New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Sixth Parliament
First Session

Wednesday, 24 August 2016

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Wednesday, 24 August 2016

The PRESIDENT (The Hon. Donald Thomas Harwin) took the chair at 11:00.

The PRESIDENT read the prayers.

Bills

GREYHOUND RACING PROHIBITION BILL 2016

Returned

The PRESIDENT: I report receipt of a message from the Legislative Assembly returning the abovementioned bill without amendment.

Visitors

VISITORS

The PRESIDENT: I welcome into the President's Gallery a delegation from the National Conference of State Legislatures, led by Senator Curtis Bramble, Senate President Pro Tempore, Utah Legislature, the Majority Leader from Iowa and the Assistant Majority Leader from South Dakota, all of whom are here as part of a study tour of Australia and New Zealand. I encourage honourable members to take part in the events to which they have been invited to meet members of the delegation.

Announcements

DHAKA TERRORIST ATTACK

The PRESIDENT: I report receipt of the following communication from the High Commissioner of Bangladesh:

11 August 2016

Excellency,

I have the honour to refer to your message of 4 August 2016 conveying kind condolences and sympathies for the victims of the recent terrorist attack in Dhaka. I have conveyed your message to my Government.

May I take this opportunity to reiterate Bangladesh's "zero tolerance" policy against terrorism, and to assure you that this barbaric act of violence has only strengthened our resolve to defeat this evil force.

Government of Bangladesh has taken wide-ranging measures to strengthen the safety and security of all foreign nationals working in Bangladesh and those who plan to come and work here. A national campaign against terrorism involving people of all walks of life, local administration, communities and civil society groups has been launched. Security presence has been enhanced across the board. Site specific security and safety measures are being put in place; intelligence gathering and exchanges are being intensified. These measures are being overseen by high powered committees.

It is indeed reassuring to find our friends in Australia beside us in our fight against terrorism. Terrorism and violent extremism runs contrary to the values and tradition of Bangladesh and we are determined to uphold those values at all cost. Terror cannot and must not succeed.

On behalf of the Government of Bangladesh, and on my personal behalf, I would like to convey our sincere appreciation and thanks to you and the esteemed members of the Legislative Council of New South Wales for your kind sentiments and support.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,
Kazi Imtiaz Hossain

Motions

FRIENDS OF THE KOALA

The Hon. PENNY SHARPE (11:05): I move:

(1) That this House notes that:

(a) in 1986, Friends of the Koala was formed as a habitat group as a result of community dismay at the loss of mature koala habitat in Lismore, and has grown to be a volunteer-run organisation of 350 members;

(b) today, Friends of the Koala is acknowledged as the peak koala conservation organisation in the Northern Rivers region of New South Wales and works to make a significant contribution to Australia's biodiversity by ensuring the protection and conservation of the iconic koala and the preservation and extension of koala habitat;

(c) Friends of the Koala rescues and rehabilitates hundreds of koalas each year and has established a successful Care, Educational and Research Centre in Lismore; and

(d) Friends of the Koala also provides invaluable services through community education, advocacy and research assistance.

(2) That this House recognises Friends of the Koala's increasingly important role in the protection of our iconic koalas as ongoing habitat destruction continues as a major challenge to the koala population of the Northern Rivers.

(3) That this House congratulates Friends of the Koala and its dedicated volunteers and members on their thirtieth anniversary and thanks them for the important work they do to safeguard the future of the koala in New South Wales.

Motion agreed to.

WILDLIFE INFORMATION, RESCUE AND EDUCATION SERVICE

The Hon. PENNY SHARPE (11:05): I move:

(1) That this House notes that:

(a) in 1986, Mikla Lewis, OAM, founded the Wildlife Information, Rescue and Education Service Inc., fondly known around New South Wales as WIRES, to actively rehabilitate and preserve Australian wildlife and inspire others to do the same;

(b) since its inception, WIRES has provided advice and assistance for more than one million native animals in New South Wales;

(c) WIRES is the largest wildlife rescue service in Australia and now handles up to 250,000 calls each year;

(d) there are more than 2,500 dedicated WIRES volunteers authorised to rescue, rehabilitate and release native animals; and

(e) WIRES also provides a valuable wildlife educational service to the community through their rescue office, as well as presentations to schools, community events and wildlife fora.

(2) That this House recognises the increasingly important role played by WIRES in wildlife preservation as ongoing habitat destruction continues to affect wildlife throughout New South Wales.

(3) That this House congratulates Mikla Lewis, OAM, and WIRES on reaching this milestone thirtieth anniversary and thanks the staff, volunteers, rescuers, and carers, for the invaluable work they do to rescue and rehabilitate our State's native wildlife.

Motion agreed to.

SYDNEY NEURO-ONCOLOGY GROUP

The Hon. SOPHIE COTSIS (11:06): I move:

(1) That this House notes that on Saturday 30 July 2016, the Sydney Neuro-Oncology Group held a successful fundraiser which featured entertainment by Penny Pavlakis, Damien Leith and the Ten Sopranos.

(2) That this House congratulates Suzane Peponis-Brisimis and the team at the Sydney Neuro-Oncology Group on their commitment to supporting brain cancer treatment and research.

Motion agreed to.

QINGHUA UNIVERSITY AUSTRALIAN ALUMNI

The Hon. ERNEST WONG (11:06): I move:

(1) That this House:

(a) congratulates the Qinghua [Tsinghua] University Australian Alumni in Sydney on its recent thirtieth anniversary celebration, which was held at the University of Sydney in June 2016; and

(b) notes that former President of the Australian Alumni in Sydney, Mr Ji, together with current President, Ms Jane Gao, are both proud graduates of Tsinghua University.

(2) That this House notes that:

(a) Tsinghua University is a research university located in Beijing, China, which following its establishment in 1911 went through several name changes and a change in location, before adopting the name "National Tsinghua University" in 1928 and returning permanently to Beijing in 1946;

(b) Tsinghua University is one of the nine members in the elite C9 league of universities, which describes itself as dedicated to academic excellence, the wellbeing of Chinese society and to global development, and is consistently ranked as one of the top universities in China; and

(c) due to the significant roles played by graduates of the university in the history of Chinese politics, "Tsinghua Bond" is widely recognised as a term referring to a group of prominent Communist Chinese politicians who have graduated from Tsingua University, including:

(i) Mr Xi Jinping, the incumbent General Secretary of the Communist Party in China, Chairman of China's Central Military Commission and President of the People's Republic of China;

(ii) Mr Hu Jintao, a predominant Chinese politician and paramount leader of China between 2002 and 2012;

(iii) Mr Wu Bangguo, a retired high-ranking politician in the People's Republic of China;

(iv) Ms Lin Wenyi, Chairman of the Taiwan Democratic Self-Government League;

(v) Ms Liu Yandong, current Vice-Premier of the People's Republic of China; and

(vi) Mr Zhu Rongji, a Chinese politician who served as Mayor and Party Chief in Shanghai between 1987 and 1991, before serving as Vice Premier and then the fifth Premier of the People's Republic of China from March 1998 to March 2003 and a significant politician in leading the economic reform in China.

(3) That this House:

(a) recognises that the Tsingua faculty greatly values the interaction between Chinese and Western cultures, the sciences and humanities, the ancient and the modern;

(b) notes that Tsinghua scholars Wang Guowei, Liang Qichao, Chen Yinque, and Zhao Yuanren, renowned as the "Four Tutors" in the Institute of Chinese classics, advocated this belief and had a profound impact on Tsinghua's later development;

(c) with the educational philosophy of "train students with integrity", Tsinghua has successfully produced many outstanding scholars, eminent entrepreneurs and great statesmen; and

(d) commends the various international alumni organisations, particularly the one right here in Sydney, for their active participation and for the important role they play in government departments, large enterprises and regional economic development.

Motion agreed to.

ROCKDALE LIBRARY

The Hon. SHAOQUETT MOSELMANE (11:07): I move:

(1) That this House notes that:

(a) Mayor Bill Saravinovski officially opened the Rockdale Library on Thursday 28 July 2016 at a spectacular evening which took place 32 years after the idea of building a central library was first debated;

(b) over 2,000 residents attended the public opening of the new Rockdale Library and Customer Service Centre on Saturday 30 July 2016; and

(c) the opening was celebrated with an exciting, family-friendly day that included:

(i) an appearance by award winning author Lisa Shanahan;

(ii) a performance by Stephen Michael King, an international award winning author and designer of Rockdale City Council's Junior Library Card and Kiosk; and

(iii) the Rockdale Youth Council providing guided tours of the four-level library.

(2) That this House congratulates the mayor, councillors, the general manager, staff and community representatives as well as State and Federal members on the opening of a twenty-first century place of learning, with special congratulations to Rockdale City Library Committee members and chairs, Councillor Joe Awada, and James McDonald for their leadership and achievement.

Motion agreed to.

YONDER MAGAZINE

The Hon. SARAH MITCHELL (11:08): I move:

(1) That this House notes that:

(a) in June 2016, Gunnedah Shire Council launched its new lifestyle magazine, *Yonder*;

(b) the free magazine focuses on Gunnedah and its surrounds and is a high quality publication which features local activities, from exploring, dining, local businesses and accommodation to retailers and services;

(c) *Yonder* is aimed at visitors, new residents and locals and will be produced every six months, with the aim of featuring a diverse variety of stories, community groups, businesses and people from the region; and

(d) *Yonder* will be stocked in a wide range of local businesses and at all of the Gunnedah Shire Council offices including the Visitor Information Centre.

(2) That this House acknowledges the importance of publications like *Yonder,* which help to promote and celebrate regional areas of New South Wales.

(3) That this House congratulates all who are involved with the production of *Yonder* magazine, including Eliza Gallen, Lisa Davis, Bridie George and Chris Frend.

Motion agreed to.

ABILITY TECHNOLOGY

The Hon. GREG DONNELLY (11:09): I move:

(1) That this House notes that:

(a) Ability Technology first started in 1991 in Manly;

(b) over its 25 years of operation, it has assisted thousands of people with disabilities to be more independent, productive and connected through computer-related technology;

(c) assistive technology for people with disabilities, which in many instances evolves from mainstream developments, has developed significantly over the last 25 years; and

(d) Ability Technology has played a leading role in promoting innovation along with undertaking research and participating in information sharing.

(2) That this House notes that:

(a) on 16 June 2016, Ability Technology celebrated its twenty-fifth anniversary with a special event at the Manly Novotel; and

(b) special guests who attended the event included:

(i) the Hon. John Ajaka, MLC, Minister for Disability Services;

(ii) the Hon. Brad Hazzard, MP, Minister for Families and Community Services;

(iii) the Hon. Greg Donnelly, MLC, representing the Leader of the Opposition, Mr Luke Foley, MP;

(iv) Dr Graeme Smith, Executive Director, Ability Technology;

(v) State and interstate staff of Ability Technology, both past and present;

(vi) representatives from various disability non-government organisations; and

(vii) sponsors and supporters.

(3) That this House acknowledges and congratulates Dr Graeme Smith and the staff of Ability Technology on the outstanding work they have undertaken over the past 25 years for people with disabilities and expresses hope that the work of Ability Technology continues to grow and prosper.

Motion agreed to.

NANCY HILLIER MEMORIAL LECTURE

Dr MEHREEN FARUQI (11:09): I move:

(1) That this House notes that:

(a) on Wednesday 10 August 2016, the inaugural Nancy Hillier Memorial Lecture was held at the Parliament of New South Wales, organised by the University of New South Wales and the City of Botany Bay Council;

(b) the theme of the lecture series is community participation in the achievement of social objectives, whilst exploring specific aspects of Ms Hillier's inspirational legacy;

(c) for more than 40 years, the late Nancy Hillier, OAM, was a tireless and passionate activist who was committed to protecting the local environment; and

(d) Tanya Balakumar and Johanna Garvin, both recent winners of the Lionel Bowen Scholarship, spoke on the topic "The Future of Citizen Participation", with the participation of Mr Ron Hoenig, MP, member for Heffron, and Dr Mehreen Faruqi, MLC, The Greens NSW.

(2) That this House congratulates the organisers of the inaugural Nancy Hillier Memorial Lecture.

Motion agreed to.

HUNTER AND CENTRAL COAST OLYMPIANS

Mr SCOT MacDONALD (11:10): I move:

(1) That this House notes that:

(a) 17 athletes from the Hunter and Central Coast represented Australia at the 2016 Rio Olympic Games;

(b) between them, these athletes won three silver medals and one bronze medal;

(c) Lake Macquarie-based Nathan Outteridge and Ian Jensen won silver medals in the men's skiff 49er event, having previously won gold in the same event at the 2012 London Olympic Games;

(d) Coal Point-raised Will Ryan and team mate Mathew Belcher won silver medals in the men's two-person dinghy 470 metre event, with Mr Belcher having previously won gold in the same event at the 2012 London Olympic Games with partner Malcolm Page;

(e) Avoca-based Lauchie Tame and Gosford-born Ken Wallace won a bronze medal in the men's kayak double 1,000 metre event, with Mr Wallace having previously won gold in the men's kayak single 500 metre event and bronze in the men's kayak single 1,000 metre event at the 2008 Beijing Olympic Games; and

(f) Newcastle-born Karsten Forsterling won a silver medal in the men's quadruple sculls event, having previously won a bronze medal in the same event at the 2012 London Olympic Games.

(2) That this House:

(a) congratulates all Hunter and Central Coast athletes who represented Australia at the 2016 Rio Olympic Games; and

(b) commends all medal winners and congratulates them on their success.

Motion agreed to.

Petitions

PETITIONS

Wauchope Trainlink Station Staffing

Petition requesting the Government to stop proposed job cuts at Wauchope Trainlink Station and to allow the current levels of customer service to be maintained, received from the **Hon. Courtney Houssos**.

Members

LEGISLATIVE COUNCIL VACANCY

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (11:16): In view of the holding of a joint sitting at 11.30 a.m. today in this Chamber to fill the vacancy in the Legislative Council caused by the death of Dr John Kaye, I suggest that the President do now leave the chair until after the joint sitting.

The PRESIDENT: I shall now leave the chair for the joint sitting. The House will resume at the conclusion of the joint sitting following the ringing of the bells.

[*The President left the chair at 11:16. The House resumed at 11:47*.]

Joint Sitting

ELECTION OF A MEMBER OF THE LEGISLATIVE COUNCIL

The two Houses met in the Legislative Council Chamber at 11.34 a.m. to elect a member of the Legislative Council in the place of Dr John Roland Kaye, deceased.

The PRESIDENT: I declare the joint sitting open and call upon the Clerk of the Parliaments to read the message from the Governor convening the joint sitting.

The Clerk of the Parliaments read the message from the Governor convening the joint sitting.

