area. I am advised that there are no current plans to widen the Cumberland Highway in the vicinity of the Leo McCarthy Memorial Park. As far as I am aware, there are no current plans. I will give the Hon. Shaoquett Moselmane an undertaking that I will see whether someone is looking to do something in the future. The Government certainly respects these memorials. I will come back to the Hon. Shaoquett Moselmane with a detailed answer.

SOUTHERN NEW SOUTH WALES COUNCIL ROADS

The Hon. MATTHEW MASON-COX: My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on record levels of funding for council-owned roads and bridges in southern New South Wales?

The Hon. DUNCAN GAY: I thank the Hon. Matthew Mason-Cox for his question. I acknowledge that he uses many of those roads in southern New South Wales.

Ms Jan Barham: How many?

The Hon. DUNCAN GAY: At least six.

Mr Jeremy Buckingham: Point of order: My point of order goes to questions containing argument. The standing orders explicitly prohibit the use of argument. The question said that there were record levels of investment, which I would say is argument and completely subjective.

The Hon. DUNCAN GAY: To the point of order: That is not argument; that is a fact.

The PRESIDENT: Order! It is clear that the question, other than possibly for one word, is entirely in order. The Minister may proceed.

The Hon. DUNCAN GAY: On becoming the roads Minister in 2011, I despaired at how people had become paralysed by the sheer scale of the task needed on the council-owned road network. Local businesses

and regional transport operators were tearing their hair out, councils were unhappy and government agencies were demoralised. Every day the backlog of critical upgrades and repairs grew. Labor's appalling lack of action over 16 years, along with that of The Greens, had another devastating effect: the Federal Government was directing funding away from New South Wales to other States.

I was warned by many advisers never to increase levels of funding for council-owned roads and bridges. I was told that once we crossed that line and put money in it would become a bottomless pit and we would never see the end of it. Having driven on country roads all my life and having seen the rapid deterioration under Labor and The Greens, I was determined to take action by taking the road less travelled. I am glad I ignored the naysayers and took that harder road.

The Hon. Walt Secord: Dramatic pause.

The Hon. DUNCAN GAY: You could have done it. It was there for you, but you did not do it.

The PRESIDENT: Order! The Minister has the call.

The Hon. DUNCAN GAY: Today, through our Rebuilding NSW infrastructure plan, half a billion dollars will be invested to help council's fix their roads and bridges. Significantly, this funding is on top of or in addition to annual block and repair grants to councils. As a case in point, councils grouped in the Canberra Region Joint Organisation—which includes Bombala, Boorowa, Cooma-Monaro, Eurobodalla, Goulburn-Mulwaree, Harden, Palerang, Queanbeyan, Snowy River, Upper Lachlan, Young and Yass—have seen their overall grant funding increase by a massive 167 per cent since 2011. That is a fact of record funding. Let me say that again: an overall increase of 167 per cent, and that does not include the millions of dollars we will deliver via Fixing Country Roads.

For example, Bombala received \$1.3 million under the first funding round of Fixing Country Roads, including money to help upgrade Lower Bendoc Road. Likewise, Eurobodalla received \$1.35 million under round one, including assistance to replace Candlagan Creek Bridge. Meanwhile Palerang received \$600,000 in 2013 through a special purpose grant to assist an urgently needed upgrade to Molonglo River Bridge at Captains Flat. Members would know the bridge to Captains Flat, where there was hardly ever a conservative voter. But that was a community in need and this Government helped it. The former member, Mr Steve Whan, did nothing—*[Time expired.]*

SOUTH COAST KOALA POPULATION

The Hon. ROBERT BORSAK: My question is directed to the Minister for Roads, Maritime and Freight, representing the Minister for the Environment who announced on 1 March 2016 that almost 12,000 hectares of State forest would be gazetted as four new flora reserves to protect koalas on the New South Wales South Coast. Is the Minister aware that for the past 20 years koala populations have declined after State forests with significant koala populations had been transferred to the parks and reserves system? Will the Minister explain what management plans will be put in place in the new reserves to ensure that the existing koala population increases in numbers? How are they different from the management plans for other parks and reserves, where koala populations have declined in number?

The Hon. John Ajaka: Point of clarification—

The PRESIDENT: Order! There is no such thing as a point of clarification under the standing orders.

The Hon. John Ajaka: I represent the Minister for the Environment in this place, not the Minister for Roads, Maritime and Freight.

The PRESIDENT: Order! While the question was directed to the Minister for Roads, Maritime and Freight, he may ask other Ministers to respond, if he wishes.

Mr Jeremy Buckingham: Point of order: The question asked by the Hon. Robert Borsak clearly contained argument and was subjective in the assertion that koala numbers had declined.

The PRESIDENT: Order! I will allow the question. The Minister has the call.

The Hon. DUNCAN GAY: I was looking forward to answering this question. I will give it my best shot. I will refer any aspect of the question that I cannot answer to the relevant Minister. I am informed that on 1 March the Minister for the Environment announced the creation of four new State Forest flora reserves on the South Coast to ensure the future viability of the local timber industry, while supporting the habitat for the last-known koala population in the south-east of New South Wales. The Government will provide a \$2.5 million Environmental Trust grant to the local timber industry to source timber from alternative locations in south-east New South Wales. This local timber industry directly supports 280 local jobs in the Bega Valley. The Government will work with the local timber industry to manage the longer term transition to high-quality regrowth forests. Sustainable timber harvesting practices in New South Wales mean that the renewable timber resource in our State forests can be extracted responsibly while maintaining a healthy forest and habitat for koalas and other animals.

The PRESIDENT: Order! I call Mr Jeremy Buckingham to order for the second time.

The Hon. DUNCAN GAY: The unique nature of these forests means they will be managed for conservation as part of the State Forest estate, utilising evidence-based and scientific landscape management principles, including active and adaptive management, and rigorous monitoring of outcomes. Under the Forestry Act 2012, the Office of Environment and Heritage will be appointed as land manager. The Minister for Agriculture will approve the plan of management in consultation with the Minister for the Environment. The Forestry Corporation of New South Wales has advised that these arrangements allow all existing wood supply agreements to be met in the Eden management area and also the South Coast management area. It is my understanding that the fabulous Minister for Primary Industries was present when that announcement was made. To the degree that I have not covered all elements of the question, I will refer it to the Minister for further comment.

ARTIFICIAL REEFS

The Hon. LYNDA VOLTZ: My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. In light of the Minister's 22 June 2015 promise to fund the construction of an artificial reef off the New South Wales coast, when will he commit to funding this project at Newcastle?

The Hon. NIALL BLAIR: I think the Hon. Lynda Voltz is mistaken because, quite clearly, the announcement was about the use of recreational fishing trust funds for the artificial reef off Port Macquarie. Recently when I was in Port Macquarie I looked at the barge that was taking out the large concrete structure that had been poured locally on site to be deployed off Port Macquarie. It is celebrated by the local recreational fishing community. While travelling up and down the coast as the Minister responsible for fisheries I am regularly asked, "When are we getting our artificial reef?" Perhaps the Hon. Lynda Voltz is getting mixed up because communities around Newcastle have called for an artificial reef because they have proven to be so successful.

They are a good example of recreational fishing fees being put in the trust and requests to that trust for more infrastructure and programs to assist the recreational fishing sector in New South Wales. We are getting a lot better at being able to roll out programs as a result of having poured a number of artificial reefs. The Fisheries officers of the Department of Primary Industries who are involved in this project are getting better at deploying and using local contractors. In relation to this program, I hope that the more we produce the better and cheaper it becomes.

The PRESIDENT: Order! I remind Mr Jeremy Buckingham that he is on two calls to order.

The Hon. NIALL BLAIR: The formwork and infrastructure are now in place to develop artificial reefs. As I said earlier, this is just one example of how recreational fishing fees are directed back into the sector. The sector provides approximately \$1.6 billion to our economy. Fishing is a recreational pastime enjoyed by more than one million people in New South Wales and we need to continue to support and encourage recreational fishing. I have spoken previously about how I encourage it as part of the activities I undertake with my son and family. I truly believe there should be more time spent on tackle boxes and less time spent on Xboxes. I hope other people—

The Hon. Sophie Cotsis: Did you practise that line?

The Hon. NIALL BLAIR: I do not need to practise it; I preach it in my household. I thoroughly enjoy teaching my son about responsible fishing. We are catch-and-release fishermen.

The Hon. Mick Veitch: You've shown him how to catch a bass but you haven't caught one.

The Hon. NIALL BLAIR: I acknowledge that interjection. I have never said that I am a good fisherman; I have said that I enjoy fishing. Promoting and encouraging sustainable recreational fishing and getting more people involved in it as a sport or pastime can only be a good thing. Artificial reefs are one way to do that. I know the Newcastle community is looking forward to having a reef in that area. At the moment, we should celebrate the one that has been installed off Port Macquarie.

PREMIER'S HARMONY DINNER

The Hon. GREG PEARCE: My question without notice is addressed to the Minister for Multiculturalism. Will the Minister inform the House about the 2016 Premier's Harmony Dinner?

The Hon. JOHN AJAKA: The fifth annual Premier's Harmony Dinner was held on 10 March 2016 at Rosehill Gardens Racecourse. More than 1,400 guests attended the event including multicultural and mainstream media representatives, Multicultural NSW Advisory Board members and multicultural community leaders. A number of parliamentarians also attended, including Premier the Hon. Mike Baird, Federal Assistant Minister for Multicultural Affairs the Hon. Craig Laundy, Minister Stuart Ayres, Minister Victor Dominello, Minister Leslie Williams, Parliamentary Secretary for Multiculturalism Dr Geoff Lee, shadow Minister for Multiculturalism the Hon. Sophie Cotsis, the Hon. Robert Borsak, and many others. With more than 15 performances—from Macedonian folk dancers to a haka—the night was full of multicultural colour and music. Marlisa, an Australian singer who won the sixth season of the Australian *X Factor* in 2014, also performed on the night. She was the youngest contestant to win the show at 15 years of age.

The Premier's Harmony Dinner is a celebration of cultural diversity in New South Wales and is the pinnacle event of the Multicultural March celebrations that this Government formally announced in 2012. The recipients of the Premier's Multicultural Community Medals were announced at the dinner along with inductees to the Multicultural Honour Roll. The medals honour the outstanding contribution of migrants and those who work in the field of multiculturalism in this State. The Stepan Kerkyasharian, AO, Harmony Award was awarded to Mr Jeremy Jones, AO, for his work in promoting multicultural and interfaith dialogue for more than 40 years. The Youth Medal was awarded to Mr Ram Khanal for supporting Bhutanese refugees who settled in Albury-Wodonga. The Lifetime Achievement Medal was awarded to Mr Om Dhungel and the Arts and Culture Medal was awarded to Ms Saba Vasefi. The Regional Communities award went to Ms Joan Saboisky for supporting refugees and interfaith projects in Wagga Wagga and the Economic Participation award went to Ms Anne Bi for establishing the B1 Group and attracting foreign investment.

On the night the following new names were inducted into the Multicultural Honour Roll, which is a permanent public record marking the legacy of those who have made a lasting contribution to the New South Wales community: Ms Eva Grace Byrne, OAM, for exceptional service in helping refugees to resettle in Australia; Dr William Chiu for strengthening economic and cultural exchanges between Australia and China; Mr Alfred Fenech for outstanding contributions to uniting diverse communities; and Mr Saing Heang Seng for exceptional service to the Khmer community in Australia. The Premier also awarded a special certificate to Ms Louisa Hope and Mr Jarrod Morton-Hoffman for their efforts in championing community harmony post the Sydney Lindt cafe siege. I congratulate all the award winners. They are true champions of multiculturalism and have made our State all the better and richer for their efforts.

At the Premier's Harmony Dinner I made the point that our State is one where everyone, from everywhere, should feel at home. When we talk about a multicultural New South Wales it no longer represents a small section of our community; it represents our entire community. Our State is now home to people from about 225 different birthplaces, speaking more than 200 different languages and practising about 125 different religious beliefs. It was a pleasure to see representation from more than 50 language groups on the night in celebration of our diversity. I thank all—*[Time expired.]*

VOLUNTEER FIRE FIGHTERS ASSOCIATION

The Hon. ROBERT BROWN: My question is directed to the Minister for Roads, Maritime and Freight, representing the Minister for Emergency Services, and relates to a recent report in the media that Minister Elliott referred to the Volunteer Fire Fighters Association as "Dad's Army". How many bushfires did

the Volunteer Fire Fighters attend in the past five years? If these volunteers were paid the same as employees of the Rural Fire Service what is the financial contribution that this "Dad's Army" has made towards New South Wales for each of those five years? When will the Minister apologise for his very offensive "Dad's Army" remark?

The Hon. DUNCAN GAY: I thank the member for his question. I am sure that, like me, the Minister respects the Volunteer Fire Fighters Association and the work that the volunteers do. Many members are probably either current or former volunteer firefighters, as I am. From my local brigade I know the work that they do. I saw reports of this. I am sure that if the reports are accurate it was not meant as a form of disrespect. David Elliott is a decent man who has a lot of time for the guys who do a fabulous job. I will refer the question to my colleague for a detailed answer.

CEMETERIES AND CREMATORIA NSW STRATEGIC PLAN

The Hon. GREG DONNELLY: My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given that there have been recent sales of up to \$300,000 for simple burial plots and vaults in New South Wales, what steps has the Government taken to protect grieving families from property developers or speculators who are driving up prices for burials?

The Hon. NIALL BLAIR: Obviously many of the issues around people purchasing plots are between the family or the people purchasing the plot and whoever they are dealing with, whether it is a private cemetery or a publicly run cemetery under trust. Many factors go into the decisions about where people would like to be interred. Markets play a role in that, especially in areas where there is limited space because of some restrictions in some cemeteries. What has this Government been able to do? One of the first things my predecessor Katrina Hodgkinson did upon assuming the role was to look at the way that some trusts were set up, particularly those in the metropolitan area around Rookwood, and to work with Cemeteries and Crematoria NSW.

As a result of that, Cemeteries and Crematoria NSW developed a strategic plan for 2015-20, which was formally launched on 22 October 2015 with industry, community and government representatives. Indeed, I can vividly recall that very cold and grey day in the eastern suburbs. But the weather did not deter the stakeholders because it was felt that a strategic plan had been lacking for a long time. The plan shows how the agency will work closely with its partners over the next five years to continue to make community expectations and improve burial and cremation services. It represents another significant milestone in the New South Wales Government's reform of this critical sector for the people of our State.

The stage two commencement of the Act, which is anticipated for late 2016, will establish a new system of interment rights which will modernise and standardise practice across all three cemetery sectors in New South Wales. This will improve the transparency and accountability of cemetery operations and provide greater certainty and protection for consumers. As I have said, the Government is working on this through its strategic plan. It is often a very difficult time for families. I can speak with some experience about this from my time in local government. As an open space manager I was responsible for a cemetery and I know, as Minister Ajaka will attest, that religious groups celebrate the lives of their lost loved ones in many different ways. The Government is getting on with the job and this strategic plan will benefit communities across New South Wales.

The Hon. GREG DONNELLY: I ask a supplementary question. Can the Minister elucidate his answer and outline what additional initiatives within the strategic plan the Government is taking to protect grieving families?

The Hon. NIALL BLAIR: The strategic plan was launched on 22 October 2015. The member is more than welcome to read it.

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

Questions without notice concluded.

Pursuant to sessional orders debate on committee reports proceeded with.

GENERAL PURPOSE STANDING COMMITTEE NO. 6**Report: Local Government in New South Wales**

Debate resumed from 8 March 2016.

The Hon. ERNEST WONG [5.02 p.m.]: I speak in debate on the General Purpose Standing Committee No. 6 inquiry into local government in New South Wales and commend all committee members for their work on this inquiry, in particular, the Hon. Paul Green who chaired the committee. I state at the outset that I support a review, based on transparency, consultation and democracy, of the structure and function of local government in this State—what we are currently experiencing under this Government is anything but that. The committee made several recommendations. The first recommendation, which lays bare any kind of thinking that the Government's Fit for the Future reform is fair or thorough, states:

That the Premier and NSW Government withdraw the statement that 71 percent of councils in metropolitan Sydney and 56 percent of regional councils are 'unfit'.

It is clear from this inquiry that the Fit for the Future reforms of the Government are remarkable for their lack of reliable evidence. It is an indictment on Premier Baird and this Government that this statement has not been withdrawn as it is incorrect and misleading. A common complaint at the inquiry was that it failed to address the set of recommendations contained in the original report of the Independent Local Government Review Panel. Instead, the Government chose to overwhelmingly focus upon council amalgamations. Bigger is not always better, and that is the case for the council amalgamations in the Fit for the Future report. Recommendation No. 6 states:

That the NSW Government eschews future cost shifting and commits to provide adequate funding to local government for any new services, assets or regulatory functions it devolves to local councils.

The duplicity of both the Fit for the Future report and this Government is clearly displayed by disparaging local governments for not meeting costs efficiently whilst increasing costs by devolving services and asset management to councils. For example, the Government is legislating to cost shift—as shown by Local Government NSW—up to \$680 million each year to local government whilst giving councils new unfunded responsibilities. The Baird Government is short-sighted and needs to realise that attacking councils for supposedly not living within their means and being overburdened with debt will force them to scrounge deeper into their pockets, to borrow more and to raise rates in order to cover cost shifting.

As the Hon. Peter Primrose noted last week, the Government should have sorted out council finances before it started drawing lines on maps. My final point is illustrated by recommendation No. 11, which calls on the Government to commit to a policy of no forced amalgamations of local councils except in circumstances where it can be established that a council is severely financially unsustainable to the point of bankruptcy or unable to maintain an acceptable level of service provision. The Government should embrace a policy of no forced amalgamations of councils. It is my hope that the Minister and Premier will take these recommendations into account. Finally, I have received hundreds of emails opposing the forced council amalgamations. I quote from one of those emails which states:

I write to you with regards to the proposed merger of Tumbarumba and Tumut Shire Councils. I am appalled at the process that has taken to get to the point we are. I cannot see how anybody who has been elected to serve its people can honestly say this has been a fair and just decision.

I urge you to look at the process and also the proposed mergers and ask that you make representation on behalf of the citizens of NSW and have this heinous contempt at democracy over ruled.

Premier Baird and Minister Toole need to note the discontent of electors and recognise the damage they are doing to their party but more importantly their reputations. They have not made themselves available to those who put them in power and this is a grave mistake and will not serve them well in future elections.

I ask the Premier to come to his senses; to listen to the people that he represents and to respect the democracy that we are here to protect. I thank members for their attention and recommend the report to the House.

Ms JAN BARHAM [5.08 p.m.]: I speak in support of the report of General Purpose Standing Committee No. 6 and its inquiry into local government. I served Byron Shire Council for 13 years but I was interested in local government for at least 10 years prior to that. I state at the outset that I fail to understand what motivates State governments to try to get rid of local government. In fact, a good case for doing so has never

been made. Both major parties have positioned themselves to undermine local government and claim that local government is unsustainable—currently, it is whether or not a council is fit for the future. Why are State governments doing this?

In the metropolitan area and in the regions to the south and the north—Wollongong, the Illawarra, Newcastle and the Hunter—there may be some political motivation, but the Government has a responsibility to put forward a stronger argument about why it should even be considering changing the way in which local government works. This report is important because it reviews the role of local government, the role of the State Government and the consequences of some of the historical changes.

As the report notes, local government has been around for 110 years. My local council was initiated in 1906 and, because of some historical issues between Byron Bay and Mullumbimby, by 1908 it was de-amalgamated—those local government areas did not like each other, they had totally different political motivations and they separated. It was not until 1980 that they re-amalgamated. So my council is already amalgamated but in the past 30 years or so, every time someone makes a complaint about Byron Shire Council, the media jumps on it and calls for the council to be sacked. But when the media asks other councils whether they want to amalgamate with Byron Shire Council they say they do not want to because Byron council is too difficult and it is too much trouble.

The Hon. Duncan Gay: You can't argue with that.

Ms JAN BARHAM: I heard the Hon. Duncan Gay mention roads earlier. Does the Government make an assessment of the number of cars that travel on the roads to determine their sustainability and the funding criteria? We have roads in Byron shire that has a community of 14,000 ratepayers but those roads are used by 1.5 million people. Council does not get any of that money, other than recently getting half a million dollars because it had to increase parking fees in town. If the Government is looking at equations and at how resources are being allocated it should look also at who is using those resources, how they are being used and whether the State has a role in funding councils. The State Government loves to promote certain coastal areas but, as I said in this place some years ago, infrastructure should have a component that relates to tourism because tourism is a cost and, some might say, a burden on local government.

It is a surprise to many but it is often said that Byron council should be rich because of all the tourists who visit that area. But no money flows directly from tourists to the council. The report refers to the issue of funding streams for local government and it clearly makes the point that local government is the only level of government that essentially has only one stream of funding; that is, rates. The inquiry looked carefully at the issue of Commonwealth funding through financial assistance grants, and at rates. Recommendation No. 3 calls for the removal of rate pegging to allow councils to determine their own rates, conditional upon the delivery of a local works plan. That sounds sensible and many locals would fully support it because it is about empowerment and members of the community having a right to consider whether or not they think an increase in rates would be worth it considering the plans for works programs that would be put forward. But local government is in a bit of a bind when it comes to funding because of those factors.

Another matter referred to in the report is cost shifting which the Government could inquire into because over the years it has been spoken about in a number of reports. At one stage The Greens promoted the idea that for every bill that came before Parliament consideration should be given as to whether or not it will impact on local government and, if it does, there should be a cost transfer to support any additional funding impost on local government. It is rarely talked about but in the past 20 or 30 years we have seen an enhancement of regulations. Those are the things that cost local government. Councils need more staff to enforce more regulation and to ensure the safety of residents and visitors, and that all costs money.

The State Government has relinquished many of its responsibilities and passed them on to local government but it has not transferred any funds to enable councils to assume those responsibilities. The Government complains about councils being inefficient and unfunded, or spending beyond their means when they have had no say in and no control over the work they are required to do because the Government has imposed cost-shifting responsibilities. That is identified in recommendation No. 6 which refers to cost shifting in services and assets, and the regulatory functions that are devolved to local government.

Another interesting and related matter is councils' depreciation methodology. It was surprising to see in the report a response from the Government relating to inconsistencies in the depreciation methodologies adopted by local government. If that is so, why does the Government not provide a ministerial direction to inform

councils how to do these things? The same should apply to accounting procedures. The State Government has the ability to do a lot to ensure the consistency, the regular performance and the responsibility of local government, but it might also like to pick up on some of the things that local government does that the State Government or Federal Government do not, such as putting forward a draft budget, letting the community know what it is thinking of spending, getting some feedback and putting forward a management plan so the community knows what its priorities are and it has a chance to comment. These are important things for democracy. It is important for the community to know what the Government is going to do and that councils have an annual plan. Quarterly reports enable the community to see whether councils are balancing the books and whether they are delivering on key performance indicators. Local government does some very good things, but it is often misrepresented because of the complex way in which councils operate.

The Fit for the Future program has to be the biggest joke ever. Byron Shire Council was fit for the future. However, if purely financial considerations are applied to Byron council it will not be fit for the future; with 14,000 ratepayers and 1.5 million visitors it does not equate. The council started selling everything so it could meet the financial guidelines set down in the Fit for the Future program because no consideration has been given to social, cultural or other values—it is all about the dollar. If a government drives a community that way it will achieve very poor outcomes. One day this State Government will have to pay by providing other services for people. I would support a review of how we value things and what we consider to be the value of communities. As we know from the Millers Point experience, there is a lot more to a community than just financial value. The importance of communities being resilient, coherent and caring for each other has not been considered in the Government's amalgamation move, which is a real shame. The Government should be ashamed of itself.

The Hon. SHAOQUETT MOSELMANE [5.18 p.m.]: I contribute to debate on the report of General Purpose Standing Committee No. 6 regarding local government in New South Wales and state at the outset that one of the biggest political secrets since the Coalition came to power in New South Wales was its intention to force amalgamations onto local councils. We heard the Government's constant denials, which in turn became lies, that it had no plans to amalgamate local government areas. In September 2014 the Baird Government was finally pushed to implement its secret plan by announcing the Fit for the Future reform program for local government. Whilst no-one in this Chamber has a problem with eradicating any waste or duplication that occurs in local government, the committee's report raises serious questions as to whether the Fit for the Future program is the best way to achieve reform while still giving constituents a proper say in their councils.

Local councils were required by mid-last year to prepare proposals and to report on how they were "fit for the future". The Baird Government chose the Independent Pricing and Regulatory Tribunal [IPART] to be the assessor of these proposals, which subsequently labelled 71 per cent of metro Sydney councils to be "unfit", as well as 56 per cent of rural councils. The report of General Purpose Standing Committee No. 6 rightly points out that the IPART does not have the demonstrated skills or capacity to assess the overall fitness of councils as democratically responsible local bodies. As such, the first recommendation of the report asks the Premier and the Government to withdraw the statement that these councils are unfit.

Another criticism the committee makes of the Fit for the Future reform process is the Baird Government's tunnel vision which focusses squarely on amalgamation and structural reform and bypasses some of the recommendations made by the Independent Local Government Review Panel. The committee advised that the Baird Government's reform package would have gone over much better had it chosen to implement other recommendations of the Independent Local Government Review Panel before embarking on any campaign of structural reform to the local government sector. In the interest of fairness to the most important people in this process, the local ratepayers, the committee's second recommendation is:

That the NSW Government provide all local councils in New South Wales access to the proposed Fit for the Future incentives, regardless of Independent Pricing and Regulatory Tribunal's assessment of whether a council is "fit" or "unfit".

That is the way to do it if the Government wants councils to survive. From the start, the whole process has been a farce. It is about locking in Liberal power bases and bolstering its partisan local government representatives. The best example is the St George area and the Government's master plan to gerrymander seats. Rather than amalgamating Waverley and Botany Bay councils, the Government put Botany Bay with Rockdale. When one looks across to Botany from Brighton-le-Sands, which is in the Rockdale council area, there is the ocean, then the airport, then the terminal, then factories, and beyond the factories is the Botany community. There is no community of interest between those two councils. The merger is a farce that was designed to create a Liberal council between Kogarah and Hurstville in order to protect Mark Coure in the seat of Oatley.

The Government is attempting to lock in Liberal power bases by bolstering its partisan local government representatives. How else can one explain the Rockdale-Botany proposal? The Government has used buzzwords supplied by media consultants that are designed to say nothing and to fool the public. There is no reason for those two councils to be merged. A proposed merger of Rockdale, Hurstville and Kogarah councils at least would have made sense. There are no natural or man-made boundaries between those council areas. They have similar communities and similar community identifiers: the St George area, St George Hospital, St George police command. The combination of those three councils is a natural fit for the area. Yet the Government has overlooked a merger of those three councils and proposed an amalgamation of Rockdale and Botany Bay.

All three councils see themselves as part of the St George region. The Rockdale community sees itself as part of the St George area. The residents of Rockdale and Botany Bay have no real connection with each other. In a plebiscite conducted by the City of Botany Bay, 98 per cent of the 8,000 residents who cast a vote said they did not want to amalgamate with Rockdale City Council. Those residents were sending a message, loud and clear, to the Government that they do not want to amalgamate with Rockdale. To them, Rockdale is on the other side of the world.

The Baird Government, in the interests of bolstering its political party, rather than accepting a common-sense proposal has taken the foolish approach of trying to ram its agenda down the community's throat. The resounding response from the community has been to tell the Government to get lost. It said it by way of a significant vote in a democratic process—98 per cent of the people who voted said they did not want their council to amalgamate with Rockdale. I would hope that the Government has listened to those who came out in force to tell the Government that they do not want an amalgamation with Rockdale. Amalgamations should take place on a voluntary basis.

Recommendation 11 states that the Baird Government should commit to an agenda of no forced amalgamations, except in dire financial circumstances or where the provision of services is jeopardised. The Liberal member for Barton, the Hon. Nick Varvaris, MP, has given a notice of motion proposing the amalgamation of Rockdale, Kogarah and Hurstville councils. I have a motion on the *Notice Paper* of which I have twice given notice and will do so again. Yet this Government slaps down such motions by refusing to adopt the wishes of the people of Kogarah and the St George area, that is, a St George council, not a half-hearted split-up of the St George councils and an amalgamation with councils in the east. The Fit for the Future program has been a farce from the beginning. I commend the committee members who participated in this inquiry conducted by the General Purpose Standing Committee No. 6 and thank all those who took part.

Reverend the Hon. FRED NILE [5.26 p.m.]: I speak to the report of the General Purpose Standing Committee No. 6 entitled "Local government in New South Wales" and dated October 2015. This inquiry was chaired by my colleague the Hon. Paul Green. I congratulate him and the other committee members on an excellent report and a great investigation of all the issues that affect local government in this State. Local government is the third tier of government in this State, the three tiers being Federal, State and local government. There are 152 local government authorities in New South Wales.

The number of residents in each council area varies. The average is 49,000. The population of local council areas ranges from as small as 1,157 for the Urana Shire Council area to 325,000 for the Blacktown City Council area. There is a need to re-examine those boundaries in order to ensure greater efficiency. The geographic size of councils also varies considerably. The smallest council is Hunter's Hill Council with only 5.8 square kilometres and the largest council is the Central Darling Shire Council with an area of 53,510 square kilometres. Council areas vary due to the geography of New South Wales. For example, large country areas with small populations result in large shire council areas. Councils also vary in terms of the ratio of citizens per councillor. It is important that there are sufficient councillors to provide local support for the citizens. For example, the Urana Shire Council has one councillor per 129 citizens while the Blacktown City Council has a ratio of one to 21,679.

