

# LEGISLATIVE COUNCIL

Wednesday 4 March 2009

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

**The President** read the Prayers.

## WESTERN LANDS AMENDMENT BILL 2009

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. John Della Bosca, on behalf of the Hon. Tony Kelly.**

**Motion by the Hon. John Della Bosca 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 future day.**

## DEATH OF RICHARD MATTHEW LAFFAN

**Motion by Dr John Kaye agreed to:**

1. That this House extends its condolences to the family and friends of lawyer, disability activist and rugby supporter Matt Laffan, and in particular to his parents, Dick and Jenny.
2. That this House notes that Matt lived his life to the full, bringing inspiration and joy to those who had the honour to share his company, and that he gave tirelessly to his profession, the cause of people with disabilities, and to the game of rugby union.
3. That this House notes that the people of New South Wales were enriched by the life of Matt Laffan and that his achievements and famous wit and good humour stands as a testament to his courage and his determination to celebrate his many abilities.

## UNPROCLAIMED LEGISLATION

**The Hon. John Robertson** tabled a list detailing all legislation unproclaimed 90 calendar days after assent as at 3 March 2009.

## PETITIONS

### Rathmines to Morisset Bus Service

Petition requesting a bus service to link Rathmines, Arcadia Vale and Wangi Wangi with Morisset railway station, received from **the Hon. Lynda Voltz**.

### Cabramatta Car Park

Petition requesting support for the urgent building of a new car park in Cabramatta, received from **the Hon. Charlie Lynn**.

## BUSINESS OF THE HOUSE

### Suspension of Standing Orders: Presentation of an Irregular Petition

**Motion, by leave, by Ms Lee Rhiannon agreed to:**

That standing orders be suspended to allow the presentation of an irregular petition from 132 citizens of New South Wales concerning the labelling of cage, barn and free-range eggs.

**IRREGULAR PETITION****Labelling of Cage, Barn and Free-Range Eggs**

Petition requesting that the House regulate labelling laws that differentiate between caged, barn and free-range eggs through an on-farm auditing system, in keeping with trade practices and fair trading legislation, received from **Ms Lee Rhiannon**.

**BUSINESS OF THE HOUSE****Withdrawal of Business**

**Private Members' Business item No. 84 outside the Order of Precedence withdrawn by Ms Lee Rhiannon.**

**BUSINESS OF THE HOUSE****Postponement of Business**

**Government Business Order of the Day No. 1 postponed on motion by the Hon. John Della Bosca.**

**FOOD AMENDMENT (TRANS FATTY ACIDS ERADICATION) BILL 2008****Second Reading**

**Debate resumed from 23 October 2008.**

**Ms SYLVIA HALE** [11.16 a.m.]: I support my Greens colleague Dr John Kaye who last year introduced the Greens Food Amendment (Trans Fatty Acids Eradication) Bill 2008. The bill sets out a two-step process that, if adopted, would mandate both the compulsory labelling of packaged food products that contain artificially produced trans fats and the provision of warnings at restaurants and fast food outlets of the presence of trans fat in prepared food being offered for sale. After two years of labelling a statewide ban would then be placed on the sale of all food products containing trans fats. The other element of this bill directs the Minister for Primary Industries and the Minister for Health to use their best endeavours to act to have the Australia and New Zealand Food Regulation Ministerial Council implement the intentions of this bill.

Briefly, to recap, trans fatty acids are unsaturated fatty acids that contain one or more isolated or non-conjugated double bonds in a trans-configuration. Trans fats are added to food to increase its shelf life and to add to texture and taste. Eating trans fats, however, dramatically increases the risk of coronary heart disease. There is no safe level of consumption. My colleague Dr John Kaye has already enlarged upon the impacts on health of the presence of trans fats in food. Today I want to focus on the role that local government can play in advancing this issue. As is often the case, local councils can be more proactive than State or Federal governments on some issues. This has been the case in New South Wales where several councils and the Local Government and Shires Associations have already adopted a position on trans fats.

Of course, councils do not have any direct input into national food legislation, which is largely in the Commonwealth domain, but some New South Wales councils have used their planning powers to require that applicants seeking to commence new food businesses do not use trans fats in any of their procedures. Some councils are also trying to educate existing food businesses about the effects of trans fats on their customers' health and are suggesting alternatives to trans fats that those businesses might employ. Last year, in an Australian first, Kogarah council moved a motion as part of the council's move to combat heart disease. The motion required that new food businesses employ methods to minimise the use of trans fats. In addition, the council undertook to launch an education campaign to encourage existing businesses to switch to less harmful alternatives.

Susan Anderson, the Heart Foundation's food supply strategy director, applauded the council for recognising that community health was one of its responsibilities and for incorporating appropriate measures in planning guidelines. Gosford City Council also passed a motion that effectively would ban new food outlets from frying food in artificial trans fats. The council introduced a motion entitled "Prevention of the use of Artificial Trans Fatty Acids (Trans Fats) within Food Businesses in the Gosford Local Government Area".

The motion included provisions to prepare amendments to development control plans or standard conditions of consent that require new food businesses that prepare or sell food not to use artificial trans fatty acids for deep or shallow fat frying in the preparation of food; ensure trans fatty acids are not used in food preparation in the council's childcare centres; and for Gosford council to undertake an education campaign directed at the public and at businesses on the risks of trans fats and other cholesterol-raising saturated fats. Gosford Greens councillor Terri Latella when moving the motion said:

We've got the opportunity to actively get new businesses to not use trans fatty oils in their cooking ... It's something we can regulate. In light of the Central Coast's staple diet of fish and chips, this is a truly beneficial health initiative. Reducing risks to health in community is the responsibility of those that have the knowledge and means of providing awareness and policy implementation. This can to some extent be achieved by local government initiatives such as this.

After Ms Latella's motion was passed, Gosford council submitted it to the Local Government and Shires Association, which passed the following resolution at the Annual Conference in October 2008:

That the Association encourage all Councils to amend their Development Control Plans or standard conditions of consent to require new businesses that prepare or sell food, to not use artificial trans fatty acids for deep or shallow fat frying in the preparation of that food.

That the Association urgently pursue the New South Wales Government to provide the necessary legislative controls.

Other councils have since discussed the trans fats issue and passed resolutions to undertake education campaigns or investigate regulating new food businesses. Predictably some people in the food industry have taken umbrage at councils intervening in public health policy. Restaurant and Catering New South Wales Executive Director, Robert Goldman, implied that Kogarah council should stick to rates, roads and rubbish when he told the *Sunday Telegraph* on 27 April 2008:

Councils can't do the jobs that they were given to do. What in the world are they doing with trans fats?

The Greens disagree. Councils are there to ensure their residents live in a healthy environment. This includes overseeing the preparation and handling of food in local businesses. Such a requirement is already part of local government's responsibilities. Kogarah and Gosford councils are simply going one step further in trying to phase out trans fats because of their injurious impact on the health of people in their local government areas. Trans fats, in effect, are a poison. Mr Goldman and the industrial food manufacturers may be happy to keep producing these engineered fats that result in clogged arteries and an increased incidence of coronary heart disease, but others are less keen.

It is not just New South Wales councils that have taken action on trans fatty acids. In the United States the State of California already has passed a bill to phase out trans fats in restaurant products and in retail baked goods within three years. Other American cities, including New York and Philadelphia, already have instituted bans. Canada and the European Union also are working towards bans. Denmark already has a ban in place. Michael Pollan is the author of several books on food including *In Defence of Food: An Eater's Manifesto*. Pollan maintains that much of what is on sale in our supermarkets is not really food but, rather, "edible food-like substances". He also provides several pieces of good advice, such as:

Don't eat anything that doesn't rot,

And:

Don't eat anything with more than five ingredients or any ingredients you can't easily pronounce.

This Greens bill is aimed at phasing out harmful substances from industrial food products. We are seeing rising levels of obesity and a greater incidence of Type 2 diabetes, both of which are related to inappropriate diet and sedentary habits. Young people and children are bombarded with advertising that promotes junk food. This bill is a great start to improving overall food safety and health. I commend the bill to the House.

[*Business interrupted.*]

#### DISTINGUISHED VISITOR

**The PRESIDENT:** Order! I take the opportunity to welcome to my gallery Ms Lynn McLaren, a member elect of the Legislative Council of the Parliament of Western Australia.

**FOOD AMENDMENT (TRANS FATTY ACIDS ERADICATION) BILL 2008****Second reading**

[*Business resumed.*]

**The Hon. KAYEE GRIFFIN** [11.24 a.m.]: The Government opposes the Food Amendment (Trans Fatty Acids Eradication) Bill 2008. At the outset I acknowledge the spirit in which this bill is proposed; it seeks to improve the diet of the New South Wales public, and I support this motivation. It is, therefore, profoundly disappointing that the Greens once again have failed to follow this up with any sensible understanding of the matters they seek to raise. Where is their consideration of the detail, due care and proper policy that are all central to the trans fats issues? It is the case of all care and no responsibility for the Greens when it comes to considering matters of serious policy. The bill would impose significant and expensive unilateral regulation on business in New South Wales without proper consultation or proper policy consideration, and the Greens somehow expect this bill to be taken seriously.

Obviously, the Greens' understanding of the trans fatty acid issue is hopelessly shallow if not seriously flawed, as I will explain. This bill fails to demonstrate the slightest understanding of its impact on the people of New South Wales or the national arrangements already in place to deal with this issue. Trans fatty acids, also called trans fats, are unsaturated fats, but they are not like the good unsaturated fats in fish and vegetable oils. Trans fats actually behave similarly to saturated fats in the human body. They occur naturally in some foods and are also present in some manufactured foods. Sources of trans fatty acids in our diets include meat, milk, cooking oil, margarine, shortenings, biscuits and baked goods. While there are certainly concerns, the precise public health implications of trans fats are unclear, especially in the context of Australian diets.

There is evidence that consumption of trans fats can increase bad cholesterol and lower good cholesterol. There is also evidence pointing to a possible link between high levels of dietary trans fat and increased risk of heart disease. At the same time there is limited data to support an association between trans fat consumption and heart disease where trans fat intake is below 4 per cent of total energy intake. We know that Australians consume relatively low amounts of trans fatty acids. Current Australian consumption average is around 0.6 per cent of daily energy intake compared with the World Health Organisation recommended maximum of 1 per cent and Danish, Canadian and United States of America intake estimates of 1 per cent 2.2 percent and 2.6 percent respectively.

The Australia and New Zealand Food Ministerial Council considered the risks imposed by trans fatty acids and potential management options as recently as May 2007. The ministerial council accepted Food Standards Australia New Zealand's expert advice, which was essentially that available evidence does not indicate a need to intervene and, therefore, the changes in the regulatory status quo are not appropriate or warranted at this time. It is important also to acknowledge the challenges inherent in trying to regulate food components such as trans fats, which consumers will be exposed to whenever they eat a range of natural foods that normally contain these components.

The bill will not change the potential for dietary exposure to trans fats through these natural foods. The ministerial council agreed that in lieu of regulatory action Food Standards Australia New Zealand should support non-regulatory risk-management approaches aimed at reducing manufactured trans fats in the food supply and reducing dietary intakes of trans fats, monitor the effectiveness of these non-regulatory measures and review outcomes in 2009 at which time the need for regulatory intervention will be reconsidered. At the instigation of New South Wales, these resolutions are subject to Ministers' early consideration of regulatory action in the event that progress on trans fatty acids reduction is considered too slow. The New South Wales Government has been proactive in ensuring that this situation is dealt with properly. As I have said, the ministerial council remains ready to act should the need arise, but so far the available evidence does not indicate the need to intervene. I must also emphasise that the position adopted by the Greens in this matter also fails to acknowledge New South Wales's responsibilities within the national food regulation framework.

New South Wales is a signatory to the food regulation agreement between the Commonwealth, the States and the Territories that creates a uniform national approach to food regulation within Australia. The agreement has operated very well since 2000 and establishes the Australia and New Zealand Food Regulation Ministerial Council, which is responsible for, among other things, promoting harmonised domestic food standards throughout Australia and New Zealand, harmonising domestic and export food standards and, when appropriate, harmonising those standards with international food standards, overseeing implementation of

domestic food regulation and standards, and promoting a consistent approach to enforcing compliance with the national food standards. Under the agreement, the States and Territories are committed to adopting the food standards developed by Food Standards Australia New Zealand in conjunction with the States.

This misguided bill from the Greens completely and utterly flies in the face of the food regulation agreement and the very important cooperative principles that underpin it. The bill seeks to introduce New South Wales specific interventions to regulate trans fats. What effect do the Greens think this would have on interstate distribution arrangements for food? What effect would this have on the people of New South Wales, and indeed on people in other States? What sort of shemozzle would we have if every State legislated willy-nilly without reference to what is happening in other jurisdictions?

Food Standards Australia New Zealand is the authoritative expert in this field and has given a very considered view on this matter. The ministerial council has acted on its advice and has adopted a considered and measured strategy that is consistent with that expert advice. It should be of grave concern to the people of New South Wales that the Greens, by requiring these groups to pay more to cover the cost of unnecessary and unproductive regulation, are so keen to create significant detrimental impacts on business and consumers. The Greens could not possibly have put forward the proposal that is currently before the House if they had given even some basic thought to the costs involved or its legal, organisational, economic and social implications.

Once again the Greens have shown they are motivated by sentiment, not science. They are driven solely by ideology and are incapable of the due diligence that is required to develop credible policy. The trans fats issue is a national issue that is already receiving careful and timely consideration at a national level. The Greens bill before the House is nothing more than a myopic response to something that very clearly already is being dealt with proactively in the national arena. It should be deeply concerning to everyone that the Greens continue to bring all these half-baked proposals to Parliament that seem like a good idea at the time, and then complain that no-one supports their legislation. I support science and I support evidence-based decision making. I support Food Standards Australia New Zealand's careful consideration of this issue, and I support the national food regulation framework. For those reasons I do not support the ill-conceived Greens bill.

**The Hon. LYNDIA VOLTZ** [11.32 a.m.]: The Government will not support the Food Amendment (Trans Fatty Acids Eradication) Bill 2008. The New South Wales Government takes the issue of trans fats intake seriously. However, we must be cautious as a change to legislation in New South Wales would be a deviation from the national food agreement and would introduce State-based regulatory requirements that appear to be in breach of the agreement. That certainly would be unworkable. Legislation in New South Wales alone, without national agreement and a national approach, is likely to have a minimal impact on trans fats intake by New South Wales consumers and is likely to breach New South Wales's obligations to the national food regulatory system.

Currently there is a range of regulatory and non-regulatory risk management measures in place to deal with trans fats in Australia. This includes mandatory labelling with a declaration of trans fatty acid content on nutrition information panels, which is required by the National Food Standards Code when claims about cholesterol or fatty acids are made. Voluntary trans fatty acids labelling is also permitted. Also included is consumer education provided by government and non-government organisations, such as dietary guidelines that recommend limiting saturated fats and moderating total fat intake. Another measure is two government-industry partnerships—the National Collaboration on Trans Fats and the Quick Service Industry Roundtable—that both are developing non-regulatory initiatives aimed at reducing trans fatty acid levels in food that is sold in Australia. The collaboration on that measure already has been developed, and a guide for the Australian food service industry on reducing trans and saturated fats has been published.

Another measure is the National Heart Foundation's Tick program, which currently includes 25 food categories with trans fatty acids criteria. The measures include independent food company efforts to reduce the trans fatty acid content of their food products. The costs of the legislation before the House have not been quantified. Unilateral action by New South Wales is likely to place the affected segments of the New South Wales food industry at a competitive disadvantage relative to their interstate counterparts, which in turn will force costs back onto consumers. Due to the national scope of the edible oils and food manufacturing industries, in time it may also lead to companies moving their current New South Wales operations interstate.

In that context it should be noted that, with the agreement of the Australia and New Zealand Food Regulation Ministerial Council, the industry has been actively pursuing non-regulatory approaches to reducing manufactured trans fatty acids. Dr Kaye clearly has not understood the review of Australian trans fats

consumption conducted by Food Standards Australia New Zealand [FSANZ]. Indeed, proper evaluation of the FSANZ review would not lead any person to form the view that the trans fats issue requires the serious and immediate response contemplated by the bill. In fact, the view of FSANZ is entirely contrary to the position espoused by the bill. There is a real prospect that any blinkered regulatory focus on dietary trans fats may detract from efforts to reduce the intake of saturated fats, which is a much more significant public health concern.

As for Dr Kaye's extrapolated figures, I point out that it is not appropriate to compare directly the experience of the United States with that of Australia because the evidence clearly indicates that consumption levels are starkly different in each country. May I also say, in response to the claims made by Dr Kaye and for the sake of the record, that there is no Australian data of which I am aware relating mortality rates to trans fats consumption. It is entirely inappropriate to extrapolate data from overseas without considering other factors that currently drive chronic disease in Australia, such as obesity. I also reject Dr Kaye's assertion that figures for average trans fats consumption are skewed by significant levels of consumption at the high end of the consumption spectrum. The reality is quite different. The available evidence on trans fats consumption indicates that the top 5 per cent of Australian consumers eat between 2 and 3.2 grams of trans fats a day, and that includes trans fats from both natural and manufactured sources.

**The Hon. Rick Colless:** The natural ones are not bad for you.

**The Hon. LYNDIA VOLTZ:** Exactly. FSANZ notes that even that level of consumption is below the level of concern. It is instructive to compare our average trans fats intake with estimates of average consumption in other countries: in Denmark, it is 3 grams a day; in the USA, it is from 1 to 13 grams a day; in Europe, it is from 1 to 3 grams a day; and in Canada, it is 1 to a whopping 25 grams a day. Remember that these figures are for average consumption; they are not illustrative of the worst cases. Given that Australia's worst-case consumption appears to be in line with average consumption overseas, it is simply fanciful to assert that current trans fats consumption creates some unique risk of heart disease in Australia. It is well accepted that the combined intake of saturated fats and trans fatty acids should not exceed 10 per cent of daily energy intake. In contrast to the arguments advanced by the Greens, FSANZ estimates that the current intake is between 13 per cent and 17 per cent, so the total intake of saturated fats would still exceed the recommended daily limits, even if all trans fats were removed.

A further concern is that FSANZ consumer research indicates that including trans fat content in nutrition information may lead some consumers to think incorrectly that products with lower trans fats are healthier, even if they contain much higher levels of saturated fats. Public health issues around obesity and fats in our diets are significant issues that we must address collectively in our homes, our schools, our workplaces and our parliaments. I welcome debate on how best to address these very serious issues. I suggest that perhaps a bill about sporting facilities may be more appropriate than the bill from the Greens that sought to ensure Callan Park would have no sporting facilities. The Greens introduced a bill to provide that there would not be any active recreation in Callan Park.

**Ms Lee Rhiannon:** That is not true.

**The Hon. LYNDIA VOLTZ:** It is true. Will Ms Lee Rhiannon deny in this Chamber that the Greens introduced a bill that outlawed active recreation in Callan Park? The reality is that the debates must be meaningful, sensible and focused.

**Dr John Kaye:** Point of order: The Hon. Lynda Voltz has digressed from the bill quite dramatically by referring to sporting facilities that may or may not have been built at Callan Park. Quite apart from the fact that she is grossly misleading the Parliament, her comments are not relevant and are not within the leave of the bill.

**The Hon. LYNDIA VOLTZ:** To the point of order: The bill relates to the health and wellbeing of our community. I simply made the point that a bill to provide sporting facilities is entirely appropriate, rather than a bill that will go nowhere towards reducing people's fat intake beyond the national standard. It is ridiculous for Dr Kaye to assert that my comments are outside the leave of the bill.

**DEPUTY-PRESIDENT (The Hon. Kaye Griffin):** Order! I do not uphold the point of order. Members have the opportunity to raise a wide range of issues during debate on bills. Members will treat one another with courtesy.

**The Hon. LYNDIA VOLTZ:** Accordingly, I do not support this bill.

**The Hon. CHRISTINE ROBERTSON** [11.40 a.m.]: At the outset let me say that I hate eating scrambled eggs made with powdered eggs and these days I am not fond of cakes that come from shops because they do not taste the same. Having said that, this issue must be dealt with nationally. So the Government does not support the Food Amendment (Trans Fatty Acids Eradication) Bill 2008 as it stands. The bill deserves to be opposed because it has two critical failures. Firstly, it does not respect Australia's nationally agreed food regulation framework. It shows no understanding of how food laws are made and how they work at State and Federal levels. Secondly, it appears to completely ignore the well-informed and authoritative scientific position on this issue.

Food Standards Australia New Zealand [FSANZ] has carefully monitored and considered the issue of trans fats in Australia. FSANZ provides all governments with the most authoritative scientific expertise available. What is more, its expertise is based on data and information that is relevant to the Australian context. So what is Franz's advice and position on this issue? Let us go through it; it is very clear. On the question of whether trans fatty acids are present in food sold in Australia, FSANZ advises:

Through Franz's dietary modelling work, we have found that Australians obtain on average 0.6 per cent of their daily kilojoules from trans fatty acids ... this is well below the World Health Organization recommendation to consume no more than 1 per cent of your daily kilojoules from trans fatty acids and well below many other countries.

On the question of whether trans fatty acids are identified on food labels, FSANZ advises:

Trans fatty acid contents must be declared on a food label if a nutrition claim is made about cholesterol or saturated, trans, polyunsaturated or monounsaturated fatty acids; or omega-3, omega-6 or omega-9 fatty acids.

**The Hon. Catherine Cusack:** Can you say that again?

**The Hon. CHRISTINE ROBERTSON:** If you like. On the question of whether trans fatty acids are banned overseas, FSANZ advises:

The answer is no. The few places reported as banning trans fatty acids have, in fact, set upper limits. For example, in 2003, the Danish Nutrition Council recommended restrictions on, and phasing out of, the use of manufactured trans fatty acids in foods. However, if the trans fatty acids content in the finished product is less than 1 gram per 100 grams of the individual oil or fat, the food is considered free of trans fatty acids.

In California and New York there is an upper limit of 0.5 grams of trans fatty acids per standard serve of a packaged food or a restaurant meal. So consuming 3 serves a day, for example serves of meat, chips, desserts etc, could put you well over the already low levels of trans fatty acids consumed in Australia.

On the question of whether the Government is taking action to reduce trans fatty acids in food, FSANZ further advises:

Levels of trans fatty acids in the food supply will continue to be monitored and an analytical survey of foods will commence later in 2008. FSANZ will commence a review in early 2009 of the outcome of non regulatory measures to reduce trans fatty acids in the food supply.

And further, the Australian and New Zealand Food Ministerial Council "noted that regular updates on progress on trans fatty acid reduction would be provided on the work being carried out by the Australia New Zealand Collaboration on Trans Fats and agreed to consider regulatory action should sufficient progress not be made".

FSANZ has made it clear that it will continue to monitor this issue very carefully, as it has done for some time now. FSANZ will be reviewing the levels of trans fatty acids in the food supply, and has advised that an analytical survey of foods was undertaken in late 2008. FSANZ will commence a review in early 2009 of the outcome of non-regulatory measures to reduce trans fatty acids in the food supply. It is at this time, with the benefit of further, more detailed evidence, that FSANZ can fully advise on the need for intervention. Should that need arise, we are well placed to consider an appropriate, nationally coordinated intervention. Accordingly, I do not support this ill-considered bill.