The PRESIDENT: I am now prepared to receive proposals with regard to an eligible person to fill the vacant seat in the Legislative Council caused by the death of Dr John Roland Kaye.

Mr JEREMY BUCKINGHAM: I propose Justin Robert Field as an eligible person to fill the vacant seat of Dr John Roland Kaye in the Legislative Council, for which purpose this joint sitting was convened. I propose that Justin Robert Field be elected as a member of the Legislative Council to fill the vacancy caused by the death of Dr John Roland Kaye. I indicate to the joint sitting that if Justin Robert Field were a member of the Legislative Council, he would not be disqualified from sitting or voting as such a member, and that he is a member of the same party—The Greens—as Dr John Roland Kaye was publicly recognised by as an endorsed candidate of that party and who publicly represented himself to be such a candidate at the time of his election at the Eleventh Periodic Council Election, which was held on 28 March 2015. I further indicate that the person being proposed would be willing to hold the vacant place if chosen.

Ms TAMARA SMITH: I second the motion.

The PRESIDENT: Does any other member desire to propose any other eligible person to fill the vacancy? As only one eligible person has been proposed and seconded, I hereby declare that the Justin Robert Field is elected as a member of the Legislative Council to fill the seat vacated by Dr John Roland Kaye. I declare the joint sitting closed.

The joint sitting closed at 11.38 a.m.

[*The House resumed at 11.47 a.m.*]

Members

ELECTION OF A MEMBER OF THE LEGISLATIVE COUNCIL

The PRESIDENT: I announce that at a joint sitting of the two Houses held this day, Mr Justin Robert Field was elected to fill the vacant seat in the Legislative Council caused by the death of Dr John Roland Kaye. I table the minutes of proceedings of the joint sitting.

The Hon. DUNCAN GAY: I move:

That the document be printed.

Motion agreed to.

The Hon. DUNCAN GAY: I move:

That the President inform His Excellency the Governor that Mr Justin Robert Field has been elected to fill the vacant seat in the Legislative Council caused by the death of Dr John Roland Kaye.

Motion agreed to.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. ADAM SEARLE: I move:

That Business of the House Notice of Motion No. 1 be postponed until the next sitting day.

Motion agreed to.

The Hon. DUNCAN GAY: I move:

That Government Business Orders of the Day Nos 1 and 2 be postponed until a later hour of the sitting.

Motion agreed to.

Bills

ADOPTION AMENDMENT (INSTITUTE OF OPEN ADOPTION STUDIES) BILL 2016

Second Reading

Mr SCOT MacDONALD (11:52): On behalf of the Hon. John Ajaka: I move:

That this bill be now read a second time.

I seek leave to incorporate my speech in *Hansard*.

Leave granted.

I am very pleased to bring before the House the Adoption Amendment (Institute of Open Adoption Studies) Bill 2016.

This bill delivers on the New South Wales Government's commitment to lead the way in developing evidence-based research on achieving permanency and security for children in out-of-home care through open adoption.

The New South Wales Government devoted $2.85 million over three years to the Institute of Open Adoption Studies to improve our evidence base and practice for open adoption.

On 16 March 2016, the Premier and the Minister for Family and Community Services announced that, following a competitive tender, the University of Sydney's Faculty of Education and Social Work, in partnership with Barnardos, would establish and run the Institute of Open Adoption Studies. This is the first independent, government-funded adoption research body of its kind in Australia.

The institute's strategic priority is to provide an evidence base for open adoption, in support of the best interests of children in out-of-home care in New South Wales.

The bill before the Parliament provides the foundation for the institute to access qualitative and quantitative data from past, present and future adoption and permanent care applications and orders so it can undertake its research functions.

As members of the House would be aware, the New South Wales Government is committed to helping more vulnerable children in out-of-home care into permanent and loving families. As was noted by the Hon. Brad Hazzard, Minister for Community Services in the other House, when he introduced this bill, New South Wales has the highest number of children adopted from out-of-home care in Australia. The facts are:

- In 2014-15 there were 87 open adoptions from out-of-home care in New South Wales;
- New South Wales outperforms every other State in the country when it comes to open adoption whether it be from out-of-home care, local or international adoption;
- In 2013-14 New South Wales completed in total 141 open adoptions, and of these 82 were from out-of-home care;

- The total number of adoptions from Victoria in 2013-14 was 48. In the same year, Queensland completed 34 adoptions and Tasmania completed 12 adoptions. Adoptions from out-of-home care in these States are far less common than in New South Wales.

Making open adoption for children quicker and easier is a key part of the New South Wales Government's Safe Home for Life child protection reform package. Open adoption is very different from what happened in the past. Open adoption promotes a child's need to know where they came from, to know their birth family, and to maintain links and contact with them. International research and learning from past practice has helped us understand the importance for children of having a strong sense of identity and knowledge of where they come from.

Around 20,000 children and young people are in out-of-home care in New South Wales. While we acknowledge that open adoption is not a viable approach for all these children, it is in a substantial number of cases the best option, and it is important that we consider this option when children cannot be reunited with their families. Whilst we move forward to increase adoption rates, we must acknowledge past practice of forced adoption and the impact it has had on children and families.

We must also acknowledge that for Aboriginal children adoption is not the priority. This Government continues to be committed to working with Aboriginal children and families to promote their identity and culture. We understand and respect that for the Aboriginal community open adoption of Aboriginal children is generally the least preferred placement type.

The institute has the challenge and responsibility to pursue much-needed research into open adoption and its impact on children, birth families, adoptive applicants and those working in this essential field. At the heart of the institute's endeavours is our society's shared duty to provide a greater number of children with a safe and loving home for life. The institute will lead the way in research by building the knowledge base for open adoption, providing a focus for expertise and increased understanding of open adoption.

A key goal of the institute will be the development of new knowledge through research and expertise to inform practice and influence cultural change within the child protection sector around permanency planning and adoption. The institute will also:

- research children's experiences of adoption;
- develop resources, training and education programs to help the sector; and
- provide expert reports to support decision-making around permanency planning. The Institute will take us to a new place of understanding.

It will allow us to reality test the learning from adoption assumptions of the past and inform our approaches to determining what we must really mean by "the best interests" of these children. By building an evidence base on out-of-home care and local adoption, the institute will support a growing sector to make decisions that are in the best interests of the child. It will also inform how we as a government develop adoption policy and practice.

I turn now to explaining the bill in more detail.

A number of legislative changes are needed to establish the institute as a research leader in the sector.

Disclosure of information for research purposes

Information is the key to sound decision-making, policy development, and producing world-leading research and statistics. The institute will require access to adoption and out-of-home care information and data for it to be a leading academic institute for evidence-based research in open adoption.

The proposals in this bill help simplify a complex legal landscape. There are presently a number of legislative impediments on research organisations accessing adoption information. The current regulatory controls on the disclosure of information prevent the institute from being able to access adoption and out-of-home care information, even in circumstances where the information has been de-identified.

The bill allows the Department of Family and Community Services to enter into arrangements with the institute as a prescribed research organisation for the purposes of permitting the disclosure of adoption and out-of-home care information held by the department or an accredited adoption service provider, the Children's Guardian or a designated out-of-home care agency.

The type of information that the institute will be able to access includes available adoption applications as well as adoption and care orders from the last 50 years. This is the most significant repository of adoption information available in New South Wales and none of it is held in any aggregated database.

Access to this quality data will help to create an improved evidence base for research, enabling a better informed analysis and a deeper understanding of establishing permanency and a safe home for life for children and young people in out-of-home care.

The legislative amendments proposed by this bill are pivotal for the institute to undertake research on the impact of past and current adoption and out-of-home care practices in New South Wales.

Safeguards to protect personal information

While facilitating access to the best adoption and out-of-home care information in New South Wales for research purposes, safeguards to protect personal information are also a central feature of the bill. Given the sensitivities around information sharing issues, the bill puts in place a suite of safeguards to protect personal information. The safeguards provided by the bill to maintain individuals' privacy include that:

> The institute will be subject to the privacy protection provisions of the New South Wales Privacy and Personal Information Protection Act 1998 and the New South Wales Health Records and Information Privacy Act 2002. This includes safeguards to protect against loss, unauthorised access and use, modification, disclosure and misuse of information.
>
> Information disclosed to the Institute must be treated as confidential and steps must be taken to de-identify the information. The institute cannot publicly release any information that identifies people involved with an adoption of a child or young person in out-of-home care.

> Regulations may also be made to provide further guidance on data security and the criteria for release of information.

In addition to the safeguards to protect personal information provided by the bill, the institute will operate within the processes and procedures of a university and, as such, will be subject to stringent ethics approval arrangements. The institute will be required to obtain ethics approval from a university ethics committee for each research proposal to ensure it is a legitimate investigation that protects the welfare, safety and dignity of research participants. Any perceived or actual bias in research proposals will be managed through this independent process.

Expert reports and advice to support decision making around permanency planning

Another key feature of the bill is that it will enable organisations such as the institute to provide expert reports to the court to support decision-making around permanency planning.

One of the most significant arenas where a decision is made about a child's right to belong in a family is in a court of law. Yet in some of these decisions, the courts have spoken about their frustration in not having before them adequate, reliable or robust objective expert evidence on which to determine whether adoption is the best option for the child.

Under section 91 of the Adoption Act 2000, the court can request an expert report to help with its decision on whether adoption is in the best interests of a child. At present, only a designated agency or approved assessor can provide this type of report. This has meant the courts have not had before them expertise from a leading research body on adoption.

The bill overcomes this limitation by allowing a suitably qualified person employed or nominated by a research organisation, such as the institute, to offer an expert report in relation to individual matters.

Clarifying terminology of carer's approved to adopt a child

Last but not least, the bill makes a minor, but relevant, change to the explanatory note to part 6 of the Adoption Act 2000. The current reference to "temporary care" in the Adoption Act is not aligned to language used in the Children and Young Persons (Care and Protection) Act 1998. The change in terminology to "authorised carer" will ensure that people approved to adopt are consistently classified, which in turn will help to improve the quality of adoption data and reduce time and cost associated with accessing it.

Consultation on the bill

Prior to launching the institute, the Department of Family and Community Services undertook extensive consultation on the role and function of the institute.

I am pleased to advise the House there is broad support for the institute. Adoption service providers and advocacy groups recognise the benefits of an institute that can efficiently access a broad range of adoption information for use in its applied research functions.

I also note that both the Office of the Information Commissioner and the Office of the Privacy Commissioner have been consulted and support the bill.

The Government trusts and hopes this bill will receive the full support of all members of Parliament. As the University of Sydney Chancellor, Belinda Hutchinson, said:

> The institute has the promise and responsibility of delivering research with the impact to enable lasting positive change. We want the Institute to be one of the leading academic institutions in the world for evidenced-based research in this area.

This bill provides the foundations for the institute to be the leader in the development of best practice in open adoption in Australia.

I commend the bill to the House.

The Hon. LYNDA VOLTZ (11:53): I lead for the Opposition in debate on the Adoption Amendment (Institute of Open Adoption Studies) Bill 2016. The Opposition does not oppose this bill, which amends the Adoption Act 2000 and the Children and Young Persons (Care and Protection) Act to make provision for the disclosure of information relating to persons involved in adoption and out-of-home care to a prescribed research organisation. It also amends the Adoption Regulation 2015 to prescribe the Institute of Open Adoption Studies at the University of Sydney as such an organisation. Furthermore, the bill amends the Adoption Act to allow a qualified individual nominated by an approved organisation to make an expert report to the courts in relation to the adoption of a child. The institute is tasked with providing an evidentiary base in favour of open adoption.

While the Opposition does not oppose this bill, the handling of sensitive personal health and adoption information, and the privacy concerns that may entail, must be dealt with appropriately. It is of the utmost importance that information disclosed by the secretary under these arrangements be treated with great care. Information relating to adoption, out-of-home care orders, and individuals' health information is of unparalleled sensitivity. The Legislation Review Committee's assessment of the bill similarly acknowledges our party's concerns that the disclosure of this information may have an adverse impact on the privacy of the affected individuals.

I turn now to the provisions in this bill that address the need for sensitivity and security in handling this private and personal information. The language and provisions of these privacy clauses are partially consistent with the legislation enacted by the Carr Government—namely, the Health Records and Information Privacy Act 2002, the Privacy and Personal Information Protection Act 1998, and the Adoption Act 2000.

It is important that the phrase "as far as reasonably practicable" in schedule 1 [4], section 175A (2) (c) and (d), and in schedule 2 [1], section 254A (2) (c) and (d), does not inadvertently permit a privacy breach. These provisions include the requirement that the secretary not enter into disclosure arrangements unless he or she is satisfied those arrangements will ensure that reasonable steps are taken to de-identify the information, that the information will be treated as confidential by the organisation, that as far as is reasonably practicable no publication that uses or is based on the information will enable the identity of an affected person to be ascertained, and that as far as is reasonably practicable any personal information disclosed under the arrangements will be used or dealt with in accordance with certain information protection principles set out in the Privacy and Personal Information Act 1998.

The Carr Government worked to enshrine these key principles in legislation. The Legislation Review Committee is satisfied that the privacy principles enshrined in the Carr Government legislation, and replicated in this bill, are sufficient to mitigate the risks associated with the disclosure of this information. Schedule 1 [4] will amend section 175A (1) of the Adoption Act to enable the Secretary of the Department of Family and Community Services to enter into an arrangement with a research organisation for the purpose of disclosing personal and health information held by the department or an accredited service provider concerning an affected person. A similar amendment will be made to section 254A of the Children and Young Persons (Care and Protection) Act in schedule 2 [1].

The handling of sensitive personal health and adoption information, and the privacy concerns that this may entail, must be done in a manner that does not jeopardise its confidentiality. It is of utmost importance that the information disclosed by the secretary under this legislation is treated with great care and confidentiality and that the information relating to adoption, out-of-home care orders and individuals' health information be protected. In his second reading speech in the other place, the Minister referred to privacy conventions such as the Privacy Commissioner advising the Minister of the day that the commission supports the specific provisions in the bill protecting privacy.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): Members will reduce the level of their conversations while the member is speaking.

The Hon. LYNDA VOLTZ: The Opposition has not seen that advice and would appreciate the Parliamentary Secretary tabling it in this place. The institute is expected to conduct research and to produce reports designed to increase the number of adoptions that occur in this State. I note the Auditor-General's remarks in his 2015 performance audit report into out-of-home care transfers. The Auditor-General made reference to the number of adoptions, or the lack thereof, occurring in New South Wales. He stated:

> The number of adoptions and restorations remains low … the number of adoptions has remained relatively unchanged over the last three years at around 80 per year … there has been an overall decline in the number of children returned to their birth families since the transfers began in 2012.