The population of the Blacktown City Council area is 325,000. That obviously is too large a council. There should have been a move some years ago to separate Blacktown City Council into two councils. That may happen in the future. As I have said, the number of councillors in each local government area varies. Councils have between six and 15 councillors, with a total of 1,480 councillors across New South Wales. I congratulate local councillors, who give a great deal of their time attending council meetings and working on special committees established by council. I also thank the large number of council staff. Councils employ more than

44,000 people across the State. I know that council employees are very worried about their jobs in this merger process. The committee inquiry, led by the Hon. Paul Green, made many positive recommendations. I will not go through all of them but I will highlight two or three. Recommendation 1 states:

That the Premier and NSW Government withdraw the statements that 71 per cent of councils in metropolitan Sydney and 56 per cent of regional councils are "unfit".

"Unfit" is the terminology used by the Government. Most people would understand "unfit" to mean that councils are bankrupt, have no funds and are inefficient. However, the majority of councils are very efficient and have surplus funds in the bank. The term "unfit" is subjective. I understand that any council that did not want to merge was automatically categorised as "unfit". There was no method to the process and no measurement by which a council was deemed unfit. It is a subjective term that has been used by the Government to create an environment where citizens will think that the mergers are necessary because the councils are unfit, bankrupt and inefficient. I support recommendation 6, which states:

That the NSW Government eschews future cost shifting and commits to providing adequate funding to local government for any new services, assets or regulatory functions that it devolves to local councils.

Often, State governments will make a decision and local government has to carry the responsibility and find the money for it. The State government will not allocate additional funds for the extra responsibility it has given to the local council. I also support recommendation 9, which states:

That the NSW Government implement the Independent Local Government Review Panel's recommendations to strengthen the independence of the Boundaries Commission and ensure a robust and consultative process is in place to consider council amalgamation proposals before any further steps are taken by the government in relation to council amalgamations.

There is a great deal of concern—I will go further and say suspicion—about the independence of the Office of Local Government Boundaries Commission. Will the commission simply carry out the wishes of the Government? The commission knows what the Government wants in relation to the merger proposals. The commission is meant to be independent of government and to make recommendations based on its inquiries, evidence and feedback from the councils that are involved in the consultative process, which is still being conducted. I commend the committee for its excellent recommendations, particularly recommendations 10, 11, 12, 13, 14, 15 and 17.

It is important that the Government makes clear when the next local government elections will be held. There have been reports that the Government wants two council elections: one for councils that do not merge and one a year later for councils that do merge. That is very inefficient and confusing. All local council elections should be held on the same day in the same year. I suggest that local government elections for all councils are held in September 2017, as this would allow time for merged councils to put their affairs in order. I urge the Government to give consideration to that suggestion.

The Hon. PAUL GREEN [5.36 p.m.], in reply: I thank all members for their contribution to the take-note debate on the report of the General Purpose Standing Committee No. 6 into local government in New South Wales. In particular, I thank the Hon. Ben Franklin, the Hon. Peter Primrose, the Hon. Daniel Mookhey, Mr David Shoebridge, the Hon. Ernest Wong, Ms Jan Barham, the Hon. Shaoquett Moselmane, and Reverend the Hon. Fred Nile. Local government is the people's government. The Australian Centre of Excellence for Local Government released a report in 2015 about the value of local government to all Australians. The project leader, Associate Professor Roberta Ryan, said of the landmark research:

The view of local government as being confined to roads, rates and rubbish is long gone, in both practice and in terms of what communities expect. Australians want local government to be responsible for a diversity of activities in their local community, with planning for the future being among the most important.

As we have seen, councils are committed to their communities. Reverend the Hon. Fred Nile, in his contribution, recognised the efforts of council staff and councillors. The councillors give up many hours of their time for no remuneration with the aim of improving their local community. Local government reform is nothing new. But it is vital to have the right reforms at the right time and in the right order if we want this sector to get back on track. I will briefly refer to matters raised by members. I acknowledge the contribution of the Hon. Peter Primrose. The member has a great deal of experience and, as committee chair, I am always thankful for his encouragement and guidance. Recommendation 1 of the report states:

That the Premier and NSW Government withdraw the statements that 71 per cent of councils in metropolitan Sydney and 56 per cent of regional councils are "unfit".

As the Hon. Peter Primrose noted, the overwhelming evidence to the committee showed that these statements were false and misleading. He noted that the inquiry found cost shifting has increased to around \$680 million and is growing every year. Recommendation 17 states:

That the NSW Government work with local government on a statutory model for Joint Organisations based on the Hunters Hill, Ryde and Lane Cove Council model as a cooperative and consensus model for local council reform in Metropolitan Sydney.

The Hon. Peter Primrose noted that the Sydney Towards 2036 report, the TCorp report, the Independent Local Government Review Panel headed by Professor Graham Sansom, the Independent Pricing and Regulatory Tribunal review, and the countless hours of work funded by local councils to prepare submissions to these inquiries were seemingly all wiped away by this Government in its stubborn refusal to listen. Port Stephens, Gundagai, Wellington and Tumbarumba councils all received forced merger demands—one could say unsolicited proposals. New proposals keep popping up. The real issue is to fix the finance first. As the Hon. Daniel Mookhey pointed out, the Government revealed its hand in its dead-of-night announcement, which it made a week before Christmas last year, when it made clear its intention to force councils to amalgamate. The member said:

In time The Nationals will have to answer to their constituents as to how this policy has been able to go forward. They will have to face their electorates and those of us on this side of the House ...

The committee further recommended that the Government eschew future cost shifting and provide adequate funding to local government for any new services, assets or regulatory functions. The Hon. Daniel Mookhey made special mention of Armidale Dumaresq Council and its views. I know that Holroyd City Council is passionate about its position that it should remain a standalone council rather than following the suggestion to merge with Auburn City Council. Mr David Shoebridge made several important points which I would like to highlight. He said:

If people wanted to know the definition of "political pain", for a Liberal Government it is this: when its entire heartland is in revolt ...

We have seen this revolt in various areas, such as Tumbarumba and Kiama. Mr David Shoebridge continued:

They are saying, "If you proceed with these deeply undemocratic and unwanted counterintuitive moves to force the amalgamations of our much-loved local councils you will pay politically.

The member also said, when talking about sitting members:

If they expect preselection at the next State election they are going to have a hell of a surprise on their hands.

Mr David Shoebridge also noted that some 40,000 residents in Kiama have said to Mike Baird, "Do not come back." He noted that they have effectively said to the local member, Gareth Ward:

What on earth are you doing? How have you failed us so comprehensively?

Out of its population of 40,000 there were 1,700 residents at the public inquiry. Mr David Shoebridge said:

Shoalhaven is a good council—leave it alone. Kiama is a good council—leave it alone.

Mr David Shoebridge continued:

If any local members think they can thumb their nose at their communities and expect to be preselected, let alone re-elected, they will have a surprise.

The member noted that it is not just Kiama and Shoalhaven residents who support their local council. In Tumbarumba 93 per cent of residents support the local council. Mr David Shoebridge also said:

Tumbarumba has the most robust finances of any council in the entire State. Its finances put the New South Wales and Federal governments to shame. Tumbarumba is a growing town with a vibrant and diverse regional economy. The council is doing a genuinely fantastic job for its local residents; 93 per cent of them support a standalone council. Tumut is not the world's best run council and the people of Tumbarumba know this. Tumut council does not have the level of support of Tumbarumba because it is not run anywhere near as well as Tumbarumba.

The member went on to talk about Oberon and its local member, Minister O'Toole—

The Hon. Duncan Gay: His name is Toole, not O'Toole.

The Hon. PAUL GREEN: Yes, the Minister is quite correct. I acknowledge that for the record.

The Hon. Ben Franklin: And he is the member for Bathurst.

The Hon. PAUL GREEN: Hasn't it merged? Mr David Shoebridge went on to say:

The people of Oberon have stated repeatedly that they support their local council. The Independent Pricing and Regulatory Tribunal has found that the council is financially fit and robust ...

The member also said:

The Government seems to keep hiding key reports, including the 25 key reports produced by KPMG ...

Members have not seen those 25 reports. Reverend the Hon. Fred Nile has tabled in the House the KPMG reports of which we were made aware. Again, I thank all members for their contributions. I note that the Hon. Ernest Wong talked about the reaction to heinous mergers. Ms Jan Barham, whom I respect greatly when it comes to local government, made a comment that the motivation of the political parties is to strengthen their own base. It is similar to what is happening in Canberra at the moment with the Liberal-Nationals Government doing a deal with The Greens on voting for the Senate and stuffing up an opportunity for democracy at our highest level. It is unusual for The Greens to do such a deal, but I suppose they could be facing the same fate as local government in this State. The Hon. Shaoquett Moselmane said that the merger proposals were about locking in power bases.

I acknowledge Reverend the Hon. Fred Nile and his wife, Silvana Nero, who have been tireless in representing the Christian Democratic Party's position and have been the public face of our opposition to forced amalgamations. Reverend the Hon. Fred Nile talked about the number of councillors in the State and thanked council staff. He noted the very important fact that 44,000 people are employed by local government. Many of these people will be feeling anxious about their jobs. The Government has said that this is about taking the money from back office functions and putting it into frontline services. Those services may be improved but what happens to those who lose their job? It is a matter of great concern. Reverend the Hon. Fred Nile also noted the excellent recommendations of the committee.

I note another disquiet that is brewing; that is, the local government elections. The Christian Democratic Party wants one election and wants the Government to announce it sooner rather than later. I send that message to the Government. Unfortunately for many good members of the Liberal-Nationals Government, the electorate will be waiting in line, as if with baseball bats, to get its revenge and the Government will lose some very good members. There are some very nervous members of Parliament. At the end of the day, it comes down to four key words: Fix the funding first. I commend the motion to the House.

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

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 4

Report: Budget Estimates 2015-2016

Debate resumed from 8 March 2016.

The Hon. ROBERT BORSAK [5.46 p.m.], in reply: I thank all honourable members for their contribution to this take-note debate, in particular, the Hon. Lynda Voltz and the Hon. Penny Sharpe. I again thank all the members of the committee, the committee secretariat, Hansard staff and everyone else who assisted with these budget estimates hearings. Budget estimates are an integral part of our parliamentary processes. They are one of the few avenues left to parties in opposition to have a crack at Ministers and their departments. Unlike question time, it is more difficult for a Minister and their departmental staff to fob off legitimate questions in budget estimates. Despite the hype prior to budget estimates hearings, I am yet to see any party in opposition scratch a Minister, let alone land a blow of any significance. I look forward to the budget estimates hearings this year and commend the report to the House.

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

Motion agreed to.

GENERAL PURPOSE STANDING COMMITTEE NO. 5**Report: Budget Estimates 2015-2016****Debate resumed from 17 November 2015.**

The Hon. ROBERT BROWN [5.47 p.m.]: I am pleased to make a brief contribution—and my contributions are always brief—to the take-note debate on report No. 42 of the General Purpose Standing Committee No. 5 entitled "Budget Estimates 2015-2016". Once again I sincerely thank committee members for their cooperation during the budget estimates hearings. General Purpose Standing Committee No. 5 is a stand-out in the area of cooperation.

The Hon. Dr Peter Phelps: It has got a good chair.

The Hon. ROBERT BROWN: It is an excellent committee. I thank the committee secretariat for its assistance during the inquiry process. Once again, having an efficient and informed secretariat makes it much easier to deal with these processes. In particular, I thank Government members who once again agreed to forgo their questions and thus shorten the hearings. Also, I rarely ask questions, which allows The Greens ample opportunity to do so. This approach accords with my view on amending the process of committee hearings.

The committee covered a wide range of portfolios, including Industry, Resources and Energy; Primary Industries; Lands and Water; Environment; and Heritage. I thank the respective Ministers and their departmental staff for attending the hearings and being frank in answering our questions. Sometimes the hearings of General Purpose Standing Committee No. 5 can get a bit feisty but all the Ministers handled themselves well and did their best to provide information to the committee. I am of the view that the answers given during those hearings and to the questions on notice did not warrant any further supplementary hearings, despite requests from a couple of committee members.

Once again I thank Hansard for ensuring that the hearings were accurately recorded. Committee members have to consider questions on notice, call backs, et cetera. Therefore, it is important that the record is accurate—and it always is. Sometimes these committees can get a bit out of hand and it can be difficult for Hansard to record the proceedings, particularly when committee members nod their head. Once again I thank all those concerned for their assistance in General Purpose Standing Committee No. 5's inquiry into budget estimates 2015-16. I commend the report to the House.

Mr SCOT MacDONALD (Parliamentary Secretary) [5.50 p.m.]: I am a member of General Purpose Standing Committee No 5. The budget estimates 2015-16 hearing was held almost at the beginning of the Williamtown investigation saga, about which some questions were asked, including by the Hon. Mick Veitch. I commend the Minister for Primary Industries, the Hon. Niall Blair, for his responses on behalf of the Department of Primary Industries. That was a little over six months ago. Recently the community and I met with the Assistant Minister for Defence, Michael McCormack, regarding the fishing industry. It is a difficult period for oyster growers, prawners and the fishing industry generally.

The oyster growers were back in business fairly quickly—I think it was within a month. The Hon. Mick Veitch asked questions about compensation and those questions are still being asked. At that meeting with the Assistant Minister for Defence the people around the table commended the State agency, including Fisheries, for very much being on the front foot. I am talking about 42 fishers and 26 oyster growers—not a large number of people. I commend the Minister and his staff for helping those growers through this very difficult period with the State Government's limited number of levers around some fee waivers and assistance in marketing. Most of all, I commend the Minister and his staff for drilling down and working with these growers one-on-one through a very difficult process.

The feedback—said publicly in the six months since the questions were asked—is that the fishers really appreciate the staff, in particular, reaching out to these family businesses and seeking assistance through the Commonwealth processes. I commend the then shadow Minister for raising those questions, and I hope he keeps on raising them because they are pertinent. This matter has not degenerated into a political slinging match, which I think is commendable. The psychological and financial state of these people is very delicate. Important and pertinent questions that needed to be raised were asked by the Hon. Penny Sharpe in relation to the Environment Protection Authority. I hope she continues to raise them. This affects 165 households; the future of a couple of hundred people is in a very delicate position. I commend the Opposition and the Minister for continuing to address this matter in a measured and responsible way.

The Greens asked questions of Industry, Resources and Energy. It was terrific to see Mr Jeremy Buckingham appear this year. In the previous years he either did not appear or he was late, but that was a plus for the committee. He will get a little star from kindergarten greens for turning up and on time. Mr Jeremy Buckingham attacked the coal, mining and resources industries. It was an irresponsible attack on the mining industry. Again, people's lives depend on a commodity that has its up and downs. People from the middle of the Hunter Valley, right to the upper Hunter Valley, and from the Central Coast have always been at the whim of international prices. This one member is determined to denigrate the resources and coal industries without recognising that they supply 85 per cent of our electricity. Coal is the largest merchandise export from this State.

The industry directly employs approximately 17,000 people and many more indirectly. Mr Jeremy Buckingham almost seems to rejoice in every part of the cyclical downturn and in every job lost, which is a terrible indictment on him and the policy of The Greens. Let us not forget that The Greens' policy going into the 2015 election was to close down the coal industry at an accelerated rate, with some sort of airy-fairy discussion about compensation. The Minister of the day handled Mr Jeremy Buckingham well and brushed that aside, and answered his questions. As the Hon. Robert Brown said, estimates are always challenging. The chair puts up with rowdy behaviour from everybody, except from me. The committee does a good job.

The Hon. MICK VEITCH [5.56 p.m.]: I speak in the take-note debate of the report entitled "Budget Estimates 2015-2016" of General Purpose Standing Committee No. 5. I thank the secretariat for providing support during the budget estimates process, which can be quite challenging for all involved. The secretariat does a wonderful job making sure that committee members do not transgress standing orders and the like and it provides members with subtle direction, which is very much appreciated. I also extend my appreciation to Hansard. As Mr Scot MacDonald said, budget estimates hearings can be quite boisterous and feisty affairs. The next day I am always amazed when I read the transcript. I think, "It's pretty good; they got it all," particularly when we talk across each other. I also extend my appreciation to my fellow committee members. The hearings can be feisty and boisterous—sometimes it is done in good spirit and at other times in not such good spirit.

I refer to the chair of the committee. Chairing these committees is an essential and critical role in budget estimates. The Hon. Robert Brown does a cracking job chairing budget estimates. I appreciate the difficulties that we create for the Hon. Robert Brown in that job when we misbehave at times. Chairing committees in the Legislative Council is a very important role that should not be underestimated. The capacity to chair during budget estimates is essential for a full and operating budget estimates committee. I commend the Hon. Robert Brown, the chair of General Purpose Standing Committee No 5, for his performance.

It was the first budget estimates process for the Minister for Primary Industries, the Hon. Niall Blair. He arrived with a coachload of people, who sat behind him. He did not need them. The people at the table answered the questions. I am sure the Minister was reassured to have all those people behind him. I hope that this year the Minister will revisit that process and not bring a coachload of people with him. Some very important questions were put to the Minister. This budget estimates process highlighted that even on the day issues can arise and we need more time to explore them. As Mr Scot MacDonald said, the Williamstown issue arose on that day. The budget estimates process commenced exploration of what was happening at Williamstown and the situation faced by those poor residents around the RAAF base. Mr Scot McDonald is correct that we did ask the questions.

The Williamstown issue highlighted the importance of the budget estimates process for all parties. The budget estimates process needs more time, which I know is a discussion for the select committee. Extending the time given for budget estimates would not just benefit the Opposition, as is often stated. I am certain that Ministers appreciated the space and time to explain what was happening in the Hunter as it unfolded. I am also certain that the bureaucrats wished they had more information to provide to the Ministers. We should not think that budget estimates is only about the line items in the budget. In New South Wales we are allowed to explore the supporting documents and other information relating to Ministers' portfolios. The Williamstown exercise is a good example of why those provisions are critical and should be continued.

During the hearing I spoke to the Minister for Primary Industries, and Minister for Lands and Water, about Sydney Water. The hearing was the first time we were able to explore the significant hike in the Government's take from water utilities. It is not a subtle increase; it is a significant hike. In a subsequent report the Auditor-General has backed up the Opposition's position that the Government is now taking \$1 billion out of water utilities in New South Wales. The Sydney Water dividend to the Government after tax has increased from 70 per cent to 100 per cent. If that does not have an impact on the operation of that entity I do not know what will. The budget estimates committee hearing provided us with an opportunity to explore that.

Why is the Government taking \$1 billion out of water utilities in New South Wales? To prop up the money it no longer gets from electricity. I invite members to look at the budget papers. It is clear. Electricity dividends go down and water dividends go up to \$1 billion. Budget estimates hearings are about exploring those types of items. Sydney Water was asked about the impact the increased dividend would have on its infrastructure. The impacts can be mains breaks, raw sewage rolling into the harbour or a back-up generator not working when there is an overflow. That is the impact. Sydney Water's maintenance programs must continue. The budget estimates process allows us to explore those items.

I expect the Hon. Adam Searle will speak about the inquiry into the Industry, Resources and Energy portfolio. I was also present for that hearing. I must say that budget estimates hearings are an opportunity to contrast the capacity of respective Ministers. As one Minister leaves and another enters we can see their differing abilities. In his first escapade at budget estimates the Hon. Niall Blair would probably score a seven out of 10. He went okay. I do not think Minister Speakman would be judged as kindly. Minister Roberts certainly left a bit to be desired in his responses. As I said, more time would allow us an opportunity to explore further many of the issues that we need to explore. I note that has not only been the Opposition opinion during our time in opposition. I recall the Hon. Mike Gallacher making the same statement when he was standing at this dispatch box in opposition.

The Hon. John Ajaka: And you said it was not necessary when you were in government.

The Hon. MICK VEITCH: No, I did not. I agree that there should be more time. I think some members on the Minister's side might say the same thing. He should be a bit circumspect about who is sitting behind him. As I said, this budget estimates process was made worthwhile and valuable through the chairmanship of the Hon. Robert Brown. I thank all involved in the process. The prosecution of Sydney Water over the \$1 billion dividend will continue because the way that the Government went about it needs further scrutiny. I commend the Chair and I commend the report to the House.

The Hon. PENNY SHARPE [6.04 p.m.]: I make a contribution to the take-note debate on the 2015-16 budget estimates report of General Purpose Standing Committee No. 5. First, I thank Hansard for their patience and willingness to deal with a sometimes fairly enthusiastic participant in the process.

The Hon. Robert Brown: That's a nice way to put it—enthusiastic.

The Hon. PENNY SHARPE: Yes, an enthusiastic participant. I am new to General Purpose Standing Committee No. 5. I thank the Hon. Robert Brown for his excellent chairmanship of a committee with a very enthusiastic member and for his willingness to give everyone—the public servants, the Minister and the members—a fair go. Other members in this debate have spoken about Williamstown. As we know, the Williamstown ground contamination issue came to light literally on the day of the hearing. The Environment Protection Authority [EPA] has many lessons to learn from that event.

I will spend some time reflecting on the situation from the discovery of the contamination, to what it has meant for that community, what the Government has done and where we are today. I acknowledge the member for Port Stephens, Kate Washington, who as the new local member has stood up for her community and been with them every step of the way as she gathered and shared information and demanded answers. She has held the Government to account and worked very closely with her community members. As Mr Scot Macdonald mentioned, some community members in the area are having an extremely tough time—much tougher than they realised when they first found out about the problem.

On 4 September residents in Port Stephens woke to the news that what were then described as "emerging contaminants" were emanating from the RAAF base at Williamstown. Residents within a specified zone were advised against eating chicken eggs, drinking bore water or eating locally caught fish, prawns or oysters. A one-month restriction was placed on oyster farming and commercial and recreational fishing in Fullerton Cove and Tilligerry Creek. We know that was just the beginning. Since then the line delineating affected areas has been redrawn to encompass many more properties, and the ban on commercial and recreational fishing was extended for a further eight months. Some families went without any income for eight weeks. Our understanding of the so-called "emerging contaminants" has also expanded. At the time the EPA played down concerns around the perfluorinated [PFOS] compounds. It has taken that organisation quite a long time to fully get on board with those concerns, which we have seen as the investigations have continued.

The Department of Defence has known about this for a very long time. I do not shy away for one minute from pointing the finger fairly and squarely at the Department of Defence for its lack of action on what

was happening on its site and what was spreading outside of its land. The calls for compensation are absolutely appropriate and we join with the Government to get some action from the Federal Government on this. Its impact on people's lives has been far too great. In addition, we cannot let the EPA off the hook over this matter. Some significant problems were found and backed up by the independent review that the Minister put in place. We found out about the contamination on 4 September last year. On 16 September Minister Mark Speakman moved to set up his own review into his department's handling of the matter. That is a pretty significant step for a Minister to take.

The Hon. Dr Peter Phelps: Commendable, I would say.

The Hon. PENNY SHARPE: I commend the Minister for doing it because it was clear that there were problems. When we asked the Environment Protection Authority witnesses at the estimates committee hearing their response was, "Nothing to see here. Yes, Minister, it's all right. We're doing our best." They had known about it since 2012 and they had done nothing. Today I want to share with the House a follow-up to that. In December last year Professor Mark Taylor made some interim findings to the Government. His report contains some serious findings, which have not had a lot of public exposure, about the EPA's handling of this matter. He acknowledged that the Department of Defence has not been clear about when it ceased using these compounds. He said:

Defence and relevant NSW Government authorities including the EPA knew or should have known that Williamtown RAAF Base was surrounded by an important potable water source high risk aquifer.

The Tomago Aquifer area surrounding Williamtown RAAF base was known to Defence and NSW Government agencies as a high risk aquifer. They also knew or should have known that Hunter Water Corporation extracted potable water for the City of Newcastle.

The high risk nature of the aquifer was reconfirmed in 2009, yet there seems to have been little or no action from the EPA. His third finding was:

Defence and relevant NSW Government including the EPA knew or should have known that the lands draining from the Williamtown RAAF Base were physically, biologically and chemically linked to the adjoining wetlands of international significance.

The Review notes that the Tomago Wetlands, which represent the surface component of area of the Tomago Aquifer abut, and are physically connected to, the international Ramsar-listed Hunter Estuary Wetlands.

That is another failure of the EPA. The information received and evaluated indicates that the EPA had very limited contact in the period prior to 2012. Professor Taylor essentially said that after 2012 the EPA did a lot of dithering about and tried to make it the fault of the Department of Defence. It was worried about whether it should take ownership of the problem. There were claims and counterclaims about how far it could go into the site and how much could be tested outside the site. His findings are very clear that there was a complete lack of clarity as to the role of the EPA. I believe the EPA used that lack of clarity to fail to take action, which has contributed to the problems now faced.

In his interim report Professor Taylor also suggested that from August 2015 to the present the actions of the EPA and the other relevant government agencies have been responsive, timely and appropriate. They have done okay but when one looks at the issues raised by my colleague Ms Kate Washington one sees that there have been significant community concerns and a significant loss of trust. Indeed, there have been a lack of information and ongoing issues with little resolution. The EPA can and should do better. In conclusion, there is still more work to be done at Williamtown and, as I said before, the Opposition stands with the Government in seeking compensation for residents. It should not be forgotten that some community members have been told that as a result of this contamination their land is now worthless.

We will be watching with great interest to see what happens. The time lines have continued to slip—the interim report was due by the end of November, but we got it mid-December. We are yet to receive a final report. A report on the ongoing impact of the PFOS compounds was due by the end of February. On 19 February an announcement was made that yet another investigation will be looking into these long-term issues. The Opposition will not let go of this issue. It should never have gotten this bad. I will continue to work with my colleagues in the Hunter to hold the Government to account. No community should ever have to go through what the community of Williamtown has gone through as a result of bureaucratic neglect and failure to take responsibility once it was known there was a problem.

Mr JEREMY BUCKINGHAM [6.13 p.m.]: On behalf of The Greens I make a contribution to the report of General Purpose Standing Committee No. 5 entitled "Budget Estimates 2015-2016". I state at the

outset that the budget estimates process is broken. The time allocated to members to gain information in the relevant departmental and ministerial areas of responsibility on behalf of the people of New South Wales is pathetic. In view of the role and responsibility of government, the time allocated to get decent answers is insufficient. It is essential to our role as parliamentarians that we get information that is of use to the community in holding the government of the day to account. I repeat: The budget estimates system is broken and a pathetic amount of time is divided between members. Rather than showing an interest in their own Government, those opposite forgo their right to ask questions and do not even ask a Dorothy Dixier This clearly collapsing system, like so many other areas of government, needs to be reformed.

The Hon. Dr Peter Phelps: Like Senate voting reform?

Mr JEREMY BUCKINGHAM: Senate reform—I have dragged myself away from watching that to make this contribution. If anyone wants to come and watch the Senate reform go through, there will be popcorn, pizza and beer in my office later.

The Hon. Dr Peter Phelps: Is there hemp seeds?

Mr JEREMY BUCKINGHAM: That's right. Reform is important. I spent the time allocated to me in the General Purpose Standing Committee No. 5 estimates hearing investigating—some have described it as towelling up—the Minister for Industry, Resources and Energy.

The Hon. Dr Peter Phelps: You cannot use a wet lettuce as a towel.

Mr JEREMY BUCKINGHAM: The Hon. Adam Searle also did a very good job. The Minister was sweating and went a bright shade of red. He was clearly under pressure over the cancellation of Metgasco's coal seam gas exploration licence, and the approval. That was an absolute bungle, a debacle, a \$20 million stuff up by the worst Minister in the Baird administration. He is the worst Minister we have ever had. It was a massive bungle. In any other responsible government it would have cost him his job, but he is the leader of the Right faction and they have to get the balance right. He can just burn \$20 million in taxpayers' money because he gets the jitters. He is bullish and belligerent and says, "We are going to smash the hippies out of the way in Bentley." Then there is an election, and guess what? The people won that one. The Minister was taken to court and the people of New South Wales are \$20 million worse off.

The budget estimates process showed that the Minister had no grounds for doing what he did, and the courts confirmed that. Not only has Minister Roberts made a massive mistake, but with his gas plan he is continuing to make them. Mr Scot MacDonald used to talk about the much vaunted gas plan in this place. The gas plan, which was once like letting air out of a helium balloon—all over the place—is now withered and absolutely lifeless on the ground. And the air has been let out of the other strategic energy projects of this Government—for example, the Gloucester gas project and the Santos project, and coal seam gas is an absolute disaster. We no longer hear Mr Scot MacDonald—who is sitting with his head hung in shame on the Government benches or whatever he is doing—spruiking about it. The Minister used to spruik about the gas crisis and how we had to have our own domestic supply—like we have to have a domestic car industry or pineapple industry—as if we were not part of a Commonwealth or market where we could source it.

The Hon. Dr Peter Phelps: Globalisation.

Mr JEREMY BUCKINGHAM: It has had its benefits, has it not?

The Hon. Dr Peter Phelps: Put that on the record from The Greens.