**Reverend the Hon. FRED NILE** [11.45 a.m.]: The Christian Democratic Party does not support the Food Amendment (Trans Fatty Acids Eradication) Bill 2008, which is draconian. Its main purpose is to prohibit, two years after the commencement of the Act, the production and sale of foods in New South Wales containing artificially produced trans fats. I do not believe such a heavy-handed approach is required because of the ongoing efforts by the fast food industry, particularly in New South Wales, to respond to health concerns about

trans fats. For example, the Australian quick-serve restaurant industry held a round table in 2007 to consider initiatives to reduce trans fat levels without increasing saturated fats. The round table—this shows the genuine concern of the fast-food industry—included the Baking Industry Association, the Coffee Club, Domino's Pizza, Eagle Boys Pizza, Hungry Jacks, KFC, Jesters Pies, McDonalds, Pizza Hut, Red Rooster, Subway and many others.

Sections of the food industry have already taken significant steps to reduce trans fat levels and to switch to healthier oils and fats. This reflects the general commitment within the food industry to further reduce trans fat levels. In addition, the Australian trans fats intake is very low by western standards. However, Food Standards Australia New Zealand [FSANZ] is monitoring progress on further reducing trans fats intake. That body, which is the one we look to for expert advice, does not consider that regulation is necessary or justified at this time. In May 2007 FSANZ released the review of trans fatty acids in foods, which indicated that a regulatory approach was not justified.

The review found that only 0.6 per cent of fats come from trans fats, which is below the World Health Organization's recommended maximum of 1 per cent and well below the American intake level of 2.6 per cent. Obviously the Americans have greater problems in this area than we have in Australia generally, and in New South Wales in particular. On this occasion we believe it is better to accept the official advice from the expert bodies. Also, if there is to be any regulation, it should be done at the national level. It would be almost impossible for one State to go it alone with regard to labelling food and so on. So we do not support the bill.

**Ms LEE RHIANNON** [11.48 a.m.]: I congratulate my colleague John Kaye on bringing forward the Food Amendment (Trans Fatty Acids Eradication) Bill 2008. It is most definitely needed and should be passed. The comments made by members of the Coalition and the Labor Party in this debate were disappointing. This bill would do an enormous amount of good. It would go a long way to improving the health of the people of New South Wales by eradicating trans fatty acids. My colleagues have outlined various aspects of the bill. Having had the opportunity to listen to Labor and Coalition speakers on this bill, I shall examine aspects of what they said and the enormous contradictions they revealed in their approach to important health issues.

It is deeply troubling that Labor and the Coalition will not support the Greens bill—something about which the food industry will be very pleased. This debate has exposed the double standards of major parties in this House in their approach to key policy issues. Members' contributions have revealed contradictions within the major parties. As frequently happens, senior Coalition and Labor members spoke about key health issues and said that more needs to be done in relation to obesity and heart disease. But the major parties are turning their backs on this simple measure that will make a significant contribution to the health of the people of New South Wales.

*[Interruption]*

I acknowledge that Mr Donnelly is out of touch, but others will take care of that; I will not delve into it further. Ms Kaye Griffin—the first speaker from the Government—made a truly off-the-mark contribution. She was at great pains to make out that this is not an evidence-based approach, but clearly it is. The contribution to the second reading debate by my colleague Dr Kaye set out extremely clearly the case that has been backed by the Australian Medical Association [AMA]. Other members have referred to an important letter dated 29 August 2008 to Dr Kaye from the Australian Medical Association (NSW) Ltd, but in light of recent comments it is worth quoting from again. The letter states:

AMA NSW supports the eradication of trans fats as they appear to increase the risk of coronary heart disease and may increase the risk of sudden death from heart attack, and are associated with diabetes.

The Medical Practice Committee of the association looked at the issue in detail. I put that information on the record again because it undermines the very serious allegations made by Ms Griffin in an attempt to discredit this bill, which urgently needs to be passed. The AMA recognises that, and supports the bill. Other contradictions from Labor and the Coalition are worth putting on the record. These days the obesity issue is popular with members of Parliament. In recent weeks and months shadow Ministers Ms Goward and Mrs Skinner have weighed in on the debate.

The shadow Minister for Community Services, Ms Goward, jumped on the issue in relation to the Department of Community Services and the welfare of obese children. Mrs Skinner made strong statements and



blamed the Iemma Government for many problems relating to obesity. She said it is a shocking indictment on the Iemma Government that more than half our community is either overweight or obese. I am interested to know what she would say about that issue if her party were in government. Mrs Skinner also said that the Iemma Government has failed to give people more time to spend exercising or cooking healthy meals. How will she implement such a policy? I raise those issues because the Coalition says it is concerned about health issues such as obesity and heart disease but does not support this bill, which it has kicked over for a national approach.

The Labor Government talks about the serious problems of obesity and heart disease and allocates huge amounts of money to programs in those areas but it is unwilling to support legislation that will go to the heart of those problems. For example, last month the Minister for Health, Mr Della Bosca, launched a \$3 million program in the Hunter to help people lose weight. He acknowledged that 1.6 million adults in New South Wales are fighting obesity. The Government is also providing \$7.5 million over five years for a program called Good for Kids. Good for Life. I do not question that initiative but I do question why the Government is not addressing the cause of so many of the health problems of the children who are being targeted by the program. The program has started in the Hunter, and I think it will be rolled out elsewhere later. I am concerned that, on the one hand, the Government is unwilling to tackle some of the key causes of obesity and bad health in young people but, on the other hand, it is allocating so much money to manage those problems in a superficial manner without support from back-up legislation.

As to how much obesity costs the New South Wales budget, the Government recently spent a huge amount of money on new super-size ambulances to carry people who weigh up to 500 kilograms. Those ambulances are clearly needed so that paramedics do not damage their health when dealing with obese people, but the costs do not stop there. In order to handle this growing problem the Royal Flying Doctor Service has upgraded its fleet with seven new super-size planes that cost almost \$10 million each. Each \$10 million plane will cost millions of dollars to outfit and several million dollars a year to operate. The burden on our health budget is extremely serious, and the problem must be tackled. I put it to members that this legislation is one way of tackling this most important health problem. I note that the Minister for Health, Mr Della Bosca, when speaking about the financial burden on our hospitals of obesity—which is linked with heart problems and type 2 diabetes—indicated that in 2008 it cost \$19 million. So there are 19 million reasons why this bill should be supported.

But the Greens believe there are many other reasons why members should support this legislation. I was concerned by an invitation that I received from the Minister—I believe other members received similar invitations—to attend a gathering in the Jubilee Room on Thursday week in relation to the Woolworths Fresh Food Kids Hospital Appeal. We know that Woolworths works hard to badge itself through the fresh food appeal, but even that has come under challenge. Obviously Woolworths will gain an advantage by linking its brand name with the Department of Health at that function, but I urge the Minister to take the opportunity to question the company's trans fats policies.

Woolworths likes to badge itself as complying with all fats breakdown requirements, including those for trans fats, in its Woolworths-brand products. But remember that Woolworths sells a lot more than its own-brand products. Many products in the supermarket display no details on their packaging so consumers have no way of finding out what trans fats they contain. I urge the Minister, who has now joined us, to take up the issue when he is nibbling on lunch with Woolworths executives. The bill should most definitely be passed. The Coalition and Labor have exposed yet again that they put the food industry, their big financial backers, before consideration of the health of the people of New South Wales. I move:

That this debate be now adjourned.

**Question put.**

**The House divided.**

**Ayes, 4**

Mr Cohen  
Ms Rhiannon

*Tellers,*  
Ms Hale  
Dr Kaye

**Noes, 34**

Mr Ajaka	Ms Griffin	Mr Roozendaal
Mr Brown	Mr Kelly	Ms Sharpe
Mr Catanzariti	Mr Khan	Mr Smith
Mr Clarke	Mr Macdonald	Mr Tsang
Mr Colless	Mr Mason-Cox	Mr Veitch
Ms Cusack	Reverend Nile	Ms Voltz
Mr Della Bosca	Mr Obeid	Mr West
Ms Fazio	Ms Parker	Ms Westwood
Ms Ficarra	Mrs Pavey	
Mr Gallacher	Mr Pearce	<i>Tellers,</i>
Miss Gardiner	Mr Robertson	Mr Donnelly
Mr Gay	Ms Robertson	Mr Harwin

**Question resolved in the negative.**

**Motion for adjournment of debate negatived.**

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

**DISTINGUISHED VISITORS**

**The PRESIDENT:** I welcome to the public gallery our former colleague Mr John Ryan and members of the Department of State and Regional Development, who are participating in a parliamentary seminar.

**QUESTIONS WITHOUT NOTICE****POLICE TASER USE**

**The Hon. MICHAEL GALLACHER:** My question without notice is to the Minister for Police. Does the Minister recall that yesterday in response to my question regarding the rollout of tasers to all front-line police he said, "We have decided that tasers should be made available to general duties police across the State as one of the suite of options available to them in managing the most extreme behaviour, without having to resort to a firearm"? Does the Minister also recall indicating yesterday he had received the urgent report he ordered from the New South Wales Commissioner of Police into the use of tasers, which was due by the end of January, yet despite such receipt no decision has been made by the Government regarding further deployment? Given the Government continues to describe itself as transparent and accountable, will the Minister undertake to publicly release this report to all police officers to allow police and the wider community to review its findings?

**The Hon. TONY KELLY:** There were a few questions in there.

**The Hon. Michael Gallacher:** The main part was: Will you release the report? I am refreshing your memory.

**The Hon. TONY KELLY:** Do I remember?

**The Hon. Michael Gallacher:** You have had short-term memory problems in the past.

**The Hon. TONY KELLY:** Yes, I do remember. We are still going through that report to me from the commissioner. We will decide later whether we will release it or not. As I said to the House, the Government has decided that the tasers should be made available to general duties police across the State—I do recall that—as one of the suite of options available to them in managing the more extreme behaviour, without having to resort to a firearm. The commissioner and I—

**The Hon. Michael Gallacher:** Point of order: The major part of that question, as the Minister has recognised, related to the release of the report. Will the Minister indicate to the House when he intends to release the report?

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

### AUSTRALIAN NATIONAL ACCOUNTS DATA

**The Hon. HENRY TSANG:** My question without notice is to the Treasurer. Will the Treasurer update the House on the Australian Bureau of Statistics data released today on the Australian National Accounts?

**The Hon. ERIC ROOZENDAAL:** I thank the honourable member for his question and his interest in this matter. Today the Australian Bureau of Statistics [ABS] released data on national output showing a decrease in gross domestic product of 0.5 per cent in the December quarter. In New South Wales, State final demand decreased by 0.3 per cent following a revised increase of 0.5 per cent in the September quarter. Through the year New South Wales grew by 1.2 per cent compared to 1.6 per cent for Victoria and 2.6 per cent for Australia. The main detractors from growth in the quarter were housing investment, business investment and public investment. While business investment fell 1.5 per cent in the December quarter it had risen to a record level in the September quarter, and while public investment declined 2.5 per cent in the December quarter it was up a very strong 15.2 per cent through the year. An encouraging note in the release is that export volumes in New South Wales grew by 8.2 per cent in the December quarter.

The global financial crisis is impacting on all our trading partners and Australia is feeling the flow-on from this. As we know, to a large extent the economic cycles of the States are determined by monetary policy through the Reserve Bank of Australia [RBA], Commonwealth fiscal policy and by international demand for goods and services and the Australian dollar. New South Wales has an industry structure weighted towards the services sector, making us more exposed to the international financial markets than any other State. That means we were the first to feel the effects of the global financial crisis. The building blocks for future growth in New South Wales are falling into place, including the large declines in interest rates by the RBA, fiscal policy stimulus, lower oil prices and of course public investment.

We are encouraged by yesterday's results, which showed New South Wales leading the pack in January retail sales. The ABS data show January retail sales in New South Wales rose by 1.9 per cent. It means the Rudd Labor Government's stimulus package is having a positive effect. While the Opposition talks down the economy, this Government is taking firm action to cushion the blow for the State economy. The New South Wales Government has a vital role to play in keeping the economy going in times like this by investing in jobs and infrastructure and providing front-line services. Public investment in New South Wales by this Government will see capital spending go to \$56.9 billion over four years, which is the highest of any Australian State and the largest investment in infrastructure in the history of New South Wales. This capital spending commitment will support around 150,000 jobs each year across the State.

A raft of policies by the New South Wales Labor Government has helped and will continue to help businesses reduce costs and support the economy. Defending the triple-A credit rating will help maintain business confidence and encourage investment in New South Wales. The cuts to payroll tax will save businesses \$1.9 billion over the next four years. This is an excellent example of how we are supporting businesses in this State. Cuts to workers compensation premiums of 30 per cent and exempting apprentices from premiums will support jobs and save businesses almost \$1 billion this financial year. Cutting infrastructure levies will benefit the housing industry by at least \$150 million over the next four years. The New South Wales Government's boost to the first home owners grant and stamp duty exemptions brought almost \$150 million worth of assistance for first home buyers in November and December 2008 alone. Let us just contemplate that for a second: \$150 million worth of assistance in just two months. On top of this there is \$6.5 billion of infrastructure funding from the Commonwealth Government as part of its stimulus package, including new social housing and schools. *[Time expired.]*

### WOLLONGBAR AND ORANGE VETERINARY LABORATORIES

**The Hon. DUNCAN GAY:** My question without notice is directed to the Minister for Primary Industries. Will the Minister detail the plans he has put in place to ensure the workers from the Wollongbar and Orange veterinary laboratories will be looked after and will he give a guarantee that they will continue to be employed locally? We know the Minister's great ability to cut jobs, but does he acknowledge how vital it is to keep skilled workers in regional New South Wales?

**The Hon. IAN MACDONALD:** I thank the honourable member for his question. It is a good question and it needs some elaboration. I can advise that the New South Wales Department of Primary Industries commissioned an external review of Diagnostic and Analytical Services [DAS] in late 2008. DAS provides veterinary testing, plant health testing and chemistry testing services on a cost-recovery basis. The particular

focus of the review was the performance of the veterinary laboratories. The review recommended the closure of two regional veterinary laboratories. Other recommendations contained in the report relate to improved management, financial arrangements, costing and charging, marketing and business processes. The New South Wales Department of Primary Industries operates regional veterinary laboratories at Orange, Wollongbar and Elizabeth Macarthur Agricultural Institute [EMAI]. The review into DPI's Diagnostic and Analytical Services recommended the closure of the regional veterinary laboratories at Orange and Wollongbar. The regional veterinary laboratories at Orange and Wollongbar will cease operating by 30 June—

**The Hon. Duncan Gay:** Point of order: My question was specifically about the workers, not a defence of the indefensible.

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

**The Hon. IAN MACDONALD:** Duncan, you have to know the full situation before you make these statements. Orange regional veterinary laboratory has 13 staff affected, five permanent and eight temporary. The Wollongbar veterinary laboratory has five staff affected, three permanent and two temporary. Permanent staff at Orange and Wollongbar laboratories will be offered the opportunity to relocate to Elizabeth Macarthur Agricultural Institute or other possible roles in their home town so that current expertise and skills are maintained. As new research and development projects are identified, which is happening all the time, New South Wales Department of Primary Industries will be working with the temporary staff affected by those closures to find new temporary contracts. Elizabeth Macarthur Agricultural Institute is a world-class diagnostic institute whose expertise was critical in defeating the equine influenza outbreak in 2007-08. EMAI has state-of-the-art laboratory equipment, a critical mass of scientific experts and is accredited to international standards. Modern transport networks can provide sample delivery to Menangle in order to maintain short turnaround times. The New South Wales Government is committed to biosecurity and that is why we are investing \$43 million in upgrading the facilities at EMAI.

**The Hon. Rick Colless:** What about the jobs in Orange?

**The Hon. IAN MACDONALD:** You did not listen to what I said. You obviously did not listen at all, Rick. Wake up! These improved facilities will provide world-class biosecurity containment and will further enhance our capacity to respond to emergency animal health disease outbreaks. Given the current global financial crisis, it is crucial that we develop better and more cost-effective ways of doing business. Currently, only 17 per cent of veterinary examples submitted in a typical year are received at the Orange and Wollongbar veterinary laboratories combined. The cost of delivering such a small number of results from both laboratories is of the order of \$500,000 annually, which is why the Government is committed to ensuring a better and more economic model of service delivery for the farming sector.

#### SNOWY SCIENTIFIC COMMITTEE ESTABLISHMENT

**Mr IAN COHEN:** My question without notice is directed to the Minister for Primary Industries. Does he accept that under section 57 of the Snowy Hydro Corporatisation Act he is charged with responsibility to establish the Snowy Scientific Committee? How would it have been possible for the New South Wales Water Administration Ministerial Corporation to give scientifically based instruction to Snowy Hydro on the Snowy water licence and environmental flows without the annual advice of a Snowy Scientific Committee, as provided for under section 57 (3) of the Snowy Hydro Corporatisation Act 1997?

**The Hon. IAN MACDONALD:** The member is correct; a Snowy Scientific Committee has been established. Last year Victoria finally put two of its representatives on that committee. As I understand it, they have reported on their first assessment of the issue. Currently, that assessment is before the Minister for Water, and Minister for Regional Development, who has carriage of this issue and the licence.

**Mr IAN COHEN:** I ask a supplementary question. Does the Minister accept that the failure to establish a Snowy Scientific Committee has been a factor in Snowy Hydro not delivering a 142-gigalitre increased Snowy flow this year?

**The Hon. IAN MACDONALD:** None whatsoever. Obviously the Greens in New South Wales have not been reading the weather maps, and they certainly have not done so in Victoria. We are experiencing a drought. For example, Lake Eucumbene is down to a low 6 per cent of its water capacity. The Snowy scheme is stretched because of the drought and the demands made of it for permanent water for towns and cities along the

Murray as far down as Adelaide, and for permanent irrigation plantings. When members refer to water that is to be released into the Snowy under the agreement it should be remembered that Snowy Hydro spent just on \$100 million essentially to rebuild and redesign Jindabyne Dam and to install a significant outlet.

That outlet can now release far more water than the small amount of water that was released on a daily basis prior to the completion of those works. I understand that as a result of that effort a significantly increased amount of water is now flowing daily down the Snowy. The original agreement contains a number of other factors, for example, what was called the Snowy Borrow, which my colleague the Hon. John Della Bosca played a key role in negotiating. That borrow was to compensate Snowy Hydro for the three-year reconstruction period of the dam when all those works were conducted. [*Time expired.*]

### LAW ENFORCEMENT AGENCY COVERT SEARCH WARRANTS

**The Hon. GREG DONNELLY:** My question without notice is addressed to the Minister for Police. Will the Minister update the House on the introduction of covert search warrants for law enforcement agencies in New South Wales?

**The Hon. TONY KELLY:** The Rees Government is committed to providing police with the resources and powers they need to combat serious crime. This commitment is demonstrated with the introduction today of legislation in another place to allow the use of covert search warrants by police officers and other law enforcement officers from the New South Wales Crime Commission and the Police Integrity Commission. These new powers will take the fight against crime right up to criminals. There is no doubt that the ability to conduct a search warrant without immediately notifying the owner or occupier of the premises is an invaluable tool in the investigation of serious offences—offences such as homicide, clandestine drug laboratories, firearms manufacturing and money laundering.

Using the clandestine drug laboratory as an example, police may be aware that a person has been buying chemicals used in the manufacture of amphetamines. They may know, through the use of other investigative tools, that the person has been discussing the sale of some type of product for a large amount of money. Without physically entering the property it can be difficult to determine the type of drug that the person is manufacturing, what stage that manufacturing process has reached, and to gather sufficient evidence to prosecute. With these new powers the police will be able to enter the property without the knowledge of the person, examine the chemical process and take samples, if necessary, to prove that amphetamines or other drugs are being produced.

The use of covert search warrants will be intrusive but we have made sure that the needs of our law enforcement agencies are balanced against the rights of an individual to privacy. A number of safeguards are in place to ensure that covert search warrants are used only in appropriate and necessary circumstances in the fight against serious crime. Covert search warrants will be used only with the authority of the Supreme Court after the judge has considered whether there is any other way of getting the information and whether the privacy of any other person not involved in the offence would be affected. The Ombudsman will review all warrants annually and report to the Minister for Police and to the Attorney General, and the Minister for Police and the Attorney General will be required to report annually to the Parliament on the use of these powers.

An important part of the legislation is the introduction of a new computer search power. Under a search warrant, whether standard or covert, police and other law enforcement officers will be able to use electronic equipment to examine computers that are found in premises. If necessary, they can remove a computer for further examination for a period of up to seven days, or up to 28 days under exceptional circumstances. In addition, police can copy data from a computer or other item onto a data storage device and further examine that data without removing the computer. Under the warrant, if the data is subsequently determined to be relevant, the computer can be seized and destroyed. Police will also be able to search computers by remotely accessing a linked or remote network. These new computer search powers will enhance the ability of our police to operate in a world of fast-evolving technology. These new computer investigative powers and covert search warrants send a clear message: There is nowhere to hide. The police will find anyone who is involved in serious criminal activity. [*Time expired.*]

### CESSNOCK AND PARKLEA CORRECTIONAL CENTRES

**Ms SYLVIA HALE:** I address my question without notice to the Minister for Corrective Services. Last year the Minister said on the *Stateline* program:

You can rest assured I won't be becoming an advocate for privatisation. I'm not going to change who I am. I am not going to change my belief systems or my values. And I will continue to advocate those.

In view of that statement, why is the Minister now advocating the privatisation of Cessnock and Parklea correctional centres? Has he changed his belief systems and his values?

**The Hon. JOHN ROBERTSON:** My views relating to the privatisation of electricity are well known and I will not get into an extended dialogue on that issue at this time. However, I will say that there is a world of difference between the delivery of electricity to every house and business in New South Wales and private sector involvement in two out of 31 jails. The Government has a responsibility to get the best value out of every taxpayer's dollar, in particular, during tough financial times. That is exactly what we are doing at Cessnock and Parklea prisons.

#### **MINISTER FOR INDUSTRIAL RELATIONS RESPONSIBILITY**

**The Hon. GREG PEARCE:** My question is directed to the Attorney General, and Minister for Industrial Relations. What is the extent of your role as Minister for Industrial Relations given that as Attorney General you have responsibility for minor tribunals, the Minister for Commerce has industrial relations functions, and the Minister for Finance has responsibility for WorkCover?

**The Hon. JOHN HATZISTERGOS:** Have a look on the Government website.

#### **GARLING REPORT INTO ACUTE CARE SERVICES IN NEW SOUTH WALES PUBLIC HOSPITALS**

**The Hon. EDDIE OBEID:** Can the Minister for Health outline the Government's progress in responding to the Garling report into acute care services in New South Wales public hospitals?

**The Hon. JOHN DELLA BOSCA:** The Garling report resulted from the most significant inquiry into acute care in New South Wales in generations. It has far-reaching ramifications for health care in this State. The commissioner noted that New South Wales has one of the best health systems in the world, but he warned that it is threatened by significant challenges, substantial cost pressures, workforce shortages and an ageing population. The Government has been examining closely the 139 recommendations in the commissioner's final report and consulting widely with the community and highly trained medical professionals who provide the services.

In the first few weeks of the report's release I hosted a forum with 180 clinicians, including paramedics, managers, clinical support staff and community representatives. Strong views were expressed about how to respond to the Garling recommendations: these can be viewed on the website [healthactionplan.nsw.gov.au](http://healthactionplan.nsw.gov.au). Since the December forum I have been consulting widely across the health care system to hear more and engage with the community and expert medical personnel so that the Government and the community have the best possible opportunity to get the action plan right. Nurses, doctors, allied health workers and other health staff are dedicated and highly skilled. They make a real difference to people's lives every day, and their expertise and experience will be the basis of our action plan.