This suggests that the Government's approach to supporting adoption should be revisited. Doing so would involve examining the resources that are provided and programs that are implemented. Permanency in planning and the security of children are key priorities in the child protection system. The Opposition will not oppose any measures that may increase permanency and security in child protection given that these two elements are important factors in delivering increased wellbeing outcomes. It is in this area of improved outcomes that the Government continues to fall short, as the Auditor-General said in his 2015 report into out-of-home care transfers. Key indicators of wellbeing, such as health, educational attainment and general welfare, are not being adequately identified by this Government and progress in this area has stalled.

The general lack of resources in child protection is sending outcomes backwards. There is much work to be done by the Government to ensure that vulnerable children are being thoroughly cared for by the State. As always, members on this side of the Chamber want to assist the Government, particularly when we believe there might be some merit. Setting up a particular institute that will conduct research and analyse best practice in the field of adoption while looking at the qualitative and quantitative information is worthy of the university working in partnership with an organisation such as Barnardos with the financial support of Government.

I understand the Government is providing $2.85 million over the course of three years to ensure that the institute can begin to collect the relevant information from the past 50 years, protect that information and provide assistance to the courts where necessary. I hope the Government will commit to continue providing funding beyond the three-year period, given that from time to time courts will rely on particular expert advice from the institute, which comes at an expense. The Labor Party wishes the institute well and hopes the research bears good results for the vulnerable children in our State.

Mr DAVID SHOEBRIDGE (12:00): On behalf of The Greens I speak in debate on the Adoption Amendment (Institute of Open Adoption Studies) Bill 2016. The objects of the bill are to amend the Adoption

Act and the Children and Young Persons (Care and Protection) Act to make provision for the disclosure of information relating to those persons involved in adoption and out-of-home care to what is called a prescribed research organisation. The bill amends the Adoption Regulation to prescribe as a research organisation the Institute of Open Adoption Studies at the University of Sydney, and it also amends the Adoption Act to enable a suitably qualified person employed or nominated by the institute or any other approved organisation to provide the Children's Court with a report in relation to the adoption of a child.

My concerns about adoption being a significant solution to the undoubted problems in dealing with children in need of care and protection in this State are on record. I do not think anyone would look at our current system and suggest, after seeing the regular turnover of foster carers that far too many children experience, that the system is working anywhere near as well as it should. Indeed, the number of children and young people who are in out-of-home care has reached approximately 21,000 in this State. As members would be aware, an extraordinarily large proportion of those children are Aboriginal. In fact, a far too high proportion are Aboriginal children. They are being removed at a rate that is now five times greater in New South Wales than at the time of the Bringing Them Home report.

I want to be clear: The extraordinary rise in the number of Aboriginal children being removed happened primarily under the administration of the former Government and occurred in large part at the time that the now Federal member for Canterbury, Linda Burney, was the Minister responsible. I do not pretend that this Government created the problem. That being said, it is the obligation of this Government and Minister Hazzard to do everything they can to turn those numbers around to keep Aboriginal and non-Aboriginal children in families and kinship structures so that they can be cared for while holding families together so they can be successful. We must do what we can to strengthen families rather than having a removal mentality. It is disturbing to see that the number of children and young people in out-of-home care is expected to rise to above 22,000 this year.

The Greens do not believe, and I do not think the evidence suggests, that open adoption is a substantive solution. As we know, in 2013-14 there were only 82 adoptions coming from the out-of-home care system. There were 22,000 children in care and fewer than 100 adoptions were coming from of the out-of-home care system. Adoption is not the solution to the problem. The solution is a change in thinking, and a change and increase in resources to try to help children before removing them from their families.

I have also expressed my concerns on record about the short time periods that are now set in the Act in which families or parents have to establish a capacity to provide the ongoing long-term care of their children before adoption becomes an issue. A 12 month period is woefully inadequate. If parents are suffering from mental health and have drug and alcohol addiction problems, then it is unrealistic to say that they have only 12 months to get their act together to sort out their addictions and mental health problems otherwise they will lose their child to adoption. It is a grossly unfair time period to put in place.

Those are our concerns as well as the open definition of "open adoptions". It is not specified in this bill or in the substantive Act. We still do not know what the extent of the meaning of open adoptions is and it has not been clarified in this bill. Those are our substantive concerns about the way in which the State is moving in terms of adoptions. We will continue to watch this space closely to ensure that we do not see a return to the systemic intergenerational trauma that the State government policy of adoptions produced, which continued up until the 1970s. The hurt and pain for many people who were adopted and those who had their children adopted is still real. We cannot return to that situation as the standard operating system for dealing with children in need of care and protection.

This bill seeks to provide data to the institute or another prescribed research organisation so that they can look at the effects of open adoption. It will follow cohorts of children who have been the subject of open adoption to study its effects such as mental health outcomes, and education and employment prospects. The Greens strongly believe that research evidence should be founding Government policies. To that extent, we see merit in the bill. We have concerns that by facilitating this bill we are facilitating the expansion of open adoption, and I have expressed my reservations about it being a solution to dealing with troubled children and children in need of care.

While we support the provision of research, information, intelligence, fact and evidence-based policy decision-making, we do have concerns about the capacity to adequately and completely protect the privacy of individuals. The number of children who will be the subject of open adoption in this State will always be relatively small. Their life circumstances will be unique and even if the information is de-identified so that the names and specific birth dates are removed, the stories of those people will be distinct and the number of children and young people who will be the subject of adoption will be so small that even if the information is de-identified and de-personalised, there is a real likelihood that people could reconstruct the identity of the individuals who are the subject of open adoption. They could reconstruct identities from looking at schooling patterns, where someone was born, what their educational outcomes are, and the age at which they were adopted. We are not talking about 10,000 people; we are talking about only 100 or 200 people in any given year. The capacity to reconstruct an

identity—even as a result of de-identified information being provided to the institute—greatly troubles The Greens members.

Members of my party raised these concerns. The concerns were brought to us by stakeholders who engage in privacy issues across New South Wales. Those stakeholders know more about privacy law and privacy principles than I do. The Greens members indicated our concerns to the Minister, and the Minister facilitated a very useful meeting with the institute last week. The institute made it clear that the obtaining of the information and any research using the information will be subject to ethics approval at the University of Sydney. Ethics approval is not given lightly, and personal information and those kinds of protections are core parts of ethics approvals at the university. I accept that.

The institute also indicated that the nature of the information which they anticipate they will obtain is unlikely—even taken together—to allow for reconstructed identity. I was less persuaded by that, but that was their position, and I think it is only fair to put it on the record. But the University of Sydney has had some very problematic breaches of privacy. In the past 12 months the university lost a laptop which contained all of the personal details of all of the students with special needs at the university. Some questions flow from that situation. What on earth was that organisation doing putting those kinds of sensitive details on a database in one place without protections? What on earth was that organisation doing putting that database on a laptop? Then, who on earth allowed someone to take that laptop out on public transport—perhaps the 470 bus to Lilyfield?

The University of Sydney has bad form recently with respect to breaching the privacy of students with special needs. One would think that there should be a very real obligation on the university to do everything within its power to protect the privacy of those students so that they are not embarrassed or humiliated or have their personal details exposed. I still do not know what has happened to the laptop. I do not know if those students who had their privacy breached have had any kind of adequate or substantive response from the university.

The University of Sydney wants the institute to be able to access a whole corpus of additional, extraordinarily sensitive information. I do not think the university has adequately responded to the earlier breach. That being said, representatives of the institute made it clear they were cognisant of that history. They believed that the ethics approvals, and the conditions under which the information would be obtained following the protocols that are established between the department and the university, will be adequate to protect those privacy concerns. I am sure that it would be at the forefront of their minds in negotiating those protocols and undertaking the research.

The Greens believe that the bill could be improved by some additional provisions requiring the Information Commissioner to give approval to any protocols that are established and also requiring consultation with the commissioner in the course of negotiating those protocols. I think that matter may be discussed in the Committee stage of this debate. The Greens may have persuaded the Government about some of those amendments but not all of the amendments. Either way, I note that it was a fruitful conversation with the Minister's office, and I appreciate the engagement on the issues. The Greens do not oppose this bill. We have concerns and we hope to improve the bill at the Committee stage. Further discussion on those matters will be dealt with in Committee.

The Hon. PAUL GREEN (12:13): The Adoption Amendment (Institute of Open Adoption Studies) Bill 2016 follows on from the Government's commitment to establish a body to undertake evidence-based research working towards achieving permanency and security for children in out-of-home care through open adoption. Open adoption recognises a child's birth parentage and cultural origins. It promotes contact between the birth parents and the adoptive parents, allowing the children to know where they came from. The children get to know their birth family and are able to maintain links and contact with them. Open adoption enables vulnerable children in out-of-home care to transition into permanent and loving families, while maintaining a strong sense of identity and knowledge of where they came from.

Every child deserves to have a stable and permanent family home. Some years ago, when Pru Goward was the responsible Minister, we had the opportunity to work with the Minister and address issues for vulnerable children, especially those children experiencing situations of domestic violence. The Government and the House came together to get some really great outcomes for vulnerable and at-risk kids. I note that the Christian Democratic Party is represented on the current child protection enquiry of the General Purpose Standing Committee No. 2. I am alarmed already by the sort of feedback that we are receiving through that committee, particularly about some of the reforms Minister Goward tried to promote with respect to parental control orders.

Already we have received evidence that those parental control orders are not being used, are not being taken up, are not being enforced and are not being understood. Obviously alarm bells are ringing with respect to that, and the Government should quickly address the situation, because the whole idea of those orders was to try to get certainty for the children with respect to their parents. The Government needs to ensure that the care and

protection that the children are entitled to is delivered if the parents are struggling with substance abuse or psychological problems, or are experiencing other problems which mean that they are unable to give full attention to their parenting. The control orders were put in place for a reason and it is very sad to get evidence—probably one or two years after they were introduced—that they are not being used.

The second issue that has been brought to our attention is that many women who suffer from domestic abuse are receiving a double whammy. They are having their children removed and they are also being beaten up by their spouses. Officers from the Department of Family and Community Services or other agencies rock up to a house and say, "We consider that your children are at risk." It might be true that the best outcome for the children is to remove them, but, unfortunately, early evidence suggests to us that the department is quite risk averse. Officers of the department consider, "What would happen if we did not remove the child and that child's care and protection was compromised?" In that situation the department would be left high and dry to explain what happened.

These situations are very tricky. The department has to be risk averse but sometimes the removal of the children may do more damage to them than leaving them in the family home. Maybe the mother has things under control and the domestic violence is an issue that is between her and the perpetrator, rather than between the perpetrator and the kids. It is difficult to work out whether the violence is just happening to the woman or is also being transferred across to the kids. We would probably all agree that when kids are being subjected to violence we need to get them out of that situation. But, once again, we need to recognise that the department assessing that the children are at risk has an impact on the mother. Even though she is, in most cases, the victim, the mother receives a double whammy.

We have received evidence from the Aboriginal community that is absolutely shocking. Mr David Shoebridge put eloquently on the record the fact that 21,000 people are in out-of-home care. The more concerning statistic is that the number of Aboriginal children in out-of-home care right now is five times greater than at the time of the Bringing Them Home report. That is of great concern. The Hon. Dr Peter Phelps put a really confronting question to that community. He asked, "How do you think the agencies are approaching this issue?" The members of that community were pretty blunt. They saw the agencies' approaches as being nothing short of racist.

That is a big call, but they did not mess around with it. I am not an expert on this but for those who are challenged by that call and wish to learn more by following that line of questioning it is on the public record of that inquiry. But I was shocked. We are sending people from agencies out there, and some in the Aboriginal community hold the view that they have been short-changed by the agency's assessment because of the sheer fact that they are of Aboriginal background. I think that is the way the evidence was interpreted to some degree. We are in the midst of that inquiry, but for more clarifying thought on that matter, I refer people to the public record. They are great and very concerning issues.

We know that of all people the Aboriginal people need to have their place in their community, their nation and their place of country. The New South Wales Parliament held a correctional services inquiry and one of the biggest revelations from it was that Aboriginals in custody need to be incarcerated in country. When Aboriginals are out of country, that can create a real conflict for them. How much greater is that conflict if we are taking children away, relocating them and putting them in placements? I do not intend my remarks to take away from the fact that a lot of good work is being done in foster caring. I declare that my family and I went down the path towards becoming foster carers. I can state from personal experience that there was a very in-depth training module about how to deal with culture and kids, their cultural heritage, and how to embrace that, if overseeing their care for the future is being entrusted to foster carers. That is good, but it will never replace Aboriginals being in their country and in their community.

Even with all the ups and downs, which most families have—I do not know of any family that is perfect; they all have challenges—some elements of care are fundamental and personal. If we were to bring in an agency on any household in New South Wales or even Australia while it is engaged in its usual family dynamics, the department would probably be removing kids all over the State. But in the case of Aboriginal households, the agency comes in during occasions of ups and downs. A lot of the people visited by agencies confide in the agency's officers and trust them. They want someone to listen and share their feelings about domestic abuse, if they have been abused—as most of the women have been—because they are having trouble with their husband, spouse or partner and their partner, having had a bad week, resorts to amber fluid. But the people being visited by the agency do not want the agency to take their children away; rather, they are merely trying to share their feelings.

They just want to say, "Hey, I've got some frustrations in this relationship that is not working out", but in the next minute they are being documented as being unsafe, unhelpful, and risk producing. Those people are saying, "No, I'm not trying to get my kids taken away from me", but that is what the agency has to record, and they record it very bluntly. Those people feel betrayed because they have told this story to someone that they trust

because the person from the agency has been put there by the Government to provide them with some certainty and some surety that their world will stay together. In the meantime, a report has been written about the children, their situation, and the history of the family. The next thing that happens is a knock on the door announcing that the agency has arrived to take the children.

Those people answer the knock on the door and say, "Why?" The reply they are given is, "Well, you told me all this stuff. I have now subjectively come to the point of deciding that your children are at risk." The person in that household may say, "Hang on, that's not what I was trying to do. I was just trying to yell out and say, 'Hey, I need some help.' I don't need you to take my kids. I need some help, my relationship needs some help, my marriage needs some help, and my husband has lost his job. Things are really tough. We can't pay the mortgage. We can't pay the rent. We can't put food on the table. The fridge is empty. My kids are on ice. I just need someone to tell." Of course the department would just suddenly take the children. I am not trying to dump on the department. Making an assessment must be incredibly complex, as we all appreciate, but the last thing we should do is remove the kids from the care of their immediate family. We must be cautious and not be driven by the ultimate criterion of being risk averse and become so risk averse that we make some really dumb decisions that will be gravely detrimental to children in the long term.