Mr JEREMY BUCKINGHAM: There is no doubt about it. The scare campaign of the Minister at the time was that we had to have our own domestic supply to keep prices down—with no coal seam gas prices have dropped 17 per cent. Demand dropped because people are moving away from gas. At budget estimates it was made clear that the Minister made a catastrophic bungle on the Metgasco issue. The NSW Gas Plan was also a catastrophic bungle. Those things should inform members of the form of the Minister for Industry, Resources and Energy. He has made some big mistakes in this space.

The Minister's predecessor, the Hon. Chris Hartcher—who some members might remember received ICAC fame—also made amendments to the petroleum bill. He was very bullish about those amendments but they went into the freezer for 18 months. Usually members opposite heckle and carry on at this point, but they

know that this is true. Minister Hartcher and Minister Roberts are train wreck Ministers. If there is a Cabinet reshuffle there is no doubt that Minister Roberts should go sideways. Potentially Mr Scot MacDonald will then get an opportunity to ruin policy in that area.

The committee looked at coalmining, particularly the proposed Shenhua mine proposal on the Liverpool Plains. Today the Chinese Government announced that it was going to redistribute 1.2 million coalmining workers in China—the biggest change in that nation's coalmining history—because it is going to reduce the amount of coal it needs by billions of tonnes. Members may or may not be aware—I am sure Deputy-President the Hon. Ernest Wong will be well aware—that the Chinese Government is letting the leash off forms of dissent, and the one area in which it is allowing dissent relates to environmental protests. Routinely, tens of thousands of Chinese—

Mr Scot MacDonald: Point of order: My point of order relates to relevance. There was nothing mentioned along those lines during the hearings. Mr Jeremy Buckingham should speak about budget estimates.

DEPUTY-PRESIDENT (The Hon. Ernest Wong): Order! Mr Jeremy Buckingham is within the parameters of the debate. There is no point of order.

Mr JEREMY BUCKINGHAM: I was speaking about Shenhua coal, the demand for coal in China and how there is no demand because the Chinese Government has a massive environmental problem on its hands. The documentary *Under the Dome* shows that billions of people are living with chronic air pollution and they are demanding change, and that change is to stop burning coal. Coal demand in China is down and 1.2 million people are moving into other jobs. I ask the Minister: How many jobs have been lost in the Hunter? Fifteen thousand coalmining jobs have been lost in the Hunter Valley.

The Hon. Dr Peter Phelps: That makes you happy though.

Mr JEREMY BUCKINGHAM: No, it does not make me happy. That is five times the number of people employed in the car industry, and there has been not a word, not a speech in this Parliament and not a policy for the people of Muswellbrook, Singleton, Maitland and Cessnock. The Government just turns its back on them and hopes that the market will fix it. The invisible hand of the market is smashing those people to bits. Even Federal Labor member Joel Fitzgibbon said today that we need a transition plan as we are going to the wall.

Ms Jan Barham: Joel?

Mr JEREMY BUCKINGHAM: Yes, Joel Fitzgibbon, of all people. He is moving into an electorate that does not have quite as many coalmines, I might add. Since taking office, the Premier has approved 15 new or extended coalmines with total extraction of 1.8 million tonnes. The Government is mad to pursue this coal agenda. Billions of dollars worth of renewable energy can be found in Glen Innes and all over the State—strategic energy projects that the Government should support rather than blindly following coal. Minister Roberts is the worst Minister in the Government, the worst I have seen, and he should be sacked because his answers at budget estimates were pathetic.

The Hon. ROBERT BROWN [6.23 p.m.], in reply: I thank all members who contributed to this take-note debate on the report of General Purpose Standing Committee No. 5 entitled "Budget Estimates 2015-2016" as it was pretty entertaining. I thank Mr Scot MacDonald, who gets slapped down more than anybody else as he is more persistent than anybody else. The Hon. Mick Veitch made some good points. I also thank the Hon. Penny Sharpe. I thank both Opposition members for their cooperation and for the way in which they conducted themselves. I even thank Mr Jeremy Buckingham for his colourful contribution to budget estimates. As I have said before, I do not take questions: I let The Greens take my questions. If anybody is being short-changed on these issues it is probably the Opposition rather than The Greens.

Budget estimates are an important part of the administration of this State. Upper House general purpose standing committee budget estimates hearings enable members of the Opposition and crossbenchers to interrogate the Government on issues not only in the budget papers but also in policy. I commend all the Ministers for the way in which they conducted themselves. I do not necessarily agree with the Ministers' various levels of competence as portrayed by Mr Jeremy Buckingham. The answers given by Ministers can be checked by members asking questions on notice. Ministers were given 21 days within which to provide answers to questions on notice.

Generally speaking, since I have been involved in committees and not only in chairing them, there have been very few circumstances in which Ministers have been required to come back to the table because answers to questions on notice were inadequate. There have been a couple of instances but only very few. Both Mr Jeremy Buckingham and the Hon. Mick Veitch said that the time allowed for debate on budget estimates could have been extended, and I agree. But I note that there were occasions when we ran out of questions, which was embarrassing.

The Hon. Penny Sharpe: No!

The Hon. ROBERT BROWN: Yes, we ran out of questions. Generally speaking that occurred only when Ministers understood their portfolios so well that their answers to questions were spot-on and it took them only a few moments to answer. I will be interested to see the outcome of the Select Committee on the Legislative Council Committee System. At the next meeting we will probably get some feedback on that. It is imperative that this House stands up for itself and is a bit more robust in its assertion that we need adequate time to interrogate Ministers in this place and in the other place, otherwise it will become a waste of time. If I thought that committees were a waste of my time I would not bother with them, but I do not believe that they are. I believe committees are an integral part of the work that we do as members of the Legislative Council.

It will be interesting to see what recommendations come out of the Select Committee on the Legislative Council Committee System. I note that a number of people who have some experience in these areas, such as the Hon. Peter Primrose, the Government Whip and even the President, have expressed the view to me and in this House that we should be moving towards a Senate style of committee hearing where there is far more time, more robust questioning and the ability to drill into the detail presented in budget estimates. In my view, when a government presents its budget papers they are designed to be confusing.

The Hon. Dr Peter Phelps: Shame!

The Hon. ROBERT BROWN: Yes, they are. They are designed to be confusing and members have to be clever or have lots of staff to be able to burrow into them.

The Hon. Dr Peter Phelps: You meet both of those criteria, Robert.

The Hon. ROBERT BROWN: Select committees on budget estimates give us the time to ask questions and to look between the budget line items. That is where the story is, that is where the detail is and I suspect that is also where the entertainment is. It is a measure of a Minister's capabilities as to whether he or she can answer questions fluently, accurately and within a reasonable time. I commend the report to the House.

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

Motion agreed to.

Pursuant to sessional orders Business of the House proceeded with.

PASSENGER TRANSPORT ACT 1990: DISALLOWANCE OF PASSENGER TRANSPORT AMENDMENT (TAXIS AND HIRE CARS) REGULATION 2015

DEPUTY-PRESIDENT (The Hon. Ernest Wong): Order! Pursuant to standing orders the question is: That the matter proceed as business of the House.

Question resolved in the affirmative.

Motion by Reverend the Hon. Fred Nile agreed to:

That the matter proceed forthwith.

Reverend the Hon. FRED NILE [6.31 p.m.]: I move:

That, under section 41 of the Interpretation Act 1987, this House disallows the Passenger Transport Amendment (Taxis and Hire Cars) Regulation 2015, published on the NSW Legislation Website on 18 December 2015.

I was concerned when I first read about this regulation and the impact it has had on the taxi and hire car industries in New South Wales. I have an interest in discussing the future of the taxi industry because my

father was a taxidriver. As a young man of 20 he migrated to Australia from England, worked on farms around Wagga Wagga, at the Rock, saved his money, came back to Sydney and bought a Red and Black taxi in Kings Cross. I show solidarity with taxidrivers because although I have my own car I often use taxis to get quickly to an engagement or to a function. It is easier to get to a venue in a taxi, to simply jump out and to go inside without having to park my car. I can then return to Parliament House where I can pick up my car.

My concern for the industry has led me to move this disallowance motion. The Government has rushed through these reforms and regulations without considering many important issues. That has now become clear as the Government attempted to alleviate the confusion that it caused. The Government brought in new regulations governing the industry without consulting with the taxi industry, the hire car industry or the insurance industry which has had a major impact on taxidrivers through green slip insurance. Taxidrivers have to pay up to \$6,000 a year for insurance, whereas Uber drivers are treated as private car owners and pay only \$650—the first major discrepancy between taxidrivers and Uber drivers.

A lot of pressure has been placed on the Government to legalise Uber, but the Government should have resisted that pressure. Other countries have not permitted this competitive American-based company to operate its business. This company has plans to move into other areas in the State, not just the taxi industry. The Government has not taken into account the impact of this regulation on the value of taxi plates. Taxi owners have paid up to \$140,000 for their plates. They understood that they were purchasing a private business that they planned to sell to fund their retirement. That was their superannuation. From reports I have received from the Taxi Council the value of those plates has decreased to as low as \$20,000 and that figure is reducing weekly. Taxidrivers are going bankrupt and will have no superannuation.

A similar thing is happening in the hire car industry. The Government has frozen the issuing of hire car plates which, at some point, will virtually fade out to the point where there will no longer be a hire car industry. Over the years the hire car industry with its "HC" plates has performed a valuable role—providing a quality car that can be used for special functions such as weddings. The Government is seeking to repair the damage it has caused to the taxi industry. I have had briefings with the Government in relation to its attempt to rectify the green slip issue, and amending legislation will be forthcoming in due course.

But my question is: Why is the Government doing this back to front? Why did it impose the regulation, create this mess and now find itself in a situation where it must be fixed? There was no urgency to introduce these regulations to legalise Uber in this State. Why did the Government do that without proper forethought? Who put the pressure on the Government? To what pressure was the Government responding? Who were the lobbyists that were responsible for leading the Government up the garden path? The Government rushed through this regulation and it is now attempting to repair the damage it has done to the taxi industry. Why did the Government not negotiate with the taxi industry before making these dramatic changes?

I have had many discussions with the New South Wales Taxi Council which knows I am a friend of taxidrivers. Since becoming a member of Parliament I have had regular discussions with council in order to assist that industry. The Taxi Council advised me that the Government's decision to redesign the taxi and hire car industries in New South Wales has resulted in significant changes that will have a profound impact on the industry and on the passenger transport sector more broadly. The magnitude of these changes means that there are significant implementation issues for consumers and industry participants. Together with the New South Wales Taxi Council, I urge the Government to work through these issues carefully and to involve the New South Wales taxi industry and other industry participants in order to avoid any further unintended consequences.

The NSW Taxi Council will continue reviewing all the material available in detail. However, there is concern about attempting to rush these changes through as the Government is doing. The Government is trying to cope with and solve the issue of compensation. Will there be compensation for taxidrivers, some of whom have lost the value of their taxi plate? Further discussion must take place urgently to ensure that this is adequately addressed and that the potential loss to taxidrivers is dealt with through compensation. That will involve millions of dollars out of the Government's budget. The Taxi Council stated:

Our members have acquired an asset from the State in the form of a taxi licence and the value of which has been severely impacted by these government decisions.

There is no doubt some members will do it very tough and will feel significantly challenged by the news.

The drivers with whom I have spoken are in their fifties and sixties and will shortly retire and move out of the industry. Perhaps younger drivers aged 20 or 30 can cope with these changes, but the older drivers cannot. They are dismayed at these sudden decisions. The Taxi Council believes that the industry can survive. It will work very hard with the Government in transitioning to this new system. The council continues:

The NSW Taxi Council remains concerned about a number of issues that the Government has not yet resolved, including insurance inequities, and we will work closely with Government to address these. Further, there are likely to be significant impacts on country taxi owners and operators—their services in rural and regional NSW communities are vital, but they are experiencing significant viability issues.

Members of The Nationals should look at this issue very seriously, as these changes will have a big impact on country taxi owners. Recently, together with other members, I have visited country centres and have discussed this issue with taxidriviers in the country. They are very concerned and frustrated. They feel they have been left in the dark about what is happening in their area. I note that, on the plus side, taxis will still have exclusive access to taxi rank and hail passengers, which I am pleased about. The Government has said there will be strict enforcement of this exclusivity, giving taxidriviers that advantage. The Government must enforce action against illegal taxi services, namely ride-sharing. The council continues:

Taxis are also free to participate in booked services.

That is a plus. It says:

These measures will assist in shoring up a role for our industry into the future. Whether it is sufficient will depend on further details provided.

Additionally, the issue of no new taxi licences issued for four years, restricting supply, is a sensible announcement.

That Government announcement will reduce some of the pressure on existing taxi owners. I am pleased to quote the NSW Taxi Council from the documents it has provided to me. The council also states:

The NSW Taxi Council is confident that it will continue to provide effective public transport services to the NSW community and we will be imploring the NSW Government to ensure there is a genuine level playing field and we as an industry are not forced to compete with one hand tied behind our back.

It is important that these reforms improve customer outcomes, not lessen them, and this includes having a strong and viable taxi industry into the future.

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) [6.43 p.m.]: I speak on behalf of the Government in debate on the disallowance motion moved by Reverend the Hon. Fred Nile on the Passenger Transport Amendment (Taxis and Hire Cars) Regulation 2015. The Government does not support the motion. In December last year this Government responded to more than 5,600 submissions made to the Point to Point Transport Taskforce by taking the first step to reform and modernise the point-to-point transport industry. The Passenger Transport Amendment (Taxis and Hire Cars) Regulation 2015 allows for the first component of these reforms, including legalising ride-sharing; removing the requirement to hold a hire car licence for hire car services; and removing more than 50 pieces of red tape regulation that cost the taxi industry approximately \$30 million per year.

For too long government has overregulated taxis and hire cars, significantly increasing the cost to get these services out on the road. These reforms give customers more choice by stimulating competition and putting downward pressure on fares. There are a number of positive aspects for industry in these reforms: rank and hail services will be protected for the exclusive use of taxis, representing 70 per cent of their Sydney business; subject to the passing of legislation, there will be a \$250 million industry adjustment package for industry, the most generous of its kind for reform globally; and a new regulator will be established, giving more powers to police the sector, ensuring that for the first time the people in charge are held to account, not just the drivers.

The unnecessary red tape regulations that used to exist caused endless pain for the industry and its long-suffering customers. Some of the regulations were ridiculous, including the use of destination signs; a driver needing to remain within three metres of the taxi; and waiting exactly 15 minutes for a customer, unless another time is agreed. Nowhere else does government prescriptively control what the sector is doing. We need to get out of the way and let these people run their businesses. Taxis and hire cars want costs removed so that they can compete. Customers want more choice and more competition. I appreciate that this is a difficult time for the industry as we undergo significant reform. The Government is committed to continuing to work with the taxi industry on this.

The Hon. ROBERT BROWN [6.46 p.m.]: I speak in support of the motion moved by Reverend the Hon. Fred Nile to disallow the Passenger Transport Amendment (Taxis and Hire Cars) Regulation 2015. I would like to add to the points raised by Reverend the Hon. Fred Nile. He and the Minister mentioned several things that the Government has tried to do—I think the words he used were—

Reverend the Hon. Fred Nile: Planning to do.

The Hon. ROBERT BROWN: —planning to do—to modernise the industry. Nobody is against modernisation, but in a liberal democratic society nobody supports putting small businesses out of business. The Government believes it can save \$30 million by removing red tape. That is 30 cents per trip. The \$250 million that the Government is talking about putting aside for readjustment, if it is levied at \$1 a trip, will not be noticed. It is like the 3 x 3 fuel levy; no-one notices it these days. But on a hundred million trips—that is, 2½ years—the industry tells us that the weekly return, gross, on a plate is \$350. It is obvious that people who purchase plates do not do it as an investment for a return. Owner drivers will make their wages on top of the \$350. I have not seen too many wealthy cab drivers, nor have I seen too many wealthy cab plate investors.

The Hon. Daniel Mookhey: It is the licence owners; they are loaded.

The Hon. ROBERT BROWN: That is right. Reverend the Hon. Fred Nile mentioned that \$140,000 per plate was taken off the value of the plate. That was confirmed by the Taxi Council, which said that the price of a plate has gone from \$375,000 to \$220,000. For drivers who are getting close to retirement, to have such a large discount on an asset value as a direct result of government regulation and legislation is anathema to the sort of society we live in. The Government should be very careful. It says that out of the \$250 million it will pay recompense to the taxi industry of \$20,000 per plate for a maximum of two plates. But \$20,000 falls a long way short of \$140,000 in lost assets.

If the Government introduced legislation tomorrow relating to capital gains tax on homes which cost people 30 per cent of the asset value of their home, I think there would be rioting in the streets, to put it mildly. When the legalisation of Uber was first mooted, there were demonstrations outside Parliament House. I went out onto the balcony to have a look. I did not join the protesters on the street because they were getting a bit rowdy. I could pick out the Sikhs in the crowd because they were the tall ones, but I could not see any millionaires. I saw a lot of people who were from a non-English speaking background and were trying to protect their livelihoods. They are providing a service; it is not their fault that the taxi hire costs in this city and this State are so high.

I am glad that the Government is attempting to reduce the cost to the industry by \$30 million. Governments of all persuasions should have been doing that over the past couple of decades. The Government is trying to find a balance between doing right by the consumer and providing an efficient service without raping drivers' livelihoods—which is what it comes down to. The Shooters and Fishers Party supports the disallowance motion. We believe Reverend the Hon. Fred Nile has moved this disallowance motion to right a serious inequity. The Government considers that, given time, its compensation package will deal with this, but what about the people in the taxi industry? Taxi plate owners who are aged 65 will probably not panic and sell their plate for \$220,000. Maybe they will. They may think that next week the Government will make another law and their taxi plate might be worth only \$100,000 or \$50,000. The same argument is put forward in relation to superannuation, that is, governments should not mess with superannuation because it damages the expectations of those who are saving and making provision for a self-funded retirement. The Shooters and Fishers Party supports the motion.

The Hon. PENNY SHARPE [6.52 p.m.]: I speak on behalf of the New South Wales Opposition on the disallowance motion regarding the Passenger Transport Amendment (Taxis and Hire Cars) Regulation 2015. The Labor Opposition will not be supporting the disallowance motion. Throughout New South Wales people are finding new ways to share what they own. This is something people have always done. However, in recent years technology has made it a whole lot easier. Car sharing and ridesharing; renting out a spare room, a parking spot or that unused tool at the back of the shed; building local community food cooperatives and gardens; and sharing excess office space are now as easy as clicking a button on our smart phones. The technology connects people who want to share their goods or services with those who have a need for them.

A shift in values in the digital age means that people are rethinking consumerism, ownership and sharing as well as what that means for their own consumption. Tougher economic times and changing notions of wealth, assets and growth are joining with concerns about environmental pressures as our communities,

governments and individuals look at ways to make better use of finite resources. In a consumer-driven world the sharing economy is creating new jobs, providing new income sources, reducing waste, driving innovation, building community and reducing isolation.

The growth in the sharing economy has many implications for State government. Urban design and planning, jobs creation and transport planning need to acknowledge what is occurring in our communities through sharing. By its very nature, the sharing economy relies less on regulation and more on peer-to-peer trust and reputation. This is a very different model to the traditional capitalist consumer provision of goods and services. Legislation and regulations have failed to keep pace with the growth of the sharing economy. There have been some bumps in the road as some services have grown in a policy and regulation vacuum. That has been acknowledged by speakers tonight and the mover of this motion.

The choice for State governments and parliaments is whether we seek to help or hinder the sharing economy. In the case of ridesharing, this is a decision to be made by the Parliament as a result of this disallowance motion today. Do we seek to regulate an area that to date has growing uptake without regulation? Do we put our head in the sand and try to ignore the phenomenon? Do we try to legislate it out of existence? Do we see ridesharing as an opportunity for greater innovation in point-to-point transport services? Can the regulation system we establish also address issues that have dogged the taxi industry for years—issues such as poor wages and poor safety for taxi drivers? Can these regulations reduce red tape for the taxi and hire car industry? Can these regulations provide for greater consumer choice?

Ridesharing is growing rapidly in Sydney and is increasingly being expanded into other parts of New South Wales. While Uber is the most well-known service, it is important to note that there are at least seven other ridesharing services that are operating in New South Wales, including Coseats, Carpool One, Jayride, Share Your Ride, Catch a Lift, Back Seat and Ridesurfing. It is also important to realise that there has been a lot of hype around ridesharing and to consider exactly how much of the market it has. It still only accounts for 6 per cent of point-to-point journeys. Some 61 per cent of rideshare trips are considered new trips; they do not replace traditional taxi trips. People are using rideshare differently to the way they use taxis.

In the case of Uber, the uptake from people across Sydney has been significant. More than 5,500 people are now working as drivers for UberX. More than 500,000 people have Uber on their smart phones and have used the service. Since regulation, I am advised that more than 400 new drivers have been signing up every week to take advantage of the greater certainty that this regulation provides. But if this motion moved today is passed, then that certainty will be gone and it will affect those 5,500 people. For many drivers, this is the quickest and easiest way for them to use an asset they own—their car—to make some extra money if they are students, retired or need flexible work arrangements. For some it is their first job since recently arriving in Australia. Uber reports that 28 per cent of its drivers come from areas of high unemployment, such as Lakemba and Parramatta where the unemployment rate is 8 per cent.

If this disallowance motion is passed today this is what will happen: ridesharing will become illegal; hire car licence fees will go back to being more than \$8,000 per annum rather than the approximately \$45 per annum fee now being paid as a result of this regulation; and taxi fees and charges such as training requirements, application fees, accreditation and connecting to centralised booking for wheelchair accessible taxi operators will be reinstated. In fact, 50 red tape reductions in the taxi industry will be put in place again at a cost of approximately \$30 million per year to the industry, which will be passed on directly to passengers and drivers. Labor supports innovation and an approach that recognises that changes in our economy brought about by technology need to be reflected by government through sensible regulation. We do not support a head-in-the-sand approach to issues emerging from the sharing economy. We oppose this disallowance motion.

[The Deputy-President (The Hon. Trevor Khan) left the chair at 6.57 p.m. The House resumed at 8.00 p.m.]

Dr MEHREEN FARUQI [8.00 p.m.]: On behalf of the Greens I speak to the disallowance motion moved by Reverend the Hon. Fred Nile in relation to the Passenger Transport Amendment (Taxis and Hire Cars) Regulation 2015. The Greens will not be supporting this disallowance motion because, if successful, it means that ridesharing will not be able to operate within the law in New South Wales. Since before the 2015 State election, The Greens have been supportive of a move to regulate ridesharing services in New South Wales. We were the first parliamentary party in New South Wales to adopt such a position. We support new opportunities and innovation in transport. We also recognised that it was unsustainable and unhelpful to deny the existence of services that were very popular with thousands of Sydney residents.

All members would agree that safety and accountability must be at the heart of any regulation and this means that both the taxi industry and the emerging ridesharing providers both must be considered. It is imperative that passengers, taxi drivers and rideshare operators all feel comfortable and safe, that their rights are protected under whatever regime is in place, and that the policy settings reflect a genuine commitment to this end. Like Reverend the Hon. Fred Nile, I am a friend of taxi drivers; in fact, my husband used to be a taxi driver. While rideshare services are now legal, taxis will continue to play an important role in providing point-to-point transport and will have the exclusive right to rank and hail fares.

The part of the regulation that is the subject of today's motion largely relates to the fees, penalties and rules associated with operating various point-to-point transport services, including accreditation and licensing. These provide the mechanics of the new regulatory system for ridesharing. I must stress that without these components ridesharing would not be able to operate legally in New South Wales. On a broader level, I am of the view that a complete lack of regulation is not appropriate for ridesharing. I understand ridesharing operators have preference for regulating their own services, conducting their own background checks, setting their own standards for vehicles and so on. But everyone who operates passenger transport services in New South Wales needs regulatory oversight. To take the word of the company is not good public policy.

The Parliament has not had real discussion about important issues. They include people with a disability and their access to services, the impact on driver wages, and how we can guarantee that passenger transport services in rural and regional areas expand, not contract. Members have no doubt heard all the horror stories about exorbitant surge pricing of \$400 or \$500 rideshares fares on New Year's Eve last year. This is unacceptable. We must ensure that people who use these services get a fair deal and are protected. Unfortunately, this motion seeks to disallow the entire regulation and thereby end ridesharing in New South Wales. This is not an objective we support. Ridesharing has a legitimate and valued space in the way people get around in New South Wales.

The Hon. DANIEL MOOKHEY [8.05 p.m.]: The Passenger Transport Amendment (Taxis and Hire Cars) Regulation 2015 is a slender and sedate law. In many respects, it is not worthy of its historical status. It is the Government's first regulatory reply to the emergence of the sharing economy. It specifically responds to the sharing economy, or peer-to-peer commerce, in the point-to-point transport industry by legalising the practice known as ridesharing. This is the business model that carries a passenger to their destination by using the personal vehicle of an ordinary citizen who offers their services through a cloud-based internet platform. These platforms are this decade's Facebook. These incredible businesses have up-ended an entire industry and have become a cultural phenomenon that poses immediate, intermediate and long-term questions for this Parliament.

An immediate question, which was asked by Reverend the Hon. Fred Nile, relates to compensation for people and corporations who invested in the artificial monopoly that was sanctioned by the State and enforced in the taxi industry. What about the rules of engagement between ridesharing and the taxi industry? How will the two coexist? How will they compete? The long-term question is about the ideal market design for ridesharing and whether this Parliament will adopt a regulatory model that channels the disruptive potential of this new technology to the most socially productive use. None of those questions is answered by this regulation because it is a dull regulation authored by a bland government that is unsure about whether ridesharing is to be condoned or condemned.

The Baird Government tried to fine ridesharing out of existence. It piled enforcement action upon enforcement action against ridesharing operators. Last year it launched criminal prosecutions against 24 ridesharing drivers. Those prosecutions were bungled and thrown out of court in a hail of free publicity for rideshare operators. The taxpayers of New South Wales were saddled with a high financial price and every citizen was stuck with the opportunity cost, that is, the missed chance to use a regulatory instrument to shape an ideal ridesharing industry and to strike policy settings that avoid replicating the same flawed market design that has blighted the State's taxi industry.

This should have been a model regulation, a law that addressed the major questions prompted by the introduction of ridesharing in other jurisdictions. Those questions include the legal status of drivers and whether they are akin to bailees, employees or independent contractors. That is a case the Californian Supreme Court will have to answer in June in respect to Uber, with serious implications for how people there will earn an income in the sharing economy. Other questions are whether ridesharers will have the right to organise and whether they will have a legal entitlement to have a voice over their pay and conditions. That battle has been fought and won in Seattle with all rideshares who work for Uber and Lyft being granted those rights. The

questions also include whether ridesharers will have the same appeal rights as taxi drivers in respect to termination rights. Will they have the right to adjust their star ratings, which is the principal method ridesharers use to communicate value to passengers?

Other questions are whether passengers will have the right to intermediated pricing so that practices like surge pricing are not outside the writ of a tribunal such as the Independent Pricing and Regulatory Tribunal [IPART], and whether the Traffic Management Centre will have the right to access the immense data collected by ridesharers such as Uber, Lyft and GoCar and use it to better manage congestion in the city. That data source has been mined in the city of Boston and used to great effect. A further question is whether ridesharing will be incorporated into the public transport system and used to solve problems like last-mile transport, which is the next wave of cutting-edge public transport access. A final question is how ridesharing will align with commercial transport. If used as courier transport—the next source of growth for companies such as Uber and Lyft—will it be subject to similar requirements regarding fatigue, weight and other road safety laws?

None of those questions is answered by this regulation because it probably never occurred to this Government to ask them. It has occurred to Labor. Members should be under no illusion: the only reason the Government made the regulation last December was because the Leader of the Opposition in the other place used his 2015 budget reply speech to say that ridesharing could not be stopped, therefore the opportunities it presented should be seized. He said that ridesharing should be legalised and it should be used to start a race to the top in customer standards and driver conditions. That is why Labor does not support this disallowance motion. In making that call the Leader of the Opposition demonstrated practically the economic differences between our State's two major parties.

Labor knows that there is a difference between being pro market and pro monopoly. Labor will welcome new technology if it leads to new business models that challenge old, tired incumbent monopolists. Labor does not simply view new technology as a new way for an economic elite to make more money; rather, the money that can be made can be used to create high-paying jobs for people to live good, middle-class lives. Labor's reforming mindset towards the sharing economy is not limited to ridesharing. We are the only party with an unambiguous attitude towards other disrupters such as Airbnb. We have not moved motions that condemn it in this place, all the while pretending to back it whenever politically convenient in electorates such as Balmain and Newtown.

Labor has spelled out a clear policy: one code of conduct should apply for all councils and that policy should apply today. Labor has spelt out other policies at a State and Federal level that are not exclusively focused on questions about market design in point-to-point transport or accommodation. Labor's framework is about making Sydney, New South Wales and Australia the most agile and friendly geography in the Asia-Pacific region for start-ups. Our framework would make great Australian start-ups such as Canva, goCatch, SocietyOne, Sittr, Divvy and BlueChilli household names.

This matters for consumers and for public policy. The emergence of new technology-enabled business models offers an opportunity all market reformers should crave: the chance to change a market without the need for State intervention. We should not be under any illusion about the need for change in the taxi industry. We should not succumb to the illusion that the taxi industry is akin to the Garden of Eden and Uber, Lyft and other ridesharing companies are the snake making its unwelcome entrance. My first real job was organising taxi drivers at Sydney Airport. I saw firsthand the conditions taxi drivers work under. The simple way to describe those conditions is that they are crap.