As Minister for Health I have visited nearly 60 hospitals and participated in 20 Garling consultation forums to hear the views of health workers and community representatives. More than 1,600 people have been invited to participate in these forums and events from Bathurst to Wollongong, Royal Prince Alfred Hospital to Maitland, and Mount Druitt to Armidale. Many staff have been engaged in workshops, including workers from all areas of the health care system, to ensure we get a wide representation of views and experience. I thank the nurses, surgeons, dieticians, physicians, ward clerks, cleaners, health administrators, general practitioners, pharmacists and paramedics for their commitment and energy to developing a health action plan. There are passionate views and some recommendations generate divergent opinions.

I encourage everyone to provide their views on the Garling recommendations and the development of our health action plan through the website. So far more than 6,000 people have accessed the site to listen to the forum presentations, look at the results of consultations to date, make general comments or register their views on the recommendations. In addition, peak non-government organisations and employee representatives have had opportunities to express their views. The Government will be providing a formal response to the Garling report later this month.

#### **PILLAR SUPERANNUATION PRIVATISATION**

**Dr JOHN KAYE:** My question is directed to the Minister for Public Sector Reform. Is the Minister aware of any opposition from staff members of the State-owned superannuation administrator Pillar and their industrial representatives to the planned privatisation of their agency? If so, what is the nature of that opposition?

**The Hon. JOHN ROBERTSON:** I am not aware of any and have had no approaches from anybody at Pillar in regard to their issues.

### SENIOR EXECUTIVE SERVICE CUTS

**The Hon. MATTHEW MASON-COX:** Can the Treasurer update the House on the Government's progress in achieving the \$17 million cost savings in 2008-09 from reducing the size of the public sector senior executive service, which, on a pro rata basis, should have delivered \$8.2 million by today? Can the Treasurer clarify also whether these cost savings allow for the additional redundancy expenses that will flow from these cuts to the public sector?

**The Hon. ERIC ROOZENDAAL:** I am pleased that the Opposition supports one of the many aspects of the mini-budget, which was an important proposal we put forward to ensure that we could align expenses and revenues in fixing the structural challenge of the budget. Of course, we are absolutely committed to our proposed senior executive service cuts. We are committed to cutting government costs wherever we can to ensure that we can continue to fund front-line services, which is and should be one of the key elements of any State government. At the same time we will support our massive investment in infrastructure, which I have outlined to the House on a number of occasions and will not repeat. We are delivering on all of our objectives in the mini-budget, including cuts to the senior executive service.

### ENERGY PROVIDERS HOUSEHOLDER SUPPORT

**The Hon. HELEN WESTWOOD:** Can the Minister for Energy inform the House about what the Government is doing to make sure energy providers are helping families manage their household bills in these difficult financial times?

**The Hon. IAN MACDONALD:** As we know, many families in New South Wales are feeling the impact of the global financial crisis. Household budgets are being stretched even further and watched more closely in these uncertain economic times. That is why it is vital that our electricity providers do more than ever to help families reduce their energy use and manage their bills. I am pleased to say that a \$3 million program from EnergyAustralia is having great success by helping families reduce their bills and stay connected to the electricity network. Over the past two years there has been a 22 per cent drop in the number of EnergyAustralia customers disconnected for not paying their energy bills. That means about 1,800 fewer homes had their electricity disconnected. The number of EnergyAustralia customers disconnected for not paying their bills has dropped from a total of 7,985 in 2005-06 to 6,195 in 2007-08.

The driving force behind this dramatic cut is an industry-leading customer support program that helps families become more energy efficient and better manage their bills while keeping their power connected. The number of families helped by EnergyAustralia's EnergyAssist program has increased threefold over the past four years with more than 5,000 people entering the program last year. This customer support program makes an enormous difference to people's lives. Take the recent experience of one elderly gentleman from Newcastle. This man came to the hardship program with an electricity debt of \$500. He felt trapped with no way to repay it, let alone his ongoing bills. Money was so tight that this gentleman said that each morning he decided whether he could afford to eat one slice of toast or two for breakfast. EnergyAustralia worked closely with this gentleman and found his rent absorbed more than two-thirds of his pension. So they worked with community organisations and Housing New South Wales to obtain more affordable accommodation for him. This, coupled with energy efficiency advice, has meant this customer has cleared his debt and is now meeting his financial commitments without anxiety. He told EnergyAustralia, "It's like winning the lottery."

This program is a stunning success. As at December last year some customers were coming to the EnergyAustralia program with an electricity debt on average of about \$900. On average these people spend about 16 months in the program where they receive individual case management to help them get back on their feet. They exit the program once they are back on track and meeting their commitments without anxiety. This is one of the many ways the Government and EnergyAustralia is helping struggling families manage their bills in the long term and keep their power connected. EnergyAustralia is also rolling out funding for no-interest loan schemes [NILS] to help low income households buy energy efficient appliances; training energy efficiency ambassadors from non-English speaking communities to drive down energy bills in ethnic communities; conducting early identification training for EnergyAustralia call centre staff to help identify people experiencing hardship so they can get help early; and providing Energy audits and energy efficiency advice to help people reduce their energy use in the long term.

Three community groups on the Central Coast, at Strathfield and Bondi Junction have also received funding from EnergyAustralia to roll out no-interest loan schemes. Under these schemes low-income families with inefficient, energy-guzzling whitegoods can buy a new appliance, such as a fridge, at more than half the usual price by making small repayments with no interest. To put this into perspective, a new, efficient fridge alone can reduce a struggling family's energy bill by up to \$200 each year. I am pleased to inform the House that EnergyAustralia expects to fund a further three community groups for similar programs by the end of the year. In these difficult financial times, for many families every cent counts and the Government knows that means every kilowatt of electricity used counts.

### **CITYRAIL AND BUS SERVICES WHEELCHAIR ACCESS**

**Reverend the Hon. Dr GORDON MOYES:** I address my question to the Minister for Health, Minister for the Central Coast, and Vice-President of the Executive Council, representing the Minister for Transport: Is he aware that only 36 per cent of CityRail stations are wheelchair accessible and only 30 per cent of bus services in the Sydney metropolitan and outer metropolitan areas are listed as wheelchair accessible? Is he aware that the taxi transport subsidy for people with disabilities has remained at 50 per cent of a taxi fare rate and has a cap of \$30 for each trip, even though taxi fares in the State have increased by 55 per cent over the past 10 years? Given that Australia is a signatory to the United Nations Convention on the Rights of Persons with Disabilities, can he indicate if funding arrangements will be established to ensure that more CityRail stations and Sydney bus services in metropolitan and non-metropolitan areas are wheelchair accessible and ensure that the New South Wales Government will implement the advice recommended in 2002 by the Standing Committee on Social Issues to increase the taxi fare subsidy rates to 75 per cent, as enacted by the South Australian and Western Australian governments?

**The Hon. JOHN DELLA BOSCA:** I thank Reverend the Hon. Dr Gordon Moyes for his question. First, I indicate to him that I am aware of the approximate numbers of wheelchair accessible stations and buses within the respective networks. I am also aware that considerable work has been undertaken in the Department of Transport and the respective bus and rail agencies around the issue of securing more disability access and planning around those issues. Indeed, at one stage in my previous capacity as the Minister for Disability Services, I was part of that process and I am able to say that much progress has been made. Given our reliance on the heavy rail network, which is expensive to upgrade, New South Wales is doing very well in this particular area, although obviously the benefits for disabled people are enormous when upgrades occur. The other part of the member's question was really around the taxi transport subsidy issue. I do not have any information that I can offer him relating to that. I will undertake to obtain further information from my colleague the Minister for Transport and provide that at the earliest opportunity.

### **GRAFTON AQUACULTURE CENTRE**

**The Hon. MELINDA PAVEY:** I direct my question without notice to the Minister for Primary Industries. Is he aware of concerns over the future of the Grafton Aquaculture Centre? Is it correct that he is planning to close the centre? If so, when exactly does he plan to do that?

**The Hon. Henry Tsang:** No such intention.

**The Hon. IAN MACDONALD:** Yes. I thank the Hon. Melinda Pavey for her question. I have no plans whatsoever to close the centre. If some people are discussing it, they will have to consult me.

**The Hon. Duncan Gay:** That is not what most of the employees are saying.

**The Hon. IAN MACDONALD:** They may have a view that something is happening up there, but that has not been raised with me at this point.

### **MORTGAGE STRESS HANDBOOK**

**The Hon. MICHAEL VEITCH:** My question without notice is addressed to the Attorney General. Given the tough economic climate, what is the New South Wales Government doing to help people who are experiencing mortgage stress?

**The Hon. JOHN HATZISTERGOS:** I thank the honourable member for this important question. For most people, having a mortgage is the largest financial commitment they will make in their lifetime. But people



can fall on hard times, and making mortgage repayments can get tough. In a bid to help New South Wales residents who are experiencing mortgage stress get the help they need, in January I launched the Mortgage Stress Handbook on behalf of Legal Aid New South Wales. The Mortgage Stress Handbook is a practical, user-friendly guide and it is free to anyone who has problems with their mortgage payments. It covers a range of scenarios, including advice on what to do if people miss a loan payment, their financial lender has contacted them, they have received a default notice, or the Sheriff is at their door. It includes sample letters and forms for homeowners to use and provides details of where to go for further assistance.

The most important message for people who are having problems in making ends meet is that the best thing they can do is know their rights and act early. The Mortgage Stress Handbook is also available online at [www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au) or by phoning 9219 5028. Legal Aid reports that already there has been a very strong demand for the new guide, with 1,500 copies already distributed and more than 860 visits to the website. It is a sad fact that last year more than 1,500 homes across the State were repossessed from people who fell into difficulty with their mortgage payments. This has been the reality each year since 2006, with home repossession rates remaining consistently high. Further, the State Government's free legal helpline—LawAccess New South Wales—took more than 15,000 calls last year from people experiencing problems with debt.

The Government is committed to helping homeowners in mortgage stress get the help they need in a convenient and accessible way. Last year Legal Aid New South Wales hosted a number of public information forums in western Sydney and on the Central Coast on how to deal with mortgage stress. I was honoured to open the first forum, which was held in Parramatta on 26 July, together with the local member of Parliament, Tanya Gadiel, and the Legal Aid's chief executive officer, Alan Kirkland. The second forum was held in Gosford on 23 August and was attended by the local member of Parliament, Marie Andrews, and the third was held in Rooty Hill on 13 September and supported by the member for Penrith, Karyn Paluzzano.

The forums were attended by an estimated 170 people and brought together a range of service providers to advise homeowners about practical measures they could take to get their finances back on track. A panel of experts gave presentations and answered questions about mortgage stress. An expo followed each forum where people could speak with exhibitors and pick up free information. Lawyers also were on hand to provide free confidential advice. Feedback from people who attended the forums has been overwhelmingly positive. It was apparent that most people are unaware of the options available to them, if they were facing difficulties with their mortgage.

Some people expressed great relief in discovering that there are options available that might allow them to keep their home, and that there are services available to help them access these options, including assistance from Housing New South Wales through the Mortgage Assistance Scheme, financial counsellors and legal advice and representation through Legal Aid New South Wales. Additional forums will be aimed specifically at first homebuyers and will be held in Newcastle and Dapto this month. I take this opportunity to commend Legal Aid for these initiatives and for the ongoing support Legal Aid provides to New South Wales homeowners who fall into financial difficulty.

## PAYROLL TAX

**Reverend the Hon. FRED NILE:** I address my question without notice to the Treasurer. Does he acknowledge that amidst the worldwide economic downturn, most businesses in Australia are suffering financial pressures and that that is placing significant pressure on the retention of staff? Does he acknowledge that, with a looming recession, the unemployment rate is expected to rise to 7.5 per cent by the end of the year? Does he acknowledge that a 20 per cent cut to payroll tax would inject \$1.5 billion into the economy and help to secure Australian jobs, as recommended by Corin McCarthy, who is a financial adviser to Kevin Rudd, both in opposition and in government, and who was cited in the *Australian* yesterday? Will he approach his Federal counterpart and seek a means of having both Federal and State governments work together to reduce the cost of employing staff and reducing payroll tax by at least 20 per cent?

**The Hon. ERIC ROOZENDAAL:** I thank Reverend the Hon. Fred Nile for his question and for his interest in this matter. On 1 January this year, the Rees Government delivered the first of three planned cuts in payroll tax when the tax rate was reduced from 6 per cent to 5.75 per cent. We have budgeted to cut payroll tax further to 5.65 per cent next year, and to 5.5 per cent in 2011. It is worth remembering that the last time the Coalition held office, payroll tax in New South Wales was 7 per cent. The Government also recently undertook other payroll tax reforms.

**The Hon. Catherine Cusack:** Can you just remind us about the threshold?

**The Hon. ERIC ROOZENDAAL:** We will get to that. Recently the Government also undertook other payroll tax reforms to improve the competitiveness of New South Wales businesses. Last year the payroll tax threshold was increased to \$623,000 and is now indexed annually based on movements in the Sydney consumer price index [CPI]. In 2006 the payroll tax incentive scheme was introduced, providing assistance to businesses that relocate to or expand in regions of New South Wales with higher-than-average unemployment and that are eligible for a payroll tax rebate. The rebate is worth up to \$144,000 a year for the first three years, and a partial rebate is provided with a following two years.

The reduction in payroll tax rates and indexation of the tax-free threshold means that New South Wales businesses with payrolls of more than \$1 million in 2008-09 will save approximately 20 per cent of their payroll tax bill once the program of tax cuts is fully implemented. That demonstrates this Government's commitment to supporting businesses in New South Wales. In response to the matter of working closely with the Federal Government, I inform the House that the New South Wales Government is working closely with the Federal Government to ensure that we provide as much relief as is possible to the people of New South Wales—in fact, to the people of Australia—by ensuring that we support the fiscal stimulus package announced by the Rudd Labor Government. The critical challenge for us is ensuring that we can deliver the dollars as soon as is possible to the New South Wales economy.

It is worth contrasting the decisions of the Federal Labor Government with the position of the Federal Liberal Opposition, which has a do-nothing approach. Incidentally, that position is reflected by its counterpart in New South Wales. Members opposite have opposed the stimulus package and support for spending money on social housing and education in New South Wales. They do not want money spent on education and social housing in this State.

We will work closely with the Federal Government to ensure that the fiscal stimulus package, combined with our record infrastructure spend—that is the New South Wales Government's contribution to stimulating the New South Wales economy—will ensure that we meet the challenges of the global financial crisis in the best possible way. It is interesting to note how members opposite gloat about the economic challenges facing the world. Seven of our ten major trading partners are already in recession, and the best effort of Barry O'Farrell and his cohorts opposite is simply to criticise the attempts by the Federal Government and the State Government to promote jobs and infrastructure in New South Wales and in the country.

#### **FORESTS NEW SOUTH WALES INVERELL NURSERY SALE**

**The Hon. RICK COLLESS:** My question is directed to the Minister for Primary Industries. Is it a fact that the Forests New South Wales nursery in Inverell has been sold? How many permanent and casual jobs have been lost as a result of that sale? What were the two permanent employees told during a meeting with Forests Deputy Chief Executive Officer Ross Dixon and human resources representative Della Farthing on 2 March this year? Is it a fact that their employment contracts have been guaranteed for only 12 months and the manager's package has been reduced by \$30,500 per annum? What arrangements has the Minister made to protect the casual employees who have been loyal to the department for so many years?

**The Hon. IAN MACDONALD:** Last year I approved a recommendation from Forests New South Wales to proceed with the sale of its Inverell freehold property. The site contains a substantial brick office building, a retail nursery and a plantation stock production nursery. Production volume at Inverell has fallen to a level that cannot carry the overheads, resulting in Forests New South Wales subsidising unrecoverable production costs. Forests New South Wales will relocate the Inverell nursery operations to a consolidated Grafton production nursery. Forests New South Wales was approached by an Inverell based company, Best Employment Limited, to purchase the property. Best Employment Limited is a community-based, not-for-profit organisation operating since 1997, with its head office in Inverell. The company operates 13 site offices, employing 108 staff, within its regional area of service delivery, and is the largest provider of employment services in the New England and north-west regions of New South Wales.

Best Employment Limited intends to develop the nursery operations in Inverell to provide sustainable employment opportunities for the able-bodied, people with disabilities and other disadvantaged job seekers in the region. I can think of no better way for the facilities at the site to be utilised. I approved Forests New South Wales to proceed with the sale of the property at its assessed market value by private treaty in accordance with relevant government guidelines. These guidelines allow for the disposal of real property by private treaty where disposal is to community organisations for public use and in special circumstances where there is likely to be only one purchaser.

The services provided by Best Employment Limited meet the Government's objects for delivery of wider community services, particularly in rural and regional areas. Best Employment Limited has agreed to offer full-time permanent employment to the two permanent staff at the nursery, and offer employment to some of the seasonal casual staff. Should the two permanent staff choose not to take up the offer from Best Employment, they will be managed according to the New South Wales Government's displaced employees requirements.

### NOWRA CORRECTIONAL CENTRE

**The Hon. AMANDA FAZIO:** My question without notice is directed to the Minister for Corrective Services. Will the Minister update the House on the benefits that the construction of a new prison in Nowra is bringing to the local region?

**The Hon. JOHN ROBERTSON:** In June 2005 the Government announced that a new \$157 million correctional centre would be built on the South Coast of New South Wales. A site at Nowra was subsequently chosen as the location for the construction of the centre. I am pleased to report to the House that construction is well underway. Despite some recent wet weather delays, I am advised that completion is due in 2010. By February this year the following work had been undertaken: clearing of vegetation had been completed; site perimeter fencing was almost complete; temporary services had been installed; site sheds, a car park and a compound had been erected; a final access road was nearly complete; and construction on all buildings had commenced. I understand that the gatehouse is on target to be completed in July, as well as a recreation area expected to be ready in September. This project is part of the New South Wales Government's massive program of works, which is further supporting jobs and investment for the future long-term economic growth of New South Wales. Construction of the new 600-bed correctional centre is an investment that will support the creation of about 350 construction jobs. Currently, I am advised that about 150 people are working on the site at any one time.

**The Hon. Melinda Pavey:** Will it be privatised?

**The Hon. JOHN ROBERTSON:** This might be of interest to members opposite. These are local jobs for local people from the South Coast region. This is expected to grow to about 350 workers and apprentices over the next couple of months. Already, more than 50,000 work hours have been required on the site. Furthermore, I am advised that the contractor, Richard Crookes Construction Pty Ltd is committed to employing a number of Aboriginal apprentices on the project. The project is also a Department of Aboriginal Affairs case study on Aboriginal employment initiatives. Effort is being made to ensure that the priority is on offering local jobs to the local community. Nowra and communities nearby on the South Coast can be hit particularly hard by economic downturns such as the one we are currently facing. Stimulating economic activity in the region is crucial, and I am pleased to report that the effort on supporting the local community is having results. I am advised that the majority of work on the South Coast correctional centre is being completed by local labour. In other words, these employees are being drawn from south of Minnamurra and north of Batemans Bay.

This major project will not only boost the economy now in the construction phase but long into the future. Once this correctional centre is up and running in 2010 it will create up to 200 jobs, pumping around \$10 million a year into the local community. The region's small and medium-size businesses will be the obvious winners once the centre is functional as they are needed to provide goods and services. Construction of this centre also demonstrates the Government's commitment to managing the State's correctional system, and the increase in inmate numbers, in a safe and secure manner. It reflects how the Government is supplying the infrastructure and resources necessary to ensure that our prisons work effectively. This is a demonstration of how the Rees Government is helping to protect New South Wales jobs from the global financial crisis. Major capital works like the South Coast correctional centre will help to boost the local economy by providing local jobs and further stimulate economic activity through the South Coast.

### GLOUCESTER COALMINING

**Ms LEE RHIANNON:** I direct my question to the Minister for Mineral Resources. How has the Minister responded to the growing concerns of the Gloucester community that coal expansion in that region is having a negative impact on the community, the local environment and the economy, and its anger that the coal industry in this region is damaging the local economy and reducing local employment opportunities? Is the Minister moved to act on the Gloucester community's fears that recent new coalmining exploration leases threaten to upset the region's balance between mining, dairy, beef, food production and tourism and that the

massive expansion of coalmining in Gloucester will destroy Gloucester's character, property prices and agricultural and tourism potential? Has the Government undertaken any cost-benefit analysis to assess the long-term impact of mining expansion on the local community and other industries in Gloucester?

**The Hon. IAN MACDONALD:** Gloucester Resources Ltd holds three exploration licences in the Gloucester area. Two of those licences were granted in March 2006 and one in May 2006. One of those licences abuts the southern boundary of the Gloucester township. The licences are due for renewal in 2009 and renewal applications have been lodged for the two licences that are due to expire in March. Prior to deciding whether to approve or refuse the renewal of these licences, consideration will be given to the exploration activities undertaken and compliance with the reporting and environmental conditions that are a requirement of the licences. As the grant of these licences generated concern within the local community, I imposed a condition in these licences that a community consultative committee be set up involving Gloucester Shire Council and representatives of the local community.

I appointed Mr Terrence Healey, a barrister with extensive experience in common law and anticorruption matters and who is independent of the mining industry, to chair the community consultative committee. The community consultative committee provides an avenue for a frank and open exchange of information between the company and the community. Recent property purchases by Gloucester Resources have generated community concern that mining is about to commence. It should be stressed that Gloucester Resources holds only exploration licences. An exploration licence is not an approval to mine; it permits the licence holder only to carry out drilling and other exploration activities and environmental studies. In addition, it is a legal requirement that the company must have an agreed access and compensation arrangement with any landholder whose property it wishes to enter to carry out authorised exploration activities. I met recently with representatives from Gloucester Shire Council to discuss this matter. Today I met Terrence Healey, and I will meet other stakeholders in relation to this matter in the near future.

#### **SUPREME COURT STAFF DISMISSAL**

**The Hon. MARIE FICARRA:** My question without notice is directed to the Attorney General, and Minister for Industrial Relations. Given that a dispute in relation to the positions of five casual Supreme Court officers is currently being heard in the Industrial Relations Commission, and no decision has been handed down, what action does the Minister intend to take over his director general's decision to sack those officers while the case is still to be determined?

**The Hon. JOHN HATZISTERGOS:** I will seek advice in relation to this matter.

#### **JOBS SUMMIT**

**The Hon. PENNY SHARPE:** My question without notice is addressed to the Minister for State Development. Will the Minister inform the House what the Government is doing to sustain jobs in New South Wales in light of the global financial crisis?

**The Hon. IAN MACDONALD:** I thank the Hon. Penny Sharpe for raising this important issue. Let me assure honourable members that the Government is doing all it can to sustain jobs in New South Wales at this difficult time. Last week it called together some of the brightest minds in business, industry and the unions for a two-day Jobs Summit. The aim was to seek ideas on what action can be taken to promote and protect jobs in New South Wales in the face of the current economic turmoil.

**The Hon. Catherine Cusack:** How many jobs are you cutting back?

**The Hon. IAN MACDONALD:** Not one person has been forced out of the Department of Primary Industries. The Government has already set up our contact points for industry, giving it a direct link to the economic arm of the Government. The summit was a critical opportunity for government, business and industry to work together to sustain New South Wales jobs in the face of the global financial crisis, which continues to defy predictions regarding its depth and reach. The International Monetary Fund has called it the most severe financial crisis since the Great Depression. But the global financial crisis is not just about economics, finance and statistics. It is about people; it is about the human cost. It is about family, friends, neighbours and colleagues. As businesses contract or close, people are losing their jobs. But as jobs are being lost, there are industries where growth is being maintained and where jobs are being created.