This is not an easy path. There is no silver bullet, but the Government setting up a research institute to examine all those factors is a good move. The New South Wales Government has committed $2.85 million over the next three years to fund the Institute of Open Adoption Studies, which will be established and run by the University of Sydney Faculty of Education and Social Work in partnership with Barnardos, who do a wonderful job. Recently we heard evidence of the incredible work of Barnardos. But even welfare agencies must answer to the Government. The Government should be mindful that people who run welfare agencies have put tremendous resources into out-of-home care and adoption, and that government funding needs to be applicable. There is no one-size-fits-all solution. I can speak from my experience as a former registered nurse that people are unique. Not one person is the same as the other. The minute we begin to address people as having the same health problems or the same issues as everyone else, we are in trouble because every person is unique and their needs should be assessed individually.

Key priorities of the Institute of Open Adoption Studies are to provide evidence-based open adoption and support in the best interests of the children who are in out-of-home care; to further research the impacts of open adoption on children, birth families, adoptive applicants, and those working in the field; and the development of new knowledge to inform practice and influence cultural change within the child protection sector and around permanency of planning and adoption. At the heart of establishing the institute is the goal of seeing a greater number of children who are currently in out-of-home care being given the opportunity to transition to a permanent, safe, and loving environment in which they may continue to grow and thrive. Part of the reform we went through with Minister Pru Goward is that people who take on the adoption of a child have a sliding scale of funding support to ensure that the child is able to be engaged by a family without the burden of initial financial expenditure on ensuring that the child's health is properly taken care of and the child's schooling is right, which may include tutoring and all sorts of things children need to adapt to a new household.

That sliding scale of funding will be provided over three years, which is very good. From what I hear, the funding is being very well received. It is not a matter of adoptive parents falling off a cliff financially, so to speak, after adopting a child. There will still be some incentive to ensure that the child receives the very best in health care, education, tutoring or whatever the child needs. I acknowledge that open adoption is not always a viable option for particular families and children. Mistakes have been made in the past, such as forced adoption. We must be careful that those mistakes are not repeated. The Minister in his second reading speech made a statement with which the Christian Democratic Party agrees:

> We must also acknowledge that for Aboriginal children adoption is not the priority. This Government continues to be committed to working with Aboriginal children and families to promote their identity and culture. We understand and respect that for the Aboriginal community open adoption of Aboriginal children is generally the least preferred placement type.

This bill seeks to amend the Adoption Act 2000 and the Children and Young Persons (Care and Protection) Act 1998 to enable the disclosure of information pertaining to certain persons involved in adoption and out-of-home care to the Institute of Open Adoption Studies. A key concern regarding changes in access is the privacy of the individuals, families and agencies involved in adoption and out-of-home care historically. This bill enables the Department of Family and Community Services to enter into arrangements with a prescribed research organisation for the purposes of sharing information held by the department or an accredited adoption service provider regarding an affected person. An affected person can be defined as a person who is involved in an adoption or prospective adoption as a birth parent, adoptive parent or child, or a person involved in out-of-home care as an authorised carer or child.

The Secretary of the Department of Family and Community Services is not to enter into such an arrangement unless the following safeguards to protect individuals are satisfied: first, reasonable steps have been undertaken to de-identify the information; second, the research organisation is required to treat the information it receives as confidential; and, third, as far as reasonably practicable information will not be published that will allow for the identity of an affected person to be determined. Further to this, the research organisation is to comply with sections 12, 17, 18 and 19 of the Privacy and Personal Information Protection Act 1988 in its dealing with information as if the research organisation were a public sector agency.

The research organisation will be treated as a "private sector person" for the purposes of the Health Records and Information Privacy Act 2002. This means that the research organisation is required to comply with the Health Privacy Principles in how it collects, holds or uses any health information it receives. These safeguards have been introduced in order to maintain the privacy of adults and children involved in adoption and out-of-home care. The safeguards have been accepted by both the Office of the Information Commissioner and the Office of the Privacy Commissioner.

The Christian Democratic Party believes in the strong foundational role that family plays within our community throughout New South Wales. We believe that the care of children is a great responsibility and of paramount importance. Children deserve a safe and loving home, a place where they can grow, learn and be inspired to be all they can be as they express their God-given gifts and talents in this world. Every child deserves the best opportunities to thrive. Where the placement of a child can be a positive benefit—even if, as a very last resort, this is away from their next of kin—we support this. The Christian Democratic Party commends this bill to the House.

The Hon. ERNEST WONG (12:31): I am pleased to join my colleagues in addressing the Adoption Amendment (Institute of Open Adoption Studies) Bill 2016. As my colleague Tanya Mihailuk has noted in the other place, the Opposition does not oppose this bill. Indeed, it has the potential to make a worthwhile contribution to a vital community goal—better adoption services and support, and better protection of vulnerable Australian lives. The bill will amend the Adoption Act 2000 and the Children and Young Persons (Care and Protection) Act 1998 to make provision for the disclosure of information relating to persons involved in adoption and out-of-home care to a prescribed research organisation. It also amends the Adoption Regulation 2015 to prescribe the Institute of Open Adoption Studies at the University of Sydney as such an organisation. A this point Open Adoption Studies is the only such institution that is prescribed, and that is an appropriate step for now.

As other members have discussed, these measures attempt to balance a number of related and sensitive considerations. On one hand, we are in agreement that further research into the fields of adoption and the related social, education and health issues that have been raised is vital. As the Auditor-General has noted, adoption rates in New South Wales continue to lag and we need real evidence to form evidence-based policies to address this. At the same time, however, the data that researchers would need to help develop such policies is highly personal and highly sensitive. Our desire to achieve better research and policy outcomes must be balanced against our responsibility to protect the personal information of adopters, adoptees and other stakeholders in the adoption processes.

In response to these considerations, the Government has developed what might be described as a tightly licensed and controlled system of adoption research. It allows for specific and controlled release of personal information to a prescribed research provider. While the Opposition does not oppose this bill, the handling of sensitive personal health and adoption information must be dealt with great care. Information relating to adoption, out-of-home care orders, and individuals' health information is of unparalleled sensitivity.

The Legislation Review Committee's assessment of the bill similarly acknowledges the Labor Party's concerns that the disclosure of this information may have an adverse impact on the affected individuals' privacy. I note that the Legislation Review Committee is satisfied that the privacy principles enshrined in New South Wales privacy laws, and replicated in this bill, are sufficient to mitigate the risks associated with the disclosure of this information. Upholding these provisions is of particular importance to Labor, which has championed privacy protections in New South Wales right back to the Carr Government. With those protections in place, the Institute of Open Adoption Studies is expected to conduct research and to produce reports designed to increase the number of adoptions that occur in this State. This is a policy and social priority worthy of our support. I am certain that Labor would not oppose reasonable measures that may increase permanency and security in child protection.

As my colleague in the other place has noted, the Auditor-General has found that key indicators of wellbeing—such as health, educational attainment and general welfare—are not being adequately identified by this Government. There is much work to be done by the Government to ensure that vulnerable children are being thoroughly cared for. Setting up a framework to conduct research and analyse best practice in the field of adoption is a worthy contribution to addressing that challenge. Therefore, like my colleagues, I wish the Open Adoption Studies Institute every success. I hope its research delivers better-informed policy, education, and resources to

support and protect vulnerable children in New South Wales. With that in mind Labor does not oppose the bill. I thank members for their consideration.

Mr SCOT MacDONALD (12:35): In reply: On behalf of the Hon. John Ajaka: I thank the Hon. Lynda Voltz, Mr David Shoebridge, the Hon. Paul Green and the Hon. Ernest Wong for their contributions to the second reading debate on the Adoption Amendment (Institute of Open Adoption Studies) Bill 2016 to ensure that this bill is as robust and effective as possible in meeting its objectives. I will clarify and respond to some of the issues raised so as to leave no doubt about the purpose and function of this bill, which is to provide the foundation for the Institute of Open Adoption Studies to be the leading academic institute for evidence-based research into open adoption.

The Hon. Lynda Voltz asked for clarification on the Privacy Commissioner's advice to the Minister. In response, I have been advised that the Office of the Privacy Commissioner has been consulted on the drafting of the bill and that the Office of the Privacy Commissioner supports the bill. In summary, the bill facilitates this by prescribing the Institute of Open Adoption Studies as a research organisation; enabling the Department of Family and Community Services to enter into arrangements with the institute for the purposes of permitting the disclosure of adoption and out-of-home care information for research purposes; and implementing a suite of safeguards to protect personal information.

These amendments will enable the institute to obtain qualitative and quantitative data about adoptions and permanent care applications and orders which will inform its research into open adoption. The institute's research agenda will help determine the circumstances in which open adoption is likely to be in the best interests of a child or young person; the elements of best practice for open adoption; and the types of post-adoption support that may be required to achieve the optimal circumstances for an adopted child and open adoption practices. In regard to legislative arrangements for information disclosure for research purposes, the institute's unique access to large amounts of data on past and present adoptions and permanent placements will provide policymakers with measurable evidence which will form a basis for future decision-making in open adoption.

The reason this bill is needed—rather than relying on a non-regulatory mechanism such as contractual arrangements or a Privacy Commissioner's direction for research—is that there are presently multiple regulatory controls on the disclosure of adoption and out-of-home care information under the Adoption Act 2000 and the Children and Young Persons (Care and Protection) Act 1998. The bill amends these current legislative constraints so that the institute can access, for research purposes, the most significant repository of adoption and out-of-home care information available in New South Wales. In regard to privacy protections and security of information, in developing this bill, the Government has been deeply conscious of the need to ensure that there are robust information security safeguards to protect personal information.

I acknowledge that personal information relating to adoption, out-of-home care orders and individuals' health information is highly sensitive and that the institute's function should not have an adverse impact on an individual's privacy. As outlined in the second reading speech, this bill puts in place a series of stringent protections to prevent information identifying individuals involved in adoption or permanent placement from being made public. The bill enshrines fundamental privacy principles to protect against loss, unauthorised access and use, modification, disclosure and misuse of information. It also requires that personal information be de-identified. In complying with these principles, no personal information will be disclosed.

This bill has achieved the right balance between disclosure of information for research purposes and information security safeguards protecting personal information. I also note that, after scrutinising the bill, the Legislation Review Committee concluded that the privacy safeguards are appropriate and that the bill contains sufficient safeguards to alleviate the risks of breaches to privacy. With regard to the institute's open adoption research and Aboriginal children, I acknowledge both Mr David Shoebridge and the Hon. Paul Green and their concerns about the adoption of Aboriginal children. The position remains that this is not a priority.

The Government is aware that adoption is not usually considered a culturally accepted practice for Aboriginal children. This is already entrenched in the State's adoption legislation, which places adoption as the least preferred placement option. Thus, for an Aboriginal child who cannot live with parents, adoption is the least preferred placement option and our focus is on achieving permanency for them through guardianship orders or, alternatively, through a long-term kinship foster care placement. Furthermore, all placement decisions on providing stability, security and certainly for Aboriginal children in out-of-home care will continue to be made in accordance with the Aboriginal placement principles. The work of the institute will not change or impact on this legal principle.

With regard to enabling approved organisations to provide expert reports to the court, the bill allows for approved organisations such as the institute to provide expert reports to the court before an adoption order is made. At present, only authorised individuals can provide this type of advice. This is an unnecessary restriction that

prevents the courts from accessing expertise from other organisations with suitably qualified people. The Department of Family and Community Services and adoption service providers are currently at capacity with external authorised persons who are able to provide expert reports to the court. Accordingly, the intention is that the Institute of Open Adoption Studies and organisations approved by the Secretary of the Department of Family and Community Services will from time to time provide the necessary expert reports to the court.

With regard to amending terminology in the Adoption Act concerning the status of people approved to adopt to be consistent with the Children and Young Persons (Care and Protection) Act 1998, this bill amends the terminology to make clear that the person who cares for a child in the period between when consent to adoption is given and when an adoption order is made is an "authorised carer". This is a minor amendment of a clarifying nature. The current reference to "temporary carer" in the explanatory note to part 6 of the Adoption Act is not aligned to the language used in the Children and Young Persons (Care and Protection) Act 1998. The change in terminology to "authorised carer" will ensure that people approved to adopt are consistently classified. This will ensure that there is no confusion as to the status of a person who has been approved to adopt, which in turn will help improve the quality of our data that is provided to the institute for research purposes.

I have no doubt that the Institute of Open Adoption Studies will make an outstanding contribution to open adoption practice in this State and a valuable contribution to developing best permanency outcomes for children in out-of-home care. I have no doubt that the institute will be one of the leading academic institutes for evidence-based research into open adoption both nationally and internationally. I thank all who have contributed in the debate and on the development of this bill. I commend the bill to the House.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): The question is that this bill be now read a second time.

Motion agreed to.

In Committee

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

Mr DAVID SHOEBRIDGE (12:45): By leave: I move The Greens amendments Nos 1 and 3 on sheet C2016-066 in globo:

No. 1 **Arrangements for disclosure of information under the *Adoption Act 2000***

Page 3, Schedule 1 [4], proposed section 175A (2). Insert after line 33:

(d) the requirements, if any, imposed by the Privacy Commissioner for the disclosure of information under the arrangements will be met, and

No. 3 **Arrangements for disclosure of information under the *Children and Young Persons (Care and Protection) Act 1998***

Page 5, Schedule 2 [1], proposed section 254A (2). Insert after line 28:

(d) the requirements, if any, imposed by the Privacy Commissioner for the disclosure of information under the arrangements will be met, and

These two amendments do the same thing at two different parts of the Act. The first proposes to amend section 175A and the second amends section 254A. These provisions deal with the arrangements and the protocols that the department and any prescribed institute would have to enter into to protect the personal information and privacy of the individuals whose information is being transferred from the department to that institute. Both subsections 175A (2) and 254A (2) currently provide that the secretary is not to enter into any arrangements involving the provision of information:

… unless satisfied that those arrangements will ensure that:

(a) reasonable steps will be taken to de-identify information disclosed under the arrangements, and

(b) information disclosed under the arrangements will be treated by the research organisation as confidential, and

(c) as far as is reasonably practicable, no publication that uses or is based on information disclosed under the arrangements will enable the identity of an affected person to be ascertained, and

(d) as far as is reasonably practicable, any personal information disclosed under the arrangements will be used or dealt with in accordance with the information protection principles set out in sections 12, 17, 18 and 19 of the Privacy and Personal Information Protection Act 1998 as those principles would apply if the research organisation were a public sector agency.

These amendments would insert in a new subsection (d) an additional requirement that the secretary is not to enter into any such arrangements unless satisfied that those arrangements will ensure that the requirements, if any,

imposed by the Privacy Commissioner for the disclosure of information under the arrangements will be met. In other words, it empowers the Privacy Commissioner to put in place such requirements as the Privacy Commissioner thinks are appropriate, and the secretary has to comply with those requirements. It is a mandatory provision.