Taxi drivers remain the only people in the country who still have to buy their own work. I am referring to the evil bailment system—a nineteenth century mode of labour relations, the antecedent of which is the horse and buggy. Under that system drivers have to pay a licence owner. They have to pay the cost of bailment before they earn a single dollar for themselves. They have to work the prescribed hours and if they wish to work the most lucrative shifts—Friday and Saturday nights—they have to work the least lucrative, that is, Tuesday mornings. They have to pay the cost of cab clean-ups out of their own pocket and excess for insurance claims filed against them regardless of fault. They have to pay for their own fuel and for their cab to be washed at the end of each shift.

Accumulatively, the system creates an unequal bargain. All the risk is shouldered by the drivers and all the reward accrues to the licence owners. The result is there for all to see. The IPART reported last year that the effective hourly rate for a driver is \$7.55, half the minimum wage. With the industry in denial, no prospect of bailment reform is in sight. This is why there are five drivers for every licence holder and why employee

retention is so troublesome. The industry's conditions are too oppressive. Many taxi drivers are chucking in their bailments and joining platforms like Uber. Uber offers an alternative model of labour relations that is not based on ameliorating the risk of trough demand but based on fare splitting. It is not perfect. It needs reform. But it is the first model to rival bailments since the horse and buggy.

Other structural practices associated with the taxi industry are equally as odious as bailments. They include practices such as the infamous Cabcharge payment fee that thrives under monopoly conditions. It is not as though those practices are not known to this Parliament or to the public. They have been extensively canvassed. This Chamber undertook a select inquiry into the taxi industry in 2010. The previous Labor Government conducted an inquiry into taxi industry's safety and security. In other States other inquiries have been held. The Victorian Baillieu Liberal Government held the Fels inquiry and the Australian Competition and Consumer Commission launched a spectacular enforcement action against Cabcharge for its monopoly behaviour.

All of those inquiries fingered one cause for all the taxi industry's ills: its distorted economic structure, being the fact that a license had morphed from permission to operate a business into an asset class expected to generate a capital gain in a State-maintained monopoly. The better approach is the Labor approach. We must recognise that the technology is not the marvel; rather, the uses the technology can enable are the real opportunity. Wise governments seize such opportunities. Even though this Government has failed, the next government will be up to the task.

Reverend the Hon. FRED NILE [8.15 p.m.], in reply: I thank all members who participated in the debate. I am disappointed that neither the Government nor the Opposition will support the disallowance motion when so much evidence was given as to the need to do something urgently to protect the taxi industry. Before we vote, I urge members to reconsider their positions. If the motion is lost I hope the Government will consider the points I made in my address and do all it can to provide justice for taxi drivers in this State. I thought the Labor Party would show more sympathy, since it claims to represent workers. Taxi drivers are workers but they seem to have missed out in this debate. I commend the motion to the House.

Question—That the motion be agreed to—put.

The House divided.

Ayes, 4

Mr Brown
Reverend Nile

Tellers,
Mr Borsak
Mr Green

Noes, 35

Mr Ajaka
Mr Amato
Ms Barham
Mr Blair
Mr Buckingham
Mr Clarke
Mr Colless
Ms Cotsis
Ms Cusack
Mr Donnelly
Mr Farlow
Dr Faruqi

Mr Gay
Mrs Houssos
Mr Khan
Mr MacDonald
Mrs Maclaren-Jones
Mr Mallard
Mr Mason-Cox
Mrs Mitchell
Mr Mookhey
Mr Moselmane
Mr Pearce
Mr Pearson

Mr Primrose
Mr Searle
Mr Secord
Ms Sharpe
Mr Shoebridge
Mrs Taylor
Mr Veitch
Ms Voltz
Mr Wong
Tellers,
Mr Franklin
Dr Phelps

Question resolved in the negative.

Motion negatived.

**INCLOSED LANDS, CRIMES AND LAW ENFORCEMENT LEGISLATION AMENDMENT
(INTERFERENCE) BILL 2016**

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

Motion by Mr Scot MacDonald, on behalf of the Hon. Niall Blair, agreed to:

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

Second Reading

Mr SCOT MacDONALD (Parliamentary Secretary) [8.26 p.m.], on behalf of the Hon. Niall Blair:
I move:

That this bill be now read a second time.

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

Leave granted.

The Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016 amends and clarifies the laws in relation to unlawful interference with mining and other businesses or undertakings.

It will make necessary and important changes to the Inclosed Lands Protection Act 1901, the Crimes Act 1900 and the Law Enforcement (Powers and Responsibilities) Act 2002.

This Government is committed to addressing the risks to businesses, protesters and the public posed by unsafe protest activities. These risky protesting activities are caused by a small minority who have shown a clear disregard for the safety of themselves and others.

In November 2014 the Premier made an election commitment to bring legislation to create a deterrence to illegal behaviour by protesters at mine sites.

By community standards there are some actions which should clearly not be supported—threatening the safety of others and causing disruption to legal business activities—are clearly in this camp.

The changes made by this bill create a workable model that ensures the ongoing protection of the right to protest is balanced with the need to protect the safety of others and the conduct of lawful business activities.

The Government is committed to ensuring that people are able to exercise their right to communicate their opinions and ideas on matters of concern through peaceful protest. The right to protest is one that helps to hold members of this House to account. It is a tenet of our democracy, and a right we will continue to protect.

This right, however, as with any right in a democratic society, must be balanced with the rights and interests of others, and the community as a whole. The amendments made by this bill go to address concerns raised by business, protesters and members of the public about the risks that some protesters take, which threatens the safety of others.

There are numerous examples of unsafe protest activities causing severe disruption to lawful business activity, and those which are clearly unlawful as they threaten the safety of others.

Examples of activities which threaten public and worker safety include a current prosecution that protesters entered a workplace and tampered with equipment being set for an explosives blast operation, putting themselves and workers at risk.

The potential implications of this scenario are not worth imagining.

In another example, protesters forced the shut down operations by hanging from a construction structure. Police rescue officers put themselves in harm's way to rescue the protesters. It is estimated to have cost the business hundreds of thousands of dollars in direct costs, such as repairs and hiring rescue equipment, and productivity losses.

A final example, protesters launched a coordinated attack on numerous sites by scaling coal loaders, locking themselves to access gates and erecting structures to both hang from and block access to sites. This caused around six mines to halt operations.

Protesters at mining and petroleum workplaces have been charged with offences relating to trespassing, hindering operations and endangering themselves and others.

These protests are unsafe for the protesters, workers at sites, the public in the near vicinity, police and emergency rescue officers. An array of people can be exposed to significant danger and harm during such protests.

Unlawful disruption by protesters is also costly for business.

Protesters have developed sophisticated tools, such as lock-on devices, which require rescue squad-type capability to remove them from plant or equipment without harm. There are also indications that protesters have engaged rigging expertise to assist them in attaching themselves and hanging from large mining equipment, such as coal loaders or structures.

There are plenty of avenues whereby protesters can lawfully voice their concerns and participate in democratic protests.

Government hears loudly and clearly concerns about mining and petroleum projects. These include loss of jobs in the mining and petroleum sector as well as concerns about environmental impacts.

The messages clearly and articulately come through a variety of channels—media; direct contact by phone, letter and email with my Office and other Government Offices; meetings; visits by Government Ministers and officers to regional areas; peaceful protest; and structured campaigns.

This is to name a few.

This bill assists police to have the resources and powers they require to maintain public order and safety at all or any protest sites, including mines and petroleum sites.

When large contingents of police, or specialised rescue officers, are required at a protest location, these officers are not available for other duties.

By reducing the likelihood of rescue officers needing to be called to the scene to separate a protester from being 'locked on', this bill increases the availability of these officers for other rescue and emergency recovery activities.

Mining sites are dangerous places, particularly for people who are not authorised to be on site. These kinds of unlawful activities cause undue risks to police rescue units that have to intervene, result in significant costs for businesses who are forced to halt operations, and create serious risks to the protesters themselves as well as the public.

The measures in this bill provide additional powers to police to proactively manage risky protesting activities, increases penalties for persons that unlawfully enter onto inclosed lands and interfere with, or attempt to interfere with, the conduct of a business or undertaking, and clarifies the definition of a 'mine' for the purposes of the Crimes Act 1900.

I turn now to the content of the bill.

Schedule 1 of the bill makes amendments to the Inclosed Lands Protection Act 1901 to create an aggravated form of the offence of unlawful entry on inclosed lands.

The maximum penalty for the aggravated offence will be \$5,500. It will apply in relation to land on which a business or undertaking is being conducted and where the offenders, while on the lands, interfere with, or attempt or intend to interfere with, the conduct of the business or undertaking or do anything that gives rise to a serious risk to the safety of the person or any other person on those lands.

Undertakings are business like activities whether or not conducted for profit or gain. The reference in the new section 4B is taken to have the same meaning as section 5 of the Work Health and Safety Act 2011.

The amendments also provide for alternative verdicts. The basic trespass offence under section 4 will be available as an alternative charge in trials for aggravated unlawful entry on inclosed lands, where the court is not satisfied that the person has committed the aggravated offence.

Schedule 2 of the bill amends the Crimes Act 1900 to extend the meaning of 'mine' in connection with the existing indictable offence of intentionally or recklessly interfering with a mine that carries a maximum penalty of imprisonment of 7 years.

The new definition will ensure that the offence reflect the modern understanding of a 'mine', which has changed significantly since the Victorian era.

Importantly, the definition of a mine will be extended to include an extraction or exploration site for minerals, gas or other petroleum. It will also include a construction site for the extraction of these substances, as well as a former mine where works are carried out to decommission a mine or make it safe.

This definition will ensure that the offence of intentionally or recklessly interfering with a mine applies to the entire lifecycle of minerals and petroleum mining, from exploration to decommission, including the construction of the site and the remediation work to ensure the site is safe.

The bill also amends section 201 to reflect modern work practices where the ownership of property often does not rest with the mine or petroleum operator, but is critical to the operation of the mine.

Schedule 3 of the bill amends the Law Enforcement (Powers and Responsibilities) Act 2002 to confer additional search and seizure powers in relation to things used to interfere with a business or undertaking.

The amendments provide police the power to search and seize things without a warrant where a police officer suspects on reasonable grounds that a person has, or a vehicle, vessel or aircraft contains, anything that is intended to be used to lock-on or secure a person to any plant, equipment or structure for the purpose of interfering with the conduct of a business or undertaking and that is likely to be used in a manner that will give rise to a serious risk to the safety of any person.

The bill also removes the limitations on the exercise of police powers to give directions in public places to prevent obstructions of persons or traffic, or harassment or intimidation of or fear to other persons, in the case of demonstrations, protests, processions or organised assemblies.

A police officer will not be precluded from giving a direction in relation to any such demonstration, protest, procession or organised assembly if the police officer believes on reasonable grounds that the direction is necessary to deal with a serious risk to the safety of the person to whom the direction is given or to any other person.

A police officer will also not be precluded from giving a direction in relation to any such demonstration, protest, procession or organised assembly that is obstructing traffic if it is not an authorised public assembly under Part 4 of the Summary Offences Act 1988 or is authorised but the persons given the direction by the police officer are not obeying the terms of the authorisation.

These amendments enhance the enforcement of laws governing protests, by providing higher penalties and stronger enforcement powers to deter unlawful protest activity that negatively impacts on businesses and the community.

Increased penalties and police powers will help to deter unlawful and unsafe protest activities, and enable mining and other businesses to conduct their activities uninhibited.

However, at the same time they enable people to exercise their right to communicate their opinions and ideas on matters of concern through lawful protest.

I commend the bill to the House.

The Hon. ADAM SEARLE (Leader of the Opposition) [8.27 p.m.]: I speak on the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. The Opposition resolutely opposes this bill and the measures contained within it. This bill is completely unnecessary. If the Government has concerns about issues such as trespass, obstruction and criminal damage in the Crimes Act and elsewhere there is panoply of existing laws that comprehensively deal with these matters. For example, if the Government is concerned about coal seam gas and mining operations there are very specific provisions in section 125C, obstruction of holder of petroleum title, of the Petroleum (Onshore) Act. The Mining Act also has a range of offences, such as section 257, obstruction of a person on a mine site, and section 378B, obstruction of the holder of mining authorisation. They contain penalties higher than those contained in this legislation, but that is not the real purpose of this bill.

The Hon. Walt Secord: Sinister.

The Hon. ADAM SEARLE: I acknowledge that interjection. The purpose of the bill is to try to threaten and intimidate citizens of this State from engaging in peaceful and lawful protest as they have been able to do for generations. The bill contains a range of provisions aimed at elevating the rights of coal seam gas and mining companies above that of other private properties owners. It also contains, in what can only be described as a series of extraordinary measures, powers for police confiscation of private property without recourse to the courts. For a party that claims to respect private property rights these measures are quite breathtaking. In addition, the legislation contains measures to enable police to effectively shut down peaceful protests not only on inclosed lands or adjacent to inclosed lands, not only in relation to mining or coal seam gas, but across the board, because these amendments are to the Law Enforcement (Powers and Responsibilities) Act, which applies generally to peaceful protests and the like. These measures are insidious, they are anti-democratic and they create a narrative which is attempting to stifle public discussion and dissent.

In particular, this law is aimed specifically at non-violent protests. Australia—indeed, this State—has a long history of non-violent protest and has been a world leader in promoting and effecting social change through community movements engaged in campaigning and in protests. Violence has not generally been a feature of those movements. Therefore, it raises the question: Why does the Government believe it needs this law? In the Minister's press release on Monday 7 March, apart from a summary of the legislation, there is only a bland claim that the bill will ensure the right to peaceful protest is balanced with the need to ensure public safety, the safety of workers, the protection of communities and lawful business activity.

But on the radio the Minister spoke about actions for which the bill is required and I believe he referred to things such as the cutting of powerlines and tampering with explosives. Those matters, if ever established in fact, are already serious criminal offences and they are not addressed by this bill; they are addressed elsewhere in the law. So in one sense this bill rests on a complete fraud by the Government. But, as I said, there are a series of provisions in the bill which are insidious and anti-democratic and should be opposed root and branch. All of the activities that could disrupt business activities covered by these new anti-protest laws, if they are passed, are already covered by existing minor public order offences, such as obstruction and trespass or, as I mentioned earlier, specific provisions of mining and gas legislation. I believe that these laws, taken together, represent a significant attack on our collective freedoms and they should be utterly rejected.

Schedule 1 deals with an amendment to the Inclosed Lands Protection Act 1901 to create an aggravated form of the offence of unlawful entry on inclosed lands and it provides for a tenfold increase in the maximum penalty that currently exists for trespass in the Crimes Act. New section 4B will apply not only to mining or petroleum operations but also to any site upon which any business or undertaking is conducted. Therefore, it will penalise any person who interferes with, or attempts or intends to interfere with, the conduct of a business or an undertaking. This provision, if enacted, would elevate business activity, business premises and undertakings above other private property rights by providing for a higher penalty for that offence. Interfering with someone's property rights carries a maximum fine of \$500, but interfering with business activities carries a \$5,500 fine.

We are seeing the party of big business talking, because this provision, if enacted, would elevate the rights of business over the rights of any other property owner. Nothing could speak more clearly to that than this provision. The idea of business rights taking precedence over civil or political rights or even over other private property rights is a new and retrograde development in our democracy and should be rejected by this House and by this Parliament. Schedule 2 amends the Crimes Act 1900 and adds petroleum gas operations within the definition of a "mine" for the purposes of the offence in section 201 of the Crimes Act of interfering with a mine. This is an offence that carries a maximum penalty of imprisonment of up to seven years.

As I indicated, it would extend the definition of a "mine" so that it extends to equipment and other things associated with a mine and to a gas or other petroleum extraction site; a mineral or gas or other petroleum exploration site; a work construction site for proposed minerals, or gas or other petroleum, extraction; and a former mine at which works are being carried out to decommission the mine or make it safe. The effect of schedule 2 is that protests at coal seam gas or other gas operations could now fall within the scope of this offence, which, as I indicated earlier, carries a maximum penalty of up to seven years. The amendments would mean that not only people protesting—for example, at Bentley or at the Pilliga—but also landholders who oppose coal seam gas drilling rigs from coming on to their properties could, in future, be charged with interfering with a mine under section 201 of the Crimes Act.

It is the case that landholders in New South Wales have no legal right to prevent mineral exploration or extraction on their property, and we understand that; the Labor Party accepts that as a cornerstone of this State's approach to resources development generally. However, if a petroleum production project is approved on a farmer's property and that farmer or his family or friends take action to block access to the farmer's own property and this becomes law they will be able to be charged with interfering with a mine. Landholders could therefore be arrested on their own property for hindering the working of coal seam gas equipment that has been driven onto their property by extraction companies.

This extraordinary legal power is completely at odds with the principles of land access signed by Santos and the NSW Farmers Association and would, if enacted, hand to coal seam gas and other mining companies de facto ownership of farming land in this State with rights in excess of those enjoyed by the actual landholder. For a Minister and for a political party—the Liberal Party—that claim to respect and to be founded on the protection of private property rights, this is extraordinary legislation. But The Nationals—a party that claims to represent farming communities and rural and regional New South Wales where so many of these contested matters have been occurring—are completely derelict in their duty to respect and to speak up for their communities. As I indicated, the effect of this expansion of the definition of a "mine" will be to criminalise the peaceful protests that have been occurring in connection with coal seam gas across this State and to criminalise the right to protest enjoyed by regular citizens—a right that they have enjoyed for generations and a right which we must protect and hand down to generations to come.

It would simply be an outrage if these provisions were enacted and we were to say to farmers that if they protest on their own property they can be charged with this offence and be made a criminal. That is not the way to deal with these often divisive community discussions about resources and about the coal seam gas industry. There are better ways and we must find them together, not enact provisions that divide our communities and criminalise regular people seeking to stand up for their land and for their communities. This is not a case of saying that farmers should not be allowed to protest about other people's projects; this would affect farmers trying to protect their own land as well and we simply should permit that right to protest, to resist and to say to whoever is the government of the day, "We disagree respectfully with what you are doing and we will protest about that." Criminalising and exposing landholders to the risk of serious jail time is not the appropriate or the right approach; it is completely outrageous.

Schedule 3 amends the Law Enforcement (Powers and Responsibilities) Act 2002 and adds a new division 7 at the end of part 4 that provides for additional—and, quite frankly, extraordinary—search and seizure powers in relation to lock-on devices. The new section 45A applies to anything that is intended to be used to lock on or to secure a person to any plant, equipment or structure. The new section 45B provides a police officer with the power to stop, search and detain a person or vehicle on the grounds of a reasonable suspicion that a person has possession of a thing to which the division applies and for seizure of such items. It enables the police to do that on the basis of suspicion, or reasonable suspicion, not on the basis of any search warrant.

The division provides for a power to seize private property on the basis of suspected and proscribed future intended use. It will extend to common items such as bicycle locks, padlocks, chains, ropes, barrels and tins. Some of these could be common items in vehicles of farmers or tradesmen. It is possible that it could even extend to tractors or other agricultural machinery or trucks and the like, if the police suspected that these were intended to be used as part of a lock-on installation or otherwise posed a threat to public safety. Under this legislation farmers could take items of equipment to protests and have them seized by police. That equipment may be very expensive trucks or articles of farm equipment worth tens of thousands of dollars or more and subject to financing with high interest rates. They could be forfeited to the Crown permanently—farmers would not get them back.

Mr David Shoebridge: You can buy them back at auction.

The Hon. ADAM SEARLE: I do not know if you can.

Mr David Shoebridge: To the highest bidder.

The Hon. ADAM SEARLE: I acknowledge that interjection. What we have here is the confiscation of property and property rights, without any due process. On the basis of a police officer's reasonable suspicion, the officer can take these things permanently because new section 545C provides for that. People cannot get them back; they cannot go to court; their right to that property is completely quashed. That is outrageous. What if the policeman made a mistake? I know it is an extraordinary proposition, but such things happen from time to time and we have a situation where people can lose valuable property. We certainly vigorously oppose that aspect of the bill.

There are also provisions in the bill which seek to lift the limitation on the exercise of police powers under section 200 of the Law Enforcement (Powers and Responsibility) Act 2002. The new section 200 creates an exception to the existing limitation upon the use of police move-on powers in relation to genuine protests by allowing the move-on orders to be issued to protesters where the gathering is obstructing traffic. By granting the police the power to give directions to protesters unless they have authorisation under the Summary Offences Act, the bill seeks to provide police effectively with the powers to veto any and all non-violent protests and assemblies through these direction powers. In so doing, this bill effectively equates non-violent protests in public places with the violent behaviour which is criminalised by section 545C of the Crimes Act 1990.

Existing laws in relation to obstruction already enable police to arrest any person who is obstructing traffic. One of the effects of this new law would be to extend criminal liability beyond any individual who is obstructing traffic to encompass all persons who are attending an assembly where the obstruction occurs. In this sense, the laws are aimed not just at the obstruction, if it occurs, but at the assembly that accompanies it, whether or not the persons who are issued with the move-on orders are in fact themselves obstructing the traffic. For this reason, it provides a very low threshold for the use of the powers and easily triggers an overly wide mechanism for the dispersal of any protest in New South Wales. As I indicated, it is not limited to mining or coal seam gas [CSG]; it could extend, for example, to protests about council amalgamations or any other government policy or program that the community legitimately takes issue with.

The extension of the laws to control all attendees at a given event reveals the true character of these proposed laws as laws against protest and assembly generally, rather than laws against a subset of obstruction or protest in relation to mining. Taken together, these laws, in my view, and in the view of the Labor Opposition, represent a very serious winding back of civil and political rights in New South Wales in relation to matters over which there has been no demonstrable failure of the existing laws. Whether it is in relation to trespass, obstruction or criminal damage, the Government has not even attempted to make the case that the existing laws are somehow deficient or weak. The bill and the matters that it contains demonstrate an ideology, a view of the world, that the interests of business have priority over the interests of other property holders and citizens in this State and over basic civil and political rights in our democracy. The bill has alarmed many observers.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! Mr Jeremy Buckingham will not cause a disturbance in this Chamber while a member is speaking. The member will be heard in silence.

The Hon. ADAM SEARLE: The Law Society of New South Wales has provided the Government and members of Parliament with a brief summary, not only of the contents of the bill but of its effects. I will quote briefly from some of its submission, because it is worth noting. It states:

The Law Society is concerned that the proposed new laws may interfere with the ability of people in NSW to engage in demonstrations, protests, processions or assemblies. The Law Society considers this right an important aspect of a democratic state. These amendments appear to again expand police powers, without the safeguard of judicial oversight. They may also interfere with the right against arbitrary deprivation of property.

I quote further in the submission:

We consider that the NSW Police already have extraordinary powers of search and seizure, and are able to restrain and detain people for their own, or others', safety. The proposed amendments do not appear to be either necessary or proportionate.

The Law Society goes on to give a detailed analysis of the bill and its provisions, which I will not repeat here. The New South Wales Bar Association, representing the barristers of New South Wales, also considers, "That the bill should not be enacted in its present form" because of the shortcomings that that organisation identifies. In relation to the new aggravated offence of trespass on inclosed lands where it would interfere with or attempt to interfere with the conduct of a business, the Bar Association says:

The new offence is expressed in words that are very wide and uncertain in meaning. In particular, there is a wide range of potential conduct by which a person might be considered to act in a way that *'interferes with, or attempts to interfere with'* the conduct of a business or undertaking when that person is on inclosed lands without consent. By way of analogy, a decision in the Supreme Court of Western Australia in 2011 held that an offence of interfering with fishing gear was committed if the fishing gear was, *'handled, used or in any way dealt with, rather than being left alone'*

...

Interference with the conduct of a 'business or undertaking' could likewise include any use of or contact with the tangible property of the business, as well as any disruption (apparently, however insubstantial it might be) to the processes and activities of the business.

The Bar Association goes on to say:

Further, the broad meaning of the terms used in proposed section 4B does not appear to reflect the more limited purpose of the government as indicated in the Second Reading speech, namely to protect against real threats to personal safety and severe disruption to lawful business activity.

The Bar Association further says:

There are existing laws presently available in respect of trespass, unlawful assembly ... and criminal damage ... If, despite the continuing availability of those laws, the creation of an additional offence is considered necessary, it should be restricted to instances of proven severe disruption or actual damage to a business or undertaking; or circumstances in which there is a serious and immediate risk of significant physical harm to a person.

In relation to the proposed powers to, without a warrant, stop, search and detain a person or vehicle if a police officer suspects on reasonable grounds that the person has or the vehicle contains anything to which the division applies, the Bar Association says that new sections 45A and 45B provide:

... an unclear but potentially very intrusive power of search and seizure without a warrant. For example, a person and their vehicle might be stopped, detained and searched because a police officer suspects that the vehicle contains rope or wire and a padlock that may be used in an unsafe way.

The forfeiture of things seized under 45B also permits the Local Area Commander of Police to destroy or dispose of a thing. Section 45B(4) provides that "a court does not have jurisdiction" to order delivery of a thing (to a person from whom it was lawfully seized) under Part 17 (which otherwise provides for the recovery of property in police custody, including by application to a court).

The Bar Association goes on to say:

The proposed additional powers of search and seizure without warrant appear to be an excessive and disproportionate response to the perceived problem.

In relation to the expansion of the move-on powers, the new section 200 of the Law Enforcement (Powers And Responsibilities) Act 2002, the Bar Association, after analysing the provision proposed, goes on to say:

... the Bill sets the threshold to both the activation too low for the activation of police powers in respect of a procession, assembly or demonstration.

Further, it says:

A direction should be able to be given by a police officer to an individual or group in a public assembly, procession, demonstration or protest on safety grounds only in circumstances in which there is a serious and immediate risk of significant physical harm to a person.

The threshold for police action, according to the Bar Association, is far too low. The Bar Association goes on to list comprehensive reasons for that, including noting:

There is an extensive range of community groups, religious organisations, returned services groups and charities that participate in processions and assemblies ... throughout New South Wales. Not all of them wish to ... go through the process of approval as an authorised public assembly ... under the *Summary Offences Act 1998*.

That is one of the triggers for police to be able to use these powers: if an event or demonstration is not approved under the Summary Offences Act. There are a range of reasons. The Bar Association concludes:

... there must be a real doubt about the constitutional validity of proposed section 200 in its application to individuals or groups that are exercising their implied constitutional freedom of communication about government and political matters. It may be that a Court would consider the law not appropriate and adapted to the achievement of the reasonable regulation of the participants in a public assembly (of the requisite type) on the basis that it permits a police officer to disperse the assembly or otherwise give directions to participants—

or, indeed to anyone who happens to be in the vicinity—

merely because the assembly (but not necessarily the relevant individual) is "*obstructing traffic*".

The new section 200 ... would involve an unjustifiably broad conferral of discretionary power on police officers to prevent or disrupt peaceful assembly, processions and demonstrations. It should not be supported and section 200 of the LEPRA should be retained in its present form.

The Law Society of New South Wales noted:

The common law right to assembly has been expressly recognised by Australian courts, including the High Court of Australia and the Supreme Court of NSW. The ... Constitution has been interpreted by the High Court as requiring Australian citizens to be able to assemble before the Federal Parliament.

For example, in *R v Smithers*, a case in 1912. The Law Society continued:

Additionally, the High Court has interpreted the ... Constitution as providing the implied freedom of political communication.

I mentioned that earlier. The Law Society continued:

While this implied freedom is not a personal right—

as was found in the case of the former Mayor of Newcastle—

it would invalidate laws that burden that right if such a law is "not appropriate or adapted to serve a legitimate end the fulfilment of which is compatible with the maintenance of the constitutionally prescribed system of representative and responsible government."

There the society is quoting from *Lange v Australian Broadcasting Corporation*, a High Court decision in 1997. The Law Society continued:

Courts have noted that peaceful assemblies are "perfectly reasonable and entirely acceptable modes of behaviour in a democracy."

That is from *NSW Commissioner of Police v Bainbridge*. It continues:

... peaceful assemblies are "integral to a democratic system of government and way of life".

That is extracted from the *NSW Commissioner of Police v Rintoul*, a 2003 decision of the New South Wales Supreme Court. I note also that the International Covenant on Civil and Political Rights protects the right to peaceful assembly, in article 21, and any limitation of that right must be "necessary in a democratic society". Justifying these extraordinary provisions by reference to the requirement, I think would be a very difficult case to make in support of this legislation.

This legislation is to simply crack down on the right to peacefully protest. It criminalises peaceful protest behaviour, which at present is perfectly lawful, in the way that I have described. It would criminalise the actions of farmers and other members of the community who simply seek to stand up and be heard and to protest against government. As I indicated, leaving aside the issue of the power to stop vehicles or people and search them without a warrant, the forfeiture of people's property without any due process should disturb every member of this Chamber. I ask members to reflect on new section 45C on page 5 of the bill, which says:

- (1) A thing seized under this Division is forfeited to the Crown.
- (2) The Local Area Commander of Police (or such other person as that Commander may direct) may destroy or otherwise dispose of a thing so forfeited in accordance with the directions of the Commissioner.
- (3) The proceeds from any sale of a thing disposed of under this section are to be paid to the Treasurer for payment into the Consolidated Fund.
- (4) Part 17 does not apply to a thing seized under this Division and a court does not have jurisdiction on an application under that Part to order the delivery of the thing to the person from whom the thing was lawfully seized or who appears to be lawfully entitled to the thing.