We welcome the Australian Government's decisive action and its \$42 billion stimulus package. Unlike the Opposition, the Australian and New South Wales governments recognise that "business as usual" is not enough. The business leaders who attended the Jobs Summit also know this. The summit attracted 250 business, industry and union leaders, who shared their insight, experience and knowledge. The Premier chaired an expert panel discussion that included Steve Harker, Chief Executive Officer of Morgan Stanley, and Chair of the New South Wales Innovation Council; David Gonski, Chairman of Investec Bank Australia Ltd, and Chancellor, University of New South Wales; Professor Jonathan West, School of Management, University of Tasmania; Mark Lennon, Secretary, Unions NSW; and Roger Corbett, former chief executive officer of Woolworths, and director, Reserve Bank of Australia.

**The Hon. Melinda Pavey:** Why wasn't Barry invited? That's what Roger wanted to know.

**The Hon. IAN MACDONALD:** Roger wanted to know whether Barry O'Farrell was invited? What a waste of time! Roger's contribution was fantastic when he caned the Federal Liberals—Turnbull and co.—for their failure to deal with the stimulus package effectively so that the people of Australia can get involved in the package and get housing and affordable education facilities up and running. Why would Barry be invited if Turnbull is the criterion for leader of the Liberals? Sectors represented included finance and insurance, retail, property, tourism, hospitality, information communications technology, creative industries, manufacturing, primary industries, mining, transport, logistics, storage, infrastructure, construction, health, community services and education. Many of those sectors are large employers—industries where it is critical that Government and business work together to protect jobs.

The summit generated a wide range of ideas to protect and create jobs—from building on-campus student accommodation to full deregulation of retail trading hours. Other proposals included further red tape reduction, encouraging public servants to use their leave to holiday locally, a "building New South Wales fund" to progress projects and a single government point of contact for business. Premier Rees said that the Government would provide a draft response to the Jobs Summit within a month. The Government is doing everything it can to provide the right economic conditions to help businesses create jobs and to protect existing jobs. This includes: assisting export-capable businesses to expand into new markets to offset contracting domestic markets; reducing direct business costs such as fees, charges and taxes; simplifying the administrative burden of complying with regulations by cutting red tape; and improving business capacity and efficiency through skills development and business improvement programs. We must be particularly concerned about regional areas. We must also take immediate action. We must build on our strengths, be innovative and be open to new ideas. [*Time expired.*]

#### MINIMUM TILLAGE PRACTICES

**Mr IAN COHEN:** My question without notice is directed to the Minister for Primary Industries. According to the 2008-09 annual report of the Department of Primary Industries the percentage of crop area sown using reduced tillage technology in New South Wales has remained stagnant over the past two years. Will the Minister advise the House what percentage of crop area in New South Wales is cultivated using zero tillage techniques? What measures will the Minister take this year to increase reduced tillage technology and zero tillage practices? Specially, how much Department of Primary Industries expenditure is assigned to encouraging zero tillage practices?

**The Hon. IAN MACDONALD:** I am passionate about this topic, and I assure the member that the department is working very hard on minimum tillage practices. It is working with industry to develop new techniques to improve, for instance, the usage of water that is delivered to production plants.

**Mr Ian Cohen:** How many hectares?

**The Hon. IAN MACDONALD:** I do not know how many hectares are planted in this country using minimum tillage techniques. But the department is always working with industry to develop crops that are appropriate for minimum tillage practices. The department has heaps of material, brochures and booklets on the subject—which I am happy to send to the honourable member—to advise farmers of the great value of minimum tillage.

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

**Questions without notice concluded.**

[*The President left the chair at 1.08 p.m. The House resumed at 2.45 p.m.*]

**TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) (NEW SOUTH WALES)  
AMENDMENT BILL 2008**

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Tony Kelly, on behalf of the Hon. John Hatzistergos.**

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

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

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

**STANDING COMMITTEE ON SOCIAL ISSUES**

**Report: Overcoming Indigenous Disadvantage in New South Wales: Interim Report**

**Debate resumed from 26 November 2008.**

**Dr JOHN KAYE** [2.47 p.m.]: On 26 November last year I made some remarks about the interim report of the Standing Committee on Social Issues on overcoming indigenous disadvantage in New South Wales and I wish to conclude those remarks now with some general observations. This interim report presents a summary of the state of play across a vast number of areas of concern with respect to the impacts on Aboriginal people. It presents a massive volume of very important evidence that will inform, and already has informed, debate on the issue of how we overcome Aboriginal and indigenous disadvantage in this State.

I pay tribute to my colleagues on the standing committee: Trevor Khan, Mick Veitch, Marie Ficarra and Greg Donnelly, and in particular the Chair, Ian West. They displayed unflagging sensitivity during a very complex inquiry, utilising many people skills. I was impressed by the approach that each and every one of my colleagues took. We come from very different backgrounds and hold diverse political and social views. However, when it came to the core issues in a report that will really make a difference to the lives of indigenous Australians, there was a shared commitment. It is a testament to what can be achieved on issues such as this when we rise above partisan politics.

I also praise the committee staff, who steered a complex process with an enormous amount of sensitivity, facilitated hearings under very difficult circumstances, and were able to collate a massive amount of data and take from quite diverse hearings some very interesting and valuable lessons. I particularly thank Rachel Simpson, Victoria Pymm, Glenda Baker, Elizabeth Galton and Teresa Robinson for their hard work, commitment and, in their dealings with me, their good humour. I also thank the Hansard staff who were our constant companions when we travelled around the State, and who did an excellent job. I am looking forward to the take-note debate on the final report, which contains some very interesting and salient recommendations.

**The Hon. IAN WEST** [2.51 p.m.]: I thank committee members for their contributions to this debate and I thank them for their commitment to this inquiry. We should all be proud of the outcome of the interim report. The final report is now ready for discussion. I commend the report to the House and urge members to take note of it.

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

**Motion agreed to.**

**STANDING COMMITTEE ON LAW AND JUSTICE**

**Report: Review of the Exercise of the Functions of the Motor Accidents Authority and the Motor Accidents Council—Ninth Report**

**Debate resumed from 23 September 2008**

**The Hon. CHRISTINE ROBERTSON** [2.52 p.m.]: I am pleased to commence debate on the thirty-sixth report of the Standing Committee on Law and Justice entitled "Review of the Exercise of the Functions of the Motor Accidents Authority and the Motor Accidents Council—Ninth Report". The report was

tabled with the Clerk of the Legislative Council on 1 September 2008. Firstly, I thank my fellow committee members for their assistance in producing this bipartisan report. The report's 16 recommendations were adopted unanimously, as was the report itself.

The Standing Committee on Law and Justice was nominated by the Legislative Council to conduct the ongoing review of the Motor Accidents Authority [MAA] and the Motor Accidents Council [MAC] required by section 210 of the Motor Accidents Compensation Act 1999. Provision for parliamentary oversight of the Motor Accidents Authority and the Motor Accidents Council was introduced as part of the 1999 reforms to the New South Wales Motor Accidents Scheme. This is the ninth time the committee has conducted this review. In its seventh report the committee foreshadowed its intention to focus on particular aspects of the Motor Accidents Authority's functions in future reviews. In that report the committee acknowledged that seven years after the introduction of the 1999 reforms the operation of the scheme had largely stabilised and that, while there remained scope for improvement in the administration of the scheme, further changes to the scheme were likely to be incremental rather than substantial. Our eighth report focused on the first of two services, comprising the Motor Accidents Assessment Service [MAAS] and the Medical Assessment Service [MAS].

The ninth review focused on the second of the two services, the Claims Assessment and Resolution Service [CARS]. In addition to examining CARS the committee considered a number of other matters raised in evidence and also returned to several matters addressed in the recommendations from our eighth review. This ninth review was conducted concurrently with the committee's first review of the Lifetime Care and Support Authority [LTCSA] and the Lifetime Care and Support Advisory Council [LTCSAC]. The review was the subject of its own report tabled in October 2008. The committee received submissions from a number of stakeholders and heard evidence from representatives of the MAA and MAC, along with the Law Society of New South Wales, the New South Wales Bar Association and the Insurance Council of Australia. In addition, substantial evidence was obtained from the MAA and other participants through a process of written questions and answers both prior to and following the hearing.

The Motor Accidents Compensation Scheme is now in its tenth year and has had time to mature. It has undergone significant consolidation and reform over that period and at present is undergoing further reform intended to deliver greater improvements in efficiency and effectiveness. The scheme is seen by its key stakeholders to be operating effectively. Those stakeholders also attest to professional and productive relationships with the MAA and MAC. Equally, the committee's role in reviewing the MAA and MAC has evolved over the course of our nine reviews and the committee itself has contributed to the effective functioning of the authority and the scheme. At this time the committee considers the scheme has reached a level of maturation such that an annual review is no longer necessary. Instead we consider a biennial review taking into account two MAA annual reports at a time will be sufficient. The Legislative Council passed an amendment to the Act at the end of last year in relation to this particular recommendation.

As in previous reviews, the committee has concluded that the scheme continues to function in an appropriate manner. The MAA indicated to us that its task in developing health outcome measures of scheme performance is continuing. The committee has reiterated its support for this work, appreciating that it is complex and challenging. Similarly, we have encouraged the MAA in its task of developing new performance logic with the assistance of NSW Treasury as part of the authority's forthcoming results and services plan. The Lifetime Care and Support Scheme commenced operation during the reporting period covered by this review. It is too early to judge the impact of the commencement of that scheme on the Motor Accidents Compensation Scheme. The committee will continue to watch its impact with interest as it unfolds. As I have already noted, the Lifetime Care and Support Scheme is the subject of a separate annual review process by this committee.

The committee examined a number of issues in relation to the Motor Accidents Assessment Service and the Medical Assessment Service. The MAAS comprises two services, MAS and CARS, and was established in 1999 to resolve medical claims disputes as they arise in the course of compulsory third party claims. The Medical Assessment Service provides an independent forum for assessing disputes between insurers and injured people concerning an injured person's medical treatment and impairment, and is aimed at early resolution of medical disputes. The committee noted the increasing efficiency and effectiveness of the MAS evident during this year's review, achieved to a large extent through the implementation of the first phase of the MAAS reform agenda. The committee looks forward to observing further gains as the second phase of reform is rolled out. We also acknowledge the significant work and leadership of the Motor Accidents Authority in implementing these reforms.

The committee received evidence that the claims handling guidelines place exacting requirements upon insurers, who contend that the level of detail required by the MAA needs to be weighed against potential costs

to the scheme. The committee agreed that these issues need to be balanced by the MAA but considers that detailed guidelines are important for ensuring the integrity and consistency of the claims handling process. Concerns about inconsistencies in some MAA assessments of whole person impairment, explored in detail in our eighth report, were again raised during this review. The committee acknowledges that the MAA has made consistency in MAS assessments a priority and has implemented a quality assurance program and assessor training with this in mind.

Nevertheless we have reiterated the recommendation from our eighth review that the MAA undertake a review of whole person impairment assessments to establish the extent of inconsistencies and to identify, if necessary, additional quality control mechanisms to improve consistency. The committee noted that the MAA has taken action with respect to two other recommendations concerning the MAS in our previous review. We were pleased that the authority is reviewing its procedures to ensure the most appropriate systems are in place to prevent conflicts of interest on the part of MAS assessors. Similarly, the MAA is conducting a review of lengthy assessments and has undertaken to report back to us, in particular on the status of delays.

The Claims Assessment and Resolution Service, the focus of this year's review, is an independent dispute resolution service operating outside the court system. All disputed motor accident claims where the insurer and injured person cannot agree on compensation must be considered by CARS before they can proceed to court. In assessing a claim, CARS can determine liability or fault as well as the amount of compensation to be paid to the claimant. Assessments are made by legally qualified individual claims assessment experts who are appointed under the Motor Accidents Compensation Act 1999. The committee concluded that on the basis of the Motor Accident Authority's 2006-07 annual report, as well as detailed information provided in answers to questions on notice, in broad terms CARS is performing well. In particular, the data indicates that the revised claims handling guidelines have had an important and positive impact on the service's performance, most notably in that the guidelines facilitate the resolution of CARS matters via settlement prior to assessment as well as via assessment itself. This is consistent with the scheme's goals of early and fair dispute resolution, which in turn facilitates effective injury management.

In terms of broad perceptions about how CARS is working, the committee heard that the service is seen by legal and insurer stakeholders to be operating effectively. In particular, the Law Society of New South Wales and the Insurance Council of Australia consider that it is fulfilling its role as an independent, inexpensive and efficient early dispute resolution service very well. In respect of claimants' perceptions of the service, the committee was pleased to note that the MAA is taking feedback from claimants seriously and has identified the need for them to be more informed about the processes of CARS. We have recommended that the authority make its strategies in this area a priority and allocate resources accordingly, and that it evaluate the effectiveness of those strategies in due course.

Review participants raised a range of issues in respect of CARS. In response to concerns on the part of the New South Wales Bar Association about the increasing number of complex matters being considered by CARS, the committee recommended that the MAA, in tandem with the MAAS reference group, formally consider ways to achieve greater recognition of the circumstances where the complexity of a matter lodged with CARS is such that it could benefit from a different form of assessment.

In light of insurer concerns and preliminary data about the emergence of superimposed inflation in the CARS system, the committee welcomed the MAA's decision to conduct a new study to thoroughly investigate this issue. We consider that a comprehensive and well-designed study will better establish whether comparable assessments are increasing over time and, if so, the factors that might be at work. In turn, that will facilitate an informed discussion about the implications for the scheme and any appropriate action that might be required. Noting the MAA's collaboration with insurers on this issue to date, the committee recommended that, in undertaking the new study, the authority continue to work collaboratively with all relevant stakeholders.

The Insurance Council also made a number of suggestions to improve transparency within CARS. The committee noted in the evidence presented to it that a significant level of transparency was already in place within the service's systems, as well as impending changes that would help to address the concerns of the Insurance Council. In evidence the MAA undertook to consider publishing de-identified CARS decisions, reporting on additional data and establishing a mechanism for ongoing feedback from insurers. The committee also recommended that the MAA give further consideration to two other suggestions to improve transparency: first, to consider publishing CARS data on a quarterly basis; and, second, to consider distributing that information at meetings of the MAAS reference group.



The issue of legal costs, as provided for in the cost regulation, arose as a concern for participants during the committee's previous three reviews. In this ninth review the committee again noted the lengthy period over which dissatisfaction with the present cost regulation had been raised with it, and it is pleased that a review of the regulation, previously recommended by it, is now well underway. The committee considers it highly desirable that the new regulation be in place by 1 October 2008, in time for the commencement of the legislative tranche of the MAA's reform agenda, which is expected to have a significant bearing on the work of legal representatives participating in the CARS process. Accordingly, the committee encouraged the MAA to ensure that it kept to this timetable.

During the review the New South Wales Bar Association raised concerns about the fact that there had been a marked increase in contributory negligence claims by insurers in recent years as the basis for applications for discretionary exemptions, and it argued that this unfairly penalised claimants. The committee welcomed a commitment on the part of the MAA that provisions for costs in insurer-initiated proceedings would be considered as part of the review of the cost regulation. We consider it important that any inappropriate incentives to initiate court proceedings be addressed. We recommend that the MAA monitor trends in insurer claims of contributory negligence to determine whether legislative action is required.

The Law Society criticised the current process for matters before CARS where insurers decline liability or fault. The committee recommended that MAAS, in consultation with relevant stakeholders, consider the Law Society's proposal that only in such matters the matter of liability be determined by the District Court, with the broader matter being remitted to CARS for assessment. Having considered concerns on the part of CARS' principal claimants' assessor about unnecessary claims, costs and procedural delays in respect of claims involving children, the committee recommended that the Minister for Finance amend the legislation to give CARS assessors the power to assess claims and approve the terms of settlement for persons under legal incapacity, including children.

Finally, on the basis of the submission from an individual report that a CARS assessment took 11 months to be determined, the committee sought advice from the MAA about the timeliness of this decision and other decisions more generally. The committee was concerned about the delay in relation to this matter, but it is satisfied that the overall timeliness of CARS' decisions, as reflected in the average length of the CARS lifecycle, is sound and appears to have improved significantly with the advent of the revised claims assessment guidelines. Given the emotional, physical and financial impact that a lengthy dispute might have on a claimant, the committee recommended that the MAA ensure that, when an assessor recognises there will be a delay in a CARS assessment, the claimant understands the processes involved and is aware of the reasons for the delay.

I will complete the rest of this report when I sum up later. The committee worked well on this inquiry and obtained some exciting information about the way in which the CARS process is structured. The committee has nothing but praise for the solicitors who have participated in the CARS process. Generally, the inquiry into this process was very interesting. The secretariat worked well on the program and I thank all members for their participation. I look forward to hearing what other members have to say about the committee's report.

**The Hon. JOHN AJAKA** [3.02 p.m.]: I contribute to debate on the thirty-sixth report of the Standing Committee on Law and Justice entitled "Review of the exercise of the functions of the Motor Accidents Authority and the Motor Accidents Council". I thank the Chair, the Hon. Christine Robertson, for the thorough manner in which she conducted the hearings, and I thank other members of the committee for their valuable contributions. I also thank secretariat staff for all their assistance and efforts. I will focus my contribution on five of the recommendations that I found to be of particular importance.

I will begin with recommendation 2, which calls on the Motor Accidents Authority [MAA], to act by 30 June 2009 on the recommendation of the committee's eighth review to undertake a review of the whole person impairment assessment for two purposes: first, to establish the extent of the inconsistencies and, second, to identify, if necessary, additional quality control mechanisms to improve consistency. In its previous review the committee made a number of recommendations relating to the Medical Assessment Service [MAS], including, among other things, issues associated with assessments of whole person impairment. Whole person impairment disputes require an assessment of the degree of permanent impairment resulting from injuries that a person sustains in a motor vehicle accident. The threshold test used to determine whether such a person is entitled to damages for non-economic loss is whether his or her degree of whole person impairment exceeds 10 per cent and is permanent.

Throughout the course of the previous review, the New South Wales Bar Association and the Law Society of New South Wales expressed concern about inconsistencies in the assessment of whole person

impairment. It was suggested that medical assessors appear to differ in the assessments that they make. The MAA agreed that consistency should be made a priority to ensure the continued integrity of the scheme. The committee notes that the MAA made this issue a priority and, to this end, it has instituted a quality assurance program and assessor training. However, given that the committee heard evidence of ongoing concerns that more needs to be done to achieve consistency in the implementation of the MAS assessments of whole person impairment, the committee now reiterates, in its thirty-sixth report, that a full review of these assessments be undertaken.

Recommendation 3 calls on the MAA, first, to make its strategies to improve claimants' understanding of the Claims Assessment and Resolution Service [CARS] a priority; second, to allocate resources accordingly; and, third, to evaluate the effectiveness of those strategies by conducting a further study of claimants' perceptions of CARS. CARS is an independent dispute resolution service operating outside the court system. All disputed motor accidents claims must be considered by CARS prior to proceeding to court. Once received by CARS, a claim either is exempt from assessment and can proceed directly to court, or it is referred to an assessor for general assessment. CARS also assesses procedural disputes about claims as they arise by way of special assessment, in accordance with the provisions of the Motor Accidents Compensation Act 1999. One of the key issues that arose throughout the hearings was claimants' perceptions of the CARS assessment process. Mr David Bowen, General Manager of the MAA, stated in evidence that the MAA:

... need[s] to be providing more information to claimants about what happens ... Despite all the information [provided to claimants] they are probably not as prepared for what goes on, how it is conducted, and what rights and responsibilities they have before the CARS hearing.

Accordingly, the committee recommends that increasing claimants access to and understanding of CARS be made a priority, along with an evaluation of user satisfaction. Recommendation 8 calls on the MAA, in conjunction with the Motor Accidents Assessment Service reference group, to explore the possibility of allowing external stakeholders, including insurers and the legal profession, access to its practice manual for claims assessment and resolution service assessors, along with information contained in periodic electronic assessor newsletters where those resources contain advice to assessors about the evidence that they should take into account in making and documenting their assessments.

During the hearings the Insurance Council of Australia made a submission to the effect that the escalation in the level of CARS assessment is, in part, attributable to lack of transparency in the CARS process, in the sense that individual assessors are allowed to make determinations without providing evidence-based reasons for their assessments. The committee sought the opinions of the Law Society, the Bar Association and the MAA in relation to this submission. Essentially, the general response was that there is already a significant level of transparency in relation to the CARS assessment process.

Another outstanding proposal for greater transparency was in respect of insurers access to the practice manual for assessors and the principal claims assessors newsletter with incidental advice to assessors. It is the opinion of the committee that where these resources contain advice to CARS assessors about the evidence that they should take into account in making and documenting assessments, it may be fair for insurers and other stakeholders to have access to their contents. It was argued, on the other hand, that it may be appropriate for such information to remain for internal CARS use only. The possibility of making such information available to external stakeholders, and the consequences of doing so, is something that we recommend should at least be explored further.

Recommendation 9 calls on the Motor Accidents Authority [MAA] in liaison with the Law Society of New South Wales to continue to make the study of the impact of the costs regulation a high priority. Outdated costings have a significant impact on claimants, who often are out of pocket because of the substantial difference between market rates for legal services and the recoverable amount. Dissatisfaction with the present cost regulation has been raised with the committee for some time, and I note that a review of the regulation is well underway. In its eighth review the committee recommended that the MAA make as a priority its study of the impact of the costs regulation, conducted with the assistance of the Law Society of New South Wales. In submissions to the committee's present review the Law Society stated:

Apart from the Cost Study which is currently on foot ... the Society commends ... with some urgency, that legal costs require immediate increases as a result of the changed system [following the 2007 legislative amendments to claims in dispute resolution procedures]. This is over and above the indexation issue, last attended to in 2005.

The New South Wales Bar Association also voiced concerns about the recoverable costs for legal representatives in CARS assessment conferences. Accordingly, the committee recommends that the MAA

continue to make the study of the impact of the costs regulation a priority. Recommendation 10 continues in respect of the issue of costs. It calls on the MAA to liaise with the Law Society to ensure that this study, in accordance with recommendation 9, will also consider provisions for costs in insurer-initiated court proceedings so that claimants are not unfairly financially penalised by having to participate in such proceedings. The committee was concerned that claimants were financially disadvantaged when an insurer makes an application for a CARS case to be referred. The claimant will at least recover the reasonable costs of such a process so that, in effect, they are not penalised if the insurer was clearly unsuccessful in those circumstances. I refer now to recommendation 12, which states:

That the Motor Accidents Authority, in consultation with relevant stakeholders including court administrators and the judiciary, consider the proposal that in matters where liability has been declined, only the matter of liability be determined by the District Court, with the broader matter then remitted to the Claims Assessment and Resolution Service for assessment.

The committee considers that there may be some merit in the Law Society's proposal that in matters where liability has been declined, only the matter of liability be determined by the District Court, with the broader matter then being remitted to CARS for assessment. The committee was concerned that delays would occur with the matter being dealt with by the District Court both on liability and assessment of damages bases but, more importantly, additional costs would be incurred by claimants. The committee considered that it would be available for the MAA to consider this proposal in consultation with the relevant stakeholders, court administrators and the judiciary.