Who has the greatest expertise in dealing with privacy in New South Wales? The answer is easy: the Privacy Commissioner and the office of the Privacy Commissioner. The Greens believe that this bill would be greatly strengthened by allowing the Privacy Commissioner to set out certain requirements and to then compel the secretary to comply with those requirements when any arrangements are made. That is why I have moved these two amendments.

Mr SCOT MacDONALD (12:48): The Government does not support The Greens amendments Nos 1 and 3. The office of the Privacy Commissioner has been consulted in the drafting of the bill and has provided in-principle support for the current privacy safeguards set out in the bill. The highest standards of data protection are provided by the bill, putting in place a suite of privacy protections to ensure the safe handling of information. The Legislation Review Committee is of the view that the privacy safeguards in the bill are appropriate. It is unclear what additional requirements could be imposed by the Information and Privacy Commission to protect personal information.

The Hon. LYNDA VOLTZ (12:48): The Opposition supports The Greens amendments Nos 1 and 3. The Opposition has asked the Government in both Chambers to table the Privacy Commissioner's advice to the Minister, but it has refused to do so in both places. It is difficult to understand how the Parliamentary Secretary can say what he has said. The Opposition is not satisfied and it believes that The Greens amendments add to the legislation, and therefore it will support them.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 1 and 3 on sheet C2016-066. The question is that the amendments be agreed to.

Amendments negatived.

Mr DAVID SHOEBRIDGE (12:50): By leave: I move The Greens amendments Nos 2 and 4 on sheet C2016-066 in globo:

No. 2 **Arrangements for disclosure of information under the *Adoption Act 2000***

Page 3, Schedule 1 [4], proposed section 175A. Insert after line 42:

(3) Before entering into arrangements for the disclosure of information under this section, the Secretary must consult with the Privacy Commissioner in relation to those arrangements.

No. 4 **Arrangements for disclosure of information under the *Children and Young Persons (Care and Protection) Act 1998***

Page 5, Schedule 2 [1], proposed section 254A. Insert after line 37:

(3) Before entering into arrangements for the disclosure of information under this section, the Secretary must consult with the Privacy Commissioner in relation to those arrangements.

I note that amendments Nos 1 and 3 were rejected. This is not the first time that we have seen a government not persuaded to agree to a mandatory provision being imposed upon it. I have heard the Government's arguments, and we might not be ad idem on that. The Greens have a fallback position that has been discussed with the Minister and departmental officers, and that position is encapsulated in these amendments to the same parts of the bill, that is, section 175A and section 254A. The amendments seek to insert a new subsection providing that before entering into arrangements for the disclosure of information under this section, the secretary must consult with the Privacy Commissioner in relation to the arrangements.

Clearly, any arrangements would benefit from consultation with the Privacy Commissioner. The Parliamentary Secretary has told us that the Government consulted the Privacy Commissioner before this legislation was introduced. However, The Greens believe that there should be a statutory obligation to consult with the Privacy Commissioner when making these arrangements. I think we are on the same page in that regard.

Mr SCOT MacDONALD (12:51): The Government agrees with The Greens amendments No 2 and 4 and appreciates The Greens productive consultation. Provision should be made for the secretary of the Department of Family and Community Services to consult with the Privacy Commissioner in respect of the procedures dealing with the disclosure of information to the institute.

The Hon. LYNDA VOLTZ (12:51): Given that the Committee has rejected The Greens amendments Nos 1 and 3, the Opposition will of course support amendments Nos 2 and 4.

Reverend the Hon. FRED NILE (12:52): The Christian Democratic Party is pleased to support these amendments. They will help us to work cooperatively with the Privacy Commissioner, who undertakes an important role in our State. The Christian Democratic Party believes that consultation with the commissioner is important, and that is why it supports these amendments.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 2 and 4 on sheet C2016-066. The question is that the amendments be agreed to.

Amendments agreed to.

The CHAIR (The Hon. Trevor Khan): The question is that the bill as amended be agreed to.

Motion agreed to.

Mr SCOT MacDONALD (12:53): I move:

That the Chair do now leave the chair and report the bill to the House as amended.

Motion agreed to.

Adoption of Report

Mr SCOT MacDONALD (12:53): On behalf of the Hon. John Ajaka: I move:

That the report be adopted.

Motion agreed to.

Third Reading

Mr SCOT MacDONALD (12:54): On behalf of the Hon. John Ajaka: I move:

That this bill be now read a third time.

Motion agreed to.

RURAL FIRES AMENDMENT (FIRE TRAILS) BILL 2016

First Reading

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

Mr SCOT MacDONALD (12:55): On behalf of the Hon. Duncan Gay: I move:

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.

Motion agreed to.

Mr SCOT MacDONALD: On behalf of the Hon. Duncan Gay: I move:

That the second reading of the bill stand an order of the day for a later hour.

Motion agreed to.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): I will now leave the chair until 2.30 p.m.

Committees

PROCEDURE COMMITTEE

Extension of Reporting Date

The PRESIDENT: I inform the House that, at a meeting of the Procedure Committee held this day, the committee resolved to extend the reporting date for its inquiry into young children accompanying members into the House to Thursday 20 October 2016.

According to sessional order, business is now interrupted for questions.

Questions Without Notice

WESTCONNEX PROPERTY ACQUISITION

The Hon. ADAM SEARLE (14:31): My question is directed to the Minister for Roads, Maritime and Freight. Given community concerns about the compulsory acquisition of homes for WestConnex, why has the Government not released the Russell report for nearly three years?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (14:31): I am informed that after receiving the Russell report the Government moved quickly in August 2014 to implement a number of its recommendations. These included the development of a plain English, clear explanation of the land acquisition process and an improved process for meetings between landowners and acquiring parties. Those recommendations have been implemented, as have a series of improvements by the Office of the Valuer General to increase the transparency and fairness of the valuation system, including for valuations undertaken for compulsory acquisition of properties.

Given the broad array of departments involved in the land acquisition process, the remaining recommendations were referred to an interdepartmental committee. The committee considered the recommendations through 2014 and 2015 and ultimately advised that no further action be taken. In December 2015 Minister Perrottet wrote to the Premier conveying the interdepartmental committee's advice. After further considering public concern about the land acquisition process, the Minister revisited the committee's advice and decided that the Government should do more to improve the process for landowners. In February 2016 the Minister wrote again, requesting that additional action be considered. Since then, the Government has been working on a number of further reforms.

There are always opportunities for improvement in any area of activity, and we are pleased that the New South Wales Customer Service Commissioner has been engaged to assist in a review of the way property acquisitions are managed for major road projects. The commissioner is able to bring his expertise and a fresh perspective to assist government agencies to provide the best possible customer service as they work through these sensitive but necessary steps.

The Government fully intends to release the Russell report and the Government's response. We expect to be able to do that in the coming months. Once again, let me acknowledge that property acquisitions are a necessary but sometimes difficult component of providing infrastructure for the people of New South Wales. I believe that covers everything that was asked about. If my answer is deficient in any way, I will refer the question to my colleague the Minister in charge of this area for a more detailed answer.

HIGH VISIBILITY ROADS POLICING

The Hon. GREG PEARCE (14:35): My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on high-visibility enforcement operations on New South Wales roads?

The Hon.Walt Secord: This is an incitement question. You are inciting interjections.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (14:35): I am hearing noise from an Opposition that does not believe in road safety or enforcement, an Opposition with a policy—

The Hon. Adam Searle: Point of order: First of all, there is the question of relevance. The Minister is not being generally relevant to the question asked. Secondly, he was debating with the Opposition about the question.

The PRESIDENT: Order! It could be argued that the Minister was debating the question, but I am sure the Minister was going to proceed to give a generally relevant answer.

The Hon. DUNCAN GAY: Mr President, your faith is well placed! The New South Wales Government has just concluded a statewide, high-visibility police operation targeting lawbreakers and risk-takers. Over the past two weeks, about 500 extra police officers have been out in the field catching those doing the wrong thing. The New South Wales Government has funded this important police operation through its Community Road Safety Fund, the fund where the speed camera fines go.

During the two-week high-visibility operation, we saw a 22 per cent reduction in fatalities and a 23 per cent reduction in injury crashes on our roads compared with the same period last year. That is a pretty good result. In a year when the results have not been great, taking this action and getting that result is pretty good. However, any loss of life or injury on the roads is unacceptable. We need drivers to take responsibility for being safe on the roads. During the operation, police handed out almost 9,000 infringements for speeding; 800 for not

wearing a seatbelt—that is just dumb—2,000 for illegally using a mobile phone, which is just as dumb; 400 for drink-driving; and almost 800 for pedestrian offences as part of a new targeted blitz to improve pedestrian safety.

The police operation also addressed an issue which is of increasing concern in this State, driver fatigue, by educating drivers about the dangers of driving while tired. When they stopped people for RBTs and so on, they were taking the opportunity to talk to drivers about fatigue and handing them some material. That is good, positive reinforcement. People say, "They are just there to fine us, just there to take our licences." But the police were doing exactly what they should be doing—high-visibility policing and handing out a positive message to people as they spoke to them on the side of the road. My concern is that many drivers do not understand the dangers of driving when tired, which can be as unsafe as driving while on the drink.

Police have been asking drivers about their alertness and also handing out information about the dangers of driver fatigue. Research shows that being awake for approximately 17 hours has a similar effect on people's ability to drive as a blood alcohol level of 0.05. There are members in the House and people in the gallery who work long hours. We should take on board that when we work long hours we need to be careful when we drive while fatigued. We know that fatigue is not only a problem for long drives. Fatigue can also affect mums dropping off kids to school and people heading to work early in the morning or going home after a long day. We need everyone to listen to these messages. Whilst the operations are effective, we need motorists to be alert and aware of fatigue and road safety all year round.

WESTCONNEX PROPERTY ACQUISITION

The Hon. WALT SECORD (14:40): My question without notice is directed to the Minister for Roads, Maritime and Freight. Given the Premier has repeatedly said the Baird Government has been "generous and caring" in its dealings with residents affected by WestConnex, what aspects of this process have been generous and caring?

The Hon. Dr Peter Phelps: Oh, everything.

The Hon.Walt Secord: Go on, Duncan, answer it.

The Hon. Rick Colless: What a stupid question.

The Hon.Walt Secord: It's a very good question, peanut.

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

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (14:40): I thank the member for his question. It is not an easy job when we have to face the situation of taking someone's house. Whilst the Labor Party wants to play politics on this issue, there is one clear message up-front. We would not have had to take the majority of these houses if the Labor Party and Neville Wran had not sold the routes. Let us get that clear up-front. It is clear that Labor has the responsibility on its hands. The question asked was what are we doing to make it better.

The Hon.Walt Secord: Point of order: The Minister is distorting the question. The question was very clear. The Premier said the process was "generous and caring".

The PRESIDENT: Order! The Hon. Walt Secord will resume his seat. The Minister does not have a copy of the question in front of him and was attempting to paraphrase it. Describing that as a distortion is totally unnecessary. The Hon. Walt Secord should sit quietly and listen to the answer. The Minister should do his best to give generally relevant information to the question as he understands it was asked.

The Hon. DUNCAN GAY: I thank the Hon. Walt Secord for the clarification on "generous and caring". Every time we have an interaction with people in this situation we try to be generous and caring. It is not a pleasant situation when people are forced to leave their houses for the provision of infrastructure because the route that was meant to be there is not there, or for some other reason. We understand why they get upset in this situation. To that end, we received a voluntary agreement of more than 80 per cent, which means we are doing something right. It is not easy for the remainder of the people in that situation who are trying to come to an agreed position. We pay above market price—

The Hon.Walt Secord: That is not true, Duncan.

The Hon. DUNCAN GAY: It is true.

The Hon.Walt Secord: It is not true.

The Hon. DUNCAN GAY: What would the Hon. Walt Secord know about the real world; he has never been outside the Labor Party offices. He has never had a real job and would not know about people.

The Hon.Walt Secord: Point of order—

The PRESIDENT: Order! Has the Minister concluded?

The Hon. DUNCAN GAY: No, I have not.

The PRESIDENT: The Minister has the call.

The Hon. DUNCAN GAY: The rationale behind that is if we paid the exact market value, it would mean that people wanted to sell and those houses were not on the market because those people were not interested in leaving their community or accepting what the local market value was. We move in to be as fair and as generous as we can. We also cover the cost of tax and help with moving costs. Recently I discovered that where we had not settled we were charging rent but were holding the sum, attracting interest and putting the interest away. I can imagine why people were upset about this because they were still paying their mortgage.

The Hon. Lynda Voltz: You did it in Granville a year ago.

The Hon. DUNCAN GAY: Just listen.

The PRESIDENT: Order!

The Hon. DUNCAN GAY: I have been asked a question. I am trying to answer it and you are prattling on like an idiot.

The PRESIDENT: Order! I call the Hon. Lynda Voltz to order for the first time.

The Hon. DUNCAN GAY: We saw that situation and, frankly, it was unfair. People were upset that they had to leave their houses. The fact they had to pay rent as well as their mortgage is why I have changed the system so that now they do not have to pay rent— [*Time expired*.]

AIR QUALITY MONITORING

Dr MEHREEN FARUQI (14:45): My question without notice is directed to the Minister for Disability Services, and Minister for Ageing, representing the Minister for the Environment. Why is the Government allowing coal companies to get away with having dodgy air—

The PRESIDENT: Order! There is too much noise in the Chamber. The Minister cannot be expected to hear the question. I ask the Deputy Usher to restart the clock and for Dr Mehreen Faruqi to ask her question again.

Dr MEHREEN FARUQI: Why is the Government allowing coal companies to get away with having dodgy air quality monitors in the Namoi Valley and not even bothering to look at the data? Will the Minister commit to independent monitoring by the Environment Protection Authority of air quality monitors near coalmines?

The Hon. Catherine Cusack: Point of order: That question is overflowing with argument and completely outside the standing orders.

The PRESIDENT: Order! I uphold the point of order. Dr Mehreen Faruqi may ask the question again later in question time without the argument.

HEARING IMPAIRMENT AND DEAFNESS

Mr SCOT MacDONALD (14:47): My question is addressed to the Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism. What is the New South Wales Government doing to support people with hearing impairment and deafness?

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (14:47): The New South Wales Government is committed to supporting people with hearing impairment and deafness so they can live full and empowered lives. As members are aware, I am a proud St George-Illawarra Dragons supporter. However, this week my own football abilities and fitness—or lack thereof—were put to the test at the inaugural New South Wales Parliament Silence Sports Challenge, held by the Deafness Forum of Australia for Hearing Awareness Week. I was joined by other members of Parliament, the Hon. Luke Foley, John Robertson, Chris Minns and Steve Kamper, as well as ministerial staff, other staff members, journalists and people with hearing loss for a friendly match of silent touch football for this great cause.