Whether it is ropes, devices for locking on, or farm equipment or vehicles—

Mr Jeremy Buckingham: Chains.

The Hon. ADAM SEARLE: Leaving aside chains, consider the seizure of vehicles or farm machinery worth tens of thousands of dollars—or more, in the case of a new tractor. They are often subject to finance. This bill would enable those valuable pieces of property to be confiscated on the basis of a police officer's reasonable suspicion.

Reverend the Hon. Fred Nile: The police would protect it, not confiscate it.

The Hon. ADAM SEARLE: No. Read new section 45C. If a police officer stops and searches and then decides to seize the thing so that it cannot be used, automatically under this bill those things that are seized are forfeited to the Crown. They are not legally able to be returned to the owner. They can be destroyed. They can be sold. Whoever owned that thing loses all right to it, even if that item is a heavily financed piece of farm equipment. People who lose the property could be ruined. The fact is that these are extraordinary provisions that should not be entertained in a modern democratic society. They are not needed because there are already multiple provisions that deal legitimately with trespass, obstruction and criminal damage.

That is not what this bill is about. It is about trying to frighten and intimidate those communities that stood up against coal seam gas across New South Wales. By making an example of those people, because they derailed and wrecked this Government's gas plan and called the Government out for the fraud that it is, the Government said, "We will not have that in future. We do not like what is going on with our council amalgamations policy, which is unravelling from one end of the State to the other. We do not want any more of our policies to hit the buffers through community action, so we will put the frighteners on the public, the citizens of New South Wales, to say that they cannot do this. That will send a clear signal that dissent will not be tolerated in New South Wales."

That is a bad message from a party that calls itself the Liberal Party. It is just the name of the shop, clearly, because it would be a very strange definition of the term "Liberal" that would authorise or support such extraordinary measures, including the confiscation of private property without any process at all. So I urge members to resolutely reject the contents of this bill. At the very least, if they do not want to take my word for its pernicious effects, let us refer this to a committee so we can have a closer look at it.

We could have a close and quick look at it to see whether or not it does what the Government says it does or whether or not it does what we say it does. With a bit of goodwill we could turn that inquiry around very quickly. I think it is a very reasonable proposition. What is the hurry? Well, of course, the Government does not

like dissent. It does not like to be called out and it does not like to have its ridiculous ideas held up to the scrutiny of daylight. But we say to all members that they should think carefully before they cast their vote in this place in support of these unnecessary, extraordinary and undemocratic measures. They should be rejected and consigned to the dustbin. They should not be enacted in law by this Parliament.

The Hon. WALT SECORD (Deputy Leader of the Opposition) [9.00 p.m.]: As Deputy Leader of the Opposition and shadow Minister for the North Coast I make a contribution to debate on the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. The long title of the bill is as follows:

An Act to amend the Inclosed Lands Protection Act 1901, the Crimes Act 1900 and the Law Enforcement (Powers and Responsibilities) Act 2002 in relation to interference with mining and other businesses or undertakings.

The primary effect of the bill is to jack up fines for legitimate protests tenfold. This bill targets non-violent protests and can even extend to those who attend protests as observers. The new laws being proposed by the Liberal-Nationals Government will increase fines for protesters from \$550 to \$5,500. That is a massive increase and, given that there has been no sudden outbreak of riots or protests in New South Wales, this is clearly a tool to silence protesters—and a tool to silence the North Coast. The police will be given powers to issue move-on orders if protesters obstruct persons or traffic. In addition, the police will be given additional search and seizure powers without the need for any warrant—a waiving of rights that is more apt for terrorism suspects in my view than North Coast families protecting their unique quality of life.

Furthermore, it determines that gas exploration operations will be treated as mining under New South Wales law. Make no mistake: This bill was drafted with the Bentley blockade, the Knitting Nannas Against Gas, and the Pilliga in mind. It should be feared by North Coast communities and the Pilliga. I wish to formally add my voice in strong opposition to this bill. Labor will be voting against this bill. We stand in this Chamber to fight this bill; unlike The Nationals, who say one thing to the community in the country and do another in Sydney. The Nationals walk into the Legislative Assembly and vote for the bill—but they tell families on the North Coast that they are with them in the battle against coal seam gas [CSG] and unconventional gas. The Nationals are not; they are with the CSG and unconventional gas exploration companies. In the *Tenterfield Star* on 2 March, Knitting Nanna Felicity Cahill said it all. She said:

The local member—

that is, Mr Thomas George—

would like everyone to think that he is against CSG, but he is accepting big donations and facilitating the expansion.

The Nationals are liars. They lied to the North Coast at the 2015 election. Like so many things coming out of the Baird Government, this bill has an ugly underside. Make no mistake: This bill puts a target squarely on the backs of the Knitting Nannas. These peaceful Australians with an environmental conscience are in the cross-hairs of the Baird Government. This is because, given a choice between the interests of North Coast communities versus the corporations which want to explore for CSG and unconventional gas, Premier Baird picks and sticks.

In November 2014 the Premier made a promise to the mining lobby that he would curb protests around CSG and unconventional gas activity. And who have been some of the most successful protesters in attracting attention to CSG mining activity—the Knitting Nannas? Do we think the Premier does not know this? Of course he does. I can imagine the Premier, with his angelic smile, quietly telling the big end of town not to worry; he will dispatch those meddling grannies. Unfortunately, the Premier is now honouring that promise.

Even more unfortunately, he is not delivering on his other promises—like the ones he made to the Nepean and Goulburn hospitals. Is he improving the lives of those in our regional communities? No, he is punishing the Knitting Nannas. It shows a disgraceful lack of priorities and it is another reason why we must stop this bill. The Minister for Industry, Resources and Energy revealed the true intentions of this bill when he described lawful protesters as "ecofascists" in the *Daily Telegraph* on 7 March. Fascist is a term that carries a great deal of weight for anyone who understands twentieth century history. It is not a term to be bandied about lightly; it is one that would offend thousands of New South Wales citizens who see it used carelessly. It certainly is not apt to describe the Knitting Nannas, who care about our State's North Coast and legally draw attention to the Baird Government's broken promises.

This is why I have to admit that I am fearful of this bill. It erodes a fundamental right in Australia, and a right that I have used myself—the right to lawfully protest. I admit that I have a strong personal interest in this bill. Members will recall that I joined and visited the Bentley protest against CSG and unconventional gas exploration near Lismore on several occasions before 2015. I visited with the Federal member for Richmond, the Hon. Justine Elliot, and Labor leader the Hon. Luke Foley. This was during the height of their protest against The Nationals plan to roll out CSG and unconventional gas across the North Coast. It was a unique time.

The Bentley protest cut across all political and socio-economic backgrounds. It united all on the North Coast in their opposition to CSG and unconventional gas. At the protest I met the Knitting Nannas, farmers, university students, schoolteachers, local clergy, mums and dads and grandparents genuinely worried about the future of their communities and their children's future. They made the community listen, and they did so by lawful protest. There was no "terrorism" and there was no "fascism", as the Minister suggests. So to reach for language like that, or measures like this, is deeply troubling; and it should be to all Australian communities—especially as this legislation goes hand in hand with the recent regional planning document which highlighted CSG and unconventional gas as a growth industry for the North Coast.

The North Coast has a proud tradition of leading the nation when it comes to securing hard-fought-for environmental protections such as the World Heritage listed national parks and their pristine waterways. But for some reason, The Nationals hate this. They do not want a clean North Coast; they do not want to see clean tourism; they just want to look after their mates in the CSG and unconventional gas industry. And make no mistake, this bill has been drafted by the Liberals and The Nationals with a view to protecting their mining mates by curbing protests and hard-fought-for protections.

It is no surprise that the bill comes from the energy Minister rather than the police Minister or the Attorney General. The "ecofascist" rantings of the Minister are a giveaway here, just like the company he keeps. I can see the sticky fingerprints of the member for Lismore; the member for Tweed; the Parliamentary Secretary for the North Coast and member for Clarence; and the Hon. Ben Franklin all over this legislation. Members will recall that the member for Lismore tried to get the police to remove the Knitting Nannas from outside his electorate office and to get them removed from outside Metgasco's Casino offices. They were lawfully protesting about the actions of a man who they said was "accepting big donations and facilitating the expansion" of CSG. We are referring to grandmothers whose stated goal is "saving the air and water for the kiddies". We are referring to grandmas who knit and lawfully sit. The member for Lismore was so afraid that he tried to call in the police.

Now we can see another whisky-stained clubroom deal to try to prevent even the slightest inconvenience to Liberal Party and Nationals donors. It is a disgraceful betrayal of North Coast communities. It is a betrayal of those North Coast communities that want to join the Knitting Nannas as they mount peaceful protests. The Nationals say one thing to community groups on the North Coast and then they take their marching orders from the coal seam gas and unconventional mining lobby which is always buying their corporate tables at Nationals fundraisers.

Who can forget the Murwillumbah Nationals branch that invited Metgasco's Peter Henderson to speak at their Christmas party on 26 November 2014? The Nationals cannot be trusted. They say one thing and then they want to introduce laws to stop lawful protests. Let us not forget that while the Minister will claim that these laws are not aimed at peaceful senior citizen protesters like the Knitting Nannas, just last week he was asked to rule out that the laws would be used to target the Knitting Nannas and he refused to do so. I refer to a question without notice on 8 March that the member for Port Stephens, Kate Washington, asked of the Minister for Industry, Resources and Energy. That question was as follows:

Will the Minister guarantee that the Government's anti-mining protest laws will not see the forcible removal and arrest of peaceful community protesters like the knitting nannas?

The Minister's answer was simple. He gave a one-word answer; he grunted, "No". There we have it. At 3.26 p.m. on 8 March the Minister for Energy revealed the true intentions of and motivations for this bill. This bill is about the Liberal-Nationals Government arresting and forcibly removing peaceful protesters like the Knitting Nannas and other lawful protesters. The Knitting Nannas Against Gas started protesting in the northern rivers region almost four years ago. Four years on they have brought much attention to a legitimate North Coast community issue and they have not hurt a fly. So it is ludicrous and cowardly that the Minister will not protect a group of older Australians who are simply expressing their concerns about the impacts of coal seam gas mining. It speaks volumes about the Baird Government that is punishing protesting pensioners just to keep sweet with mining donors. As the Knitting Nannas say, "This is bigger than politics. It is about harmony and the future of the planet." I strongly oppose this bill and thank the House for its consideration.

Mr JEREMY BUCKINGHAM [9.12 p.m.]: On behalf of The Greens I speak in debate on the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016 and vehemently oppose these draconian and abominable laws. In this State a maximum five-year jail penalty applies for poisoning a water supply and under the provisions of this bill a seven-year jail penalty will apply to farmers who lock on to protect their water supply—which is completely unacceptable and outrageous. Mike Baird and his mate Stephen Galilee are the architects of these laws. Where did Premier Mike Baird decide to announce these laws? It was at a Minerals Council dinner. It is disgraceful that the Government stripped away the democratic rights of people in New South Wales in this manner and announced it at a fundraiser for the Minerals Council. That same Minerals Council has donated \$44,500 to The Nationals and \$133,770 to the Liberal Party since 2010, so the piper calls the tune.

Let us be clear: This is the cunning plan of the Australian Petroleum Production and Exploration Association [APPEA] and the Minerals Council to force coal seam gas and greenfield coalmines onto an unwilling population. There is no social licence for coal seam gas. Communities across New South Wales have said no to new coalmines and this legislation is about smashing down those people by implementing a disproportionate and draconian measure that is more at home in Vladimir Putin's Russia than in democratic New South Wales. Let me compare these new laws that apply to protesters with other offences that attract similar penalties.

Do we honestly believe that a knitting nanna locking on, or a farmer locking onto his gate deserves the same punishment or a worse punishment as crimes that attract a penalty of seven years jail—aiding a prisoner to escape, recklessly wounding a person, committing aggravated indecent assault, allowing premises to be used for child prostitution, running an unlawful gambling operation, threatening or intimidating witnesses, and locking one's gate to coal seam gas? That is completely and utterly outrageous. I hope that The Nationals and Shooters and Fishers Party members who vote for this legislation today get what they wished for. Ten years ago Drew Hutton said, "The day a government locks up a farmer for protecting his country is the day it loses any moral authority to govern in this country."

The Hon. Robert Brown: Is Drew Hutton a candidate for The Greens?

Mr JEREMY BUCKINGHAM: Drew Hutton, an absolute visionary, is the founder of Lock the Gate. The Hon. Robert Brown cannot win; he cannot beat Lock the Gate so he wants to lock up peaceful protesters. It will not work. When a farmer is dragged from a protest, put in court and jailed, The Nationals will be dead on arrival. This outrageous legislation will be the death warrant of The Nationals. I cannot believe that people who are against coal seam gas extraction and coalmining have been described as ecofascists. Bill Ryan, a Kokoda veteran, who stood against real fascists in the jungles of New Guinea and defended democracy and totalitarian regimes, has been called an ecofascist.

The Hon. Adam Searle: Outrageous.

Mr JEREMY BUCKINGHAM: It is outrageous. He is a war hero and someone who understands how damaging these proposals will be. If he acts in the interests of his community, as he did in Kokoda, through peaceful and non-violent blockades he will be condemned to seven years jail. It is disgraceful that Don McKenzie, a farmer from western New South Wales, will be condemned to seven years jail if he spends two hours locked onto a gate, peacefully protesting against coal seam gas because he is terrified of the impact it will have on our water. It is disgraceful that David Pocock, Captain of the Wallabies, and farmer Rick Laird from Maules Creek could go to jail for seven years and face thousands of dollars of fines because they had the temerity to stand up against coalmines that are destroying their country.

The Knitting Nannas, the embodiment of care, nurture and consideration of our future generations, get together peacefully to protect their country. What has the Government done? It is a disgrace that it has called them Nazis and fascists and wants to throw them in jail. I have never been more proud of being a member of The Greens in opposition in this Parliament. This Government embodies all that is wrong when it is captured by corporations doing the bidding of its mining and coal seam gas mates. It is a disgrace. New South Wales is not run by oligarchs and corporations like Putin's Russia.

At the dinner to which I referred earlier, Stephen Galilee and Mike Baird laughed about knocking protesters out of the way. Troy Grant is using his position as Minister for Justice and Police to betray country people—in particular, farmers. Troy Grant is the driving force behind new laws that will crack down on farmers. If the Shenhua Watermark coalmine goes ahead on the Liverpool Plains will Troy Grant instruct the

NSW Police Force to arrest farmers who are trying to protect their land and water? Does he want them sentenced to seven years in jail? The answer is yes. I notice that the Hon. Ben Franklin is laughing and smirking.

The Hon. Ben Franklin: Point of order: Mr Jeremy Buckingham said I was laughing, which is untrue. I was neither laughing nor chuckling. I ask the member to withdraw that comment.

Reverend the Hon. Fred Nile: He added smirking.

The Hon. Ben Franklin: Further to the point of order: I also was not smirking. I ask the member to withdraw that comment because none of those things is true.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! I uphold the point of order. The member will withdraw the comment.

Mr JEREMY BUCKINGHAM: I withdraw. The Hon. Ben Franklin will sit idly by and vote for these laws. Will he have the courage to make a contribution and put his voice on *Hansard*? I bet London to a brick he does not have the ticker to do it. He knows it will hang around his neck like an albatross until the next election. It is a complete sellout of the people of New South Wales and Bentley and those the member pretends to represent in the 10 minutes he spent there after getting off the train from Kirribilli. It is an absolute sellout. Will the Hon. Niall Blair stand with the people of Berrima? No, he will not. Will he stand with those who are terrified of the impact of a destructive coalmine in the Southern Highlands? No. He will pass laws that will mean good people such as the Alexanders will be charged \$5,500 for standing up against a coalmine that they do not want. He will vote to allow people to be charged with offences carrying seven year maximum penalties. The people will not forget.

It is not hyperbole to say that in the time I have been a member of this place I have never seen a reaction to laws like the reaction to these laws. The protest out the front of Parliament House brought together all kinds of people from all over the State, including unionists, civil libertarians and ordinary citizens who understand that something very important is being sacrificed in this Parliament today. This bill will be rammed through in a day. It is an absolute disgrace and proves that The Nationals have completely and utterly lost their way. The changes will increase the penalty for aggravated entry onto inclosed lands by 1,000 per cent, from \$550 to \$5,500. Protesters who interfere with mining equipment or coal seam gas sites will face up to seven years jail if convicted. The bill will also give the police new search and seizure powers and make other amendments to the Law Enforcement (Powers and Responsibilities) Act, which my colleague Mr David Shoebridge will address. I will speak about the first two provisions.

The penalty for trespassing on a mine site will be increased from \$550 to \$5,500 by the creation of a new criminal offence of aggravated unlawful entry onto inclosed lands. Under section 4 of the Act there already exists an offence of unlawful entry that attracts a five penalty unit fine. The new offence means that if someone is guilty under section 4 and either "interferes with the conduct of a business" or does something that gives rise to a serious risk to their own or anyone else's safety the fine becomes 50 penalty units. I want to hear from the Hon. Robert Brown how that will not apply to hunters. He may well say that those hunters are trespassing and doing the wrong thing. Every time they are fined and end up in court they will be there because of his laws.

The people who are said to be trespassing are really only exercising their democratic right to peacefully protest. The Minister says this bill is about illegal protests. These are not illegal protests. They are completely lawful and appropriate protests being carried out by people who are exercising their rights. Importantly, new section 4 contains a very broad provision of "interfering with the conduct of a business". As the Hon. Adam Searle stated, the New South Wales Bar Association says that it is an incredibly low test. Interfering with the conduct of a business could mean merely touching something to do with a business and it will attract seven years jail. As the Hon. Adam Searle said, it could include interfering with a fishing rod by picking it up. That is absolutely outrageous.

When we consider the scale of coal seam gas and understand its capacity to spread across the landscape via roads, powerlines, compressor stations, work camps, ponds and fences, it is inevitable that someone will interfere and be charged under these laws. That is a disgrace. The Government has made no case as to why the current laws are not adequate. Hundreds if not thousands of protests have been held across the State, especially in the past five years since this Government tried to ram coal seam gas down the community's throat. The community spat that back up and the Government paid the price at the last election. How many

times has someone been injured at a protest in the past five years and required medical attention? There is not one example of a protester being injured that the Government can point to because protesters take it very seriously. They know what they are doing and they do it in a safe and peaceful way. We know that no protester or mineworker has been hurt because if there was an example the Government would have used it in this debate.

This is a total and utter beat-up in order to knock the community out of the way at Shenhua's Watermark coalmine, in the Bylong Valley, at Berrima and at every mine that people are opposing. It is doing that by dusting off a draconian part of the Crimes Act that was about significant sabotage, such as the destruction of a coalmine. The Government will apply that dusted-off provision to anyone who quite literally touches something at a mine or a coal seam gas site. Watch this space: These laws will also be used at uranium mining sites. That will be the next thing. When the Government announces the commencement of uranium mining in this State there will be protests because it is such a retrograde and foolish decision following the disaster of Fukushima. But as night follows day, the people will not be covered by these laws.

The resolution of the people is to say no to coal seam gas and to stop the expansion of coal, and they are doing it with a conviction that goes beyond self-interest. People will protest even if it will cost them seven years in jail because they are doing it for the common good and not in the short-term interests of corporations or their mates. The farmers are queuing up to protest. They will fight these laws with the unions and the Labor movement all the way to the High Court. These are retrograde, anti-democratic laws synonymous with dictators who cannot get their way and therefore smash the little man down. Anyone who votes for this bill will have it on their political epitaph. The Shooters and Fishers Party will never be the farmers party after this. We will make them own it forever. The Hon. Robert Brown might think it is a joke. The people of New South Wales think you are the joke. You had not even rebadged yourself before you sold out for silencers.

The Hon. Ben Franklin: Point of order: Members should be referred to by their correct title and Mr Jeremy Buckingham should direct his comments through the Chair.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! The member will direct his remarks through the Chair.

Mr JEREMY BUCKINGHAM: The Hon. Robert Brown is selling out his constituency just like the Hon. Ben Franklin is doing. The Hon. Ben Franklin is sitting mute and will not make a contribution to this debate. Tamara Smith will make him earn it every single day. This legislation will entrench her in that seat for a generation. This will be our beachhead into northern New South Wales because it is an absolutely draconian, retrograde measure. The Hon. Ben Franklin does not have the guts to say anything because he is a coward when it comes to this debate.

The Hon. Ben Franklin: Point of order: Mr Jeremy Buckingham, who is already on two calls to order, referred to me as a coward. That is unparliamentary language. I ask the member to withdraw that comment.

Mr JEREMY BUCKINGHAM: I withdraw the comment and I challenge the Hon. Ben Franklin to make a contribution to this debate. These retrograde changes to the Crimes Act would see fantastic patriots like David Pocock, Rick Laird, the Knitting Nannas Against Gas, Don Mackenzie, Bill Ryan and so many other social champions of social justice, who are fighting for our environment, go to jail for seven years. That is absolutely outrageous. We have seen in Western Australia and Tasmania conservative governments patronising unwanted industries such as the Tasmanian forestry industry, which is losing money and trashing the environment. These backhanders of the conservative governments are propping up the industry on the taxpayer's tick and then using retrograde and anti-democratic laws to smash people down. I repeat that these laws are despicable.

In the Committee stage The Greens will be moving a series of amendments to limit the damage of these changes. There is no mandate for these laws in the community nor have any examples been given as to why they are needed. Coal seam gas companies say to the stock exchange, "The protest meant nothing to us. We have rolled on with production. It is no big deal to us. The protest is our bug on the windscreen to profitability." But when they get in the ear of the Government, those opposites jump. The Greens will fight these laws every step of the way and the community, which has won the coal seam gas fight and is continuing to win the fight over coal, will prevail. These laws are an absolute affront to people who enjoy political freedom and democracy in this State and they will be a political albatross around the Government's neck until they are repealed. The Nationals should hang their heads in shame and the Shooters and Fishers Party are dead on arrival.

DEPUTY-PRESIDENT (The Hon. Paul Green): Order! Earlier I was unable to make my ruling on the point of order taken by the Hon. Ben Franklin because Mr Jeremy Buckingham resumed his contribution. My ruling is that it is disorderly for members to converse with other members across the Chamber.

The Hon. ROBERT BROWN [9.32 p.m.]: Tonight I have a well-prepared speech in support of the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. I was almost tempted to throw it away and go off the cuff, as I love to do. Jeremy did not get under my skin—

Mr Jeremy Buckingham: Point of order: Members should be referred to by their correct title. The Hon. Robert Brown referred to me as "Jeremy". That is out of order.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I uphold the point of order.

The Hon. ROBERT BROWN: The honourable member is correct. I apologise for being so familiar. Mr Jeremy Buckingham has made a couple of assertions that need to be challenged, in particular, that no protester or worker has been hurt. I wonder how the family of John Creighton, who was killed in 2013 in a logging accident in Whian Whian State Forest at the age of 59, would feel about that comment?

The Hon. Catherine Cusack: Point of order: Mr Jeremy Buckingham, who has been so pompous in his points of order, is now referring to the Hon. Robert Brown as a "grub". I ask that the member withdraw the comment and stop interjecting. The Hon. Robert Brown listened patiently to the provocative speech of Mr Jeremy Buckingham. The member is conducting himself disgracefully.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! Unfortunately, due to the level of conversation in the Chamber, I could not hear Mr Jeremy Buckingham's comments. I remind members that some of them are on two calls to order.

The Hon. ROBERT BROWN: John Creighton was killed at a logging protest in Whian Whian State Forest in 2013 whilst trying to ensure the safety of protesters who were there illegally. Mr Jeremy Buckingham also claimed that the Shooters and Fishers Party is selling out hunters. Hunters do not trespass, criminals trespass. Perhaps if we had stronger trespassing laws we would not have circumstances like the farmer who allegedly shot two pig dogs and then put a bullet into the trespasser's car. Those sorts of things would probably be better handled with a stronger set of laws. Mr Jeremy Buckingham raised a couple of other matters but there is little point in arguing with people who do not have the capacity to listen.

Before this debate sinks into further misrepresentations by The Greens, I will talk about the facts. It is the opinion of the Shooters and Fishers Party that at their core these legislative changes will protect farmers, especially those being harassed by city-based activists, professional activists, blow-ins—they call them "rent-a-crowd". These changes are not about coal seam gas or limiting farmers' rights, as Mr Jeremy Buckingham has tried to portray; they are about introducing sound, anti-lawbreaking policy. They are about improving the terribly weak inclosed lands protection laws in this State, which are a joke. Trespassers continually trespass on farmland. They may be animal rights activists or green protesters—

Mr David Shoebridge: More likely hunters.

The Hon. ROBERT BROWN: They may well be illegal shooters, criminals. Magistrates fine them \$200 and send them on their way, whilst the farmer and his family sit up night after night trying to police—

The Hon. John Ajaka: Point of order: Interjections are disorderly at all times. Other members have been heard in silence. The Hon. Robert Brown should also be heard in silence.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I uphold the point of order. I remind all members that interjections are disorderly. The Hon. Robert Brown has the call.

The Hon. ROBERT BROWN: The right to protest—peaceful protest—is and always will be protected by law. Some of the assertions that have been made in this place tonight have nothing to do with the effect of this law on peaceful protest. These laws are about vandalism, trespass and disruption of public and worker safety. The Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016 seeks to amend three pieces of legislation: the Inclosed Lands Protection Act 1901, the Crimes Act 1900 and the Law Enforcement (Powers and Responsibilities) Act 2002. I endorse the sentiments of Minister Roberts

in his media release of 7 March that this bill will ensure that the right to peaceful protest is balanced with the need to ensure public and worker safety, and the safety and protection of communities and lawful business activities.

Schedule 1 to the bill makes amendments to the Inclosed Lands Protection Act 1901 to create an aggravated form of the offence of unlawful entry on inclosed lands and to increase the penalty from \$500 to \$5,500. In my opinion, that is not enough. The Shooters and Fishers Party promulgated to the Government that it should be using the Work Health and Safety Act in these circumstances so that the cases are heard in an industrial court where the fines are not \$5,500 but are something like \$220,000.

I listened carefully to the Leader of the Opposition. I assure him I was not asleep, as Mr Jeremy Buckingham alleged. I listened to every word the Hon. Adam Searle said. I point out to the Leader of the Opposition that members of the Law Society do not have to sit on tractors in the middle of the night to make sure that their properties are not damaged. It is fine to be a purist and to be theoretically correct about the law, but one has to look at what happens on a farmer's property. I remind the House that an offence of trespass already exists, a piddling little offence. The new aggravated unlawful offence creates a specific offence for protesters who do not merely trespass but who trespass and interfere with a business or undertake or engage in activities that give rise to a serious risk of safety.

Trespass in itself is an alienation of privacy rights. Let me ask members how they would like someone wandering around their backyard. They would not. In Sydney it would probably be called a home invasion. This legislation is not only about criminal acts of vandalism, it is also about the stress that is placed on property owners when people are wandering around their properties without permission. I have seen some horrendous photographic examples of activities that give rise to a serious risk of safety. Unfortunately, I am not allowed to use the photographs in the House, following a previous ruling in another matter. Mr Jeremy Buckingham made the claim that no protesters have been hurt, but that is only by the grace of God when we see the stupid things that some of these people have done.

Schedule 2 to the bill amends the Crimes Act 1900 to extend the meaning of "mine" in connection with the existing indictable offence of intentionally or recklessly interfering with a mine. The definition of "mine" will be extended to include an extraction or exploration site for minerals, gas or other petroleum—it is not just about coal seam gas—and also will include a construction site for the extraction of those substances. I have received legal advice that it will extend to forestry sites. This aligns the definition of "mine" with the contemporary understanding of a "mine", which is addressed under sections 6 and 7 of the Work Health and Safety (Mines and Petroleum Sites) Act 2013.

Schedule 3 to the bill amends the Law Enforcement (Powers and Responsibilities) Act 2002 to confer additional search and seizure powers in relation to things used to interfere with a business or undertaking. This enhances the powers of police officers to search and seize in relation to situations where an officer suspects, on reasonable grounds, that a person has an item that is intended to be used to lock onto or secure a person to plant, equipment or a structure for the purpose of interfering with a business or any other undertaking; and that is likely to be used in a manner that will seriously risk the safety of any person, including the protester—and, even more importantly, the poor buggers in the uniforms who have to climb up the coal loaders, risking their life and limb to rescue idiots.

When protesters use these devices, highly trained police, including the rescue squad, are often required to remove a protester from plant or equipment without harm. As well, this diverts limited police resources from other urgent work. Members will note that there is no schedule that states that coal seam gas mining will officially operate with impunity and that those opposed to this form of mining, or to any other form of mining for that matter, will no longer be allowed to protest in any form whatsoever. It has nothing to do with the Knitting Nannas.

Similarly, there is no schedule that infringes upon farmers' rights, including the right to protest, despite the assertions that have been made here tonight. Were that the case, the Shooters and Fishers Party would not support this bill. If I believed that these laws were going to be used to disadvantage farmers I would not be here speaking to the bill. I do not believe that the laws will be used in that way. There are no changes to the right to protest. The changes proposed by this bill work to ensure the safety not only of the public but also of protesters who are engaged in lawful protests. These changes directly address the flood of concerns and complaints raised by ordinary citizens, including farmers, around New South Wales that the unsafe protesting activities committed by a small minority of protesters are unduly infringing on the safety of others. One idiot can create a terrible situation for others by taking part in a protest. I will provide some detailed examples of this later.