**The Hon. CHRISTINE ROBERTSON** [3.12 p.m.], in reply: I thank the Hon. John Ajaka for his contribution to this debate. Several other matters relating to the scheme or the Motor Accidents Authority's [MAA] operations more broadly were raised during this year's review. On the basis of a concern of the Law Society that some communications with self-represented clients might give insurers an unfair advantage, the committee welcomed the MAA's proposal to review this issue. We recommended that the review be conducted in tandem with the Motor Accidents Council [MAC] and that it consider the need for existing guidelines to be reformulated. In response to a proposal by the Motorcycle Council of New South Wales the committee suggested that the MAA, in consultation with the MAC, consider the advantages and feasibility of further itemisation of the medical care and injury services levy on compulsory third party [CTP] green slips. Of course, the Motorcycle Council of New South Wales is one of the consultation bodies that works with the MAA.

After considering the MAA's response to concerns expressed by People with Disability Australia about a \$5-million capital grant for the redevelopment of Ferguson Lodge, an accommodation service for people with disability, the committee is satisfied that the grant is appropriate. The committee acknowledges the gains made in respect of road crash fatalities and the contributions of government, industry and the community to these significant outcomes in recent years. It further acknowledges the complexity of this task and the imperative for all parties to continue to work to improve road safety. We were pleased to observe the proactive efforts of the MAA in respect of this important goal. We look forward to learning about the MAA's new and more evidence-based strategy for promoting road safety, and will monitor its implementation and outcomes in future reviews.

Finally, the committee returned to issues associated with the fall in claims frequency since the introduction of the new scheme, which were examined in detail in its seventh and eighth reviews. We were concerned by reports of disincentives to claiming within the CTP scheme. At the same time, we acknowledge the MAA's forthcoming initiatives to encourage earlier notification of claims, as well as the various services it provides to claimants, and the fact that the review of the cost regulation will address disincentives arising from legal costs. The New South Wales Bar Association has voiced concerns that relative to insurers and motorists more broadly, injured persons have not gained as much from the scheme. The committee continues to consider that a fair balance in benefits to insurers, motorists and injured people is important, but believes that it is a matter of policy opinion as to how the benefits of the new scheme should be shared most fairly.

We consider that these issues may gain greater weight if claims continue to decrease and, if so, whether the precise factors contributing to such falls become more apparent. The committee will continue to monitor this issue with interest. I take this opportunity to acknowledge the effective working relationship the committee has developed with the MAA and its management team, as well as the MAC since its first review in 2000. The MAA has worked collaboratively with the committee during each review, undertaking significant work and willingly sharing information to enable us to fulfil our role. Importantly, the MAA also has been open to the committee's recommendations. At the same time, the committee sought to contribute constructively to the scheme's improvement. I believe that ours is an excellent example of a productive oversight relationship and that the committee has made an important contribution to the maturation and continuing improvement of both the authority and scheme.

The committee's contribution, in turn, has relied on the valuable input of review participants, particularly that of the key stakeholders: the Law Society of New South Wales, the New South Wales Bar Association and the Insurance Council of Australia. Their considered views have enabled us to thoroughly examine the issues affecting the scheme and to develop meaningful recommendations for action. On behalf of the committee I thank our review participants for their important contributions during this review and those that preceded it. I express my thanks to my committee colleagues for their thoughtful contributions to this year's review, as in previous years. Our monitoring role has benefited as much from our individual perspectives as from our cooperative approach. I thank also Ms Madeleine Foley, Mr Simon Johnston, Ms Merrin Thompson and Mr Sam Griffith of the committee secretariat for their assistance in the conduct of the review and production of this report.

The Government response on this report is slightly overdue and the committee will request that response as soon as possible. However, matters have been dealt with and recommendations have proceeded, particularly in relation to changes to the Act for our biannual reviews. The committee has not long finished its review and has not reported on the MAA report, yet newspapers were reporting that the New South Wales Government had increased the cost of green slips. As chair of the committee I immediately inquired about this issue and received a response that is important to register because the Government, of course, did not increase CTP green slip premiums. In setting compulsory third party premiums insurers allow for income generation from investing the premium held for projected future claims payments. Compulsory third party insurance is unique in that it is a long-tailed insurance taking many years to finalise claims. A CTP claim may be made up to three years after the accident in cases of more severe injury, which have higher claim costs, and it may take a number of years for the injury to stabilise. This is in contrast to short-tail insurance products such as motor vehicle property damage or home and contents loss or damage, where claims are made and paid in the same year as the premiums are collected.

One of the consequences of the global financial crisis is a reduction in this investment income for CTP insurers, which subsequently impacts on the premium they must collect to ensure they have the funds to pay claims, and the New South Wales scheme remains viable. Under the Australian Prudential Regulation Authority regulatory framework, insurers are encouraged to invest the premium held for projected future claims of payments in low-risk or risk-free investment options—for example, Commonwealth Government bonds. The global financial crisis has resulted in a very large drop in investment returns, including a significant decrease in Commonwealth bond rates. These rates have been reduced on three occasions since July last year, falling from 6.2 per cent in July 2008 to 4.8 per cent in October 2008. Compulsory third party premium filings, which took effect from 1 July 2008, were based on the then higher Commonwealth bond rate. In light of the significant lower investment returns now anticipated, insurers require additional premiums to ensure they have adequate funds to make claim payments.

Overall this has resulted in premium increases in all green slip zones with increases in the best prices ranging from approximately \$18 in country areas to \$23 in the metropolitan area. As the standing committee is aware, while green slip prices have increased this year, their affordability over the last decade improved dramatically as a result of the Government's reforms to improve compulsory third party scheme stability. Today's prices remain lower than average premiums in 1999 before the reform initiatives took effect. In real terms this represents a reduction of more than \$150. I thank very much Mr David Bowen, who is the general manager of the Motor Accidents Authority, for that information because I viewed with concern the possibility that the reporting process was not appropriate. I am very pleased to include his response in *Hansard* on that specific issue. I look forward to revisiting the Motor Accidents Authority in two years time.

**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: The Former Uranium Smelter Site at Hunters Hill**

**Debate resumed from 21 October 2008.**

**Mr IAN COHEN** [3.20 p.m.]: As Chair of General Purpose Standing Committee No. 5, I draw the attention of the House to the committee's report on the former uranium smelter site at Hunters Hill. Land and marine contamination can be a sensitive and controversial subject. For local communities it can be accompanied

by fear and unhelpful innuendo. If there is one lesson to be taken from this inquiry it is that we must ensure that adequate information is retained about contaminated sites and that that information is readily accessible to the public for full assessment.

Many of the broad issues of contaminated land management faced by the inquiry were discussed during debate last year on the Contaminated Land Management Amendment Bill 2008, so I will not go to great lengths to canvass the broader themes of the Hunters Hill inquiry into contaminated land. However, I wish to emphasise during this take-note debate the inquiry's recommendation on proper site characterisation and the remediation process. The committee received 23 submissions from a range of stakeholders, including current and past residents, local councils, government agencies and departments, contamination specialists and health experts. All those submissions helped to guide the committee on technical and complex matters. The committee is indebted to the witnesses who shared their extensive expertise during the inquiry.

The inquiry's recommendations published in the report set out key processes and criteria to manage contamination of the Nelson Parade site in a holistic and consistent manner. There is a clear theme running through the recommendations to ensure a whole-of-government approach to contaminated land management. I am hopeful that the Department of Health and the Department of Environment and Climate Change can work cooperatively to address historical deficiencies in site assessment and remediation. The report outlines a pathway for forensically examining and characterising the scope of contamination. Hopefully it will provide the missing pieces and fill in the blanks that play on the local community's concerns.

The recommendations are extremely reasonable and sensible. Any governmental divergence from the processes outlined by the inquiry would be deeply disappointing and would deny the community the reassurance and understanding it deserves. This is the heart of the problem: communication and engagement with the community in Nelson Parade has been less than satisfactory. Ms Phillipa Clark, who is the coordinator of the Nelson Parade Residents Group, raised a number of problems with the approach adopted by New South Wales Health to keeping the community informed. Ms Clark stated that the owners of 21 Nelson Parade "only learnt through the media that their house were supposedly absolutely unsafe".

Dr Nicholas Brunton, who is the legal representative of the current owners of 11 Nelson Parade, described the document discovery process in which he engaged on behalf of his clients as "protracted" and "difficult", and he stated that "the Department of Health has, quite frankly, being less than cooperative". While it is noted that the State Property Authority, on behalf of New South Wales Health, provided some advisory services to the public, the general sentiment from the property owners and residents is that that was insufficient. In the light of that, complete acceptance of recommendation 6 is necessary to ensure proper and adequate dissemination of test results, and all efforts must be made to fully inform the community.

One of the first things that puzzled me about the Nelson Parade site was the different characterisations of contamination of the site that required different layers of regulation and bureaucratic engagement. For example, 7 Nelson Parade and 9 Nelson Parade were not considered a significant risk of harm under the Contaminated Land Management Act because the radioactive contamination was sealed, fenced and contained, yet the foreshore of the properties was considered to be a significant risk of harm, and was regulated under the Contaminated Land Management Act due to the presence of polycyclic aromatic hydrocarbons, total petroleum hydrocarbons, and lead and arsenic in the foreshore soils. There is also the issue of potential marine environment contamination adjacent to the Nelson Parade properties. The end result is that one segment of the land is dealt with under the planning regime and State environmental planning policy [SEPP] 55, one under the Contaminated Land Management Act, and one remaining unclear, due to inadequate evidence on contamination.

Diverging characterisation has the potential to segment and fragment remediation and testing programs, thereby delivering an inefficient process. Recommendations 1 and 4 are aimed at ensuring consistent site remediation by requiring the same site auditor to oversee the remediation of both 7 Nelson Parade and 9 Nelson Parade and the foreshore area. Recommendation 4 ensures that the marine environment adjacent to the site is thoroughly surveyed prior to finalisation of the overall remediation plan. As I have already stated, the most important element that we all should take away from this inquiry and that should guide the Government's consideration of this report is the fundamental need for vigilant documentation in relation to contaminated land.

Recommendation 3 advises that an extensive testing program should be undertaken to rule out or confirm the distribution or seepage of the contaminants beyond the borders of 7 Nelson Parade and 9 Nelson Parade. The recommendation is clearly focused on addressing the deficiencies in historical assessment of the property and surrounding land. The lost documentation on the 200-litre drum that was relocated to the Lidcombe

site of the Department of Health's radiation health services branch demonstrates that diligent management of the contaminants was not in the forefront of the minds of previous site managers. It was mismanagement of previous contamination clean-up attempts that has created in the minds of committee members a concern that the whole area may not have been properly characterised in terms of contamination.

The fear and hysteria that has been ignited and spurred on by reports of contamination can be ameliorated and confronted only by an open and transparent approach to environmental information. Section 55 certificates under the Public Health Act and section 149 certificates under the Environmental Protection and Assessment Act are important elements in informing the public of historical land use and tracking environmental damage. When we do not maintain adequate information on historical land use and industrial pollution, people acquire property that could pose a threat to their health. Amendments moved by the Greens during debate on the Contaminated Land Management Bill were aimed at enhancing the paper trail on contaminated lands.

Moving from issues related to transparency and effective site management, the committee also contended with more technical issues related to the practical characterisation and management of waste contaminants. Recommendation 5 states that New South Wales Health and the Department of Environment and Climate Change should ensure that current testing commence as soon as is practical, with regard to the availability of the necessary expertise and equipment. That recommendation stems from the debates about what instruments should have been used to measure background levels. There was considerable debate from the witnesses about which measuring instruments were the most accurate in measuring gamma radiation levels. This is an important recommendation. Part of the controversy surrounding the Hunters Hill matter arises because of the different findings by the Australian Nuclear Science and Technology Organisation [ANSTO] and Australian Radiation Services.

In particular, New South Wales Health engaged the Australian Nuclear Science and Technology Organisation to conduct a gamma radiation survey of the area. Based on its interpretation of the results, New South Wales Health declared that residents need not have any health concerns and that radiation levels were within the guidelines of the Australian Radiation Protection and Nuclear Safety Agency [ARPANSA]. However, it is reasonable to conclude that the evidence given to the inquiry by New South Wales Health—that exposure levels at 11 Nelson Parade were within the Australian Radiation Protection and Nuclear Safety Agency guidelines—should not have been based on the Australian Nuclear Science and Technology Organisation's 2008 report. The New South Wales Government itself describes that report as "not designed to be a comprehensive health risk assessment".

Recommendations 8, 9 and 10 provide some guidelines and considerations for the practical remediation of the site. These recommendations are driven by a desire for any hazardous waste to be handled in a responsible manner that poses the least degree of risk to the community in transportation. The commission made clear, and the Waste Classification Guidelines reflect a similar sentiment, that the contamination level should not be downgraded by diluting contaminated soil with clean soil. The committee also stated that it wants waste to be taken to a landfill that is authorised to accept the waste.

Without detracting from the serious nature of contamination of the Hunters Hill site, we should not be aiming to have an inquiry every time a contaminated site is transformed into a highly charged emotional event. In this sense the themes and issues examined by this inquiry should translate to principles that will guide the relevant departments in all contaminated sites characterisation, management and remediation. The themes canvassed and recommendations made broadly should be adopted in all cases, whether managed under the planning framework or under the Contaminated Land Management Act.

I thank the committee members for the robust debate and discussion in formulating the recommendations presented by the inquiry. I also express my sincere appreciation to the clerks of the committee, Jonathan Clark, Beverly Duffy and Christine Nguyen, who did a magnificent job in wrangling with the difficult subject of nuclear science and collating all the material in the way that has made this report so accessible. The staff effectively translated for the committee the different methods and assessments of radiation levels, which historically from time to time change. Without the assistance of the staff, we found ourselves comparing apples with pears, and it was a difficult process simply to understand the safe levels and how high the radiation levels were. Every generation of assessment had a different reading calibration. So the job done by the clerks on this extremely complex matter was effective and helpful for the deliberations of the committee. With that, I commend the report to the House.

**The Hon. RICK COLLESS** [3.30 p.m.]: I support the comments of the Chairmen of General Purpose Standing Committee No. 5, the Hon. Ian Cohen. The inquiry into the former smelter site at Hunters Hill was born out of a number of discussions held by various members of this Parliament and a range of media reports of illnesses caused by radioactivity on a number of blocks of land in a residential area and remnant radioactivity in vacant buildings and on vacant blocks of land in Nelson Parade, Hunters Hill. The terms of reference were specific and related to an assessment of any rehabilitation and remedial works that had previously been undertaken on the site, the extent of the contamination and radioactivity levels and the impact of any contamination on public and environmental health, and the appropriateness of the Government's proposed remediation strategy and disposal of contaminated waste from the site.

The term "smelter" is actually incorrect, as smelting involves the melting of ore and floating off impurities, leaving the pure uranium metal. This was not the process undertaken at the Hunters Hill site; it was actually a refining process to produce radium from uranium ore by a wet chemical process. Throughout the report the committee decided to refer to the facility by the correct name; that is, as a refinery rather than a smelter. It is important to understand a little of the science of uranium. As the chairman pointed out, nuclear science can be complicated and difficult to understand, but I will attempt to explain the important components of it as quickly as possible. As someone with a science background, I found this information particularly useful in helping me to understand the nuclear processes presented to the committee.

Uranium 238—the 238 refers to the atomic weight of the element—is the heaviest naturally occurring element on earth, but it has an unstable nucleus due to an excess of tiny particles collectively known as nucleons. The uranium atom attempts to achieve stability by throwing off those excess nucleons. It is a bit like having a flat spinning wheel with small holes in the centre and putting some marbles on it; there are more marbles than there are holes, so as the wheel spins the excess marbles fly off due to the centrifugal force of the spinning wheel. The process of throwing off those nucleons is called radioactive decay, and the tiny nucleons have a certain amount of energy and radiation as they are emitted.

As the uranium atoms emit the energy and the mass of nucleons, a new isotope of the metal is formed and eventually it degrades into a completely new element. Uranium 238 decays initially into uranium 236; then it goes into thorium 232, actinium 227, radium 226, radon 222, and polonium 209, and eventually ends up as lead 207, which is a stable element that no longer emits radiation. The two elements that are the subject of most discussion in the report are radium 226 and radon 222. Wherever uranium is found there will also be varying amounts of the daughter elements as well; as the radioactive decay process naturally occurs from uranium to stable lead there will be a suite of the daughter elements present along the way.

The rate of decay of these elements is known as their half-life, and refers to the time taken for half of a given amount of the material to decay. Uranium 238 has a very long half-life of 4.47 billion years, which means that it emits its radiation very slowly but it will be there for a very long time. That has obvious problems for the disposal of uranium bearing nuclear waste. On the other hand, radium 226 has a half-life of 1,600 years and radon 222, which exists normally as a gas, has a half-life of 3.8 days. This is important because radon 222 emits a huge amount of radiation compared to uranium 238, and as it exists as a gas it can be the source of a dangerous radiation that can unknowingly be inhaled by humans.

Residential block numbers 5, 7, 9 and 11 on Nelson Parade are the site of the refinery that was refining uranium 238 to produce radium 226 between 1911 and 1915. Approximately 2,000 tonnes of uranium, which came from the Radium Hill mine in South Australia, were processed. The refinery, which was operated by the Radium Hill Company, had the capacity to process 10 tonnes of uranium ore per week, and the driving motivation for the refinery was the world price of radium at the time, which in 1911 was valued at about £13,000 per gram. The facility produced just 1.8 grams of radium, and that was all exported to the well-known scientists Earnest Rutherford and Marie Curie, who used it in their research into nuclear processes. The plant was closed in 1915 as a result of reduced demand during World War I and was left as a derelict site for years after.

As I said, approximately 2,000 tonnes of ore were processed on the site. The tailings from the wet chemical process left a sandy textured material which was dumped at random sites in the area, and the wet waste was probably discharged onto the land, further contaminating the soil and rocks in the area. In addition to the remaining uranium 238, it has been estimated that up to 7 grams of radium remain on the site, and as this decays into radon gas comparatively high levels of radiation can be present due to the gaseous nature and the fast decay rate of radon to persons living and working in the adjacent area. Block numbers 7 and 9 were built on many years ago, on the upper level adjacent to Nelson Parade—that is assumed to be some time in the 1920s—with the bulk of the building occurring in the 1960s.

Anecdotal evidence suggests that the sandy tailings material was used as sand in the mortar for the brick work on some of these buildings. As the sand contains uranium 238, radium 226 and radon 222, radon gas would have been emitted from this brickwork continuously, making these residences extremely unsafe to live in. The New South Wales Government subsequently acquired the residences and ordered the demolition in 1982, with the residences actually being demolished in 1992. An issue of great concern is that none of the organisations interviewed during the inquiry could confirm what happened to the radioactive material following the demolition of the residences. I strongly support the committee's comments in sections 5.32 and 5.33 relating to that issue. As the committee chairman pointed out, we do not know where a number of 205 litre drums went, and I am concerned that there is no evidence of where a lot of building materials on the site—bricks, roofing materials, frame materials, et cetera—were transported. There is some discussion that the materials were buried on the site, but wherever it is it would still be highly radioactive.

While it is easy to say in hindsight that mistakes were made in the assessment and administration of the potential problems with this site by New South Wales Health and local councils, current best practice on exposure to radiation states that there is no safe lower limit, although we are all exposed to very low levels of radiation every day. The health dangers from constant exposure, as families living in those homes would have experienced, is well known and intolerable. The 12 recommendations contained in the report relate to the remediation processes on the contaminated blocks and a full assessment of nearby properties and streets to ensure that there are no other currently unknown hot spots in the vicinity; that all the activity in the future should be open and transparent, with the local community kept fully informed at all times; and that all costs associated with the processes should be borne by the New South Wales Government. I commend the staff who helped us with this inquiry. As the committee chairman said, it was a difficult issue to come to grips with, and the staff did a tremendous job in advising us and making it clear to us exactly what we were looking at. So it gives me great pleasure to commend the report to the House.

**The Hon. LYNDIA VOLTZ** [3.40 p.m.]: Firstly I thank the committee secretariat for its work on this quite technical committee and for the preparation of the detailed report. In the early 1900s a uranium refinery was located on the foreshore of Hunters Hill. That area is now the site of residential houses, in particular the properties at numbers 5, 7, 9 and 11 Nelson Parade, Hunters Hill. The site is split into two levels with an upper level separated from the lower level by the sandstone cliff. Iron ore was shipped to the site from South Australia for refining and a reported approximately 10 tonnes of ore shipped per week. One ton of ore, however, would produce radium to be measured by the milligram and at £13,000 per gram radium was highly sought after.

In a 1912 report to shareholders the directors of Radium Hill Company reported 95 tonnes of ore was treated for 350 milligrams of radium. Based on that calculation 500 tonnes would produce one gram *ceteris paribus*. A by-product of the process was radioactive tailings. These tailings were thrown into several dumps on site. Some of the dumpings were subsequently used as fill behind retaining walls. The houses built on the upper level of 7 and 9 Nelson Parade may have been built as early as the 1920s. The bulk of the residential housing was built in the mid 1960s. In 1965 the New South Wales Department of Health undertook a detailed radiation survey of the site. I believe it is important to note that what we know about radiation has greatly changed over the past 40 years.

A final report was delivered in 1966. It covered the sites now known as 5, 7, 9 and 11 Nelson Parade and included measurement of external dose rates, soil activity and radium uptake in vegetables and herbs. Whilst at the time, based on the report, the New South Wales Department of Health concluded that the radiation dose was not unacceptable, the report did recommend that the radiation branch with the cooperation of the four householders concerned, coordinate the removal of certain areas of high activity soil. In 1977 the New South Wales Health Commission conducted a survey of numbers 3 to 13 Nelson Parade. The aim of this report included the investigation of the contamination over the lots. At this time some contaminated soil was removed from number 3 and placed behind the seawall on number 7. Another survey was undertaken in 1987 on behalf of the New South Wales Department of Health and again in 1999-2000 as a two-stage survey and in 2004. In 1982 it appears that soil was removed from numbers 5 and 11 and relocated to numbers 7 and 9.

In 2008 a private survey was undertaken on behalf of the residents of 21 Nelson Parade and a survey was undertaken by the Australian Atomic Energy Commission on behalf of New South Wales Health. Following the 1977 report the Department on Health purchased numbers 7 and 9 Nelson Parade. Number 11 was also purchased at the request of the owners of number 11. It was later sold to the owners of number 7. Number 11 was later on-sold to its current owners. The current owners became aware of the contamination only on receipt of a notice that the site had been declared a remediation site under section 21 of the Contaminated



Land Management Act 1977. The houses on numbers 7 and 9 were demolished in 1992. At that time contaminated material from numbers 5, 11 and 13 was placed on the now vacant numbers 7 and 9. Numbers 7 and 9 were then covered, landscaped, vegetated and fenced.

As can be seen by that history the contamination on this site goes back to the early 1900s and since the first survey was undertaken in 1965 there have been numerous different State governments. Also, the science and technology behind this type of contamination has changed significantly over this period. The most relevant outcome from this committee is that residents will have surety over the identification of contamination where there was much confusion about which sites may be contaminated and to what level. This was particularly of concern for some of the long-term residents who had been aware of ongoing testing. New South Wales Health has made recent attempts to communicate more fully and clearly with residents of Nelson Parade.

More importantly, there is obviously distress amongst residents who are concerned about the health impacts from contamination levels on the site. It is hoped that the recommendation for an independent auditor to oversee the remediation of numbers 7 and 9, and any other area identified as requiring remediation, will go some way to providing confidence in the process. It was the committee's view that remediation of all identified contaminated areas should proceed irrespective of cost and that the cost of remediation be borne by the New South Wales Government. I thank those who gave their time to the inquiry, in particular the local residents who, at the end of the day, are the primary concern in this process.