The Hon. Walt Secord was present as our cheer squad. Hearing Awareness Week occurs annually in the last week of August. Fortunately, the Hon. Walt Secord was not permitted to speak and had to use Auslan in order to communicate. Silence sports events are being held this week by Deaf Sports Australia in conjunction with the Deafness Forum of Australia and Touch Football Australia.

With over 300 community partners, Hearing Awareness Week is about removing barriers for people with hearing impairment by eliminating stigma and improving their overall quality of life. Raising awareness and removing barriers is paramount as one in six Australians are affected by hearing loss. That is an estimated 3.5 million people. This figure is expected to increase to one in four due to factors such as workplace exposure, the environment, accidents and an ageing population.

The theme this year is the fragility of hearing health and ways to protect it. The symbol used to promote the week is an egg with headphones, which demonstrates how precious hearing is. A range of promotional activities like the silent game of touch footie have been held across the country to raise awareness. The players of the touch footie game relied only on directions from a referee's hand signals and a red flag. It was a surreal environment as we were running around in complete silence whilst we wore headphones. We were not permitted to speak or utter any sound during the game. In other words, players were not able to call for the ball or give instructions in defence. It was a difficult task but, most importantly, it gave us a real insight—it was only a glimpse—into the difficulties faced every day by individuals with hearing loss.

We have come a long way since the days, in the 1800s, when we used ear trumpets. Now, in the digital era, hearing aids can be completely unnoticeable to the casual observer, and technology makes everything seem possible. Hearing loss is often described as the invisible technology, partly because hearing aids are not usually obvious and those affected are often isolated through a lack of access to communications. The New South Wales Government shares the aim of Hearing Awareness Week in removing barriers to deaf people and to people who are hearing impaired so that they can fully participate in their local communities. For the 2016-17 financial year the New South Wales Government is providing over $12.9 million to services and $2.6 million to assisted technology initiatives that support people who are deaf or hearing impaired.

Looking into the new world of the National Disability Insurance Scheme [NDIS], people with hearing loss who are eligible will have choice and control over the services and supports that they want and need. This will, mostly likely, include people who have not had access to services before, and will ensure that they have support to better access the community. As members know, I am an active advocate for people with disability having the same rights as everyone else, and the Government is delivering this through the NDIS.

COMMERCIAL FISHING INDUSTRY ADJUSTMENT PROGRAM

The Hon. PAUL GREEN (14:51): My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Today many members in this House met with representatives from the Professional Fishermen's Association of NSW and the NSW Wild Caught Fishers Coalition regarding the Commercial Fisheries Business Adjustment Program. Is the Minister aware of their concern that the Commercial Fisheries Business Adjustment Program, as it is currently understood, poses a threat to many commercial fishers, who will be forced to purchase expensive shares and that it could reduce their ability to fish in New South Wales waters? How is it possible that a business adjustment program could be considered and supported by this Government given the potential loss of family livelihoods and small businesses—some of which have been running for five or six generations?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (14:52): I thank the member for his question. It is an important question in relation to a long-standing and complex issue for the commercial fisheries sector. Back in May, after many meetings, reports and reviews into the sector, the Government announced that it would proceed with the linkages of shares and effort or quota for the commercial fisheries sector. Since the Government made that announcement, we have continued to listen to the concerns. These concerns have been raised in many ways. For nearly a month now we have been hearing the feedback.

That feedback can probably be categorised into three major areas of concern. The first concern related to the cost of shares. How could someone make an informed decision about whether to stay in the industry if the Government could not tell them the cost of the shares? The second major issue that was highlighted after fishers received the initial package, which we sent out in May, was: Are the shares available if I need them? There was a range of other issues but the third most important concern was probably about the allocation of quota and how that would be determined, particularly in areas where some people have had a strong catch history in a share class and some have not.

Those were the three biggest issues concerning the fishers at the moment, but there are many others. The Government is looking at more than 1,000 different cases, because every fishing business is different. They are structured differently. Some businesses have multiple share classes. Some businesses go over different regions. Some businesses are companies and some are small family businesses. About four weeks ago I asked Mr Neil MacDonald, who is not from New South Wales, to talk to members of the industry again, and to come back to me with a report on other issues that need to be addressed and to let me know whether the Government had missed any issues. I received the report from Mr MacDonald. He raised more than 110 specific issues. Some relate to the same issue expressed in different ways, and some concerns are very consistent and fall into the three categories that I spoke about earlier.

When I engaged Mr MacDonald I also pushed back the timeline for the businesses to register for a buy-up of fishing businesses. We also announced some other changes. However, the Government has not pressed the stop button. We are not saying, "That is it. It is done; it is over." We are continuing to learn from what we are hearing from the industry. I will be responding in full detail to Mr MacDonald's report. I also hope to be able to come up with a way that will help fishers determine what the share availability may be and what the rough price may be. Only when we have that information will we continue through to the finalisation of this reform. The Government wants to make sure that fishing businesses are left here in New South Wales. It is difficult, and I understand the concerns about uncertainty. The Government wants to keep working through this issue to make sure that we provide as much information as possible for fishers to make informed decisions. The Government will continue to work with them to do that. [*Time expired.*]

The Hon. PAUL GREEN (14:57): I have a supplementary question. Will the Minister elucidate on his answer?

The PRESIDENT: Order! I have ruled that general elucidation questions cannot be asked in this House. A supplementary question must seek an elucidation of an aspect of the answer that the Minister has given. If the member wishes to re-ask his question, asking for an elucidation of an aspect of the answer, I will allow that on this occasion.

The Hon. PAUL GREEN: Allow me to make a personal explanation. The Chamber staff took my question so I am unable to reflect upon it. I would like the Minister to go back to the question and answer the part about how the Government's decision will affect the families' outcomes. Could the Minister elucidate his answer with respect to that matter?

The PRESIDENT: Order! I will allow the question on this occasion. However, I invite the member to reflect on what I just said, which is that an elucidation of the original question is not in order as a supplementary question. The supplementary question needs to ask for an elucidation of an answer. The Minister may provide what information he likes in the circumstances.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (14:57): In relation to the answer about the impact on families, the only thing I can say is that we need to be able to provide enough information for fishers to make an informed decision. We have offered to make $1,000 available to each fisher to seek independent financial advice, but it is difficult to access that advice when there is a missing part of the puzzle. The missing part of the puzzle, when making an informed decision, related to the worth of the shares. I will have more information once I consider all of the issues raised by Mr MacDonald in his report. I want to have a mechanism available that fishers can engage with in order to determine what shares they may need and what shares they want to sell. Hopefully, that will provide us with the data that will tell us whether we have issues in particular share classes. We can then go back and have a good, hard look at those issues.

The money that we have with the adjustment program is also there for active fishers to be subsidised to purchase some of the shares that they want. I will not for one moment say that this is easy or that this industry is not hurting. This is something that has been going on for decades. To do nothing and to leave the industry limping along and bleeding out is not a solution. The Government needs to continue to work with the industry to try to get through a complex problem, get to the end of it, and have a strong industry in the future.

The PRESIDENT: I welcome into the upstairs public gallery students from the University of Sydney who are undertaking the parliament and democracy course, coordinated by Professor Rodney Smith, which today is being conducted at the New South Wales Parliament. I welcome them to the first of several visits to Parliament House, as I understand it. I hope the students enjoy their semester course. You are very welcome, and good luck.

COMMERCIAL FISHING INDUSTRY ADJUSTMENT PROGRAM

The Hon. MICK VEITCH (15:04): My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. In the light of personal stories that were revealed today in State Parliament by families who are directly affected by his Government's commercial fishing restructuring process, what does he

say to the personal plea made today from 10-year-old Madison, who has asked him to save the livelihood of her father? Why does the Minister not just hit the pause button and enter into constructive dialogue with the commercial fishers?

The PRESIDENT: Order! Before the Minister answers the question, I remind people in the public gallery that gestures, such as holding up signs, or interruptions of proceedings in the House are not permitted. I do not wish to be heavy-handed, but there are rules of continuing effect in this place about how people are to behave in the gallery. I ask that those rules be respected.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (15:01): I thank the Hon. Mick Veitch for his question. What we are faced with is a legacy left by a former Labor Government. In 2007 the former Labor Government misallocated shares, which is one of the key reasons that those very same shares today are worth less than they should be and are making many in the industry unviable. Again in 2010, the former Labor Government wasted $1.5 million of taxpayers funds running an exit program, which led to only 17 businesses leaving the industry and left those who remained no better off. When we talk about what was identified in 2012 in the Stevens report, which was a comprehensive review of the New South Wales commercial fisheries industry following the 2011 election, we should refer to what the report states about examining the record of Labor in power:

> Overall, the manner in which shares … were issued in these fisheries may be considered as a case of administrative failure, which, in turn, has led to the current situation faced by fishers.

The current position of just a pause in the current reform process is not a unanimous position held by the industry. I have met with people in different parts of the industry who are saying, "Yes, we understand that there are parts that maybe we need to have a look at", but it is not unanimous where everyone is saying that nothing should happen or that this should stop. This industry has been hurting for many years. It is tough trying to readjust this. It is tough to look at this. But part of the biggest problem we are facing now is not so much the linkages; but, rather, it is the fact that the fishers are saying that they have to pay for the linkages and they are not sure if they will have shares available to do the linkage. They are some of the key issues and the Government needs to work through those issues. That is what I said in my previous answer.

We have people who have already begun to sell their fishing businesses and consolidate their shares. People already are engaged in that process. The Government announced in relation to the Williamtown issues that it is suspending the linkages for those Williamtown fishers. The Government made that announcement after receiving feedback from working with fishers. What is the alternative that Labor is offering? Opposition members are just saying, "Stop. Don't do anything. Just let the industry limp along." The over allocation of shares has created uncertainty. The Government will work through the processes with the industry to get it right.

The Hon.Walt Secord: Point of order: The question is very clear. It asked specifically whether the Minister would hit the pause button—yes or no.

The PRESIDENT: Order! Quite clearly, the Minister has been directly relevant in his answer on that matter. There is no point of order.

The Hon. NIALL BLAIR: This is not something that this Government has rammed through. The Government announced its intention in May. Has the Government finalised it? No, the Government has not finalised it. As I stand here today, the share trading process that the Government announced has not commenced because we are still working through the issues that have been raised by the industry. The Government needs to do further work with the industry to give it the information it needs so that it and the Government are confident that enough information is available for fishers to make an informed decision and to be able to decide what they want to do. That is exactly what I alluded to in my earlier answer. The Government is working through a process. When Opposition members see my response in the MacDonald report, the Government will be able to provide the Opposition with more information as to how we will help the industry get that information.

WESTERN NSW WATER SECURITY

The Hon. RICK COLLESS (15:06): My question is addressed to the Minister for Primary Industries, and Minister for Lands and Water. Will he update the House on water security for Western New South Wales?

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

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (15:06): I thank the Hon. Rick Colless for his question. Securing the long-term water supply for western New South Wales, and especially the historic township of Broken Hill, is a commitment this Government has made to ensure clean and reliable water is accessible now and into the future. The construction of the new pipeline from Wentworth to Broken Hill delivers on this commitment and will provide a consistent water source to the

community for decades to come. The New South Wales Government is putting forward a $500 million investment package consisting of short-term water projects, such as a new reverse osmosis plant and a long-term pipeline solution, to make good on this promise.

This is the single largest investment to secure a town's water supply in the history of this State. This investment is about ensuring that the historic township can reach its full potential as this Government addresses decades-long supply issues in western New South Wales. It also brings significant catchment-wide benefits for our northern and southern irrigation industry and sits at the heart of commitments under the Murray-Darling Basin Plan. This solution is the result of an extensive assessment by water, financial, engineering and infrastructure experts of 19 possible options that sought the best solution to secure a long-time water supply for the area. The Department of Primary Industries—Water is currently undertaking detailed planning works, including environmental assessment and approvals, technical investigations and procurement preparation for the pipeline. Consultation also is underway with community and cultural groups to understand and assess the possible impacts that the construction may create.

The tender process for the pipeline is scheduled to commence in the coming weeks, with construction starting in April 2017. I note that the speech made by the Hon. Daniel Mookhey during the adjournment debate last night contained two errors of fact that I am obliged to address in the House. The first error of fact was the statement that the people of Broken Hill would be lumped with the construction costs for the pipeline. The Government has already announced up to $500 million for the construction costs of the pipeline, something that those opposite stood in the way of during their 16 years in government. The second error of fact was the bizarre idea of residents being forced to pay twice for their water—once for water supplied from the Menindee Lakes and once again through the Wentworth pipeline. Not only are the statements incorrect, they are misleading.

The PRESIDENT: Order! I call the Hon. Daniel Mookhey to order for the first time.

The Hon. NIALL BLAIR: The pipeline will directly run from Wentworth to Broken Hill so it will not go to Menindee.

The PRESIDENT: Order! I remind the Hon. Daniel Mookhey that he has just been called to order.

The Hon. NIALL BLAIR: The long-term cost of water is an important community concern for Broken Hill residents as well as other communities across New South Wales. Pricing for water is set by the Independent Pricing and Regulatory Tribunal [IPART] based on a range of factors including the costs associated with water delivery operations and maintenance.

The PRESIDENT: Order! I call the Hon. Daniel Mookhey to order for the second time. I remind him that there are other forums, such as the adjournment debate, for him to reply to any matter that he may take issue with in the Minister's answer. The Minister should be heard in silence.

The Hon. NIALL BLAIR: In setting charges, IPART must consider socio-economic factors and the capacity of communities to meet any price increase. I want to reassure the people of Broken Hill that this has been identified as the best way forward to provide a single source of clean, reliable water in the Murray River for use by the community and future generations. We continue to work closely with the Broken Hill community to ensure that we meet this challenge head on and deliver this much-needed solution to provide confidence and certainty for the future of these people, without playing politics with an essential asset like water.

SAME-SEX MARRIAGE

Reverend the Hon. FRED NILE (15:11): My question without notice is directed to the Leader of the House, the Hon. Duncan Gay, representing the Premier. Is it a fact that the proposed plebiscite on the issue of two homosexual or gay men being legally married in Australia has been postponed to February-March 2017? As this proposed plebiscite will clash with the New South Wales annual homosexual Gay and Lesbian Mardi Gras parade and other related activities, will the Government request the Federal Government to postpone the plebiscite until June-July or August-September 2017?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (15:11): I thank the honourable member for his question. I am embarrassed to say that I was not aware of those coincidences in timing. I am sure the honourable member, as usual, is accurate in his notes. It is certainly an important issue that I will pass on to the Premier.