This bill is about striking a balance between the right to protest and community safety in light of the countless incidents where people have put their lives and the lives of others in serious danger. It is about creating a higher deterrent to protest activity, which has the potential to create serious safety risks. To that end, the bill appears to propose the adoption of relatively conventional measures to create a deterrent to unsafe protest activity consistent with existing frameworks for addressing risks to the safety of individuals and property in this context. I draw the parallel again and compare this to the Work Health and Safety Act, an Act championed by those opposite—and we supported them.

I now turn to examples in recent times of protesters demonstrating a complete lack of regard for their safety and, I believe more importantly, the safety of others around them. I ask The Greens if they think the following is appropriate behaviour or a peaceful protest. I have mentioned one example already. In 2013 a 59-year-old forestry worker was killed by a falling log while standing guard between demonstrators and a logging site. The work practices on the site had been changed by the presence of protesters. In 2014, a protester ran under an active bulldozer—a bulldozer with the engine running and the hydraulics working.

The protester locked onto the blade of the bulldozer with a bike lock around her neck, forcing the driver to shut down the machine. A protester who had the key to unlock the bike lock ran off. With the dozer shut down, the hydraulics began to release, slowly lowering a five-tonne blade towards the ground with the protester still locked on underneath it. Police held genuine fears that the protester would be decapitated if not immediately released. Rescue police and the State Emergency Service were too far away to assist. Police at the scene and mineworkers worked tirelessly to halt the blade, wedging it with logs and rocks. They were eventually able to free the protester and get her out from under the blade. I have seen photographs of that incident.

In 2014, protesters at Maules Creek suspended themselves from trees in an area to be cleared. When rescue police attempted to retrieve the protesters they climbed higher. The actions of the protesters were deemed by police as too dangerous for the police to continue. Rescue police had to eventually return with a 15-metre high cherry picker to safely retrieve the protesters and protect them from their own stupidity. In 2014, at the same mine, 187 down wires to highly powerful explosives were cut and attempts were made to fill in the blast holes with dirt and rubble. How stupid and dangerous is it for someone to go onto a blast site and start cutting detonator wires? How dumb is that? I am reminded of an article in *The Land* newspaper on 17 April 2013, entitled "Activism Attacking Ag". The article reads:

The proliferation of city-based activists lining up to attack traditional food production systems due to environmental fears or animal welfare concerns are saddling agricultural industries with red tape and increased costs.

They are also robbing them of access to technologies that could potentially increase viability at a time when farm productivity is flat-lining.

What that article does not mention is the family farmer with his wife and small kids having to work in shifts to protect their equipment or their sheds for their animals. One so-called protest involved Greenpeace activists destroying plants in a genetically modified [GM] wheat trial by the CSIRO in Canberra in 2011, which caused \$300,000 worth of damage. It also set back research into improving biomass and wheat yields. That same research could go towards feeding developing nations or improving Australian agriculture. It does not matter whether one likes GM or does not like GM—that is criminal activity, not a protest.

This week a constituent contacted me and urged me to support this legislation. She told me her story. On 21 February this year she was delayed on a train journey back to Tenterfield on the New South Wales TrainLink service from Sydney. This delay was caused by protesters strapping themselves to coal carriages just after Murrurundi. Her trip—a day long journey on the TrainLink service to Armidale, followed by a bus trip to Tenterfield—was delayed by almost two hours. Rail traffic was halted for the protesters' safety and, because the rail network had not been duplicated, timetables were put out. It was lucky there was not a train collision caused by the confusion.

Here is the trick though: As the mercury hit 38 degrees Centigrade on that day, this woman was stranded on the platform at Murrurundi with her two children, both under the age of five and one of whom is vision impaired. That child had just been to a medical appointment in the city. This was all caused by some blow-in professional rent-a-crowd Greenies from out of town who endangered themselves and the safety of others by deciding they would stop a coal train. The Greens seem to think—or at least Mr Jeremy Buckingham does—that this sort of behaviour is appropriate. Well, we do not. I have a lot more I could say here. I could talk about the representations we have had but I think I have said enough and I have managed to maintain my temper whilst doing so. I commend the bill to the House. I say, in closing, this law is to protect farmers and the safety of workers. Anybody who does not vote for it is betraying those people.

The Hon. LYNDIA VOLTZ [9.51 p.m.]: I want to make a few points about the speech made by the Hon. Robert Brown. I appreciate his comments, but most of the examples he used in regard to incidents at places such as Maules Creek are covered by the type of legislation he is talking about. The reality is, when one is talking about this type of legislation, what is the Government's intention? Is the Government's intention to change the behaviour of people? Because, if that is the Government's intention, the clear example that has just been put forward by the Hon. Robert Brown is that it does not change the behaviour of people. In fact, at Maules Creek we know that both David and Emma Pocock were arrested. David Pocock was arrested when he chained himself to a vehicle for 10 hours. The law applied there; the law was already in process there. It did not change the actions of David Pocock. He held the view that he had a legitimate right to exercise his freedom to protest against a decision of government and was entitled to do so.

In sentencing him, the magistrate considered his good character and his non-violent action. It is not that they were violent or reckless and creating risk to people. They were chained to a vehicle for 10 hours. The magistrate recorded no conviction against him because of that. That is the reality: these people are not reckless, dangerous or violent. If they were, the police have laws that empower them to deal with such people. The reality is, the State has the monopoly on force but it is only given to the State by the rights of the people and the people have the freedom to lay down how the State uses that force. To bring laws before this Parliament, in particular that allow police officers to give a direction—not just at a mining protest but at any protest; they can move anybody along—goes against the fundamental right of the people of a democracy such as ours that they have a right to express their opinions. It is that part of the legislation that is heinous: that the State would decide it would use its exercise of power over the will of the people—not of mines, not when they are doing anything violent, not when they are within inclosed lands—because they wish to protest, to undertake that fundamental right.

I refer to protesters like the suffragettes, to protesters against the apartheid movement and to protesters in the moratorium. Protest has changed the world. If we want to move forward, we have a fundamental right to protest. And it is this part of the legislation that particularly attacks the rights of people within this State to protest. Any policeman will be able to walk up to any protester anywhere and say, "I am giving you a direction and you will move along." They do not have that power now. The Government is giving them that power and that is the particularly heinous part of this legislation. People such as David Pocock are not going to be dissuaded by this legislation. They have a view and a deep commitment to what they believe in. Let us not dress it up that there is a great risk here. The reality is, the Government wants a proportional response and it wants the police to have the ability. Does this give it to them? Obviously not. Does it take away rights to people that they should legitimately have in a democracy? Absolutely. For that reason, the Labor Party opposes the legislation.

Mr DAVID SHOEBRIDGE [9.56 p.m.]: I speak on behalf of The Greens on the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016—an ugly piece of antidemocratic legislation brought to us by the Baird Government, with the unfortunate and deeply troubling support of the Shooters and Fishers Party. This proposed law aims to shut down protest and civil activism around this State, protests that are forcing change upon an unwilling and increasingly undemocratic government. Rather than respond to the expressed democratic will of the people in this State, as expressed in protest after protest and rally after rally, the Baird Government has responded by saying that it wants to sic the police on the protesters. The Baird Government wants to have the police break up protests because it knows it is losing the political battle.

What has protest done? Protest has changed our world. Protest has democratised our world. Protest has civilised our world. Historically, we have seen the role of protest in ending slavery. Closer to home, we have seen the role of protest in protecting The Rocks with the green bans movement. We saw the role of protest in saving the Franklin River. We have seen protest that saved New South Wales' remaining rainforest up and down our coast. Just two weeks ago we saw protest protect another 12,000 hectares of remnant koala habitat in the southern part of this State. We have seen protest protecting Kakadu and the Great Barrier Reef. Protest by Aboriginal people delivered Aboriginal land rights and then delivered native title. It was protest in the suffragette movement that gave women the vote around this planet. Protest drives democracy and it has always been and always will be key to delivering fundamental civil, political and social rights, not just in Australia but around the world. This bill is an ugly attack on protest at the heart of what used to be one of the great liberal democracies of the world.

What does the bill do? The bill does four key things, and my colleague Mr Jeremy Buckingham dealt with the first two. It is an extraordinary proposition, to have a tenfold increase in the fines under the Inclosed Lands Protection Act if someone trespasses on land and has the temerity to have their trespass affect the

business interests of a major donor to the Liberal Party. That is what that does. There is a tenfold increase if people trespass on land and hinder the business interests of a major donor to the Liberal Party. They will be up for a \$5,500 fine. That is the first thing it does.

The second thing it does is to expand the definition of "mines" under the Crimes Act—consciously, intentionally and deliberately—to seek to change the law so that the Baird Liberal-Nationals Coalition can put people like the Knitting Nannas in jail for seven years because they hinder coal seam gas operations in the State. These are noxious, nasty, vicious laws from a government that is too arrogant to understand that when it listens only to the miners in this State it is ignoring the other 7,500 residents who demand to have their rights protected. My colleague Mr Jeremy Buckingham dealt with those two points in detail.

Pursuant to sessional orders business interrupted to permit a motion to adjourn the House if desired.

The House continued to sit.

Mr DAVID SHOEBRIDGE: Thirdly, this noxious law proposes to amend the Law Enforcement (Powers and Responsibilities) Act 2002 to allow the police to have vastly increased stop, search and seizure powers without a warrant on so-called reasonable suspicion. Police will have search and seizure powers to steal property from residents around this State if they think that citizens might have in their vehicle equipment that can be used to lock on or assist in a protest. The last of the four ugly elements of this law is that it amends Law Enforcement (Powers and Responsibilities) Act to allow police to break up civil protests.

That is the first time ever that it has been proposed that the Law Enforcement (Powers and Responsibilities) Act be used to allow police the power to use move-on powers to break up protests. We know why the Government is proposing that. In fact, the Government said it. It is proposing that because it promised it to its donors from the mining industry. It is disgraceful. What does the Law Society say about the proposed changes to the Law Enforcement (Powers and Responsibilities) Act? I will read into the record part of its lengthy letter of opposition to this law. In relation to the proposed move-on powers to be granted to police, the Law Society says:

The Law Society is very concerned that these amendments appear to be aimed at non-violent forms of public assembly and protest. Currently, people in NSW have a right to engage in demonstrations, protests, processions or assemblies without police interference. Protest remains an important means of political expression.

The right to protest in our democratic tradition dates back to the Magna Carta. That is where the right to protest was first expressly written. It was later legislated in the seventeenth century, in England. But the right to protest in New South Wales is based upon a fundamental, rock solid, common law tradition that we have had the privilege to inherit but that this Government tonight is seeking to undermine. The Law Society goes on to say:

The common law right to assembly has been expressly recognised by Australian courts, including the High Court of Australia and the Supreme Court of NSW. The Law Society notes also that the Australian Constitution has been adopted by the High Court as requiring Australian citizens to be able to assemble before the Federal Parliament. Additionally, the High Court has interpreted the Australian Constitution as providing an implied freedom of political communication. While this implied freedom is not a personal right, it would invalidate laws that burden that right if such a law is "not appropriate or adapted to serve a legitimate end the fulfilment of which is compatible with the maintenance of the constitutionally prescribed system of representative and responsible government."

This law is deeply incompatible with the concept of responsible democratically elected government, where the Government and its laws are an expression of the democratic will of the citizens of this State. Unions NSW has roundly condemned this law. Unions NSW has stated publicly that it is considering a constitutional challenge based on the ability of this ugly Government to crack down on democracy. Unions NSW said this, in part, in its release on 7 March:

Public protesting has been a socially important and influential part of NSW's history for over 200 years and is a crucial element of democracy and ensuring collective voices can be heard.

It has been a part of our political tradition for more than 800 years, since the Magna Carta. Unions NSW said, further:

The NSW Government should not be seeking to silence those it disagrees with especially in a robust democracy such as ours ...

These laws will only serve to target and disband peaceful protesters who join together over common causes impacting heavily on the people of NSW's right to political expression and communication.

Unions believe passionately in the freedom of political expression and will consider a constitutional challenge if these anti-protest laws go ahead.

Good luck to Unions NSW. It will be joined by environmentalists, activists, farmers and people of goodwill across the State.

The Hon. Walt Secord: The Knitting Nannas.

Mr DAVID SHOEBRIDGE: The Knitting Nannas. If this law passes and is put on our statute books it will be in the High Court quicker than you can say, "Ugly, arrogant Premier".

The Hon. Walt Secord: Ben Franklin.

Mr DAVID SHOEBRIDGE: Quicker than you can say, "Ben Franklin just scooted out of the Chamber."

The Hon. Walt Secord: He scurried out like a cockroach.

The Hon. John Ajaka: Point of order: Comments made by members against other members in such a disgraceful way should immediately cease. I will not repeat what the members said.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I remind all members that interjections are disorderly at all times.

Mr DAVID SHOEBRIDGE: Aidan Ricketts, a legal academic at Southern Cross University, has provided a careful analysis of the impact of these laws on the rights to protest. He concludes as follows

These laws present a serious wind back of civil and political rights in NSW in relation to matters over which there is no demonstrable failure of existing laws in relation to either trespass or obstruction. These laws also demonstrate an ideology that the interests of businesses have priority over the interests of other property holders in the state and over basic civil and political rights appropriate in a democracy.

The New South Wales Bar Association is not exactly the most activist organisation in New South Wales and hardly the most common participant in street protests. In relation to the search and seizure powers, the association says:

The proposed additional powers of search and seizure without warrant appear to be an excessive and disproportionate response to the perceived problem.

The Leader of the Opposition detailed how the powers will work in practice. If a police officer thinks there is a reasonable suspicion that people might have something in their car that they might use on a protest, they can stop and search the car. If they find anything in there—a bike lock, a piece of rope—they can, without a warrant, seize it, forfeit it and destroy it. People have no rights. The law expressly says they cannot go to a court and complain about it.

How can a Liberal Party not oppose those powers? Their support for these powers exposes the mock libertarians on the Government benches for what they are: deeply authoritarian, conservative and illiberal in their political philosophy. Until now the Law Enforcement (Powers and Responsibilities) Act has expressly said that police cannot use their move-on powers to break up a protest. They cannot use their move-on powers at all in relation to a protest. With this bill, the Government proposes to allow the police, wherever the police think that there might be a safety issue, not just to move on the person who is causing the safety issue or move on the person who is obstructing traffic. This law, as drafted by this Government, allows the police to issue move-on orders to everybody at the protest.

That is not an accident of drafting. That is a deliberate intent by this Government to allow the police to say, "There is a traffic obstruction over there. Issue a move-on order to every person at the protest. Move on. Move a kilometre away. You are not allowed back for 36 hours. If you come back we will arrest you." That is a deeply undemocratic, authoritarian law more at home in 1930s Central Europe than here in New South Wales. It is an ugly law. And to think that the Government brought these laws forward and described the targets of its law as "ecofascists". That goes to show how Orwellian we have become in the discussion about the right to protest, the right to peaceful protest and the right to show dissent from ugly laws that we do not support. So what does the New South Wales Bar Association say about this? It says:

Section 200, which has been in its present form since the enactment of LEPR—

that is, the Law Enforcement (Powers and Responsibilities) Act—

in 2002, is an important check on police power to ensure some balance and as an acknowledgement of the high public interest in allowing concerned or interested citizens to participate in peaceful assembly, processions and genuine demonstrations and protests. Events of that sort have for centuries properly been regarded as an essential part of the social, political and cultural life of any civilised society.

But it seems like the Baird Cabinet does not believe in civilised society; it seems like the Baird Cabinet believes in an uncivil society which is run for the interests of miners and enforced by an ever more powerful and resourced Police Force. Whatever happened to the concept of policing by consent? Whatever happened to the concept of respecting the democratic rights of the residents of New South Wales? It seems that the Government and the Shooters and Fishers Party are joining together to trash those basic rights. The Bar Association goes on to say:

The new section 200 proposed in Schedule 3 of the Bill would involve an unjustifiably broad conferral of discretionary power on police officers to prevent or disrupt peaceful assembly, processions and demonstrations. It should not be supported and section 200 of LEPR should be retained in its present form.

It is not just the lawyers, it is not just academics and it is not just unionists speaking out about this; it is also environmentalists, it is also residents associations, it is also farmers and it is also the Conference of Leaders of Religious Institutes in New South Wales. It writes in its correspondence from 10 March in part as follows:

I am writing to you on behalf of the Social Justice Committee of the Conference of Leaders of Religious Institutes [CLRINSW]. This body represents most religious orders of women and men in NSW. The CLRINSW is deeply concerned at the recent announcement by the NSW Government to introduce to the Parliament the intention to increase enforcement powers with respect to illegal protests.

It goes on to say:

The NSW Government cannot continue to use bias in favour of mining companies when assessing mining projects and not listen to those immediately affected by such ventures. It is the responsibility of the government to protect our natural assets and protect the well-being and livelihood of citizens. If this was being done, then the need to protest would be superfluous. Increasing fines for people who are defending their land, water and way of life will lead to great anger. It seems unlikely that higher fines will prevent further dissent.

It concludes:

Nonviolent direct action is not a threat to democracy and has always been central to the freedoms that we enjoy. Most of the protester protesters associated with the campaigns referred above have not been by people outside the mainstream. These are legitimate protests in the face of powers that have not listened, that are biased and these are an attempt to stop policies and practices that would otherwise go ahead without question.

Indeed, as I said earlier, it was these very protests that stopped slavery. It was these protests that delivered Aboriginal land rights. It was these protests that delivered native title. Protester Protesters were sitting and showing their opposition. No doubt those opposite would have described those brave Aboriginal activists who sat on their land as trespassers. They would have described them in their words as "ecoterrorists". Those brave Aboriginal elders sat on their land and would not be moved despite them having not a legal leg to stand on at the time. They would not be moved. They knew it was their land; they knew the law was wrong; and they won the first Aboriginal land rights. This Government would criminalise them. This Government would give the police the power to move those protesters on. This Government is a disgrace. It is not just the lawyers, the religious leaders, the academics and the environmentalists speaking out about this. Lock the Gate in its submission—and I will not read it all—said:

The greatest problems with it are that it means that:

1. Landholders could be arrested on our own properties for peacefully opposing the entrance of CSG mining equipment, via provisions that make hindering CSG activities an offence under the Crimes Act 1900, punishable by a 7-year maximum jail term.
2. Farmers and others will be subject to arbitrary search and seize powers, without a warrant, that extend to regular items that we carry in our vehicles with us at all times.
3. Rural communities will be subject to far-reaching move-on powers that severely curtail the right to public assembly, and which make gathering together to oppose CSG very difficult.

The laws are extraordinarily anti-democratic, conferring multi-national mining companies with rights far above and beyond those granted to rural people and communities.

Why are we getting these laws? There has not been a single case presented by the Government of someone being hurt or injured as a result of lock-on protests—not one, single case. What we have got is a Premier who went to a bunch of mining interests that were bankrolling his election campaign and made a promise that he would crack down on protests because protests were protecting land and water from the miners who were paying the Premier. And now the Premier is paying back those miners with these laws. That is a corruption of New South Wales politics at the highest level. It is a deep corruption of New South Wales politics.

The Hon. Catherine Cusack: Point of order: That is an outrageous slur against the Premier and member of the lower House. Mr David Shoebridge knows that, apart from it being completely untrue, it is completely unparliamentary. I ask that he be called to order. I ask that he withdraw the allegation that it is corrupt and it is a bribe. It is an outrageous statement.

Mr DAVID SHOEBRIDGE: To the point of order: I did not describe the Premier as corrupt; I described the politics as corrupt. These politics are corrupt and venal.

The Hon. Dr Peter Phelps: To the point of order: Mr David Shoebridge indicated that the money was paid to the Premier. That is an implication of corruption and Mr David Shoebridge should be called to withdraw it.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I ask Mr David Shoebridge to withdraw the comments in relation to the payments. There is no point of order in relation to the comments of the Hon. Catherine Cusack. I ask Mr David Shoebridge to withdraw his other comments.

Mr DAVID SHOEBRIDGE: I will not withdraw the comments, which said that the Liberal Party has been paid and funded to the tune of hundreds of thousands of dollars by the mineral interests which these laws are seeking to protect. I will not withdraw it, because it is the truth.

The Hon. Catherine Cusack: Point of order—

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I have already ruled on the point of order. The member's time has expired. I am just seeking clarification.

The Hon. Catherine Cusack: The member was in contempt of the Chair's ruling. He has not withdrawn the allegations he made against the Premier. Instead of withdrawing, he chose to launch new attacks which may be inside the standing orders but which did not comply with the Chair's ruling in relation to this unparliamentary statement.

Mr DAVID SHOEBRIDGE: To the point of order—

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I will seek further clarification before members speak to the point of order

The Hon. PETER PRIMROSE [10.19 p.m.]: The Baird Government has introduced many obnoxious pieces of legislation. The Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016 is one of them. We have a history in this State of peaceful protests, of non-violent assemblies of political organisations, or refugee support groups, church groups, returned services groups and others. Where protests go too far there are existing laws to deal with them. So one has to wonder why the Liberal-Nationals in New South Wales are pushing through this draconian bill now.

I want to focus on only one aspect of the bill and examine how it could be used by the Liberal-Nationals to restrict legitimate protests against Premier Baird's forced council amalgamations. Other speakers have already noted this dark motivation by the Government. All over New South Wales affected councils and community groups are holding meetings and rallies protesting the Premier's forced mergers, and the job losses and rate hikes that will result from them. I am of course not suggesting that this is the only reason the Government is seeking to ram this legislation through Parliament. It has been well documented by others that the Baird Government is doing favours for its mining donors. It wants to jail people like the Knitting Nannas.

But it is also not simply coincidental that as this community opposition to force local council mergers is gathering strength that the Baird Government is introducing legislation that will discourage public meetings,

peaceful assemblies and marches from taking place. Members of The Nationals in particular are feeling the heat from their local communities, and that is probably why they are also so strongly supporting this bill even though their own local councils and local residents are standing up against forced amalgamations.

This bill is about frightening and bullying people who want to stand up for their rights. There has been no sudden upsurge in violent protests in New South Wales. It is simply not good enough to go through and list a number of protests and indicate that they are the reason this legislation is required. A number of speakers have said what is wrong and have advocated the need for this bill. However, the incidents that they cited are already illegal and therefore are against existing laws. It is simply illogical to list things that are already illegal and to say why we need a law to make them illegal.

The Government has presented no rationale for this draconian legislation. That is because there is no rational reason for taking away our citizens' basic rights. This is just a political rort like the forced council amalgamations. In New South Wales, people currently have the right to engage in demonstrations, protests, processions and assemblies without police interference. In our democracy, protests such as those against forced council mergers remain an important means of political expression for all citizens. This common law right to assembly has been expressly recognised by our courts, including the High Court of Australia and the Supreme Court of New South Wales. Our courts have noted that peaceful assemblies are "perfectly reasonable and entirely acceptable modes of behaviour in a democracy" and that peaceful assemblies are "integral to a democratic system of government and way of life".

However, this bill proposes to amend section 200 of the Law Enforcement (Powers and Responsibilities) Act 2000 [LEPRA]. The existing section 200 recognises the common law right to assembly, and indeed facilitates such assembly. The existing law gives police powers to give directions to a person or to a group of people in a public place, by which the police can direct the conduct of people so as to remove obstructions to other people or deal with situations that police believe harasses or causes fear in other persons. That has been the law since 2000, and it even existed in laws prior to that.

The existing section 200, which has been in its present form since the Law Enforcement (Powers and Responsibilities) Act was enacted in 2002, does not authorise police to give directions in relation to an industrial dispute, or an apparently genuine demonstration or protest, or a procession, or an organised assembly, and nor should it. It is an important check on police power to ensure some balance and as an acknowledgement of the high public interest in allowing citizens to participate in peaceful assembly, processions and genuine demonstrations and protests.

Having participated in many peaceful assemblies in the past, when governments urge the police or others to take action it brings the NSW Police Force into disrepute. That is what this Government is doing. Most members of the Police Force that I know respect their current roles. The police walk with people in peaceful demonstrations. They are there; they are part of the assembly under existing laws. If we ask police to arrest people for peaceful assemblies—refugee protests, people from church groups or industrial organisations, given that most police themselves belong to an industrial organisation—I doubt very strongly whether police will be brought into disrepute. Police have been pitted against citizens who have engaged in peaceful protests, such as against forced council mergers, for a long time. Through this draconian legislation the Baird Government will be bringing police and citizens into conflict.

However the bill that we are now debating will tip that balance. Section 200 is an important check on police power to ensure some balance, and it is an acknowledgement of high public interest in allowing citizens to participate in peaceful assembly processions and genuine demonstrations and protests. However, this bill proposes to allow a police officer to be the sole decision-maker to issue move-on directions in the context of protests and assemblies, without any guidelines and without a warrant, and that failure to comply with such directions amounts to a criminal offence. It would be at the total discretion of police to decide whether peaceful assemblies and processions would be prevented or disrupted for reasons that they could possibly disrupt traffic.

The Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016 grants police powers to give directions to protests unless they have police authorisation under section 24 of the Summary Offences Act. Under the Summary Offences Act, organisers can choose to inform the Commissioner of Police of the details of a proposed assembly. If the police do not oppose it, it becomes an authorised public assembly. But protests that have not been authorised under section 24 of the Summary Offences Act are not illegal. I am not talking about legal versus illegal.

Mr Baird's bill seeks to conflate the authorisation given under section 24 of the Summary Offences Act with the protection afforded under section 200 of the Law Enforcement (Powers and Responsibilities) Act 2000. It will provide police powers to give directions in relation to protests unless they have authorisation under the Summary Offences Act. It therefore will provide police with powers effectively to veto any and all non-violent protests and assemblies throughout New South Wales through the directions powers in part 14 of the Law Enforcement (Powers and Responsibilities) Act 2000, without the fundamental protection imposed by current section 200. As the Law Society notes:

Existing common law and statutory powers are sufficient to maintain peace and safety, and should be utilised by Police in the exercise of their duties. Common law powers available to the Police to maintain public order include powers relating to breaches of the peace and restraint of person for his or her own, or others', safety.

But, faced with growing public protests about the decisions of his Government, Premier Baird has decided that these reasonable, long-term and balanced police powers are not enough. He cannot call out the tanks like those in power in other countries, but he can arbitrarily remove a long-cherished democratic right and threaten those who want to exercise their constitutionally recognised right to peaceful protest with a criminal record and a huge fine. Under Premier Baird's plan in this bill, individuals or groups peacefully exercising their implied constitutional freedom of communication about government and political matters can be given a direction by a police officer.

As the Law Society of New South Wales states, Premier Baird's amendments in this bill will "encroach upon and limit fundamental rights to assemble and protest". Unless the direction is complied with, the individuals could be held to have committed a criminal offence and be liable to a penalty. As the New South Wales Bar Association states, that is not an acceptable "balance" in a modern democracy. Councils under threat of forced amalgamations and their local communities have a constitutional right to protest. They are doing so peacefully and responsibly despite Mike Baird's continued provocation. Communities in Kiama, Wellington, Cabonne, Harden, Tumbarumba, Shellharbour, Dubbo, Hawkesbury and many others will not easily give up their democratic rights or quickly forget who is trying to take away their rights from them.

The Hon. MARK PEARSON [10.31 p.m.]: I oppose the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. It is rather ironic that only last month the Government was giving an apology to the 78ers who were dealt with extremely severely for peacefully protesting. At the age of 19, I was one of those 78ers. Thirty-eight years ago the government of the day gave a directive to police to deal with people who were protesting against extremely draconian laws. We are in a similar situation today. This bill is one of the most draconian pieces of legislation I have seen. It is taking us back to the Joh Bjelke-Petersen era in Queensland.

People who protested in the streets in 1978 opposed legislation under which they would be locked up purely because of their strong point of view or particular state of being and sexuality. They were treated so appallingly that 38 years later the Government has apologised to them and acknowledged respect for the changes they brought to society. It will not be very long before the same thing happens again if this bill becomes law. In Queensland in the 1970s and 1980s street marches always seemed to begin in King George Square outside Brisbane City Hall. King George Square was the crucible for the city's social disquiet and ferment, where thousands of protesters once risked the batons of Premier Joh Bjelke-Petersen's police force over issues as diverse as the Vietnam War, the Springbok rugby tour, Aboriginal issues, nuclear disarmament and the right to protest.

Following Prime Minister Malcolm Fraser's decision in 1977 to expand uranium mining an anti-uranium protest group was formed. In turn, Premier Bjelke-Petersen outlawed street marches, sparking a number of confrontations in the city. However, the right to march quickly became the main issue for both the marchers and the police. On 4 September 1977 Bjelke-Petersen announced, "Protest groups need not bother applying for permits to stage marches because they won't be granted ... that's government policy now". They were not even able to appeal to a magistrate.

This bill strikes the same chord of oppression of people's free will and capacity to speak up and oppose instruments of harm. In 1987 the Fitzgerald inquiry was held in Queensland. There is likely to be an inquiry one day into the consequences of this bill. During the Fitzgerald inquiry Terry O'Gorman, representing the Queensland Council for Civil Liberties, took up the issue of the anti-march laws. The inquiry report noted that the right of public assembly had traditionally been analogous to the right of free speech, and a touchstone of the respect given to civil liberties within society. I will outline how this bill will impact upon the conduct of other businesses including those that use animals, which is central to my election to this Parliament. People protest

coal seam gas operations and other mining activities for the same reason that they oppose other businesses—that is, they harm the environment, the people living in the area and the air and water. The animal rights movement also opposes businesses that harm animals.