**Mr IAN COHEN** [3.45 p.m.], in reply: I will be brief. I thank all participants in the inquiry and in the take-note debate. It has been clearly indicated that the processes were very complicated when dealing with material, as was well explained by the Hon. Rick Colless, and the breakdown of uranium to the end product of lead, and then one of those daughters that we identified, the product Radon that has a very short half-life but has a distinctly high impact on human health. The committee grappled with those issues in the inquiry and found learning about the process very beneficial. I appreciate that there have been failures to remediate in the past. I concede that in the past these issues were not fully appreciated. Today we have both the knowledge and the appropriate equipment. The issue of equipment was often in debate during the inquiry as to how to assess what is a silent killer, in actual fact. It is one of the big issues surrounding radiation and industry has found it impossible to assess without the use of high-tech equipment.

As the Hon. Lynda Voltz said, the first surveys were undertaken in 1965. This matter has a long history but now we have a greater degree of clarity and thankfully a greater degree of communication from NSW Health to remedy the situation once and for all in order to have a clean living environment for those people affected over the years at Hunters Hill and to put an end to what has been a very difficult matter for the residents. I am pleased that this inquiry will be a step in the right direction to clean up these sites to create a much more liveable environment for all. I commend the inquiry and 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 interrupted.**

## **BUDGET ESTIMATES AND RELATED PAPERS**

### **Financial Year 2008-09**

**Debate resumed from 26 November 2008.**

**The Hon. RICK COLLESS** [3.47 p.m.]: Over the past year we have seen some of the disastrous consequences of this Labor Government's failure to adequately manage our State's Health budget, and in particular, the budget of the Greater Western Area Health Service. With the 2008-09 budget detailing a projected expenditure of \$12.7 billion, one can only wonder what the final figure will amount to. If history can be any judge of Labor's performance in adequately budgeting for our State's health needs, then sadly New South Wales is condemned to face another year of its health services being hopelessly under funded and forced to limp along without the basic necessities of health care provisions—things as simple, yet essential, as bandages and syringes—in a struggle to provide a decent standard of health care to patients.

A recently released report from the Auditor General detailing the shocking over runs in the 2007-08 Health budget made what could possibly be considered the understatement of the year when he said, "From a financial point of view, this is not a particularly good report card." Indeed, it is a terrible report card, and one that speaks volumes for the complete incompetence of this Government to deliver basic health services on which residents of New South Wales rely in a cost-effective manner. While the Government said it is expected the Health budget will deliver a \$13.3 million surplus, the actual result rang in at a shocking \$380 million deficit—a staggering miscalculation to the tune of \$393 million, and one which should leave health professionals and taxpayers across the State with little confidence that we will not see the same results repeated again.

It is simply mind-boggling that the estimated cost of paying the wages of staff, the use of medical equipment, the cost of providing patients with an appropriate standard of treatment and all the other basic necessities of running our hospitals can be so badly miscalculated by this Government. While the Auditor-General's report has cited a number of mitigating factors in the hopeless underestimation across the 2007-08 period—factors such as the increased reliance on locum services for many of the smaller outlying health facilities within the Greater Western Area Health Service catchment area—it beggars belief that the Government could not have reasonably calculated this into its budget estimates.

The report also detailed that throughout New South Wales Health a further \$312 million in unpaid bills had been amassed on top of the deficit, including \$75.1 million that had been left unpaid beyond the Government's own benchmark time of 45 days from issue. This is a failing we have seen repeated since with area health services such as the Greater Western Area Health Service consistently hitting the headlines and sparking outrage among health professionals and community members in recent months over the \$60 million in unpaid bills that had been amassed.

The \$60 million in unpaid bills is not just an inconsequential figure, it is a figure which tells the tale of individual nurses forced to dip into their own pockets to buy the meat needed for patients' dinners; security contractors almost forced to the wall through the bad credit of the area health service; and patients forced to buy and wash their own bandages because their local hospital had run out of supplies. While in the case of the Greater Western Area Health Service these bills have recently been settled, the questions must be asked: Where has this money suddenly sprung from and why could it not be found earlier to pay these outstanding bills on time?

There is significant concern that the money that has been miraculously found to pay the \$60 million debt is simply being advanced from next year's Health budget, which means that this problem could well come up in the next financial year for the thousands of New South Wales residents across 55 per cent of our State who are serviced by the Greater Western Area Health Service. If the money that has been miraculously found to pay the \$60 million that the Greater Western Area Health Service had amassed has simply been drawn from next year's area health service budget, what guarantees can the Government offer that we will not face the same debacle next year—or the year after?

Yesterday the health Minister said that funds to pay these bills had been found through improved business practices and a range of initiatives designed to rein in future cost blow-outs. Among the initiatives he detailed were what he termed "appropriate reductions in staff", to which I say I certainly hope they are considered appropriate to those patients who would otherwise have been able to rely on those staff for treatment. We have already seen the Government try to force through the axing of 130 full-time equivalent nursing positions across the Greater Western Area Health Service—job cuts which consistent pressure from the media, the New South Wales Nurses Association and members of the Opposition thankfully forced the Government to abandon.

Other measures included centralising some contracts, which also gives cause for concern, as with draft plans already drawn up by the Greater Western Area Health Service to consolidate nurse managerial positions for different hospitals and multipurpose services facilities we may well see those employed in these positions spending more time on the road than in the health facilities where they are needed. While the Minister has faith that he can rein in future cost blow-outs, it remains to be seen whether he can do this without further stretching the already overburdened health workforce and compromising the standard of patient care.

The Minister also recently made some telling remarks on ABC radio as he channelled Sir Humphrey Appleby in trying to offer an explanation of how the financial situation of our health system had come to be in such dire straits to begin with. I quote the Minister's comments:

But of course the reason why health systems, and particularly our health system, is having those issues with regard to creditors is at least part because more patients present themselves for treatment. And it's a public system—we don't turn anybody away.

I think the Minister may have hit on the solution. If only our hospitals could do away with the inconvenience of treating patients, imagine the savings! Of course, patients may be slightly put out by not being able to access medical attention, but it would give the Government a real shot at delivering a balanced Health budget and, should the 2008-09 Health budget figures not stack up, who will be to blame? This Government has, time and time again, shown how eager it is to lay blame for its spectacular failings on whatever scapegoat it finds handy. If Members opposite cast their minds back they may recall that today marks the anniversary of the developer of the Bathurst hospital upgrade project being re-instated to his position after being sacked by Reba Meagher only two weeks earlier.

The developer, Robert Martin, was targeted by a Labor Government keen to make others pay for its appalling mismanagement of the Bathurst hospital redevelopment and the massive blow-out in costs for this project which this bungling caused. What should have been a \$98 million upgrade of Bathurst hospital—not an inconsiderable amount in itself—was instead, through the complete failure of the Health bureaucracy to engage in any meaningful consultation with frontline health professionals, allowed to balloon out to a project with untold final costs—untold because the reparations conducted to bring the facility up to scratch were so extensive and are, one year on, not yet concluded, and untold because the Government has so far failed to reveal the final costings to New South Wales taxpayers for this reparation work and what impact it will have on the already catastrophically overstretched New South Wales Health budget.

While the vast majority of necessary rehabilitation works have been carried out to rectify problems in the initial redevelopment of the Bathurst hospital, such as the lack of specialty palliative care facilities, intensive care bays and operating theatres too small to reasonably and safely work in, sewage seeping into downstairs maternity wards, the lack of a hydrotherapy pool and countless other problems, there are still grounds for significant concern over the future of local health service provision. There is still some work being carried out, notably the expansion of an operating theatre to accommodate orthopaedic surgery, and some work the health Minister has publicly admitted may never be completed, such as the rehabilitation of the hospital's heritage building.

From what we have seen, with this Government's reluctance to publicise any adverse findings into the planning failures surrounding the Bathurst hospital, through the release of findings into the affair such as the Evans and Peck report, one can only wonder when—if ever—the Government will come clean on how badly the New South Wales Health budget will be overstretched by this bungling and what effect it will have on New South Wales taxpayers. This is cause for grave concern among those who have witnessed the financial paralysis and unbelievable levels of bungling surrounding the Greater Western Area Health Service over the past 12 months. Clearly the level of funding that has been provided to area health services, such as the Greater Western Area Health Service, by the State Government and the level of funding needed to maintain basic standards of care are two figures far removed from one another.

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

## **FOOD AMENDMENT (TRANS FATTY ACIDS ERADICATION) BILL 2008**

### **Second Reading**

**Debate resumed from an earlier hour.**

**Ms LEE RHIANNON** [3.57 p.m.]: Before lunch we were debating the Food Amendment (Trans Fatty Acids Eradication) Bill 2008. During the lunch break I understand there was a shift in attitudes. While we have not won the numbers on the bill itself, it appears that members do understand the need to adjourn this debate. If that is the case, I thank members for their cooperation and willingness to find a solution.

**Debate adjourned on motion by Ms Lee Rhiannon and set down as an order of the day for a future day.**

## **BUSINESS OF THE HOUSE**

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

**Dr JOHN KAYE** [3.58 p.m.]: I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith that Private Members' Business item No. 177 outside the Order of Precedence, relating to the tabling of the Independent Legal Arbitrator's report on papers relating to Tillegra Dam, be called on forthwith.

This matter is urgent because the planning for a \$406 million dam at Tillegra near Dungog is proceeding at pace. The Minister for Water, Phillip Costa, has made it clear that he is intending to push ahead with this dam regardless of the impacts, yet the debate still rages on whether Tillegra Dam is needed, on the costs of Tillegra Dam and on the impact that Tillegra Dam will have on the environment. It is important that that debate take place in an open and public fashion. Tillegra dam is the largest water infrastructure project, apart from the desalination plant, to be constructed for a long time. So it is important that there be a debate about the full consequences of building the dam.

On 26 November 2008 this Chamber passed a motion under Standing Order 52, calling for papers—looking for planning studies to justify the construction of the \$406 million dam. The planning studies specifically targeted were those before the 13 November 2006 announcement of the dam. That search for papers, as far as public documents are concerned, failed to unearth a single document prior to November 2006 in the Government's bundle or in the Hunter Water Corporation's bundle that looked carefully at economic studies, planning studies and engineering studies for the construction of a dam. The conclusion we draw from that is that there was no systematic and rigorous study of the alternatives, of the need for Tillegra dam or of the impact of building Tillegra dam prior to the announcement by former Premier Iemma on 13 November 2006.

**The Hon. Amanda Fazio:** Point of order: My point of order is on the issue of urgency. I believe Dr Kaye is now debating the substantive motion, which is not appropriate at this stage of proceedings. He should be talking only about why the matter is so urgent that it should be discussed right now. He is not speaking to the motion before the House and I ask you to call him to order.

**The PRESIDENT:** Order! I remind Dr John Kaye that on 26 February 1987 President Johnson ruled that in debating a procedural motion members should restrict their comments to the terms of the motion and not the substantive motion. That ruling has been upheld by numerous Presidents. The member will abide by that ruling and confine his remarks to the procedural motion.

**Dr JOHN KAYE:** I accept your ruling—in fact, I think that is what I was doing. I was getting to the point that the Hunter Water Corporation asserted privilege on one of those documents and it is to that aspect of privilege that the urgency attaches. It is clear that the bundle of papers over which the Hunter Water Corporation has asserted privilege is part of this important debate that we need to have. It is urgent that we debate the issue now. If we do not, we will do so in retrospect after the dam has been constructed, or at least after a commitment has been given and we cannot get out of constructing it. The Hunter Water Corporation claims that the release of the documents will interfere with its commercial relationships with the people from whom it is buying the land. The Clerks have obtained advice from the independent arbiter, Sir Laurence Street, in respect of this claim of privilege. It is urgent that we begin the process of examining privilege for those documents. We assert that it is important that those documents are put into the public domain. We also assert that putting those documents into the public domain will do no damage. I cannot say more because the documents are privileged and I would be breaching privilege if I did so.

This motion seeks to allow the House at least to debate the tabling of the advice from Sir Laurence Street so that members and the public can understand his opinion on the need for privilege or otherwise. If this document remains secret the debate will continue in secret. We run the risk not only of building a dam that the State does not need, but also of undermining public confidence in the planning process. It is already at an all-time low. For this House to refuse even to allow debate on the release of a document that talks about privilege for another document that we want to put into the public domain would be to savagely undermine public confidence not only in the planning process but also in this Chamber. Finally, I want it to be noted that this morning I attempted to bring on this motion as formal business. I do not wish to delay the House with these procedural matters but it is important and urgent that this motion is considered and that we get these papers into the public domain.

**The Hon. AMANDA FAZIO** [4.03 p.m.]: I oppose the urgency claimed by Dr Kaye in respect of motion 177. In doing so I would like to make it known at the outset my quite strong view—which I believe is shared by other Government members—that this matter is certainly not urgent. Like all critical infrastructure proposals, the Tillegra dam proposal will be put out for public consultation well before the project is approved. The environmental assessment report will consider sustainability, project need, consultation, overview, project description, construction, approval process, environmental risk analysis, terrestrial ecology, socioeconomic contemporary heritage, Aboriginal heritage, landscape visual amenity, cumulative impact, residual environmental risk, climate change and greenhouse gases, and justification. These things cannot be done in a hurry and the fact that they have not yet been done shows that the claim for urgency by Dr Kaye is fallacious.

The Hunter Water Corporation believes the material to which the motion refers is commercial in confidence. We should remember that the independent arbiter has had a look at those papers and they are available for members to look at, if they want to, in the Clerk's office. I think at this stage of the proceedings that is sufficient. I do not support Dr Kaye's motion, which would allow the documents to be tabled and authorise the report to be published, because the Hunter Water Corporation believes the material to which the motion refers is commercial in confidence. We must be aware that, while the Greens do not appear to have much concern for commercial matters and seem to regard most things that have anything to do with commercial business transactions as being some form of evil, governments have to have dealings with private corporations and other bodies that are commercial in confidence. If the whole concept of commercial in confidence is to be thrown out not just by the Greens but also by members of the Opposition when horse-trading suits them to do so, I think that is inappropriate.

**Dr John Kaye:** Point of order: The member is clearly acting against her own point of order. She is now debating the substance of the issue. She is debating not the issue of Sir Laurence Street's report but document No. 9, which is the substance of his report. She is doing exactly what she accused me of doing—which I was not doing—by talking about the substance of the matter instead of establishing its urgency.

**The PRESIDENT:** Order! The Hon. Amanda Fazio will confine her remarks to whether standing and sessional orders should be suspended.

**The Hon. AMANDA FAZIO:** Thank you, Mr President. That was an example of the pot calling the kettle black because hardly any of Dr Kaye's speech was about the issue of urgency. As I have said many times before, speakers can throw in the word "urgency" and preface great screeds about the substantive motion by saying, "I believe this matter is urgent because." It does not make it urgent; it makes for a pretty pathetic argument. To return to why I believe this matter is not urgent, it is not the case, as Dr Kaye says, that if we do not deal with this matter today the Tillegra dam will be built before anyone can examine what is going on. There are many processes to be gone through before the dam is built. Getting the whole gamut of information about the dam proposal into the public arena does not depend on us dealing with this motion today.

As I stated, the dam proposal will be subject to a full environmental assessment report that will consider a range of issues before the first sod is turned. For Dr Kaye to come here today and say this matter is urgent is simply not true. It is not urgent that this material be released before the tendering process for the project is completed. I believe it is an attempt by the Greens to nobble the tendering process so that they can delay the dam's construction even further. That is the point I was making when I said that Opposition and crossbench members need to be careful about being drawn into debate about commercial in confidence and disliking commercial businesses. It is not acceptable to throw out the whole concept of commercial in confidence, especially when the proponents for that course of action are the Greens. I urge members to oppose the motion. [*Time expired.*]

**The Hon. ROBERT BROWN** [4.08 p.m.]: I speak in debate on the motion moved by Dr John Kaye—a matter about which he and I have had some discussions. The Shooters Party cannot support this urgency motion for two reasons. First, the point made by the Hon. Amanda Fazio about the timing of this project was quite correct, despite the fact that expressions of interest have been sought for access roads, et cetera. Those sorts of pre-works are necessary in any event in order to comply with environmental considerations. It appears to me as though this involves a seven- to 10-year project, so the dam-building project is not urgent.

Second, I refer to the tabling of privileged information. I have been to the Clerk's office to look at document No. 9—the privileged document—and the adjudicator's assessment of that project. When I discussed this matter with Dr John Kaye he was not aware that a map was attached to the back of document No. 9. Dr John Kaye has since pointed out to me that he believes that same map to be on the public record, but I am not sure whether it is on the public record. Referring to commercial-in-confidence issues, we might not necessarily be talking about the conduct of government-to-business confidentiality. As I understand it, the Hunter Water Corporation owns only about 40 per cent of the property that would need to be acquired, so commercial in confidence would apply also to private landholders in the area.

**Dr John Kaye:** Point of order: The member should be warned that he has gone close to violating privilege by talking publicly about the contents of a document and by placing those comments on the *Hansard* record. He made reference to a map that contains certain details—

**The PRESIDENT:** Order! I have not seen the material. However, I ask all members to bear in mind the fact that this matter is still confidential.

**The Hon. ROBERT BROWN:** In summary, and for the reasons I have enunciated, the Shooters Party will not support this motion. Tillegra Dam will not be built tomorrow, and it will not be built in the next five years.

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

**The House divided.**

**Ayes, 19**

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

**Noes, 20**

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

**Pair**

Mr Khan

Mr Robertson

**Question resolved in the negative.**

**Motion negatived.**

**ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (AFFORDABLE HOUSING DEVELOPMENT CONTRIBUTIONS) BILL 2008**

**Second Reading**

**Debate resumed from 30 October 2008.**

**Mr IAN COHEN** [4.19 p.m.]: I support my Greens colleague Sylvia Hale on the Environmental Planning and Assessment Amendment (Affordable Housing Development Contributions) Bill 2008, which is very important legislation given the need for affordable housing in this State. With the recession set to get worse, the need for new, affordable housing will increase, especially if people lose their jobs. One way of providing more affordable housing is to make sure all new developments, including private developments, contain some affordable housing so that we can house those who work to keep our cities and towns running. The bill amends the Environmental Planning and Assessment Act to allow councils to levy for affordable housing purposes. The bill will allow but not compel local councils to impose an affordable housing levy on developers of new multi-unit developments as a condition of development consent, which is something councils currently cannot do.

The bill provides that when a council determines to require an affordable housing contribution that contribution can take the form of either a dedication to council or other social housing provider of a percentage ranging up to a maximum of 25 per cent of the total number of units in the development, provided that the development comprises 10 or more dwellings, or the monetary equivalent. If the developer is a government agency—for example, Landcom—the percentage required can be a maximum of 30 per cent. The bill merely extends the ambit of State environmental planning policy [SEPP] 70, which allows levying for affordable

housing in prescribed areas. This Government has been promising for a long time to do more about affordable housing via the planning system. I have even heard that Planning New South Wales may be writing a new version of the affordable housing SEPP—but it has been saying that for about 10 years, so we will believe it when we see it. Perhaps the Rudd Government is telling the department to get on with it.

In the meantime, the Greens bill should be supported. It is fair, it is reasonable and it allows councils the freedom to set affordable housing levies depending on local conditions as the council sees fit, via the democratic process. Once again, many councils are ahead of the New South Wales Government. Many councils already have affordable housing strategies, but they also need the tools to implement these strategies. My local area, Byron shire, has a massive affordable housing problem and has been developing affordable housing policies and strategies since 1996. However, without legislative provisions it is very difficult to achieve the outcomes that will meet community need. The council has undertaken lengthy and involved consultations with developers in relation to the provision of density bonuses and restrictions on use and availability of premises for affordable housing needs. Byron Shire Council has an affordable housing strategy that has created the opportunities for a variety of means of providing affordable housing by utilising various incentive tools to encourage developers to consider affordable housing.

In the Byron shire there has been a loss of affordable housing due to the desirability of the destination as a lifestyle option and the impacts of tourism through the use of residential dwellings as tourist facilities resulting in a loss of housing stock. This is the vexed holiday letting issue that Byron council is also trying to regulate. In the past Byron council sought to be included in the SEPP 70 provisions as it is identified as an area of high need, but this request was not supported by the Government. It should be recognised that local government areas such as Byron shire are also willing to take the initiative to create the affordable housing stock that is required, but without the ability to raise funds via developer contributions this will be a much more difficult task. Byron council has identified some of its own land that is suitable for affordable housing—and in this regard it is important to consider that this includes the provision of housing for the aged and for people with a disability.

Providing the funding required to deliver affordable housing will be difficult for many communities. The ability to seek contributions from developers will allow this option to be realised in a more reasonable time frame and with a social justice angle. It means that those who are profiting from the development industry in an area like Byron will give something back to the whole community. It is a fair and reasonable position when one considers the profits that are derived from areas of high value due to the enormous contributions made by an existing community to protect and preserve the location. Local government is struggling with this issue because of the State Government's lack of action. The local environmental plan [LEP] template failed to address the affordable housing issue so councils like Byron have put provisions in their LEPs to address this desperate community need. The bill would create the mechanism to permit the levying of contributions and/or establish conditions to meet the needs of communities—a priority that is greater than ever before during this time of economic crisis.

I send my congratulations to the City of Sydney on recently releasing its affordable housing strategy. In April 2006 Greens councillor Chris Harris put forward a proposal to develop a strategy for the City of Sydney to encourage and provide affordable housing in its local government area. The Greens have followed up regularly with suggestions on strategic direction and questions on notice urging Sydney council's chief executive officer and the Lord Mayor to get on with developing a plan. A draft strategy has been released for public exhibition. The draft strategy outlines a range of possibilities for the provision of affordable housing but, most importantly, the city has set a target that requires 15 per cent of housing in the city to be affordable by 2030. This is made up of 7.5 per cent social housing—principally supplied by the State Government—and 7.5 per cent affordable housing, which is defined as accommodation that will cost no more than 30 per cent of the resident's income. The city has also employed a specialist affordable housing officer.

The draft strategy identifies 13 possible sources of affordable housing supply. It would seem that the council could progress at least five of those now with its current powers and resources. These include working with community housing organisations, developing the council's own land, using developer incentives in voluntary planning agreements and working with student housing groups. However, some ideas in the strategy will require legislative changes like those the Greens propose in this bill. The City of Sydney already contains a successful affordable housing project that is listed in SEPP 70, allowing the levying of developers for affordable housing throughout Pyrmont, Ultimo and Green Square. This housing is owned and managed by the City West Housing Company. However, the City of Sydney cannot levy anywhere else as SEPP 70 prescribes the areas to which an affordable housing levy can be applied and restricts these areas to Pyrmont, Ultimo and Green Square.

Unfortunately, despite its success the City West scheme has not been replicated. The new New South Wales standard LEP instrument does not include affordable housing provisions and there is no move to change the planning law to allow councils to mandate affordable housing contributions for future schemes, although councils can enter into voluntary planning agreements. A small levy will be placed on the Carlton and United Brewery site, which will be developed into new residential units, because the Redfern-Waterloo Authority has set a very small affordable housing levy on that site. However, the Redfern-Waterloo Authority has stipulated that no part—not even 1 per cent—of the Carlton and United Brewery site is to be used for affordable housing purposes. Any money collected goes to the authority to be spent elsewhere in the area. It is not clear what the authority will be doing with the levy or why it did not simply require that some affordable housing be included on site. Perhaps the developer expressed distaste at the thought of including in its complex housing for the hoi polloi and housing for people such as train guards, elderly pensioners or students.