The Hon.Walt Secord: Come on, Duncan, break new ground.

The PRESIDENT: Order! I am sure the Minister was referring to three calls to order and not making an obscene gesture when he held up three fingers. I would counsel the Minister to be careful with his fingers when he is making gestures in the House.

The Hon. DUNCAN GAY: I will take that question on notice and refer it to the Premier for a detailed answer.

WESTCONNEX PROPERTY ACQUISITION

The Hon. DANIEL MOOKHEY (15:13): My question without notice is directed to the Minister for Roads, Maritime and Freight. Has the Minister made any representations or had any discussions with the Premier or his office about the timing of the release of the Russell report into compulsory acquisitions?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (15:13): I refer to my earlier answer to a question asked on this matter. I indicated that this is a matter for a Minister in the other place. I will refer this further question to him as well for a detailed answer.

HEAVY VEHICLE SAFETY AND ROADWORTHINESS

The Hon. BEN FRANKLIN (15:14): My question is addressed to Minister for Roads, Maritime and Freight. Could the Minister update the House on what the New South Wales Government has done to improve roadworthiness and heavy vehicle safety as it works to improve road safety in this State?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (15:14): I thank the honourable member for this question. Yesterday in the House in answer to a question I spoke about the tanker that overturned on Wentworth Avenue last Friday. The New South Wales Government is investing millions of dollars and hundreds of man hours into heavy vehicle roadside testings—

The Hon. Lynda Voltz: People hours.

The Hon. DUNCAN GAY: People hours—a fair point. We are investing in roadside testing, operations and safety and mechanical checks to try to avoid tragedies like the 2013 incident on Mona Vale Road involving a truck carrying dangerous goods. Since then we have been getting stuck into getting companies like Cootes Transport Group, the one involved in the aforementioned incident, back into order. I am pleased to say that Cootes is now one of the better companies. We have done so by managing and educating companies on maintenance, roadworthiness and heavy vehicle safety. Since the tragic Mona Vale Road fuel tank incident, Cootes Transport Group and other dangerous goods vehicles have been the target of heavy vehicle compliance operations.

Make no mistake, our enforcement and compliance program is rigorous and ensured that the company involved in Friday's incident has had its six trucks subjected to 41 individual checks in the past 2½ years. Roads and Maritime Services [RMS] has issued three major defect notices and 14 minor defect notices during that time. Major defects were rectified before the trucks were allowed back on the road. On Friday the tanker that overturned was on an approved route for heavy vehicles, a well used corridor for these vehicles.

Yesterday I was asked a question on this event. I will always answer questions in this House on important matters, especially ones to do with road safety. But frankly, it is helpful in my answering these questions that they be accurate and make some sense. We have to feel for the member or whoever wrote yesterday's question as it appears that that person is somewhat geographically challenged, to say the least. I was asked if a truck rollover and a two-car accident on General Holmes Drive on Friday had me reconsidering decommissioning a speed camera in the airport tunnel.

The Hon. Lynda Voltz: Point of order: My point of order is relevance. The Minister was asked a question about heavy vehicle upgrades. He is talking about an accident on General Holmes Drive, although that was not mentioned in my question yesterday. Perhaps the Minister should reread the question. Mr President, I ask you to bring the Minister back to the leave of the question.

The PRESIDENT: Order! The Minister is thus far being generally relevant.

The Hon. DUNCAN GAY: Let me get a few things straight for those opposite, who could all do with a lesson on Sydney's road freight network. Firstly, I make no apologies for red light cameras that save innocent lives. The camera decommissioned in the airport tunnel was a speed camera, not a red light camera. Secondly, Friday's truck accident occurred on Wentworth Avenue, which if the member had any geographical awareness, she would know is just under 2.5 kilometres—

The Hon. Lynda Voltz: Point of order: My point of order is again relevance. Mr President, again I ask you to bring the Minister back to the leave of the question. The Minister is now referring to a question in regard to red light speed cameras, and it would be fine for him to answer that question. However, he was asked a different question today.

The PRESIDENT: Order! The Minister has been asked what he has done to improve roadworthiness and heavy vehicle safety as the Government works to improve road safety in the State. On my listening to the Minister's answer thus far, he is canvassing matters to do with the question and is being generally relevant.

The Hon. DUNCAN GAY: The accident was 2.5 kilometres from the airport tunnel and the truck never travelled through the airport tunnel—in fact, no vehicles carrying petroleum are allowed to travel through tunnels anywhere in the State. So I am completely baffled—

The Hon. Lynda Voltz: Point of order: I refer the President to standing orders regarding making reflections upon members in this House. The Minister was asked about two accidents yesterday on a stretch of road. The Minister is now making a reflection on me in this House. He should do so by substantive motion and bring it on for debate.

The PRESIDENT: I do not believe that the Minister was going so far as to reflect adversely upon the honourable member. The Minister is in order.

The Hon. DUNCAN GAY: Finally I have to say it was correct to say that there was a two-car accident on General Holmes Drive in the airport tunnel at about 8.30 a.m. last Friday. However, it is important to note that it was in the northbound tunnel and the decommissioned speed camera was in the southbound tunnel. What we have seen is feigned outrage to connect issues that have absolutely no connection.

The Hon. Lynda Voltz: Point of order: The Minister is again reflecting on me in this House with regard to a question that was asked yesterday regarding two accidents and whether he would review the speed camera in light of those accidents. I ask that, if the Minister wants to make a reflection, he be advised to do so by substantive motion and bring it on for debate.

The PRESIDENT: I have previously ruled that the Minister was not reflecting on the honourable member, as I did not believe that was the case. I do not uphold the honourable member's point of order. However, the Minister has now used the words "feigned outrage", and that was clearly in relation to a question that was asked yesterday. That is tending towards reflecting on an honourable member, so I would ask the Minister not to reflect on honourable members during the short time he has remaining for his answer.

The Hon. DUNCAN GAY: We will do whatever we can to answer important questions on road safety, but we ask those opposite to be accurate, to help us and to not distort the facts.

SOW STALLS

The Hon. MARK PEARSON (15:21): My question is directed to the Minister for Primary Industries. In the Minister's response to a question about industry practices concerning the maceration of live chicks, he stated:

> … industry determined that it would voluntarily get rid of sow stalls …
>
> They do not need us to tell them what to do because they are already doing it.

Given that the Government refuses to ban sow stalls despite growing public concerns about the social licence to intensively farm pigs, does the Minister stand by his previous statements, or is it time for the Government to legislate so that piggery owners such as Blantyre Farms cannot proceed with their recently submitted plans to Harden Shire Council to construct 934 sow stalls at its proposed new piggery?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (15:22): I thank the member for his question. No.

PACIFIC HIGHWAY UPGRADE

The Hon. PENNY SHARPE (15:22): My question without notice is directed to the Minister for Roads, Maritime and Freight. Given the expedited and secretive decision by the Federal Minister for the Environment and Energy, Josh Frydenberg, to approve the Minister for Roads, Maritime and Freight's plan to put the Pacific Highway through core koala habitat along the Blackall Range, did the Minister make representations to the Federal Minister to fast-track this process?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (15:23): I will overlook the fact that that was an argumentative question. The question was: Did I make submissions to this Minister to fast-track it? No.

ROYAL REHABILITATION CENTRE

The Hon. MATTHEW MASON-COX (15:23): My question is addressed to the Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism. Can the Minister please outline how the New South Wales Government supports initiatives for people with a brain injury?

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (15:23): I thank the honourable member for his question. The Royal Rehabilitation Centre in Ryde, known as Royal Rehab, is a highly specialised rehabilitation facility that provides programs for people with brain injury. Since 2003, Royal Rehab has hosted the annual Wall of Fame celebration during Brain Injury Awareness Week in August.

The Wall of Fame is one of the most significant events of Brain Injury Awareness Week. Each year Royal Rehab selects a number of former clients to share their stories and significant achievements of rehab and recovery. It is an opportunity for people to share with other Royal Rehab participants and the community stories of their journey, along with those of their families, partners and friends, following a traumatic brain injury. Each participant's story is added to the Wall of Fame within the centre's Brain Injury Unit. These stories provide hope and inspiration to current and future clients who are recovering from acquired brain injury, as well as to their families. There are now more than 88 stories on the Wall of Fame.

This year, for the third time, I was privileged to be part of the Wall of Fame ceremony and hear some of these amazing stories firsthand. Peter Overton from Channel 9 was the emcee for the event, and I understand he has been the emcee for a number of years. One story of resilience and courage was that of David, who acquired post-traumatic amnesia after a motorbike accident in 2013. David spent four-and-a-half months in hospital working with Royal Rehab. Through David's determination and the great work of that organisation, David was able to return to work and obtain his drivers licence in just seven-and-a-half months. To this day David remembers the wise words of his occupational therapist: "Take baby steps in the right direction."

It was humbling to listen to the Wall of Fame nominees speak of the life-altering effects of acquiring a brain injury and the determination they each showed as they undertook extensive rehabilitation. It was a pleasure to have the opportunity to celebrate these stories and experiences of rehab and to recognise the nominees' journey to recovery with the support of Royal Rehab's Brain Injury Unit.

The New South Wales Government recognises the importance of providing support for people who have a brain injury. In 2015-16 the NSW Government provided around $14.6 million to support a range of services that target people with acquired brain injury and to provide them assistance. This included income support services, case management, specialised assessment, therapies, day programs, behaviour support, social support, and community and recreation services. Collaboration between Government agencies is required to increase awareness, expertise and service capacity across disability, health and committee services. The Department of Family and Community Services has developed a number of information and capacity-building initiatives to improve support responses and enable people with a brain injury to live fulfilling lives. These include implementing statewide training sessions for support staff, developing an acquired brain injury and spinal cord injury competency framework for care and support workers, and developing and delivering goal-orientation and goal-facilitation training to in-home support providers.

People with an acquired brain injury will have greater access to services to achieve their goals through individualised funding arrangements as New South Wales transitions to the National Disability Insurance Scheme. I admire the resilience of the Wall of Fame nominees and their determination to live life on their terms. I also congratulate the tireless efforts of Royal Rehab to provide clients with the opportunity to discover their real potential.

SEAFOOD LABELLING

The Hon. COURTNEY HOUSSOS (15:28): My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. Given industry concern about the impacts the commercial fishing industry restructure will have, will the Minister now commit to a mandatory seafood labelling scheme to support our local fishing industry?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (15:28): The Government announced this as part of the reform process. There was an anomaly in New South Wales in that fresh fish had to be labelled but cooked fish did not. We have an industry in this State that can supply quality wild-caught seafood, but more than 85 per cent of the seafood consumed here is imported, and the Government believes that that issue should be addressed. Fresh fish on offer in one premises must be labelled, but cooked fish available at a restaurant in the same premises is not required to be labelled. Provenance is a key market factor and an advantage, particularly in respect of seafood. In the example I cited, people eating the cooked product

probably assume that it is the same as the fresh labelled fish in the same premises. However, it may not be; it may be filleted fish from overseas. That is why the Government announced that it would move to require the labelling of cooked seafood in New South Wales.

The member asked why the Government has not made labelling fish mandatory. The Government is working in cooperation with the fishing industry to ensure that it is not adversely affected by any proposed reform. People running restaurants, clubs and small fish and chip shops are worried about the impact that mandatory labelling will have on their enterprises. The Government has established a working group involving representatives of each component of the supply chain, including commercial fishers, restaurateurs and so on. For the first time ever we have the affected parties in the same room. The Northern Territory has mandatory labelling, but other States are yet to introduce it. The Federal Government stopped short of doing that when it announced the labelling of fresh product but not cooked product.

This move is part of the reform process, which is designed to assist the entire industry, and that includes the Department of Primary Industries. The department manages our fisheries based on the assumption that everyone who holds a licence is fishing. We know that is not the case, which indicates that there is too much input from a departmental point of view. We are extremely prescriptive about the size and type of net that fishers should use. That is why we must work with all parts of the supply chain in this reform process. We must remove the government impact on the fishers' input costs and ensure that they operate as efficiently as possible. Sometimes we prevent them choosing the most efficient fishing methods; we force them to use less productive methods because of the way we are managing this State's fisheries.

We must examine the entire supply chain and ensure that we encourage consumers to select wild-caught seafood. We must also ensure that people know the source of the seafood they are consuming. That is part of the reform process. We must reform the industry, and we have asked the fishers to work with us. However, consumers must also be part of that process. We need the people of New South Wales to select locally caught fish, and requiring the labelling of cooked seafood will help them to do that.

The Hon. DUNCAN GAY: Sadly, the time for questions has concluded.

ASBESTOS AND ROAD BASE

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (15:32): Yesterday I was asked a question by the Hon. Peter Primrose about asbestos-containing material in the Southern Highlands. I am advised that Roads and Maritime Services is aware of an investigation into asbestos-containing material found in crushed concrete at a council-run tip in Moss Vale, in the Southern Highlands. We understand that Wingecarribee Shire Council is continuing its investigations and has no further information at this stage on this issue. Materials used by Roads and Maritime Services in the Southern Highlands are sourced from known quarry providers and testing of materials is undertaken by National Association of Testing Authorities registered testing organisations.

Bills

POPPY INDUSTRY BILL 2016

Returned

The PRESIDENT: I report receipt of a message from the Legislative Assembly returning the abovementioned bill without amendment.

Committees

GENERAL PURPOSE STANDING COMMITTEE NO. 3

Reference

The Hon. NATASHA MACLAREN-JONES: In accordance with paragraph 2 (6)of the resolution of the House establishing the general purpose standing committees, I inform the House that at a meeting today General Purpose Standing Committee No. 3 resolved to adopt the following terms of reference:

That General Purpose Standing Committee No. 3 inquire into and report on the provision of education to students with a disability or special needs in government and non-government schools in New South Wales, and in particular:

(a) equitable access to resources for students with a disability or special needs in regional and metropolitan areas;

(b) the impact of the Government's "Every Student Every School" policy on the provision of education to students with a disability or special needs in New South Wales public schools;

(c) developments since the 2010 Upper House inquiry into the provision of education to students with a disability or special needs and the implementation of its recommendations;

(d) complaint and review mechanisms within the school systems in New South Wales for parents and carers; and

(e) any other related matters.

Bills

LOCAL GOVERNMENT AMENDMENT (GOVERNANCE AND PLANNING) BILL 2016

Second Reading

Debate resumed from 9 August 2016.