It is true that activists have been known to go into intensive livestock industry operations or abattoirs and "lock on" when all other avenues to try to bring change for the animals have been exhausted. It is not as though that protesting is flippant or reckless conduct. When all other avenues are pursued to finality and harm of whatever nature has not been stopped people are compelled out of utter frustration to risk their personal liberties. That has been an instrument of protest for hundreds of years. Protests for the rights of women, children, workers and slaves have been referred to in this debate. We cannot strike out the fundamental principle of people's right to protect beings and the environment from harm. A perfect example is our desire to stop sows being kept in stalls where they cannot turn around but can only step forwards or backwards for almost their entire lives.

Another example is the protest to prevent hens living their whole lives in cages two-thirds the size of an A4 sheet of paper. In a recent protest against the gas stunning of pigs, activists stopped animals being delivered to gas chambers where it took them up to one minute to die from asphyxiation because of the gassing mechanisms. Those protests are held out of frustration because harm is happening and the people who are trying to help and bring about change have exhausted all other interventions and avenues available to them. The Government is facing one of the most extraordinary historical situations in Australia—namely, activists are standing beside farmers and people working in towns. For those reasons the Animal Justice Party must oppose and condemn this bill.

Reverend the Hon. FRED NILE [10.40 p.m.]: I speak to the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. I was concerned about this bill but the Shooters and Fishers Party have negotiated with the Government a number of amendments to clarify sections of it, including that police powers to give directions to persons in public places are limited to persons obstructing traffic. The Government has also agreed that consequent on the enactment of this bill, a review be undertaken after a period of three years from the commencement of the Act.

The Christian Democratic Party has been active in the campaign against coal seam gas operations and we totally oppose the use of fracking to produce gas in this State. The Hon. Peter Primrose kept repeating the words "the right to peaceful assembly" in his contribution to this debate. On my reading of the bill I can find no interference with the right to peaceful assembly. The object of this legislation is to deal with dangerous or unsafe activities, whatever they may be, but that appears to have been lost on The Greens and the Opposition. Minister Roberts said in his second reading speech that:

The Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016 amends and clarifies the laws in relation to unlawful interference with mining and other businesses or undertakings. It will make necessary and important changes to the Inclosed Lands Protection Act 1901, the Crimes Act 1900 and the Law Enforcement (Powers and Responsibilities) Act 2002. This Government is committed to addressing the risks to businesses, protesters and the public posed by unsafe protest activities. These risky protesting activities are caused by a small minority who have shown a clear disregard for the safety of themselves and others.

The Premier made an election commitment to introduce this legislation. The Minister also said:

The changes made by this bill create a workable model that ensures that the ongoing protection of the right to protest is balanced with the need to protect the safety of others and the conduct of lawful business activities. The government is committed to ensuring that people are able to exercise their right to communicate their opinions and ideas about matters of concern through peaceful protest. The right to protest is one that helps to hold members of this House to account. It is a tenet of our democracy and a right that we will continue to protect. This right, however—as with any right in a democratic society—must be balanced with the rights and interests of others and the community as a whole. The amendments made by this bill address concerns raised by businesses, protesters and members of the public about the risks that some protesters take that threaten the safety of others.

Some members have referred to the unsafe and dangerous activities of protesters. For example, the Hon. Robert Brown referred to the death of John Creighton, a 59-year-old forestry worker, who was killed in 2013 by a falling log while standing guard between demonstrators and a logging site. He had worked in forestry for 39 years. His son, Russell, said that while he did not want to lay blame he knew that the work practices on that day had been changed as a result of the protesters on the site. He said that his father "was standing where he was because of that". He said further that his father "was called into these areas because of his experience—because he followed the letter of the law. That impacts us as a family".

The Hon. Robert Brown referred to other cases. Sadly, some members thought it was a laughing matter for protesters to suspend themselves from trees in an area to be cleared. Local police are not allowed to get

involved in those sorts of dangerous situations. Specialised rescue police—who should be saving other people's lives—have to retrieve them. Some protesters will then climb higher—this puts their lives and the lives of the rescuing police at risk—and when the police deem these situations too dangerous to continue it becomes a standoff. In September 2014 on the Maules Creek mine site trespassers cut 187 down-lines attached to highly powerful explosives and then attempted to fill in the blast holes with dirt and rubble. These actions put the trespassers, the mine workers, the mine site and the community in harm's way. These are only a small cross-section of examples where radical minorities, who are moving beyond peaceful protests, put themselves and others in harm's way. It does not take much to imagine the type of injuries or death that would occur if explosives such as these had been detonated.

As I said earlier, there are no changes to the right to protest in this legislation. The changes proposed in this legislation will work to ensure the safety of not only the public but also those engaged in lawful protest. They address concerns raised by citizens around New South Wales that the unsafe protesting activities committed by a small minority of protesters are unnecessarily infringing on the safety of others. These reforms are clearly targeted at preventing and curtailing illegal and unsafe activity by protesters engaged in dangerous activities. Police will only be able to use the proposed new powers where there is a serious risk to the safety of the protesters or other persons.

It has been suggested by other speakers that some protesters will not take any notice of this legislation. This legislation will not prevent or deter protesters from engaging in legitimate protest activity; rather, it will serve to address unsafe protesting activity. This distinction appears to be lost on the Opposition and The Greens. An offence of trespassing already exists. The new aggravated unlawful entry offence creates a specific offence for protesters who not merely trespass but who trespass and interfere with a business or undertaking, or engage in activities that give rise to a serious risk to safety. This change recognises the significant toll that unlawful protesting activity has on businesses around New South Wales.

Often the dangerous activity engaged in by protesters is compounded by the use of lock-on devices. New search and seizure powers for police will allow police to seize items that are used in a manner that gives rise to a serious risk to the person and the public, including lock-on devices. These lock-on devices are made of high-tensile steel that ordinary police are not equipped to break or open and it requires specialised police from the rescue unit to open them. The Government and police remain committed to the right to protest and will continue to consult with protest representatives to ensure they are aware of the consequences of illegal activity by protesters.

As I have said, with the amendment proposed by the Shooters and Fishers Party, these reforms to the legislation will be reviewed. The Government has indicated that it will evaluate this legislation after 12 months to analyse its effectiveness. The question has been raised: Do the police need any additional search and seizure powers? As I have said, protesters have developed sophisticated tools such as lock-on devices, which are used with the intention of interfering with the operation of businesses. The risk of serious injury or death is compounded by the use of the lock-on devices. When police from the rescue unit have to be called in to remove the protesters from a plant or equipment without harm, it can divert important police resources from other urgent work and can add significantly to the disruption to business.

The bill provides police with the power to search and seize lock-on devices before they are used to interfere with or cause damage to a business, to help minimise the likelihood of situations where people's lives, including the lives of rescuers, are placed at risk. The search and seizure powers apply when police form a reasonable belief that the items are intended to be used to lock on or secure a person to plant, equipment or a structure, for the purpose of interfering with a business and that it is likely to create a serious risk to individual or public safety. I believe those explanations help to indicate the importance of this legislation.

In regard to the move-on powers, this legislation amends the restrictions on the use of move along directions. Police are currently unable to issue move-on directions to persons engaging in protest activities that pose a serious risk to public safety or to persons who are harassing or intimidating others. Police are often required to arrest individuals who undertake dangerous activities, which, again, ties up important police resources. The amendments will allow police to give a move along direction to persons engaged in a protest or assembly, but only where the police have a reasonable belief that there is evidence of a serious risk to the safety of the individuals involved. It is clear that this legislation cannot be used in relation to industrial disputes. For those reasons, I believe some of the criticisms of this bill have been completely misplaced.

The Hon. COURTNEY HOUSSOS [10.54 p.m.]: I speak in debate on the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. This is an anti-protest bill, plain and simple.

Let us be clear: this bill has been drafted for no other reason than to restrict a citizen's right to protest government decisions specifically about mining in this State. We on this side of the House will strongly and unashamedly oppose this attempt to intimidate and criminalise farmers and other community groups who oppose the granting of mining licences on fertile agricultural land. But, further to that, the drafting of this bill is such that these laws will apply to all protesters in New South Wales.

These are draconian laws that increase some financial penalties for peaceful protest by more than 1,000 per cent and introduce a penalty of seven years imprisonment for these offences. These laws create a new power for authorities to search and seize property without a warrant, and they aggressively undermine the rights of citizens to protest government action by giving authorities additional powers to direct the movement of people in public spaces. This bill goes far beyond the police powers that currently apply to public assembly and demonstrations in New South Wales. There should be no illusions that the current laws are inadequate.

For the benefit of the House I will detail just some of the current offences that could apply to people engaged in public protest: breaches of the peace under the common law; under the Summary Offences Act 1988 obstruction, offensive conduct and offensive language, and violent disorder; affray, assault during public disorder, assault and other actions against police officers, riot, destroying or damaging property, interfering with a mine, and intimidation or annoyance by violence or otherwise, including hindering, under the Crimes Act 1900; obstructing and hindering; and assaulting, threatening and intimidating under the Forestry Act 2012; unlawful entry and offensive conduct on inclosed lands under the Inclosed Lands Protection Act 1901; obstructing and hindering under the Mining Act 1992; and obstruction and causing a traffic hazard under the Road Rules 2014;

This shows that the various legal harms this bill purports to address are already well covered by existing legislation that operates in this State, legislation that, on balance, protects both protesting parties and those affected by demonstrations. Because it is important, let us acknowledge that these new laws will apply to peaceful community groups, such as the Knitting Nannas, residents action groups and farm owners, who legitimately oppose government decisions—peaceful groups that have emerged in response to the actions of this Government, which said one thing before the election and has acted in direct contradiction of that after the election. In fact, I do not think it would be inaccurate to say these laws are precisely targeted at groups such as the Knitting Nannas and law-abiding farm owners.

Beyond those groups, whether we agree with a particular protest or its subject matter, it should not be the role of this Parliament to infringe upon the rights of our citizens in such a dramatic way without proper cause or explanation. It is plainly absurd to increase a fine by more than 1,000 per cent when there has been no clear evidence put before this Parliament to indicate that current infringements are not adequately serving their purpose. It is quite alarming to allow authorities to search and seize property without a warrant, based solely on the suspected future use of items that the person may or may not be in possession of—ordinary items such as ropes, locks and chains. Let us consider what that means in practice.

A farmer may attend a protest, as many have in recent times, to protect our valuable agricultural land, in his or her vehicle—perhaps a ute, a small truck or a four-wheel drive vehicle. Under the powers granted by this law, if he or she has ropes or chains—not unusual items for ordinary work on a farm—the vehicle could be permanently seized by police. This is clearly a disproportionate response to a peaceful protest. I have participated in a few protests in my time, but I am not being an anarchistic ideologue here. There are grave concerns among the legal community about this bill.

The Hon. Shaoquett Moselmane: Point of order: I am unable to hear the member's contribution.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! I uphold the point of order. Despite the level of noise coming from Government benches, I have heard the point of order and uphold it. The Hon. Courtney Houssos has the call.

The Hon. COURTNEY HOUSSOS: Surely there is no more qualified group than the New South Wales Bar Association, which has labelled this bill "unjustifiably broad" and has said its effect will be to "prevent or disrupt peaceful assembly" in this State. Surely there are members opposite who know this bill is erroneous and misguided. My friends in The Nationals who claim night and day to represent regional people and their interests must be wondering how this will play out when the full force of the new laws come crashing down on farming communities who legitimately and peacefully oppose mining on agricultural lands or on local community groups who are opposed to the Government's deeply unpopular local government amalgamations.

Indeed, I am deeply concerned about the application of this legislation to industrial disputes and actions. Under this law, the now-celebrated and infamous green bans would be rendered illegal. This is not about being on the right or wrong side. This is about understanding the role of this place and appreciating that, whether we like it or not, the citizens of this State have a legitimate right to protest government decisions. This bill is disingenuous and dangerous. It attacks the common law right to assembly and it does so flippantly and without proper cause or explanation. I am strongly opposed to this bill and I appeal to members to vote against it.

The Hon. PENNY SHARPE [11.01 p.m.]: "We who engage in non-violent direct action are not the creators of tension. We merely bring to the surface the hidden tension that is already alive." They are not my words; they are the words of Martin Luther King, a very wise man who knew a thing or two about hidden and not so hidden tension. There is tension across New South Wales when it comes to the choices we are making about our future. In our democratic society, that is as it should be and always will be. We live in a free society where the right to peaceful protest is part of our democratic contract and what it is to be a citizen; it is part of our right to object, to stand up for the things we believe in, and to have a different view from government. It is fundamental to who we are and who we should be.

The Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016 is an assault on peaceful protest and on the right of citizens to have a different view to the majority about the future of our land and water. This bill gives unheard-of powers to break up peaceful protests, to jail protesters for seven years, to fine peaceful protesters and to search and destroy private property on the hunch that it may be used in a protest. It is a gross overreach by a government that is out of touch with the community. Today, out the front of Parliament House, standing in the pouring rain were environmentalists, unionists, Indigenous people, farmers and community organisations—people who know that protest sometimes is the only way to stop government overreach and to get real progress that delivers outcomes for the public good over private greed.

Saving the rainforests of northern New South Wales, creating new national parks, pushing back on coal seam gas across New South Wales, winning equal pay, getting real action on climate change and fair pay for a fair day's work have all been won through campaigning that has involved peaceful protest. In this State at the moment communities are fighting for better air quality, for the right to keep their local councils, to stop mining encroaching on agricultural land, to save koalas from extinction, to protect endangered ecological communities, to stop overdevelopment, to protect old growth forests, to save our rivers, to stop pollution in our harbour, to protect our marine environment and to protect our precious water across the State. My union movement colleagues are fighting for penalty rates, to save Medicare, for better funding for our schools, for proper funding of TAFE, and for better health care in our hospitals and nursing homes. This involves protest. I thank the Law Society for belling the cat on this bill by stating that the bill:

Removes protections from political activities that have properly been regarded as an essential part of the social, political and cultural life of any civilised society.

The Law Society also states that the bill:

... appears to encroach upon and limit fundamental rights to assemble and protest and would represent an erosion of long-standing democratic institutions and individual rights

As members of the New South Wales upper House—the New South Wales House of review—we should not be waving through laws that the government of the day seeks to push forward to punish those involved in that pesky little thing called democratic debate through protest. Labor opposes the bill, as should The Nationals, whose members have meekly sat through this entire debate without a word. A Liberal Party Parliamentary Secretary is sitting at the table and we do not hear a word from The Nationals. When will The Nationals grow a backbone and oppose this bill?

The Hon. ERNEST WONG [11.05 p.m.]: I contribute briefly to the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. I join my Labor colleagues in opposing this perturbing, disruptive and absolutely unjustified bill. As legislators, we must be sure that we are legislating on legitimate concerns raised by the people of New South Wales. This bill aims to crack down on peaceful protests by giving police new powers to search and seize and to give directions to persons in public places. It is a significant attack on civil rights. I ask the Baird Government and members on the other side: Who do we owe a duty of care to—the vulnerable community or big mining companies?

As was rightly pointed out by the Hon. Adam Searle, the Leader of the Opposition in this House, this bill elevates coal seam gas rights and the rights of other mining companies above those of landowners and the

wider public. Vulnerable farmers who take action to protect their property from coal seam gas miners will be undermined. It is a massive threat to property rights and interests in New South Wales. Landholders in New South Wales will be deprived of their legal right to prevent coal seam gas mining on their properties by amendments to section 201 of the Crimes Act 1900.

These amendments will mean that landholders who oppose coal seam gas [CSG] drilling rigs from coming onto their properties could now be charged with interfering with a mine. The offence carries a maximum penalty of seven years imprisonment. This means that landholders could be arrested on their own property for hindering the working of CSG equipment that is being driven onto their property by a multinational mining company. This extraordinary and heavy-handed legal power completely nullifies the Agreed Principles of Land Access, which has been signed by Santos and NSW Farmers, and hands CSG companies de facto ownership of farming land in New South Wales, with rights above those of the actual landholder. The pledge in the Agreed Principles of Land Access is being totally ignored:

Any Landholder must be allowed to freely express their views on the type of drilling operations that should or should not take place on their land without criticism, pressure, harassment or intimidation. Any Landholder is at liberty to say "yes" or "no" to the conduct of operations on their land.

What strikes me is that the Government is now legitimising harassment and intimidation. Amendments to section 200 of the Law Enforcement (Powers and Responsibilities) Act 2002 which broaden police powers to move on any assembly of landholders and/or traditional owners, even if they are gathered outside their own properties to oppose CSG access, are designed to prevent farming communities from acting together to oppose the CSG industry. This is particularly anti-democratic in a region like north-west New South Wales where comprehensive community surveys have found that 96 per cent of landholders across three million hectares of land overwhelmingly reject plans for CSG gas fields.

The amendment to part 4 of the Law Enforcement (Powers and Responsibilities) Act 2002 provides for a power to seize private property on the basis of suspected future intended use. Once again, such powers are transparently designed to intimidate farming communities and to remove the rights and liberties that Australians expect and have come to rely on as a basis for a fair society. Members, let us say no to this bill on behalf of the farmers and legitimate owners of the land. I thank the House for its attention.

The Hon. DANIEL MOOKHEY [11.08 p.m.]: I make a very brief contribution to the debate on the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. My colleague the Hon. Lynda Voltz made a very eloquent speech about the historic worldwide role of protest as a way in which to bring about change. She was joined in her analysis by Mr David Shoebridge. The Leader of the Opposition in this place referred to the fact that the freedom to assemble and the freedom to protest are two rights in a suite of rights that give meaningful political power to the citizens of this State and this nation.

I wish to point out that these rights are never needed by those with power or wealth but they are always needed by those who wish to hold the powerful and wealthy to account. These rights are always the last resort of the powerless. They have been used by powerless people to issue demands, to notify parliaments of social conflicts and to bring matters to the attention of parliament for conciliation and ultimately democratic decision. It is not the case that these rights have been used exclusively by one side of politics and not the other. Indeed, in listening to this debate and to all the numerous examples members have cited about how these two rights have been used together to make the case for social change, it occurred to me that there are many other examples that can be added to the list.

There is the very first form of uprising and industrial action in this colony, which was the Parramatta Female Factory prisoners' strike, where female prisoners chained themselves to State property—an act that would have been criminalised by this law. The Castle Hill rebellion saw a bunch of people seize an armoury and march onto Government House—again something that would have been criminalised by this law. The wave of industrial maritime strikes in the 1880s that took place in Darling Harbour and the shearers' strikes of 1891, which gave rise to our great political party, would be criminalised by this law. The Broken Hill lockout of 1909 was a full-on form of interference in the private property rights of a mining company—the BHP mining company. The first time we saw the mining industry clamour for laws like this was in 1909.

And of course there are my two favourites. There was the wheat uprising of the 1920s in which wheat farmers in New South Wales, Western Australia and other parts of Australia seized and picketed silos, stopping wheat and grain from being able to be moved out of those properties. That would be criminalised by this law.

The reason that example is particularly pertinent is because that uprising was the first call for farmers to organise politically and set off the movement to create the National Party—which is now silent on that side of the Chamber, its members not saying anything about these laws. The irony, of course, is that those members are about to vote to criminalise an act that gave rise to their own party. It is a good example of just how far they have fallen. And I cannot omit this one: Gina Rinehart's poetry protest in 2010 against the mining tax—which, incidentally, would have been criminalised by this law.

Protests are always disruptive. It is almost a tautology. By definition, protests are disruptive. Protests are not harmonious acts. The question is not whether an act of protest or an act of assembly of the type that would be criminalised by this law is disruptive; the question is how that disruption should be quarantined. We on this side of the House state that it is the responsibility of the political system to quarantine the effects of protest; it is not the responsibility of the criminal system. It is the role of parliaments to conciliate these disputes, not to flick them off to the courts as criminal acts.

In response to this contention we have heard arguments. Certainly the most eloquent argument was made by the Hon. Robert Brown, who said that this was a workplace health and safety argument and suggested that these laws should be part of the Work Health and Safety Act. I indicate that that Act already applies to such actions. There is no aspect of the workplace health and safety laws that exempts anyone who comes onto a property from having to comply with those laws. That is a very important point and, incidentally, it is a power that the Labor Party put into that Act.

There is a reason why no workplace health and safety inspector has tried to use those laws to quash protests like the Knitting Nannas, and it is that they have not posed a workplace health and safety risk. No inspector, whether from WorkCover or any of the authorised industrial representatives, has ever thought that it posed a level of risk sufficient to bring about an enforcement action in the courts. None of those bodies has ever thought that there would be a reasonable prospect of success if it were to try to do so. That is why workplace health and safety laws are not used for this.

My colleague the Hon. Courtney Houssos and many other members have made the point that we have an array of Acts to deal with violent protests or protests that interfere unduly with people's property rights. She made the point that we have a law called trespass, as well. This gets to the heart of it. A point that has been acknowledged on both sides is that this law would create an offence of aggravated trespass. We should understand that when this Chamber uses aggravation as a factor in our Crimes Act it does it deliberately as an expression of morality, to make a point that an act is offensive to reasonable people—the damages are so great as to warrant an excessive and high penalty.

I will say this about the Baird Government: It is honest. It is offended by people, like the Knitting Nannas, who dare to challenge its power. It is offended by those who do not simply surrender their views in the face of the tremendous power and wealth exercised by the mining industry. The Government is honest in that sense. It considers such an act to be an offence to conscience. We do not. We on this side of the House understand that we have a bigger responsibility as a Parliament than to take such a jaundiced view of the conduct of one party in a social dispute which is as entrenched as the one that is playing out in our agricultural lands. We understand that the responsibility of this Parliament is to act in good faith to all sides to bring such disputes to heel.

It is the responsibility of Parliament to conciliate and, to a large degree, create out of all the discord and dissent, the to and fro associated with all these political fights, some element of unity and democratic legitimacy. The question is: What is the most mature and responsible response this Parliament should make? It is the responsibility of this Parliament to resolve the disputes between farmers and miners, and the ballot is far more powerful than the bailiff. Using criminal law as the core of our response to that challenge is not mature. It is not graceful. It does not show the requisite level of maturity that is expected of this Parliament by the people of New South Wales. For that reason, we ought not support this law.

The Hon. SOPHIE COTSIS [11.17 p.m.]: This bill is anti-democratic, anti-freedom and anti-liberty. I say that because, by introducing this bill, the Government is going down a slippery slope. Unfortunately, there are probably not many Government members who have had to fight hard for rights and important changes not only to our civil rights but also to our human rights. Over many years I have attended a number of industrial rallies, and rallies with respect to local government. One of my earliest memories is of my parents taking me to a protest in the city in relation to justice for Cyprus. I also have an early memory of the Bondi Beach sewage rally in the mid-1980s.

Those freedoms to protest were hard fought by people who are no longer with us. The Government must consider its position on this bill because it is a slippery slope. People should have the right to protest peacefully for something they believe in. Change is not freely offered. People have to fight for change by holding rallies and peaceful protests. I cannot understand why the Government is allowing the big end of town to dictate and dominate its legislative agenda. This Government talks about transparency. The Liberal Party's constitution cites freedoms and liberty. Prime Minister Malcolm Turnbull says he loves liberty and freedoms. He continually cites Ancient Greek philosophers such as Plato and Aristotle, and speaks of democracy, yet Government members will support a bill that goes against what the Liberal Party believes in.

The bill is anti-democratic. If we had not had protesters marching through the streets or peaceful assemblies at the front of Parliament House, changes would not have been made to disability services. More than 10 years ago, thousands of carers and people with disabilities protested outside Parliament House for their right to access to better and improved services. We would not have the National Disability Insurance Scheme or Stronger Together if it were not for those people protesting for the outcomes of today. Environmental achievements that have been gained over the past 30 years would not have been possible if it were not for concerned citizens of this State and nation coming together to protest peacefully against government initiatives to build highways through rainforests or build roads through our national parks.

Anti-discrimination laws would not exist for our multicultural communities if it were not for protesters rallying 40 years ago at the Sydney Town Hall. On Saturday a number of people and I attended the International Women's Day march out the front of Parliament House. The women's movement continues to advocate and campaign for equal pay for women and for women's rights. Today women are able to buy their own property and apply for loans. Up until 1983, a married woman's application for an Australian passport had to be authorised by her husband. That is only 30 years ago. Good men and women have protested peacefully and rallied together outside this Parliament and in Canberra to advocate and fight for women's rights. If it were not for them those rights would not exist today. We still have a long way to go on equal pay and stopping violence against women.

Every week two women are killed because of domestic violence, and we continue to protest against that. What this Government is doing tonight is abhorrent. This is a slippery slope. We saw what happened in Queensland during the 19 years of the Sir Joh Bjelke-Petersen Government. Unfortunately, tonight we are dealing with "Sir Joh Bjelke-Baird"—that is where this Government is heading by introducing this bill. I quote from the Australian National University material:

Civil liberties and the right to march were not new issues in Queensland ... In March 1966 the police arrested 26 people for violating the Traffic Act, which required protesters to seek a permit to march, hold meetings, or display placards on any road. In response, staff and students from Queensland University held an illegal march, ensuring further confrontations that ran broadly parallel to civil liberties struggles in the south, such as the mass hand-outs of illegal leaflets in Melbourne in 1968-69 which won the right to distribute literature in the streets.

During the 1971 Springbok tour, Petersen declared a state of emergency and police implemented it with dispatch, provoking Police Commissioner Ray Whitrod to criticise the "shoot low and lay them out approach" of the government and his own cops.

This kept going in Queensland for nearly 20 years. Government policy restricted protest. I am afraid that what this Government is doing will lead to a situation similar to what occurred in Queensland. Today we saw the union movement come together with community groups and environmental groups to fight against this Government's bill. Unions NSW Secretary Mark Morey has said that the bill was nothing more than the "corporatisation of the police to look after big business". He said that the police already have sufficient powers under existing laws. He did not—and neither do we on this side of the House—endorse the vandalising of property or assault.

Tonight my colleagues have talked about peaceful protest and the right to peaceful assembly. That is how we get things done. That is how we get change. We do not support vandalising property and we do not support violence. This Government is allowing the restriction of peaceful protests, such as those of the Knitting Nannas and those who have protested before them such as the women's movement, the environment movement, the multicultural communities or Indigenous Australians. They continue to fight to access their rights.

What we see here tonight is that slippery slope, where the Government is giving the police more powers. It is expanding police powers and criminalising any type of public assembly or demonstration. This could have detrimental effects on local protests and campaigns and, as a result, affect local democracy. This is abhorrent. I urge those opposite not to vote for this bill. It is antidemocratic. This bill should not be voted on

tonight. The Government should take a step back. I know that when we have argued about bills until past midnight in this place—such as the workers compensation bills and other similar bills—we have had to come back to make amendments six months or a year later. I urge members to rethink voting for this bill.

Ms JAN BARHAM [11.28 p.m.]: I speak against the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. I feel really sad that I need to do this. It has been interesting listening to the contributions of members tonight. I sensed a bit of anger from some, but predominantly sadness from people who think that we have to be here at this time of night to oppose a bill that seeks to strip away the rights of people to protest, which seems to be being done because the Government does not have the guts to stand up for the people because it is too busy supporting the interests of business.

The real sadness is that—like my colleague the Hon. Adam Searle—I have been around long enough to have seen this kind of thing done before. It is a bit like Ground Hog Day: "Oh, no, we don't have to do this again, do we?" We should not have to protect the rights of people who are standing up because governments are not doing what they are meant to do—look after the people, look after the future and look after the natural environment. Twenty-five years ago, the last time the Coalition was in government, we were doing it. There was a major upheaval when it was thrown out of office and the other major party came to power to do it all over again. It is monotonous. We do not learn that we are all here to look after the interests of the people and the interests of the future. There is a duty of care in being an elected member. Something is going very wrong because that duty of care is not being respected. That is why people do not respect politics and politicians any more. That is why people do not believe in democracy.

People have lost trust in the system because they are watching what goes on. They are seeing things being destroyed. They are seeing the future being destroyed. They are hearing a Minister of this Government—this really offended me—referring to protesters as ecofascists. That is as low as it gets. It is shocking, in 2016, for a Minister who cannot defend what he is doing with a piece of legislation, to resort to that sort of statement about people who are defending the future and the environment for our grandchildren. People like the lone member in the gallery, Mr Laird, have had to put their lives on hold because the Government is not looking after them; the Government is destroying their future while looking after business. The Government is destroying people's past—their history. The Aboriginal people, the CWA women and the great Knitting Nannas are standing by the protesters. The Knitting Nannas have been mentioned many times tonight; that is fabulous for them.

Non-violent direct action started 30 years ago when forest protests were going on. I remember a group of older women who sat in fold-up chairs on a roadside—it was either in Chaelundi State Forest or Washpool National Park—to stop a truck coming through. That was a real inspiration because those women sat there knitting away and the young guys in the logging truck were not going to be rude and disrespectful to a group of older women who were trying to protect something that was special. That is the sort of thing that people have had to do for a long time, and it is really sad.

It is sad that we are here tonight doing this. I am really proud to be in this Chamber as a non-violent direct-action activist engaged in peaceful protests for the things I believe in. I am proud to represent people who are willing to stand up, lock-on, sit-in or do whatever is needed when governments fail to act because they have been short-sighted or too busy looking after the interests of the wealthy and powerful. The wealthy and the powerful do not give a damn or have any responsibility for the future; they are just interested in making a buck.