The council should have a general power to levy throughout its local government area as it deems appropriate so that more affordable housing in these new large-scale developments can be created. Leaving it to a council to wangle a voluntary agreement will result in fewer affordable dwellings overall. Overseas experience has shown that mandatory schemes are best and provide more certainty both for developers and for local government. Councillor Harris said:

Housing is a basic need that must be affordable. It has become an important social justice issue that affects large sections of the community faced by prohibitive property prices that have been driven up through property speculation and low interest rates over the past decade. It is imperative that council use its influence and large resources to increase the supply of low cost accommodation.

The Greens bill will help councils to do just that. The Greens hear a lot from this Government about affordable housing. Yet when it comes to supporting this simple measure that is one piece of the solution, we hear promises but do not see any consistent approach. We see a voluntarist, ad hoc approach and little attention to sound planning policy. Sydney and New South Wales generally are growing yet we make no provision for essential service workers, who often end up commuting huge distances to and from work. We will be interested to hear the arguments that it is not good policy to allow councils to mandate a levy where it is needed. Developers will learn to live with it, as they have overseas. We know they will not like it, but they do not like anything that interferes with them charging outrageous prices and rents for housing. People should have a choice about where they live, and a third sector of new, affordable housing is exactly what we need in this over-inflated property market.

The levy is fair and takes account of market conditions because it applies to high-growth areas where building is taking place. We know that the Government tries to remove levies and smooth the way for developers, but this levy has the advantage of a council setting it at a realistic level in a growth area and it provides certainty for the developer. This is one measure which, when combined with the provision of extra social housing, will alleviate affordability problems for low-income workers and those who may be about to lose their jobs or have their hours scaled back.

Finally, we need to take a long hard look at the way we treat housing in this country. The Commonwealth Government, and to a lesser extent the State Government, controls macroeconomic policy, the settings of which can determine relative housing affordability. The Commonwealth has chosen to make home ownership a privilege, to reward investors in real estate through the taxation system, and to grant taxation concessions to investors. The State Government exempts owner-occupiers from land tax. Australian society accepts a speculative real estate investment as a way of making profit. Easy credit underpinned an overvaluation of housing, at least until recently, but that is now unwinding. While no-one wants housing to be worth nothing, its current overvaluation based on mountains of debt is not economically healthy and, as such, housing is not a productive asset. Speculating on housing is Ponzi investing in which individuals take on debt to speculate on asset prices, but do not actually build any assets in the process.

The Government has encouraged house price inflation, even though that has made housing less affordable for people on low incomes, and at the same time both Commonwealth and State governments have reduced direct investment in social housing. It is only now that the Rudd Government has decided to put some money back. Meanwhile the State Government is doing its usual thing, which is to reward developers by spot purchasing unsold housing because the price was set too high. Happy days for the developers! The Government will pay their market prices and offload the overpriced housing at the Government's loss instead of market forces prevailing. Why do developers not reduce the price until the property is sold? Is that not how free market protagonists suggest that free markets are supposed to work?

Far from the invisible hand of the market being at work, we are seeing the developer's hand outstretched, and Aaron Gadiel, the Property Council and the Housing Industry Association [HIA] socialise



losses. They are paid, no matter what they do. The Government is insulating investment companies from market forces that investment companies are always saying are so great. That is very fortunate for them. If Government money is going anywhere, it should not be going to the Property Council, Lend Lease or Mirvac but, rather, to genuine well-designed, affordable housing for ordinary people at a price they can afford, for sale and for lease, and built by those who need jobs in the building industry. Landcom has land. The Government also has power to resume land. If developers are not using land that is sitting empty, let Landcom take it over and use it for genuinely affordable housing. I commend the bill to the House. I congratulate Ms Sylvia Hale for introducing the bill. I am pleased to support the Environmental Planning and Assessment Amendment (Affordable Housing Development Contributions) Bill 2008.

**The Hon. DON HARWIN** [4.32 p.m.]: The purpose of the Environmental Planning and Assessment Amendment (Affordable Housing Development Contributions) Bill 2008 is to require all councils throughout New South Wales to impose a levy on developers for the provision of affordable housing when developers seek planning consent for developments containing 10 or more properties. The bill seeks to achieve this goal by extending the ambit of State environmental planning policy 70, which currently empowers only certain councils to impose such a levy. The levy can be imposed in the form of dedicated land or a portion of the development—up to one-quarter of the total floor area—or in the form of a monetary contribution to the same value.

There is unquestionably a lack of affordable housing in our community, and the situation is steadily worsening. It is important that low-income workers are able to find affordable accommodation for themselves and their families. And it is to society's benefit that low-income workers fulfilling essential basic services are able to find affordable housing in all geographical areas and that they are part of the community in which they work. However, the question is: What is the best approach to addressing the shortage of affordable housing? Housing New South Wales is the provider of the largest part of the social housing sector. It manages dwellings for social rental in the form of public housing and subsidises those who offer community housing through local programs. Commonwealth Government grants make up 57 per cent of all State budget subsidies for affordable housing and 25 per cent of the revenue of Housing New South Wales.

In addition, many low-income households rely on private sector low-rent housing. The most recent academic data on the subject of private rental housing for low rents was published in 2001 and revealed that nearly 600,000 households, or 21 per cent of low income households in Australia, were in the private rental market. Fifty-three per cent of low-income working private renters in Sydney live in flats. The majority are lone persons or single parents, and most are employed as low-skilled clerical workers, transport workers or labourers in the Sydney and Parramatta metropolitan areas.

The bill before the House seeks to introduce a levy mechanism in local government planning consent processes as a means of providing more private low-rental housing, either directly or through the provision of cash contributions from developers. In her second reading speech, Ms Sylvia Hale pointed to schemes in other jurisdictions in support of her proposed extension of State environmental planning policy 70 across New South Wales. Among those schemes was the operation of section 106 of the Town and Country Planning Act 1990 in the United Kingdom. However, the comparison is problematic. Ms Hale neglected to address some of the drawbacks with section 106 agreements and the fact that the need to reform the scheme is a matter of growing debate in Britain.

Section 106 empowers local planning authorities in the United Kingdom to negotiate contributions as part of development consent agreements. New housing developments over a given threshold size are required to provide a predetermined proportion as affordable housing. However, contributions also can be negotiated as monies paid by developers to local planning authorities in order to offset the costs of the external effects of development, such as the need to offset the impact on local roads and childcare services of increased development. Over recent years section 106 has become a target of increasing criticism since the British Government now makes more money from the sale of affordable rental housing than it spends on the provision of such housing.

The application of the scheme is gradually resulting in government forcing the private sector to assume responsibility for the provision of all new low-rent housing through punitive planning mechanisms—a practice that is burdening the housing sector as a whole. As Grant Shapps, the shadow housing Minister told the Conservative Party conference in Birmingham at the end of September last year, the current Labour Government in Britain has built less social housing during its entire term in office than the previous Tory Government did in each year of its administration. Mr Shapps has pledged an overhaul of section 106 by a David Cameron-led Tory Government, and the Department for Communities and Local Government has since

embarked on its own review of the controversial clause. Mr Shapps promised that a Cameron government would "incentivise development", by which he means that the Conservatives will provide incentives for cooperative development partnerships between developers and local communities rather than affordable housing obtained through the current scheme of punitive levies.

It is precisely the kind of approach we need in New South Wales. Over the past decade the New South Wales State Government's housing subsidies have been used to keep public housing operating at roughly the same level each year throughout that period in terms of the total number of dwellings. According to Shelter New South Wales, there were 143,503 social housing dwellings in 1998-99 and 147,880 were available at the beginning of 2008-09. That organisation reports that one of the major reasons that Housing New South Wales has kept stock numbers steady is the deterioration in the condition of the buildings and the development of a maintenance backlog. In 2008-09 the number of newly completed non-profit dwellings will be 1,191, which is fewer than the 1,223 built during the previous financial year. Further, the recent State mini-budget included an \$80 million cut from the Department of Housing over four years.

The Government claims that the cut will be achieved through improved operational efficiency, reduced corporate overheads and the leveraging of procurement savings. However, the Government's track record of delivering on operational efficiencies is poor and one cannot help but worry that so-called protected frontline services will be put in jeopardy. Mary Perkins, the executive officer of Shelter New South Wales, said:

It is very strange that the government talks about protecting 'frontline services' from cuts, while reducing funding from the agency that provides housing assistance to low-income households.

Ms Perkins also declared the mini-budget a missed opportunity for boosting the State's economy by stimulating building and related activities in the housing sector. She said:

The construction of non-profit rental housing has direct economic benefits in terms of jobs and purchase of building materials, in addition to the social benefits of providing affordable housing to low-income earners.

The result of the State Government's failure to provide more social housing is that the eligibility criteria have become more strict. Many low-income households that in the past would have been eligible for social housing are now unable to access it and are turning to private sector low-rent accommodation instead. In 2001 there was a shortage of 134,000 low-rent dwellings affordable and available to low-income private renters. The demand for more private low-rent dwellings has been a major reason the Government has been turning to policies such as State environmental planning policy [SEPP] 70 and trying to force developers to provide the solution. The crisis in available affordable housing has become acute in recent years following the declining state of the overall rental market. While a healthy rental market has a vacancy rate of approximately 5 per cent, in Sydney the rate in June of this year was just 2.9 per cent. Under such conditions, it is even harder for prospective tenants to find housing that they can afford, especially close to the urban centres where they are employed in basic service delivery.

But are levies imposed by councils on developers the best way to address the shortage? Bill Randolph of the City Research Centre told the Shelter New South Wales conference in Sydney in June last year that the complexity of the affordability problem implies no simple policy solution and that a range of tailored policies are needed to address the different problems. He went on to argue that the goal of improving housing affordability cannot be addressed in isolation and that policy responses need to be multifaceted and integrated. He concluded by emphasising that a strategic framework for policy development is required to promote cohesive action and avoid fragmentation of policy responses. This bill appears to be exactly the kind of fragmented policy approach developed in isolation that Mr Randolph was warning against. It is also the same punitive use of levies that have proven such a disincentive in the United Kingdom.

Rather than seeking to involve the private sector willingly through incentives, the bill seeks to force its participation through the imposition of levies at a time when the sector is struggling amidst a major economic crisis. Both Shelter New South Wales and the Council of Social Service of New South Wales have also argued for a comprehensive and coordinated incentive-based approach to the problem, including the need to provide land tax and stamp duty concessions for private investors and tax concessions to superannuation funds that invest in affordable housing developments. The Property Council of Australia has also spoken out against the idea, especially given the trouble currently facing the housing sector. The Executive Director of the New South Wales arm of the Property Council, Ken Morrison, said that the proposal to extend SEPP 70 to councils across the State was a highly counterproductive strategy when Australia is in housing affordability stress and that it would only exacerbate the current slump.

Development levies and charges in New South Wales are exorbitantly high and have already effectively hobbled the sector for some time. Approvals for the construction of new homes have fallen to the lowest level since the Second World War. The sector has stumbled under the burden of this Government's taxes and levies and its unworkable planning regime. Levies on new homes have reached \$150,000, which is 10 times the level in Queensland. As a result, developers decide that building is simply not economically viable and buyers decide that they cannot afford to purchase a new home. Over the past six financial years the number of new homes built in this State dropped by 37 per cent. Developers have turned to opportunities in Queensland and Victoria, where, in the words of an AV Jennings report to shareholders in 2007, they are "less aggressively taxed".

Belatedly acknowledging the harm that its levies have caused to the housing sector, the Rees Labor Government announced just before Christmas that it would reduce or abolish infrastructure levies and charges associated with the development of vacant lots and that developer contributions to councils would be subject to a \$20,000 cap. Consequently, it is difficult to justify the passage of a bill that would counter these reductions with an extra cost that developers will only pass on to home buyers, investors and renters. We have seen the damage that the Labor Government's system of development levies has wrought on the housing sector. Why would we want to revisit such a discredited policy approach? The bill's proposals are also ill timed in the context of the Commonwealth Government's controversial stimulus package. The shadow Minister for Housing and Local Government, Scott Morrison, explained last month:

Given that private housing accounts for around 97 per cent of the residential construction industry, this sector should be the primary target of any stimulus measures ... by directing the stimulus to private housing, the Government can achieve a greater economic dividend through leveraging additional private spending, making the public dollar go much further ... by contrast the Government is proposing to put more than \$6 billion on the taxpayer credit card to spend only on public housing construction, where not one additional dollar of private investment will be leveraged to add to the stimulus effect.

This approach by the Rudd Labor Government in Canberra flies in the face of all the advice from industry stakeholders about the best way to deliver affordable housing. Such a public spending approach, with no involvement of the private sector, is inefficient and an ad hoc piece of planning legislation that forces the burden onto developers and local government in a punitive fashion, such as the one proposed by the Greens today, and is counterproductive. The most effective and sustainable way to address the lack of public social housing stock growth is a coordinated Commonwealth and State Government approach that harnesses the willing participation of the private sector. The Opposition does not support the bill.

**The Hon. LYNDIA VOLTZ** [4.46 p.m.]: This Government is committed to the provision of affordable housing and to increasing housing affordability. The New South Wales Government is implementing a wide range of initiatives to enable adequate levels of housing construction to occur. The current situation of relatively low rates of approvals is a combination of the stage of the property cycle, which always goes through peaks and troughs, and exceptional factors affecting demand. The latter are in turn affecting the willingness of developers to pursue new projects in the short term. It is one of the State Plan priorities—E6, with targets and initiatives applying to regional New South Wales and Sydney—and is one of the implementation actions for the Metropolitan Strategy.

The most critical factors now in housing affordability are the impact of interest rates on the ability of home buyers to enter the market, which fortunately have been lowered; the global restriction on the credit available to developers to bring forward sites on line; and the prevailing poor market conditions in some parts of Sydney, restricting the ability of developers to successfully bring land to the market. The levels of stocks of land available at the key stages of the housing supply process—total potential of land committed for development, total zoned and total zoned and serviced—are not a factor in the lower levels of new housing construction in Sydney's new housing estates.

The Government has already legislated to provide for councils to seek contributions from developers for affordable housing. Indeed, this was done as far back as 2000. However, it is acknowledged that increasing affordable housing requires a multilayered approach by Government. The Government is addressing affordability in a number of ways. It has been at the forefront of initiatives to provide for affordable housing for very low, low and moderate income households in New South Wales. These are the people that need our support. Affordable housing is housing for very low, low and moderate income households. Very low income households are those that have incomes less than 50 per cent of the average income in Sydney. Low income households earn between 50 per cent and 80 per cent of the average income. Moderate households have an average income of between 80 per cent and 120 per cent of median earnings.

In 2000 the Government legislated to provide that councils could seek contributions from developers for affordable housing. This scheme enables councils to obtain monetary contributions or accept the dedication

of land where the council is satisfied that proposed development will or is likely to reduce the availability of affordable housing within their area, or to create a need for affordable housing. In order to be able to levy for affordable housing a council must develop an appropriate scheme approved by the Minister. To date four schemes have been approved and are operating successfully in Leichhardt, Willoughby and at two places within the City of Sydney, Pymont and Green Square.

Also in 2000 the Government ensured that affordable housing would be provided in the future development of the former Australian Defence Industries Pty Limited site in St Marys. The developer committed to provide appropriate levels of affordable housing contributions on that site. In 2004 the Government brought forward the Redfern Waterloo Authority Act, which provided for affordable housing contributions to be used in Redfern and Waterloo. In 2006 the Government introduced the special infrastructure contributions legislation, which also enables contributions to be sought for affordable housing.

While constantly and consistently supporting the provision of affordable housing contributions, the Government is well aware that these contributions come as an added cost on development. The Government has been very careful to ensure that these schemes have not proliferated haphazardly, to reduce housing affordability in new land release areas. The fact of the matter is that these types of measures, while creating a small percentage of affordable housing, invariably increase the cost of the remainder of housing in each project. Developers will seek to recover their margin by shifting the additional cost of providing the affordable housing component to the price of the other homes of the development. The net effect may be that while one is making 15 per cent of housing more affordable, 85 per cent of the housing is made less affordable. The Government has shown that it will look at each scheme on its merits to ensure that the need for affordable housing is balanced by the need to ensure that housing generally is affordable.

**The Hon. CHRISTINE ROBERTSON** [4.51 p.m.]: While the Government shares the Greens concerns about the availability of affordable housing, it disagrees about how best to respond to the problem. As the Hon. Lynda Voltz mentioned, the housing affordability issue is essentially a supply issue. There is simply not enough residential housing available to meet the demands of our growing population. Housing is expensive because it is highly in demand and, as a result, there is a shortage. We need more homes, more places for people to live and more places for people to work. New homes also need to be in areas close to services, transport and jobs. That focus on creating more homes and places of work and play is the focus of the Government's efforts to address the affordability issue. One factor in the delivery of affordable housing has been land supply.

The Governments actions over recent years have ensured that stocks of greenfield land are at healthy levels compared to current demand and can also respond quickly to a market upturn. Those actions include: rezoning of new release areas in south-west Sydney, including at Oran Park and Turner Road in the Growth Centre, at nearby Harrington Park II, and most recently a further 14,000 lots in the Riverstone and Alex Avenue precincts. The Government's Metropolitan Development Program [MDP] ensures the ongoing delivery of housing land to the market and is delivering significant increases to the amount of zoned and serviced land towards the State Plan target of sufficient zoned and serviced land to accommodate 55,000 potential dwellings. The potential of land zoned for greenfield housing is at 50,022, an increase of 41 per cent since July 2005. For zoned and serviced stock, the increase was to 33,858 dwellings—44 per cent over two years. For the established, or brownfield, areas of Sydney, the MDP is also showing a continuing supply of sites with capacity to maintain new dwelling construction at adequate levels as the market improves.

In addition, the Government has completely overhauled the infrastructure contribution scheme to lower the cost of new development. Those changes impose limitations on the types of community infrastructure for which a council can levy contributions and the types of infrastructure for which the government agencies can require contributions in future. This has led to reductions in levies charged on new developments by up to \$64,000 per lot, including cutting State infrastructure charges in the south-west and north-west growth centres from \$23,000 to approximately \$11,000 per lot until June 2011, abolishing infrastructure levies payable to Sydney Water Corporation and Hunter Water, saving up to \$15,000 per lot, and capping infrastructure contributions payable to local councils at \$20,000 per lot—with all contributions exceeding \$20,000 requiring approval from the Planning Minister. Those limitations will keep the level of contributions well below what has been seen in the recent past.

The Government's recent planning reforms seek to cut red tape and improve efficiency in the New South Wales planning system, which will have a flow on impact on improving housing affordability by increasing the uptake on complying development from the current 11 per cent to 50 per cent of all applications during the next four years, saving some \$353 million to the New South Wales economy, streamlining the

plan-making system to substantially reduce delays in the processing of local environmental plans and produce greater certainty in the delivery of land for investment in housing, improving development application turnaround times through changes to the assessment process, removing unnecessary concurrences and introducing planning arbitrators that will result in costs savings to applicants.

The Government's measures are targeted to effectively respond to the demand for housing by delivering new housing in places where people want to live in the quickest, most inexpensive way possible. I remind members that the current inquiry of the Standing Committee on Social Issues, headed by the Hon. Ian West, is in relation to homelessness and low-cost rental accommodation. It will well inform this House, the committee and the Government on issues about the necessity for us to work very hard and long-term on low-cost housing issues in the future.

**The Hon. AMANDA FAZIO** [4.56 p.m.]: At the outset I say that I, like every other member in this Chamber, support affordable housing. It is interesting that the proponent of the Environmental Planning and Assessment Amendment (Affordable Housing Development Contributions) Bill 2008 is well known for opposing all forms of development. One cannot be in favour of both. One cannot oppose developments and be in favour of affordable housing. One has to work to ensure that affordable housing options are included in developments. There have been some examples of that in the past, but I digress from my main comments. The housing affordability issue is one of real concern that has real effects on the daily lives of the people of New South Wales. Increased housing costs mean less money for the other necessities of life—food, petrol, bills, clothing and the small things that make life just a little bit more enjoyable.

The real problem with this bill is that it may create an environment in which less housing is delivered than would otherwise be the case. As discussed earlier in the debate, local councils already have the ability to introduce an affordable housing charge or levy if they choose to do so. The unavoidable consequence of that measure is that it makes property development within that local government area less attractive compared with other councils that do not impose such an affordability charge or levy. In the same way, if the Government were to impose a statewide affordable housing infrastructure charge in the ham-fisted manner that is proposed by this bill it would only serve to make New South Wales even less competitive with other Australian States when vying for investment in our residential property market.

We all know that New South Wales is already disadvantaged when competing with other States by its naturally high land values. Land values and the housing prices in New South Wales are far greater than those in other States. We do not need to make that gap even greater by introducing this sort of levy. It is clear that property investment has left this State for the more profitable markets of Melbourne and Brisbane. Introducing further charges through an affordability levy would only serve to further aggravate the problem. The net outcome would likely be less property development investment in New South Wales, meaning less new supply and worsening affordability problems. The result of the implementation of this bill would be a drying up of new residential property starts and a diminishing of the number of affordable homes this bill is supposed to be delivering.

While we can all say that we support affordable housing, I think we have to say that the approach this bill would implement would work against increasing the supply of affordable housing in New South Wales. In terms of social housing, the New South Wales Government already strongly supports public and community housing—exactly the type of housing that the Greens are calling for more of. Housing NSW will be at the forefront of delivering up to 6,000 new public homes for those most in need as part of the Federal Government's \$42 billion stimulus package. Further community housing initiatives aim at increasing the amount of community homes from 13,000 to 30,000 in the next 10 years.

The Government's recent shared equity program has allowed community housing providers to leverage debt to deliver a far greater number of new homes than would otherwise have been possible. Housing NSW has also recently announced major new construction projects at Macquarie Fields, Riverwood, Villawood, and across the inner west of Sydney. Along with other Housing NSW developments, these projects are set to deliver a further 5,000 new public and private homes. This makes the New South Wales Government one of Australia's largest providers of homes.

Building on these comprehensive efforts are joint actions undertaken with the Federal Government on the National Rental Affordability Scheme [NRAS]. The National Rental Affordability Scheme creates an \$8,000 incentive for institutional investors and developers to build new affordable rental units and lease them at

80 per cent of market value to selected recipients for a 10-year period. I think this is important because another issue in terms of affordable housing and rental housing in New South Wales—and Australia generally—is the insistence on six-month short-term leases with one month renewable.

This makes it impossible for people to have any stability in their home, particularly people on lower incomes, people who need affordable housing, and that lack of security means that they regularly have to pay for relocation. Everybody who rents property knows that you do not walk into a perfect property that does not need some fixing up, which usually the tenants have to do, whether it is buying curtains or refitting some of the kitchen or whatever else. If people constantly have to move, the amount of dead money put towards removalist costs and making a place habitable is quite an impost on families, particularly people on lower incomes. This is another issue that works against people in the affordable housing market.

The program that I was referring to, the National Rental Affordability Scheme, consists of a \$6,000 contribution from the Federal Government and a \$2,000 in kind contribution from New South Wales. Late last year the first tenders of the National Rental Affordability Scheme program were called and I understand that there was an excellent response in New South Wales. New affordable homes under the National Rental Affordability Scheme program are the right response to the affordable housing issue that this bill seeks to address. The bill has been on the *Notice Paper* for quite some time and it probably does not reflect changes that have occurred since the election of a Federal Labor Government last year and some of the emphasis that has been placed on ensuring that there are increases in the amount of affordable housing available in New South Wales.

**Debate adjourned on motion by the Hon. Amanda Fazio and set down as an order of the day for a future day.**

#### ADJOURNMENT

**The Hon. TONY KELLY** (Minister for Police, Minister for Lands, and Minister for Rural Affairs) [5.03 p.m.]: I move:

That this House do now adjourn.

#### DRUMMOYNE PUBLIC TRANSPORT

**The Hon. DON HARWIN** [5.03 p.m.]: According to the Australian Bureau of Statistics, nearly 23,000 residents from the Drummoyne electorate travel to work in private vehicles, that is, two-thirds of all commuters. The resulting traffic gridlock has left Victoria Road as the slowest corridor in the metropolitan area with an average speed of just 23 kilometres per hour in the morning peak. Congestion has only worsened since the Government introduced time-of-day tolling on the Harbour Bridge. While 66 per cent of commuters from the Drummoyne electorate commute in a car, recent figures from the Transport Data Centre reveal that the average across Sydney is only 53 per cent.

The higher than average reliance on cars is indicative of the problematic state of inner-west public transport services. Given Drummoyne's proximity to the city, commuter patronage of public transport ought to be high. A rail line passes through the western end of the electorate, bus corridors run along its southern and eastern sides, and ferry services operate along its northern and eastern foreshores—and yet barely a quarter of commuters from the area use any form of public transport.

Residents complain about the lack of integrated transport options, citing inadequate timetable co-ordination between buses and ferries and a lack of bus services connecting with nearby railway stations. Others complain that existing services are overcrowded and unreliable. Such complaints have been made for years without the Labor Government providing improved services. For a long time Labor has been almost exclusively focused on its controversial \$100 million Victoria Road upgrade and Iron Cove bridge duplication. Despite local opposition and strong evidence that the project will fail to ease congestion, Labor has clung to the policy as a panacea for the electorate's problems. Frustratingly, the Government has shown less interest in providing public transport solutions, such as better ferry services.

Although much of the electorate lies along the harbour foreshore, less than 2 per cent of commuters use ferries because the existing services have a poor reputation. Commuters are frequently left stranded at Drummoyne wharf, for example, because the RiverCats are either already full of passengers when they arrive or running so late that they do not stop. This longstanding problem has not been addressed by the Rees Labor

Government. The 2007 Walker Report acknowledged that Sydney Ferries was unable to meet existing demand along the lower Parramatta River, but when a new RiverCat timetable was introduced last December no additional services were introduced for the people of Drummoyne.

Those using the regular ferry service from Birkenhead in the electorate's east were shocked to discover that the Government had actually scrapped one of their three morning peak hour services. The 8.14 a.m. service from Birkenhead, arriving at Circular Quay at 8.50 a.m., was dropped from the ferry timetable introduced in December. This cut in services follows the imposition of a 50-cent levy on ferry trips introduced by the Government in its mini-budget in November. Overcrowded ferries, increasing fares and cuts in services are hardly ways to encourage commuters to leave their cars at home and take public transport.

Unable to access the 20-minute ferry trip to the city due to overcrowding and faced with the prospect of a 40-minute trip by bus, many commuters from Drummoyne simply jump into their cars and drive onto already congested roads. Unlike Labor, the Coalition recognises that addressing traffic flow along Victoria Road is only part of the solution to the congestion in Drummoyne. While the Rees Government has ignored the Walker Report, the Coalition has responded to its recommendations with a comprehensive plan to fix Sydney Ferries and improve existing services. Our policy advocates ongoing Government ownership of Sydney Ferries while allowing non-Government operators to lease, maintain and operate the fleet. Recognising the importance of making better use of the waterways, our policy includes investigating the introduction of a class of craft able to negotiate the more shallow waters and smaller wharves within the inner west.

There is clearly a demand for the ferry services from Drummoyne to be improved and expanded as part of the solution to the commuter problems that have been plaguing the electorate for many years. While Labor's member for Drummoyne is ignoring the problem, the Coalition is committed to delivering those improved services and achieving a holistic and integrated solution for the people of Drummoyne.

#### **HURLSTONE AGRICULTURAL HIGH SCHOOL FARM LAND SALE**

**Dr JOHN KAYE** [5.08 p.m.]: Imagine the outrage if it was proposed to sell off the musical instruments from the Conservatorium High School. Imagine the outrage if it was proposed to sell off the drama theatre from Newtown High School of Performing Arts. Neither would be acceptable—nor should they be acceptable—because they undermine the missions of those schools, but these ideas are no less outrageous than the New South Wales Government's plan to sell all or part of the 115-hectare farmland at Hurlstone Agricultural High School in Glenfield in Sydney's south west. This proposal of the New South Wales Government should be treated with exactly the same derision as the idea of selling off musical instruments or drama theatres. It is part of a plan that comes from the New South Wales mini-budget—along with Seaforth TAFE and various other sites—for accelerated land sales worth \$240 million.

In a memo to school and TAFE college principals, education director Michael Coutts-Trotter identifies \$120 million of the \$240 million accelerated land sale would be "used to fund frontline services such as police and nurses". Mr Coutts-Trotter has admitted that not only will this money disappear from the capital asset base of public education, but also it will be spent on recurrent expenditure. This is economic irrationality of the worst kind. Selling assets to fund recurrent expenditure is not only unsustainable, because surely we will eventually run out of assets to sell, but it will leave future generations impoverished and without the capacity to educate their children.

It is one thing to borrow money for recurrent expenditure, leaving future generations with debt; it is entirely another matter to take away land from public education through irreversible decisions, sell it off and subdivide it. It is an exceptionally poor way to balance the budget. The fetish with the triple-A rating and the abhorrence of borrowing have blocked sensible solutions to the problem of the State's budget. Instead of selling off the farm we should be borrowing money. Not only are we selling off the farm at a bad time, but also we are selling it off at a disastrous time when the global financial crisis has cut land values at schools and around the State.

The Government argues that James Ruse Agricultural High School operates as an agricultural school on nine hectares of land. It argues that it will leave Hurlstone with more than twice that amount. James Ruse Agricultural High School is an extremely fine school, which produces some excellent students and whose teachers work very hard. But sustainable land management simply cannot be demonstrated on nine hectares. To take away land and leave Hurlstone with only 20 hectares would be to take away at least the sustainability component of education at Hurlstone Agricultural High School. The Government admits to comparing

Hurlstone with Yanco and Farrer agricultural high schools. Yanco has a farm of 200 hectares and Farrer has 620 hectares. I do not begrudge them a single square centimetre of the land. It is all used, just as it is at Hurlstone Agricultural High School. It is insanity to say that you can model good quality farming on nine hectares of land. It is simply not possible to demonstrate land management and the full range of agricultural schools.

On a very hot Saturday afternoon in early February I spent time at Hurlstone Agricultural High School at the invitation of the parents and citizens association being shown around by four of the State's finest young people: Emma Ludington, Sam Bush, Diana Nixon and Jess Dunn. If the Minister for Education, Verity Firth, had been there with me she would have abandoned this crazy sale. She would have seen their total commitment to their farm, the pride and enthusiasm they have for their farm and farming and their commitment to sustainability. She would also have seen that not a single paddock or single centimetre at Hurlstone Agricultural High School is surplus land. Every square centimetre of that land is being used intensively.

Only the mean-minded could break these children's hearts. Only a vandal could destroy a world leading public education facility with such outstanding Higher School Certificate results, distinguished alumni, and a record of young people from diverse socio-economic backgrounds to prove it. Only a fool would damage the future of food production at a time of climate change, declining water storage and increased demand for food. The Australian Council of Deans of Agriculture has identified that the average age of farmers is 54. Half of the public sector agriculture professionals are going to retire in the next five years and we need to double our output. Why would we damage the future of education in agriculture and sustainability at a time when we face a shortage of farmers, a shortage of agricultural professionals and a food crisis? [*Time expired.*]

#### **ZIMBABWE ECONOMIC, SOCIAL AND POLITICAL PROBLEMS**

**The Hon. AMANDA FAZIO** [5.13 p.m.]: On 4 March 1980 Nationalist leader Robert Mugabe won a sweeping election victory to become Zimbabwe's first black Prime Minister. However, this day is no longer a cause for celebration for the people of Zimbabwe. News of Mr Mugabe's election victory was announced over radio and television sending thousands of enthusiastic black Zimbabweans onto the streets shouting for joy. As members are probably aware, the United Kingdom annexed Southern Rhodesia from the British South Africa Company in 1923. In 1961 a constitution was formulated that favoured whites in power. In 1965 the government of Ian Smith unilaterally declared its independence, but the United Kingdom did not recognise the act and demanded more complete voting rights for the black African majority in the country, which was then called Rhodesia. United Nations sanctions and a guerrilla uprising finally led to free elections and independence as Zimbabwe in 1980.

Robert Mugabe has been the country's only ruler and has dominated the country's political system since independence. His chaotic land redistribution campaign, which began in 2000, caused an exodus of white farmers, crippled the economy, and ushered in widespread shortages of basic commodities. Ignoring international condemnation, Mugabe rigged the 2002 presidential election to ensure his re-election. The ruling party used fraud and intimidation to win a two-thirds majority in the March 2005 parliamentary election, allowing it to amend the Constitution at will and recreate the Senate, which had been abolished in the late 1980s.

The Government's urban slum demolition drive in 2005 drew more international condemnation. President Mugabe said it was an effort to boost law and order and development. Critics accused him of destroying slums housing opposition supporters. Either way the razing of "illegal structures" left some 700,000 people without jobs or homes according to United Nations estimates. In June 2007 Mugabe instituted price controls on all basic commodities causing panic buying and leaving store shelves empty for months.

General elections held in March 2008 contained irregularities and the Movement for Democratic Change opposition leader, Morgan Tsvangirai, won the presidential polls, and may have won an outright majority, but official results posted by the Zimbabwe Electoral Commission did not reflect this. In the lead up to a run-off election in late June 2008, considerable violence enacted against opposition party members led to the withdrawal of Tsvangirai from the ballot. Extensive evidence of tampering and ballot box stuffing resulted in international condemnation of the process. Difficult negotiations over a power-sharing agreement, allowing Mugabe to remain as President and creating the new position of Prime Minister for Tsvangirai, were finally settled in February 2009.

Today, 29 years after Mugabe's first election, the Government of Zimbabwe faces a wide variety of difficult economic problems as it struggles with an unsustainable financial deficit, an overvalued official



exchange rate, hyperinflation, and bare store shelves. Its 1998-2002 involvement in the war in the Democratic Republic of the Congo drained hundreds of millions of dollars from the economy. For years it was a major tobacco producer and a potential breadbasket for surrounding countries, but the forced seizure of almost all white-owned commercial farms, with the stated aim of benefiting landless black Zimbabweans, led to sharp falls in production and precipitated the collapse of the agriculture-based economy. Many Zimbabweans survive on grain handouts. Others have voted with their feet; hundreds of thousands of Zimbabweans, including much-needed professionals, have emigrated.

Badly needed support from the International Monetary Fund has been suspended because of the Government's arrears on past loans and its unwillingness to enact reforms that would stabilise the economy. The Reserve Bank of Zimbabwe routinely prints money to fund the budget deficit, causing the official annual inflation rate to rise from 32 per cent in 1998 to 11.2 million per cent in 2008. The unemployment rate is around 80 per cent. Life expectancy for males is 45 years and for females 43 years. Zimbabwe is a source, transit and destination country for men, women and children trafficked for the purposes of forced labour and sexual exploitation. Reporters Without Borders has stated about Zimbabwe that "Surveillance, threats, imprisonment, censorship, blackmail, abuse of power and denial of justice are all brought to bear to keep firm control over the news".

Speaking at a rally on 28 February to celebrate his 85<sup>th</sup> birthday, Mugabe said there would be "no going back" on planned and already executed seizures of land owned by white farmers and also promised to push for majority Zimbabwean ownership of companies operating in the country. The birthday celebrations came as Zimbabwe struggles with the world's highest inflation, food shortages and a cholera epidemic, which the World Health Organisation says has killed 3,894 people since August last year. There have been more than 84,000 reported cases. More than half the population is believed to need food aid. This is in a country that has proven in the past to be more than self-sufficient. I have taken the opportunity to ask politicians from Africa why there has been such little action against Mugabe's regime. They have pinned their hopes on the African Union. [*Time expired.*]

#### FAIRFIELD CITY COUNCIL

**The Hon. CHARLIE LYNN** [5.18 p.m.]: I wish to bring to the attention of the House a serious matter involving Fairfield City Council and the processing of a development application for 661-671 Smithfield Road, Edensor Park. The owner of the land is Mr Fred Piscineri of Fred's Fruit Market. On 8 December 2008 construction works at the site commenced without development consent and were therefore illegal. Two verbal warnings were given by Fairfield City Council to the developer to stop work. However, works continued and subsequently a \$600 penalty notice was issued. On 17 December 2008, despite no approval having been granted, works continued. Instead of immediately commencing legal proceedings, particularly considering this developer had already received two warnings and a fine, Fairfield City Council sent them a letter asking for works to cease. This developer flagrantly flouted the law and continued with no concern.

I am curious as to why this developer felt he was above the law and was so confident that Fairfield City Council would not prosecute him. On 17 February 2009 this development application came before the council's independent hearing and assessment panel. Fairfield council's brochure states that the panel provides an opportunity for both applicants and community members to understand one another. Panel members focused their efforts on issues pertaining to a few trees in the location of the driveway despite the fact that these issues were of no concern to objectors. Objectors raised a number of other issues of concern but the panel ignored them.

Following that panel hearing councils were advised that the application would be reported for determination at the council meeting on 24 February 2009 and that a report would be provided on the application after 2.00 p.m. on Friday 20 February 2009. Somewhat mysteriously, the report was unable to be published until the day before the council meeting on 23 February 2009 because of technical issues involving the council's website. When the report finally appeared it contained a recommendation for the application to be approved in spite of the fact that the applicant had broken the law with illegal works and it was contrary to council's own development control plan for Bonnyrigg Town Centre. This raises serious questions about the integrity of the planning process relating to this development.

Another serious question that needs to be resolved is whether current zoning even permits a development of this type. It is also noteworthy that in November 2008 a report from the council's independent consultant to its services committee found that the development application was deficient by way of its

economic impact assessment and, therefore, the council could not make an informed decision on the development application. Despite no changes being made to the development application since the November finding, a new report from the same consultant in February to council recommended approval.

At the council meeting on 24 February 2009 Australian Labor Party councillors Laurence White and Frank Carbone declared an interest in the application, absented themselves from the chamber, and did not vote on the application. That was not the case in relation to the mayor, who declared a non-pecuniary and non-significant interest and stayed in the chamber to vote for the approval of the application. I have been advised that the owner of the development donated \$2,000 to the Labor Party campaign in the Cabramatta by-election in October last year. The donation was in the form of a \$1,000 a head fundraising dinner with prominent members of the Italian community at Le Montage Restaurant in Leichhardt.

In view of the number of irregularities in this matter, including the failure of Nick Lalich, Fairfield Mayor and State member for Cabramatta, to comply with the law when he voted on the application by failing to declare a significant interest in the development as a result of the \$2,000 donation received, I have therefore referred this matter to the Independent Commission Against Corruption for investigation. I believe that the New South Wales Department of Local Government should also refer this matter to the Pecuniary Interest and Disciplinary Tribunal considering Mayor Lalich's clear breach of disclosure requirements.

### BUILDING AND HOUSING CODES

**Ms SYLVIA HALE** [5.22 p.m.]: The new building and housing codes introduced on 12 December last year by the State Government took effect last Friday. The new codes further strip planning controls from local communities: they are a win for developers over local neighbourhoods. The codes deliver a set of standards for both complying and exempt development that will change the approval process for complying developments such as detached new two-storey houses and alterations on lots of 450 square metres and larger. The codes also list 40 development types such as balconies and fences that do not need any approval as long as they comply with the housing standards.

From now on private certifiers whose services are paid for by the developer will be able to approve developments that comply with the code, and they must do so within 10 days. If they fail to meet that deadline the development will be deemed to be complying and, therefore, approved. What a boon for a corrupt certifier, in cahoots with an unscrupulous developer, to be handsomely rewarded for sitting on their hands. And, of course, under these so-called reforms, there will be no checks and balances and no right of appeal against any dodgy decision. To add insult to injury, there is no requirement for neighbours to be informed, let alone consulted, while this takes place. Private certifiers do not have to notify surrounding residents until two days after the application has been approved, and then only those neighbours within 40 metres of the development. The first a neighbour might know about a development next door would be when the builders arrive to start work.

Speedy turnarounds might be good for developers but they disregard legitimate community concern about issues such as heritage, streetscape, overshadowing, privacy, neighbours amenity, building quality, design principles and sustainability measures. New South Wales councils were informed on Friday 20 February of 40-odd amendments to the codes, including the need to issue a new section 149 certificate to help homeowners determine whether their development could be classified as compliant under the new codes. This gave councils only a few days over the weekend to make the required changes. The Local Government and Shires Associations [LGSA], having asked the Department of Planning for months to trial these new codes, considered this time frame outrageous.

The LGSA is also concerned that the Government has shown no concern for the increased costs that councils will have to bear under this new developer-friendly system. For example, Lake Macquarie council has had to shut down its online development processing facility indefinitely, which will hardly speed up approval of housing in that area. Many councils have made submissions to the Department of Planning highlighting their concerns about the new code. Strathfield council said:

Council has concerns that some of the minimum standards in the Code will potentially erode Strathfield's existing streetscape and built form character.

Auburn councillors told the department:

Councils will have reduced scope to create and implement policy and controls that reflect the particular environmental and community circumstances of each local government area in New South Wales.

Effectively, the new codes have shifted costs to councils. Although the new codes take power away from them, councils are still expected to pay for the new system and its implementation. Although councils will not be responsible for the decisions of certifiers, they will have to shoulder the costs when things go wrong. If the decision of a certifier is challenged in court the council will have to pay the costs of defending the decision, even if the council is opposed to it. Similarly, if the finished product does not comply with its certification, it will be up to the council to rectify the problem. On top of all this the Minister has just announced the first panel of the new Planning Assessment Commission [PAC].

This first Planning Assessment Commission panel will consider the Metropolitan Colliery under the Waratah Rivulet and Woronora Dam—a controversial mining proposal that has caused wide community protest. However, if the panel approves the development there will be no right of appeal against that decision by anyone affected by the mine. While the Minister has made great play about the supposed independence of the panel she appoints, I note that there is already community concern about the connection between panel members and the coal industry. This will be an ongoing problem for Planning Assessment Commission panels of supposedly independent experts.

Most of the so-called independent experts are likely to rely on the development industry in some way for their livelihood. With millions of dollars in political donations flowing to political parties from developers, it is hardly a surprise to see such developer-friendly codes being imposed on local communities. The effect of these latest changes is that local communities will have little say about development in their area, while local councils will have more costs imposed on them eating into their already overstretched budgets.

### ECONOMIC MANAGEMENT

**The Hon. IAN WEST** [5.27 p.m.]: No State can survive being a consumer, debt-ridden State relying year in and year out on the financial sector, tourism, hospitality and information technology. One cannot conceive of a bright economic future for any economy that relies on consumerism and debt alone. One that does not support industry or employment in its own backyard will only find itself bankrupt and a subservient loser—and that is in the good times. The current global environment magnifies the subservience. We must defend New South Wales from this threat by creating an equitable economy based on real growth, real opportunity, maximum employment and real service delivery.

As I said before, it should be acknowledged that the global market is not nice; it is not level; it is not free; and it is certainly not fair. The Cold War was chickenfeed compared with the global marketplace. It is dog eat dog; there are no second chances and no second place. It is the law of the jungle and it is eat or be eaten. Corporate espionage is a multinational industry. New South Wales must attain a comparative advantage over its competitors, and this can be achieved only through the restructuring of our economy and committing to winning through creating jobs in all sectors of the economy and specialising in such diverse areas as finance, logistics, resources, manufacturing in particular, and creative industry.

We seek new and innovative ways to enable new industries. Outsourcing productivity or creating quick-fix junk jobs is not acceptable. We also recognise mutual economic obligations, both domestically and abroad. The way the current global unfettered economic system operates leads to inequitable, inefficient and unsustainable stratification of opportunity and resources. This creates the inherent structural flaws of this model of economic management. It is essential to investigate new ways to invest in industries that are production-based and expand our exporting capability and ability to win the trade war with other nation states.

One aspect that is certainly not fair is the import and export cycle of substandard corporations and their management, who integrate into our domestic economy, take millions of dollars in subsidies and then rape, pillage and disperse. Why, especially in the current economic climate, do we allow executives and chief executive officers of failed and discredited corporations to receive record bonus payouts while the same people sign the marching orders of thousands of Australian workers and pocket taxpayers' corporate welfare? Any corporate body that maintains and subsidises grossly inefficient management with grossly negligent bonuses is indefensible: It should be named, shamed, stripped of any taxpayer subsidies and exiled from the country. Grossly inefficient and mismanaged corporations deserve to be outsourced, marginalised and relegated to the dustbin of history, where they belong.

It is sheer insanity to continue to prop up these entities, especially from the public purse. In essence, they commit robbery and then cut and run. Ned Kelly was infamous for robbing commercial institutions and inflaming the ire of the State. In 1880 Ned Kelly was hanged for these crimes. In 2009 Telstra Chief Executive Officer Sol "Trickemup" Trujillo receives a \$33 million payout for his highway robbery and then flies away first

class. Pacific Brands Chief Executive Officer Sue Morphett recently rewarded 1,850 workers "hard yakka" by laying them off while she kept millions of dollars in taxpayers' corporate welfare. Her reasoning was that she was increasing the company's annual profit.

The reality is more poignant: She increased the size of her annual pay packet to nearly \$2 million while most vulnerable workers in her company had their incomes reduced to nil. New South Wales cannot afford these criminals. The empress has no clothes. Sue and the company she represents clearly are economic traitors to this State and to our nation. Pay back the millions of taxpayer subsidies and corporate welfare that you have stolen. It is time to correct this market failure, the corporate cop-outs and the grossly inefficient practice of giving corporate payouts to the deserting bosses of these hypocritical corporations. [*Time expired.*]

### **NORTHERN TERRITORY INTERVENTION**

**Ms LEE RHIANNON** [5.32 p.m.]: I have received a statement from Yingiya Guyula from the Liya-dhalinyimirr clan of the Djambarrpuyu people about the intervention in the Northern Territory. Mr Guyula is a Yolngu studies lecturer at Charles Darwin University. He wrote:

The intervention has only created problems in East Arnhemland communities as well as remote homeland centres. The Intervention has made our people more frustrated and confused, the white man's way of thinking is forced on us, and forcing us to abandon our culture.

Governments only looked at the fringe camps and towns and wet areas where people drink alcohol ...

White people see Aboriginal people in these places and think that these people ... don't care about life ... don't care about living. But who are they to judge them. They class all Aborigines the same, but they are wrong.

These white people and those bureaucrats do not go out to the East Arnhemland communities, where my people live, where there has never been alcohol, and there is no child abuse. There are Aboriginal people living on remote communities in Arnhemland, in homeland centres, away from towns, away from the binge drinking areas, poker machines and gambling venues.

These are people that are able to manage their funds and work, or want work, education, discipline and practice ceremonies.

[*Time for debate expired.*]

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

**Motion agreed to.**

**The House adjourned at 5.33 p.m. until Thursday 5 March 2009 at 11.00 a.m.**

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