Today there was a really good protest—a good turnout—in front of Parliament House despite the rain. There are a lot of people who are very concerned about the state of the State. If the Government was really committed to what it is doing it would not have to rush this legislation through. It would not have to resort to ridicule and the disrespect that it is showing to the people of New South Wales. As the Leader of the Opposition said, the Government could allow this legislation to go to a committee so that we could find out whether it is needed and whether the reasons for it are valid. A committee could ask whether this legislation is just a concoction so that the Government can be seen to be doing something—so that it can look tough. Government members might say that we need to do this to keep the State moving.

I will not repeat the words that were used about violent actions but I recall an action by members of my community in 1999. The community came together to stop a bit of land, which had been approved for development, from being bulldozed. Because that land was of such great importance it is now a national park. The community stopped it being bulldozed and, after some fieldwork and research was done, its uniqueness was recognised. It is the only place in the world where a particular endangered ecological community exists, and it was about to be destroyed. The police came in to support the developers despite opposition from the community.

Council representatives, scientists, doctors, lawyers, nurses and teachers were dragged along the ground by officers when they tried to stop the bulldozers from entering the land. Police from Lismore, Tweed and Ballina—not our local police, who were at the station ashamed of what was going on—were under instructions from the developers and supported them. The people would not let the land be destroyed because they knew it was wrong. The community was not being heard and recognised so farmers, the Country Women's Association, teachers, lawyers, doctors, nurses, unionists, artists and sometimes scruffy activists stood together to protect the future.

The people will do what they need to do. If the Government makes them break the law, they will do it. Last night I attended a public meeting in the Tweed about important land that is to be cleared for the Gold Coast Airport to extend its runway. I have raised this matter in the House before. It is a piece of Crown land that belonged to the people of New South Wales but was given away to a private entity, the Gold Coast Airport, so it can expand its runway.

People ask what they can do when government lets them down and does not tell them what is going on. People have also asked about the new protest laws and whether they will be arrested. People have said that if government fails to act and do its job then they will do what they need to do. A community and a generation may be criminalised, but the Government will pay for it because people do not forget. Looking back through history, we can see the good things that have happened because people who cared stood up and were not swayed by political interests or their buddies or supporters. It is important to put on the record what the Law Society has said about the bill. On 14 March 2016 the Law Society wrote a letter to the Hon. Anthony Roberts, which stated:

The Law Society is concerned that the proposed new laws may interfere with the ability of people in NSW to engage in demonstrations, protests, processions or assemblies. The Law Society considers this right an important aspect of a democratic state. These amendments appear to again expand police powers, without the safeguard of judicial oversight. They may also interfere with the right against arbitrary deprivation of property.

That is a shocking statement from the Law Society. The letter continues:

The International Covenant on Civil and Political Rights also protects the right to "peaceful assembly" (Article 21) and any limitation of that the right must be "necessary in a democratic society".

People will ask whether they are living in a truly democratic society. If the Government does not like what we are doing, it is going to shut down our actions despite the fact that people have the right to protest. I often say to people on the conservative side of politics who like to criticise protesters that it is because of people like me that we still have areas of natural beauty. Twenty or 30 years ago we were abused and spat on for wanting to protect the natural environment. Everyone likes to take their holidays in beautiful locations, such as old-growth forests and beaches, but those places would not exist if people had not stood in peaceful protest against development.

It is a sad day when governments resort to introducing this type of legislation because they cannot get their way and the community beats them down because people care about the future. This legislation tells us that the system has broken down. Introducing laws in 2016 to take away people's rights to peaceful protest is a sign that this Government does not recognise its duty of care. I feel for the people who will now have to take their protests a step further. I imagine one of the main reasons for this legislation is to make people stop and think before they take action. People will probably be motivated to take action in the knowledge that the Government has tried to stop them protesting. People will be criminalised and they will despise the Government for making them take action they might not otherwise have taken. They will defy the Government and its laws and stand up for what they feel is the right course of action.

I would like to quote the Pope on the natural environment, but unfortunately I do not have his quote with me. Quoting the Pope is a novelty for me after 25 years or more of action, but his are the best words on the natural environment and climate change. His is a voice of reason, reminding us that it is sheer madness to think about destroying the things that nurture us—our land, our water, our air, our future. We cannot argue that we live in a democracy if we are debating legislation that will result in our not being allowed to defend the things that nurture us. This is a sad day for the people of New South Wales. I cannot say I appreciate this legislation, but time will tell if the people of New South Wales will accept it. We will have to wait for the next election and turn the tables.

Mr SCOT MacDONALD (Parliamentary Secretary) [11.42 p.m.], on behalf of the Hon. Niall Blair, in reply: I thank all honourable members for their contributions to the debate—the Hon. Adam Searle, the Hon. Walt Secord, Mr Jeremy Buckingham, the Hon. Robert Brown, the Hon. Lynda Voltz, Mr David Shoebridge, the Hon. Peter Primrose, the Hon. Mark Pearson, Reverend the Hon. Fred Nile, the Hon. Courtney

Houssos, the Hon. Penny Sharpe, the Hon. Ernest Wong, the Hon. Daniel Mookhey, the Hon. Sophie Cotsis and last but not least Ms Jan Barham. The Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016 provides higher penalties and stronger enforcement powers to deter unlawful protest activity that negatively impacts on businesses and the community.

The purpose of the bill is to be a deterrent to unlawful protest activities that threaten the safety and lives of protesters, workers, emergency service workers and the public, as well as cause significant costs for business. These amendments address the Premier's commitment to introduce legislation to provide a deterrent to illegal behaviour by protesters at mine sites. Unless these amendments are made, unlawful protest activities will continue to threaten the safety and lives of protesters, workers and police, as well as cause significant costs for business across New South Wales. Members of this House have raised concerns about how this bill deals with lock-on devices. I stress that lock-on devices used by protesters are causing significant risks to the safety of the protesters, workers at businesses and police officers who are forced to rescue the protesters who have put themselves in harm's way.

An item seized under new section 45B of the bill will still be subject to an application for prerogative relief to the Supreme Court where the item has not been destroyed and the applicant can prove that the item was seized improperly under division 7. The bill provides that the item can only be destroyed or otherwise disposed of in accordance with the approval of the local area commander, which can only be given in accordance with the directions of the Commissioner of Police. Further, the bill does not remove the discretion of a police officer to return the item immediately or at a later date if it is appropriate to do so.

The changes made by schedule 3 are commonsense amendments that address a specific concern of police and businesses around the State that individuals undertaking unlawful protest activities are repeatedly using lock-on devices. The amendments are intended to address devices that are specifically designed to lock on to property and items to prevent protesters being removed from an area where they are unlawfully present. This change will reduce the significant interference with business activity and the resulting serious risk to safety. The changes this bill makes to section 201 of the Crimes Act 1900 are about bringing the definition of a mine into the twenty-first century. The current definition of "mine" is currently sourced from the common law which is an archaic relic from the Victorian era definition of "mine"—simply a hole in the ground. Schedule 2 updates what constitutes a mine and harmonises the law between mining and petroleum. This is an important amendment that ensures that the purpose of section 201 to protect a mine from interference is able to operate effectively in practice for a commonsense understanding of what a mine is.

Members of this House raised concerns about how the change of definition may result in individuals being arrested for interfering with a mine because of conduct committed on their private land. It is important to remember that in this State we have a memorandum of understanding on the agreed principles of land access signed by the NSW Farmers Association, the NSW Irrigators Council and Cotton Australia. It ensures that coal seam gas operators can only operate on a landholder's property with his or her permission and it makes the scenario alluded to by members opposite, regarding coal seam gas sites and landholders, highly unlikely. Members of this House have also raised concerns about the application of this law to peaceful protesters including the Knitting Nannas.

The changes the bill makes address specific concerns raised about non-peaceful protest—those protests that are deliberately unlawful and unsafe. As with the application of any law, police will take a commonsense approach to how it is applied. Let us bring a dose of common sense to this debate. Knitting Nannas are not the focus or reason for the changes made by this bill. The bill addresses those who seek to sabotage, vandalise and interfere with mine sites. Knitting Nannas are not creating the serious risks to public safety that underpin the changes in this bill.

The Government is committed to continuing to listen to the opinions of peaceful protesters, including the important contributions to public debate from the Knitting Nannas. The Leader of the Opposition acknowledged that more needed to be done to allow lawful mining businesses to operate without being hindered by illegal interference. This bill captures that idea without affecting the right to lawful, peaceful protest. It is the attitude of this Government that these measures are intended to prevent the risks to health and safety presently posed by a minority of protesters who do not act in a lawful, peaceful manner and have repeatedly shown a flagrant disregard for the safety of others. There have been countless examples of protesters endangering themselves, mine site workers and the community through their reckless acts. This bill aims to protect the health and safety of those groups by acting proactively to manage an emerging risk before an immediate risk requires drastic action to avoid disastrous outcomes.

Indeed, as the Bar Association also notes, peaceful protests "have for centuries properly been regarded as an essential part of the social, political and cultural life of any civilised society". This Government strongly supports that and has ensured that the bill retains that important principle. However, it recognises that there is a radical minority who, in some circumstances, move beyond lawful, peaceful acts and place themselves and others at risk in the process.

The PRESIDENT: Order! I remind Mr Jeremy Buckingham that he is on two calls to order.

Mr SCOT MacDONALD: I commend the bill to the House.

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

The House divided.

Ayes, 22

Mr Ajaka	Mr Farlow	Mrs Mitchell
Mr Amato	Mr Gay	Reverend Nile
Mr Blair	Mr Green	Mr Pearce
Mr Borsak	Mr Khan	Mrs Taylor
Mr Brown	Mr MacDonald	
Mr Clarke	Mrs Maclaren-Jones	<i>Tellers,</i>
Mr Colless	Mr Mallard	Mr Franklin
Ms Cusack	Mr Mason-Cox	Dr Phelps

Noes, 17

Ms Barham	Mr Pearson	Mr Veitch
Mr Buckingham	Mr Primrose	Ms Voltz
Ms Cotsis	Mr Searle	Mr Wong
Dr Faruqi	Mr Secord	<i>Tellers,</i>
Mrs Houssos	Ms Sharpe	Mr Donnelly
Mr Mookhey	Mr Shoebridge	Mr Moselmane

Question resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Consideration in Committee set down as an order of the day for a later hour.

MR DAVID SHOEBRIDGE COMMENTS

The PRESIDENT: Earlier in the evening, while Mr David Shoebridge was speaking, points of order were taken by the Hon. Catherine Cusack and the Hon. Dr Peter Phelps. As exactly what was said was contested, the Deputy-President in the chair at the time, the Hon. Natasha Maclaren-Jones, deferred making a ruling so the transcript could be obtained and there could be some clarity about the situation. I have now viewed the transcript. Both points of order were the same, which was that a remark was unparliamentary and offensive. The words taken exception to were the words of Mr David Shoebridge, "... the miners who were paying the Premier". That is a direct quote from his speech. I find those words, when used together, to be offensive and I require Mr David Shoebridge to withdraw them.

Mr DAVID SHOEBRIDGE: My intention was to say "paying the Liberal Party". To the extent I said "paying the Premier", I withdraw it.

The Hon. Duncan Gay: Point of order: Mr Jeremy Buckingham said, after the withdrawal was made that, "It is true though." I ask you to instruct the member to withdraw that comment.

Mr Jeremy Buckingham: To the point of order: The honourable member is right, that is exactly what I said, but I was referring to the contribution of Mr Shoebridge, when he said that he had meant to say that the miners were paying the Liberal Party. I said that that was true.

The PRESIDENT: Order! I thank members for their contributions. Mr Jeremy Buckingham has been called to order twice. I am not going to throw him out at this time of the night for an interjection, but he is pushing his luck.

DRUG MISUSE AND TRAFFICKING AMENDMENT (DRUG EXHIBITS) BILL 2016

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

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

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

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

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) [12.02 a.m.]: I move:

That this House do now adjourn.

COMPULSORY THIRD PARTY INSURANCE REFORM

The Hon. GREG PEARCE [12.02 a.m.]: I congratulate the Government on its decision to address much overdue Compulsory Third Party [CTP] or green slip reform. I commend the options paper released by the Government and in particular draw members' attention to the report of the Independent Review of Insurer Profit. I have been a consistent campaigner for a fairer system with much less disputation and delay, which allows injured people to get back to their lives as quickly as possible and which is sustainable with lower premiums.

The Government material provides indisputable and troubling proof that the failure to proceed with reforms in 2013 has exacerbated all of the problems, including significantly higher premiums for every car owner, over-the-top profits for the insurers, more delay and disputation in the system and an increase in fraud. I particularly draw attention to the statistics which show that around 16,000 claims are supported each year but 7,000, or almost one-third, are excluded under the at-fault rules. I continue to believe that in the modern age where all car owners are required to pay for annual injury insurance there should be a no-fault system.

The 2013 reforms were the victim of an appalling campaign led by the *Daily Telegraph* to protect vested interests and, of course, to allow the *Daily Telegraph* to claim its first ministerial scalp—which happened to be mine. In all of the innuendo, misrepresentation, defamation and lies printed at the time, the only claim that the *Daily Telegraph* purported to support with evidence or substantiation was its claim that the reforms were driven by insurer clients of a lobbyist, Mr Michael Photios.

Notwithstanding that the claim was run many times in the *Daily Telegraph*, it is manifestly false. In fact there was a public process, beginning with the release of a discussion paper in February 2013 based upon options and analyses by the Motor Accidents Authority [MAA], government departments and independent actuaries. Amongst the rubbish printed by the *Daily Telegraph*, Clennell claimed that the insurers stood to make "hundreds of millions of dollars from the reforms". The truth was completely the opposite. Based on MAA advice and actuarial advice, I targeted at least 15 per cent savings on premiums. It has apparently escaped the wit of the *Daily Telegraph* that any drop in premiums would see insurer revenue and profits decline significantly. Instead, thanks to the *Daily Telegraph* campaign, the compulsory third party [CTP] insurer revenues have grown and profits of hundreds of millions of dollars have been booked at the expense of every car owner in New South Wales.

Clennell wrote of "heavy lobbying" and, through a series of carefully misleading statements and innuendo, created the impression that the insurance companies have continuously and exhaustively lobbied me. In fact, I did not have any meetings with Mr Photios or any CTP insurance company. Indeed, when the diaries were checked at the time, in the almost 2½ years I was a Minister I only met with one Photios client on CTP and that was the Australian Rehabilitation Providers Association. My staff responsible for insurance matters met with one of the CTP insurers in December 2011 to discuss the CTP premium increases that I had blocked, but at

that stage the insurer in question was not a client of Photios. As best as I could ascertain, in 2013 there were one or two other meetings of staff with CTP insurers over the 2½ years. Of course there were emails and letters requesting meetings and contact at various functions, but there was no systematic or "heavy" lobbying and the reforms did not come from the insurers.

There is proof of the deliberate and dishonest reporting. At the time in 2013 Clennell had a detailed Government Information (Public Access) [GIPA] Act response which outlined all the contacts. Indeed, one of the insurers named by Clennell, Allianz, as a promoter of the reformers was in fact most concerned at the proposals because of the costs and time it would take to change its systems and retrain staff and the impact it would have on its investments and premium income. Another named by Clennell as being opposed, NRMA, in fact issued a statement of support and introduced its own no-fault packages.

Back to the present, I draw to the attention of members the article headed "Reforms to fight CTP insurance fraud and cut cost of green slips—Red light on rorts" written by Clennell on 2 March 2016 in which he trots out the facts having apparently forgotten about the insurer lobbyist conspiracy. In 2013 Clennell was angry and embarrassed that, notwithstanding all the slurs and guilt by association he wrote, he could find no misconduct, incompetence or inappropriate relationships in my ministerial performance. I commend the reforms.

LOCAL GOVERNMENT AMALGAMATIONS

The Hon. PETER PRIMROSE [12.07 a.m.]: What is the policy of the Liberal-Nationals Coalition in New South Wales in relation to forced council amalgamations? I am not asking this as a type of rhetorical flourish but because of the comments that are being made by a growing number of New South Wales based Federal Coalition members. Their stated position of opposing forced mergers is in line with what local communities and NSW Labor are saying. In fact, it is starting to look like almost everyone in the Coalition opposes forced council amalgamations except Liberal Premier Baird and Nationals Deputy Premier Grant. The Deputy Prime Minister Barnaby Joyce, who I would have thought outranks Deputy Premier Grant in The Nationals hierarchy, has recently and publicly said:

I fully support the strong community calls for the proposed amalgamation of Walcha Council with Tamworth Regional Council to be withdrawn.

The Deputy Prime Minister and Nationals leader also said:

It has been highlighted by many people within the local region that Walcha Council is in a good financial position and has a long history as a successful and committed local government organisation. It is important that country communities such as Walcha are supported to maintain their own identities rather than see them consolidated into larger local government regions as proposed under Fit for the Future.

The Nationals are not alone in opposing Premier Baird's policy. The Federal Liberal member for Reid, Craig Laundry, also stresses the importance of keeping local government local. He signed the Save our Strathfield pledge against Mr Baird's forced mergers. Mr Laundry said:

I'm on the public record as speaking out against forced amalgamations and I will continue to argue that communities should determine their own local government arrangements.

Well said. The Nationals member for Lyne, Dr David Gillespie, has also joined the chorus of Coalition opposition. Dr Gillespie said:

If the New South Wales Government wants to be making councils like Gloucester and Dungog Fit for the Future ... putting two struggling councils together won't make things that much better. What it should do is consider changing the formula it itself has developed for the New South Wales Grants Commission and how it allocates federal Financial Assistance Grants it receives from the federal government.

If Dr Gillespie understands that the first thing to do is to look at how local government is funded and financed, I do not understand how Premier Baird and Deputy Premier Grant do not get it. After all, that is exactly what the inquiry into local government, initiated by this House, recommended late last year. Bob Baldwin, the Liberal member for Paterson, said in relation to the Newcastle and Port Stephens forced council merger proposal:

... I am against this merger. More importantly, my community is against this merger.

This merger proposal is supposed to be based on economic modelling, yet there has been an independent review of the New South Wales government's own modelling, which shows that it is fundamentally flawed.

What Mr Baldwin has highlighted is that people living in areas where councils are being forcibly merged have not seen the Premier's secret \$400,000 KPMG report on which his amalgamation proposals are based. As the member for Paterson correctly asks, how can proper consultation take place under those circumstances? Dr Peter Hendy, Liberal member for Eden-Monaro, is another in this growing pantheon of Federal Coalition members of Parliament criticising Premier Baird's policy. Dr Hendy said:

I oppose the merger proposal for the Tumbarumba and Tumut Shire Councils.

In my view, community representation, community support, and a strong business case are vital for any proposal for a council merger. In this proposal it is just not there ...

I urge the NSW Government to better consider the needs and differences of rural NSW when developing reforms in Sydney.

And the growing list goes on. At all levels of the Liberal and National parties, branch members, local elected councillors, New South Wales Federal and State elected members are expressing their opposition to Premier Baird's forced council amalgamations. They know that the boundary changes are a rort and that their local communities do not support the changes. We have seen how New South Wales State Liberal and The Nationals members of Parliament are roosters in their electorates but turn into feather dusters when they get to Macquarie Street. They say one thing in their electorates but vote for forced council mergers in the Parliament. My message to each council facing a forced merger is simple: If your Federal Liberal or National member of Parliament or candidate says they oppose forced mergers, get them to call Premier Baird and Deputy Premier Grant. Get them to make the call while you are standing there. If they truly represent their local community, now is the time for them to show their true colours.

BIODIVERSITY PROTECTION LEGISLATION

Dr MEHREEN FARUQI [12.12 a.m.]: Two days before the 2015 State election, the Liberal-Nationals Government announced it would scrap the laws that protect our biodiversity, native animals and vegetation and replace them with a much weaker and flawed model. There is no doubt that this will lead to increased land clearing. The continued loss of what native vegetation we have left will be devastating to our environment and animals and their habitat. The effect will be felt even more so, as trees and vegetation are central to the ongoing battle against climate change—which just yesterday the Chief Scientist, Dr Alan Finkel, said is a battle we are losing.

The community campaign against these proposed changes is amplifying and putting the Premier and the Minister for the Environment, Mark Speakman, on notice. Nature conservation groups have withdrawn from talks and have launched their own campaign, StandUp4Nature, to stop this Government's war on trees. They are holding community forums around the State. They have held rallies outside Premier Baird and Prime Minister Turnbull's offices, both of which I had the privilege of attending, along with hundreds of community members. We have also heard the Government's claim that these so-called reforms are what farmers on the ground want. Have they realised that Mr Joshua Gilbert recently resigned as the chair of NSW Young Farmers due to his opposition to pending native vegetation clearing laws?

In recent weeks, I have launched an online open letter with the subject "Biodiversity is Life". It is an appeal to Premier Baird to abandon plans to abolish the Native Vegetation Act and to strengthen, not weaken, our environmental protections. The response has been overwhelming. Almost 900 online signatures have been received in addition to several hundred more on paper. The responses have come from academics, land carers, ecologists, nature conservation groups, and everyday people from every corner of New South Wales and beyond. I wish to share what the people of New South Wales think of this mooted watering down of environmental laws. Many academics have signed on from institutions such as the University of Sydney, the University of New South Wales, the Australian National University, the University of Newcastle, Macquarie University and Western Sydney University. One such signatory is Christopher Jordens, Associate Professor of Bioethics at the University of Sydney, who writes:

As a former Chair of the NSW Scientific Committee, I am extremely concerned at the potential watering down of biodiversity protection in New South Wales. I hope that the Baird Government does not go down in history as the one that wound back protection of the previous historical biological heritage in this State.

Gabrielle Diugu states:

As a grandmother, I am aware of how much nature we have lost in my lifetime and I am seriously anxious about leaving even less for my grandchildren. We need much stronger, not weaker, protection, especially as climate change will also wreak havoc.

Peter Day states:

Mr Premier, I live in Cathcart in southern New South Wales on a property surrounded by National Park and State forest where I care for orphaned and injured native wildlife. I see firsthand the detrimental effects land clearing, logging and human activity have on biodiversity in native forests. I urge you not to weaken, but strengthen State laws to help further protect our native flora and fauna so future generations can enjoy the uniqueness of this beautiful State we live in.

There are literally hundreds of more comments. If these changes go ahead, we will no doubt see an increase in land clearing with a consequent loss of biodiversity, impacts on threatened species and an increase in carbon pollution. History will remember Premier Baird and Minister Speakman as perhaps the greatest environmental vandals this State has known. Premier Baird and Minister Speakman can do better than this: Listen to the community and stand up for nature.

YOUTH FRONTIERS AWARDS

The Hon. BRONNIE TAYLOR [12.17 a.m.]: On Wednesday 17 February I had the pleasure of watching Kurt Wassink, a year 9 student from Snowy Mountains Christian School in Cooma, win the general category in the Youth Frontiers awards, which is a New South Wales Government mentoring program that targets students in years 8 and 9. The program focuses on leadership and civic engagement. Every year more than 1,200 young people have the opportunity to participate in the program, which strengthens their leadership, team work, communication and decision-making skills. Youth Frontiers also gives students an opportunity to build their self-confidence and life skills through their project, which enables them to positively contribute to their local community. The students involved receive a minimum of 30 hours of mentoring, including at least 10 hours of one-on-one mentoring from volunteering adults. Those wonderful and generous people help our young people to grow and achieve their potential.

Interested students can self-nominate or they can be referred by their school. They then participate in program orientation, where mentors and mentees are matched based on shared interests. Over two terms they receive 30 hours of mentoring in a mixture of one-to-one sessions and group sessions. The mentors and mentees work together to define their goals and plan their community service projects. The projects are diverse and are based on the needs of each student's community. Some of the projects in this year's program included categories such as community harmony, youth mental health, sports, and environment. Ten students from across the Monaro electorate, including three from Cooma, participated in this year's program. Kurt Wassink from Snowy Mountains Christian School was selected as a finalist in the general category for his project. His mentor was Tony Nassar.

Kurt recognised that there was a lack of activities for boys to do with their parents, so he decided to revive an activity that has not been seen in Cooma for years: a billycart competition in which fathers and sons are able to build bilycarts and race them together. I draw the attention of the Chamber to an article in the *Sydney Morning Herald* dated 5 October 1954, which described a billycart race run in Cooma. It was run down a hill. What they used for brakes to stop them at the end of the course was a dam at the end of the hill. The bilycarts raced down the hill and ended up in the dam, and that was how they stopped. It is really exciting to think that that happened back in 1954.

Cooma is home to the Snowy Mountains Scheme so it is home to expert engineering that is recognised worldwide. It had those engineers creating these bilycarts that could not stop until they ended up in the water. I thought that was just such a fantastic thing. And to think that now Kurt has gone on and revived this for our town and community is amazing. I was really lucky that on the day I was frequenting our local Lebanese restaurant in Cooma, which is quite outstanding—not that I go there very often—there was Kurt with Tony planning this whole idea to have the billycart derby in Cooma. Low and behold he goes on, comes to Sydney and wins his section of the competition. It really was absolutely fantastic, and it was such a big success that it is going to become an annual event.

On Sunday 24 January this year hundreds of people gathered at the Cooma Showground for the Cooma Billycart Derby. The day was so popular around town that it is expected to become an annual event. More than 25 classic and modern bilycarts were entered in the derby from across the Monaro and regional New South Wales. I encourage all members of this House to come to the Cooma Billycart Derby. I would like to see many more fathers and sons taking part. The derby was a wonderful reminder of the true spirit of country towns, with organisations and individuals across town contributing to make the day a big success.

OMBUDSMAN REPORT OF REVIEWABLE DEATHS

The Hon. SOPHIE COTSIS [12.22 a.m.]: In June 2015 the New South Wales Ombudsman released the "Report of Reviewable Deaths in 2012 and 2013 Volume 2: Deaths of people with disabilities in care". The report included 10 recommendations, a number directed to the Department of Family and Community Services [FACS], the Department of Health and the Department of Premier and Cabinet [DPC]; and to this day a number

of those recommendations have not been enacted or implemented. The Minister for Ageing, Disability Services and Multiculturalism must answer the question of when these recommendations will be implemented or provide updates on the progress of their implementation.

This matter was first raised with the Minister during budget estimates last year where I attempted to verify what action was being taken on the Ombudsman's report. Though the Ombudsman's report itself recommends the tabling of progress reports, the Minister has refused to disclose what progress has been made. I then wrote a letter to the Premier on 16 December and copied in Minister Ajaka and Minister Skinner. I was seeking an update on whether the DPC has specifically implemented recommendations Nos 5 and 9 of the NSW Ombudsman's report pertaining to the transition to the NDIS and future arrangements of FACS-funded health related supports. I am yet to receive a reply. Recommendation No. 5 of the Ombudsman's report states:

5. The Department of Premier and Cabinet [DPC] should:
 - (a) provide this office with a copy of the NSW Government NDIS transition plan, and
 - (b) ensure that the transition plan includes identification of system improvements to support transition and/or embed service delivery that is responsive to the needs of people with disability.

Recommendation No. 9 says:

9. As a matter of priority, DPC (with FACS and Health) should discuss the future arrangements for the provision of FACS-funded health-related supports with the NDIA/Commonwealth Government and report to this office on the outcomes and intended actions.

Recommendation No. 10 says:

10. As part of transition planning, Health and FACS should:
 - (a) Establish joint disability/health committees in each district to promote and oversee capacity building in relation to mainstream health services. In this regard, we note that the district NDIS governance arrangements that are in design provide a useful mechanism to deliver leadership and oversight capacity-building in all areas of mainstream service provision for people with disability, including health services.

I need not highlight how important the Ombudsman's recommendations are. The Ombudsman has made recommendations pertaining to everything from support for people in assisted boarding houses, to monitoring, compliance and coordination for the transition from Ageing, Disability and Home Care [ADHC] to the National Disability Insurance Scheme [NDIS]. The failure to implement the recommendations of the New South Wales Ombudsman is just one example in a series of refinements being overlooked by the Government. If these recommendations are being implemented I will take that statement back, but at this stage I have not seen any updates by the Government.

Another key example is a call from ADHC clients to have a clear process of transition into the NDIS based on choice and control of support arrangements and service providers. Stakeholders have been advocating for a much improved community consultation process to guide the transfer. That would include concrete steps to provide safeguards through transition, particularly for clients with complex needs. There are great dangers to the health of ADHC clients if health services funded by ADHC close—for example, specialist psychiatric clinics or dedicated nurses in regional areas. Clients and their families remain concerned and confused regarding transfer processes, and the Government must address this.

A number of advocacy bodies have contacted the Government and me because they are being inundated by calls from people who are concerned about the transfer. They are raising issues such as: What if a non-government organisation [NGO] chooses not to take my child? What if an NGO exits my child? Will I get choice of NGO? If we want to change, who will we live with? It is imperative that these questions are answered, and that people with a disability and their carers receive as much support as possible. It is also imperative that the Minister acts on and implements the recommendations provided by the New South Wales Ombudsman in the report of reviewable deaths. The Ombudsman does not provide these reports for fun or to frustrate the Government. These reports and recommendations are constructed because they are the processes required to ensure our disability services are of the highest quality.

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

Motion agreed to.

**The House adjourned at 12.27 a.m. on Wednesday 16 March 2016 until
11.00 a.m. on the same day.**