The Hon. COURTNEY HOUSSOS (15:36): I will make a brief contribution to debate on the Local Government Amendment (Governance and Planning Bill) 2016. As many of my Labor colleagues, both here and in the other place, have stated, this bill is so flawed that the Opposition cannot support it. In the context of a number of scandals across the local government sector that have been well publicised in the media—from Auburn to Port Stephens and beyond—this Government has focused on introducing an ideological bill that seeks to change local councils from governing bodies comprising elected representatives who are responsive to their communities and who reflect the diversity of those communities. Instead, this Government wants local councils to be merely a board of directors tasked with managing public assets rather than protecting them as trustees.

Local councils are diverse, representative bodies. This Government may prefer to work with the hand-picked administrators that it has installed across the State instead of democratically elected councillors, and this bill seeks to perpetuate that arrangement. No longer will councillors be able to speak out after meetings. Instead, they will be bound by the majority. While that may be appropriate in a corporate setting, for a public servant, or even within a political party that caucuses together given its common set of values, the idea that all voices of dissent will be silenced is something that we would expect in Stalin's Russia, not in today's Australia. We would particularly not expect it from a democratically elected council representing the range of views within the broader community.

If these efforts to silence dissenting voices work and if this bill is enacted, the majority of councillors will be able simply to apply to the Minister to abolish the council wards or to reduce the number of councillors. At the moment, any such proposal must be put to the people affected at a referendum. They could even apply to hold fewer meetings, thereby reducing public scrutiny even further. In Mike Baird's New South Wales we have government by decree.

I am deeply concerned by the clauses in this bill that seek to remove the explicit requirement to "promote multicultural principles", and "to promote ... and plan for the needs of children". It even proposes to remove protection of the environment from the Local Government Act.

This Government just wants to discard multiculturalism, planning for children and planning for the environment. As my colleague the member for Fairfield outlined in the other place, this bill is full of buzzwords with no specific meaning—or, at best, a contested meaning. Local government is best when it is local—connected with local communities and representative of them. This bill fundamentally fails to provide for that and we on this side of the House will not be supporting it.

Mr DAVID SHOEBRIDGE (15:39): I speak on behalf of The Greens on the Local Government Amendment (Governance and Planning) Bill 2016. I start my contribution by indicating that The Greens do not support this bill. The Greens believe that local government is in desperate need of some serious reform in this State. Indeed, we would be happy to join with the Government in some fundamental root and branch reform of local government in New South Wales. It could start by giving residents the right to have a say over the future of their local councils and by empowering residents to determine whether or not they want their councils absorbed in some deeply undemocratic megamerger.

That could be followed up pretty quickly by making the one reform that everybody in New South Wales has said is desperately needed for local government—apart from the Premier and the Minister, of course. There is one reform that is absolutely fundamental to local government. Without it local government will continue to be the level of government that is most likely to find itself caught up in the scandal pages of the *Sydney Morning Herald* and the *Daily Telegraph*. That reform is to legislate once and for all to remove property developers and real estate agents from being elected to councils. This bill fails to do it. It is about time that the New South Wales Parliament recognised reality and understood that there is a fundamental conflict of interest in putting somebody who is a property developer onto a local council to make decisions about development applications and planning proposals.

Why do the Premier and the Minister for Local Government, Minister Toole, not get it? Why do they not understand that the people of New South Wales want the Government to do the major reform that will return integrity to local government by kicking off the property developers and the real estate agents? No doubt because

the Coalition has a queue of property developers and real estate agents they want to get elected on 10 September, the Government is refusing to do it. The Greens have a vast number of concerns with this bill. There is a proposal to allow a council, with no reference to the residents, just in a council meeting, to reduce wards and councillor numbers—a bare council meeting by the governing majority at the time, signed off by the Minister. That is a very worrying development and one that The Greens strongly oppose.

The idea that councils will expand to have "super mayors" with substantial additional powers that have not really been thought out or explained will potentially send us back to some of the problems we had before the Local Government Act 1999 came into place. Prior to that a mayor could basically sit in and fiddle with administration. That is a very significant change and one for which there has been no adequate justification or evidence of consideration by the Government.

There is one change that The Greens support in this bill and we supported it in the local government inquiry that was conducted by the committee in this House—that is to increase the term of office for mayors elected by councillors from one year to two years. We think that is a good change because we support a system in which mayors have the support of a majority of councillors. That is what you get when you have a mayor elected by council. We also support having some ongoing stability rather than the year in, year out political shenanigans of working out who is going to get the plum job of mayor.

I was on a council for two terms. By and large the council worked very well and by and large there was stability in the mayors on Woollahra council. There were occasions when the negotiations for mayor became unseemly and were not helpful for council unity—and that was a council behaving well. There are councils that behave badly. Individual councillors and political parties can behave badly when they are negotiating in that annual contest for mayor. Reducing that by having mayors serve for two years would be a significant step forward. It would also give a mayor two years in which to understand the scope of the role, knuckle down to work and provide some ongoing leadership.

The idea that every mayor needs to be elected in a direct election by residents had some initial gloss and attraction to it. Giving residents the right to choose the mayor sounds nice on one level. But I will give the Chamber a two-word response that shows the difficulty with that system: North Sydney. North Sydney has a directly elected mayor who has not had the support of a majority of councillors for pretty much the entire council term. Whilst I take my hat off to what I would describe as the rational majority on North Sydney council who have done a wonderful job governing their council despite the erratic behaviour of the mayor, that has shown how difficult it can be for a council to operate effectively when a directly elected mayor does not have the support of the majority of councillors. It is superficially attractive and there are circumstances in which it works, but there are also circumstances in which it can produce four years of totally unnecessary tension by having a directly elected mayor who does not have the support of councillors.

There is a proposal in the bill to require councillors to take an oath or make an affirmation when assuming office. That will not fundamentally change the way local government operates, but it is not opposed by The Greens. The position of councillor is a serious position. It is an important, elected position when a person gets onto council. The Greens believe commencing office with an oath or an affirmation is entirely appropriate and recognises the importance of the position of elected councillors.

The Greens do not support the proposal for postal voting. We believe that that downgrades the importance of local government elections. Whilst the voter turnout experience in Victoria has been mixed, there is no doubt that by going to postal elections the electorate can become particularly skewed against young people, students and people who rent and do not have long-term permanent addresses. It will likely produce a skew towards a more conservative electorate as they are the part of the electorate that engages in postal voting.

However, the proposed changes to the model code of conduct are the single most disturbing part of this bill. Not only is the Government proposing to amend the model code of conduct; the Government is stripping out the important provisions that exist in the Act to prevent a councillor from voting on a matter in which they have a pecuniary interest. Let us take these two things together: a government that refuses to legislate to remove property developers from being councillors, which is a bad decision, and the same government removing the pecuniary interest provisions from the Act—the parts of the Act that are currently there to say a councillor cannot vote on a matter or be within sight of the chamber if a matter is being considered in which they have a financial stake.

Looking at the problems of local government, what kind of State Government would say, "The solution to the problems of Salim Mehajer and Auburn council and to councillors behaving badly such as those in Rockdale and Botany is that we get rid of the pecuniary interest provisions that prevent councillors voting in their own self interest." That is pouring kerosene on a burning fire. Only a government that is indifferent to scandal and corruption at a local government level would even consider doing that.

As I understand it, the Government's answer is: "Don't you worry about that. Yes, we are stripping all the pecuniary interest provisions out of the Act. Who needs them in the Act? We are going to whack them in a code of conduct that can be amended by regulation, by the Minister." It is a fundamental downgrading of the most important integrity provisions of the Act—stripping them out of the Act and putting them in a code of conduct that can be amended at the whim of a Minister.

It is amazing that the Government is entertaining this after its 2012 debacle. In 2012 this same Coalition Government decided to unleash councillors—to allow them to vote—on zoning proposals where they had a pecuniary interest. This is a government that does not learn from history. In 2012 we stood here and said to the Government, "The pecuniary interest provisions in the Act are too important for us to allow you to water them down and let councillors vote on zoning proposals where they have a pecuniary interest." The Government at the time said: "No, no, no, none of that will happen. All the protections are there. Don't you worry about that."

And what did we get? We got Auburn and Salim Mehajer and we got other councillors behaving appallingly—because this Government opened the door to it in 2012 by watering down the pecuniary interest provisions in the Local Government Act. Then it scrambled to make a virtue of it by putting those provisions back in only about three months ago. The Government said: "We think it is important we put these pecuniary interest provisions back in the Act. We do not want any more of this Auburn business happening. We have to fix up the integrity provisions."

Here we are now, just three months later, and the Government wants to take them all out of the Act—every one of them—just like a fine-toothed comb removing integrity out of the Local Government Act and whacking it off into a little code of conduct that the Minister can amend at the stroke of a pen by regulation. When will this Government learn that integrity in local government requires tough laws, a tough Act and a consistent, principled State government to make it happen?

This Minister for Local Government has not learned. This Minister for Local Government is actively going to cause damage to the local government sector by pushing this bill through. I hope that when the amendments aimed at seeking to retain those pecuniary interest provisions in the Act are moved—either The Greens amendments or those of the Labor Party—a majority of those in this House will show they have learned the lessons of 2012 and that they are not persuaded by the false statements of comfort being given by the Minister for Local Government, a Minister who was so far out of his depth in putting this proposal before the Parliament in the first place.

There is another proposal in this bill that I think is worthy of specific comment, and I think the previous speaker touched on it. It is the idea that the duty and obligation of councillors—regardless of what they think, regardless of how they voted and regardless of their political thought—to get on board and publicly support all the decisions of council. I know there are a number of members in this Chamber who have been on a local council. They know that, just as in this Chamber, not everybody on a council agrees, and that sometimes they have ding-dong battles of principle. These could be about, for example, whether or not it is appropriate to spend ratepayers' money on a particular road project, whether or not it is appropriate to change the planning laws to allow a particular change in the middle of town, or whether or not it is appropriate to have an off-leash park for dogs. These things can be very passionately debated, with very strong views on either side. At the end of the day, a majority wins on the floor of the council and a decision is made.

But this bill proposes that once the majority has won the debate the minority is gagged. They cannot go out in public and say, "We do not agree with it, we think it is a bad decision and we are going to commit to overturning it." That is an appalling approach, a deeply undemocratic approach, and I am very surprised to find it coming from a government that is formed in part by the Liberal Party—it is illiberal. It is deeply illiberal to force a minority that has, for good or ill, been done over in the council chamber by a majority decision that they do not agree with to either silence themselves in public debate on the issue or, if they do speak, to get up and support the decision that they disagree with.

What expert panel has recommended this? Has anybody, any external body, supported this? It was not part of the Sansom review. It did not come from Local Government NSW. Maybe we could call it "the Botany council amendment"—where you can only have one view on council. That is what it is; it is the idea that you can only have one view on council. I think it is likely to be unconstitutional. It seems to be a very unreasonable and excessive limitation on freedom of speech in a very important part of our democracy: local government. There is meant to be an implied limitation on the extent to which any State or Federal government can limit the right of free speech in a representative democracy. Our Constitution is founded upon the implicit understanding that there will be a representative democracy with sufficient political free speech to allow that democracy to operate—the High Court has said that. But I think, at first blush, that this provision in this bill breaches that constitutional provision. I doubt that has even crossed the mind of the Minister for Local Government. He probably could not even find the Constitution.

The Hon. Catherine Cusack: Point of order—

Mr DAVID SHOEBRIDGE: I withdraw the remark.

The Hon. Catherine Cusack: Point of order: The member has overstepped the mark in reflecting on a member of another place. I ask that he be called to order.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I will not call the member to order, but I will advise him to exercise the normal courtesies.

Mr DAVID SHOEBRIDGE: I would be interested to know, from the Parliamentary Secretary in reply, whether there has been even the most rudimentary consideration by the department of whether or not that gag contained in this bill is constitutionally valid—or whether they think they can just put a statutory gag on elected representatives, without even considering whether or not it is lawful, and that everyone will just cop it sweet. No doubt all will be clarified by the Parliamentary Secretary in reply, using the thorough briefing notes the Minister has provided her with.

Local government does need some reform. It needs, as I said earlier, to get the property developers off the councils. It needs to be able to control its own destiny through being able to set its own rates. We need to get rid of rate pegging so councils can have financial autonomy. That should of course come with obligations that they consult properly with their communities before they raise rates, and of course it should come with due process. But, ultimately, The Greens trust that a well-regulated, democratically elected local government sector should have control of its own financial destiny. It should be able, after consulting with its residents and making a case, to set its own rates and control its own financial destiny.

We respect local government—and those are the kinds of reforms that are essential for the sector. This bill will take local government back to the 1970s; this bill removes essential protections for local residents; this bill opens the door to councillors voting in their own financial interest to obtain financial benefit; and this bill—I think impermissibly—seeks to gag political comment from democratically elected councillors. This bill, in short, should not be supported by this Chamber.

The Hon. Dr PETER PHELPS (15:58): For all the criticism that is directed to State governments around Australia, there is no worse level of government than local government. I wish to bring to the attention of this Parliament my own experience dealing with the then Queanbeyan council and its rather bizarre application of the planning laws for road use in New South Wales. In January 2015 I was surprised to receive a notification in my letterbox telling me that the council was thinking about adding some road-calming measures to Bicentennial Drive in Jerrabomberra, which is near my house.

Bicentennial Drive, if you can imagine it, is a giant upside down horseshoe. On the western side of the horseshoe there are traffic lines and on the eastern side there were no traffic lines. It was approximately four cars wide and, strangely, people were adult enough to drive along the eastern side of Bicentennial Drive without killing anyone, crashing or doing anything of a poor nature related to road use. Of course, that was not good enough for Queanbeyan council, which decided that because there were no road lines or traffic-calming measures it had to put them there. I received a letter from Queanbeyan council asking me if I would like to make some comment about those proposals. Naturally, I did. I will read the letter I sent to them:

> I have checked with the Office of the NSW Minister for Police, and records indicate that—over the entire length of Bicentennial Avenue, not just East and Southeast of the roundabout—there have been the following crashes:
>
> 2012—two crashes
>
> 2013—one crash
>
> 2014—one crash.
>
> I am not sure how this can possibly justify the expense of the obstructive traffic measures plan proposed. Even your own figures indicate that over a longer period there is barely more than one crash per year. Given the length of the road and the amount of use it would get that is a remarkably GOOD figure, not a bad one.

If I can digress and make the point that Bicentennial Drive is the chief access artery for the southern half of the Jerrabomberra estate, so it is a chief access artery for approximately 1,500 homes in that area. Furthermore, I asked a number of questions about the actual figures that the council had relating to this matter. I received some very interesting answers. The council said there had been 10 vehicle accidents where police had attended on Bicentennial Drive between 2006 and 2013, and only six of those resulted in injury; speed counts performed between 2006 and 2014 show that the eighty-fifth percentile is 59 kilometres an hour.

In other words, 85 per cent or more were doing less than, say, 60 kilometres an hour in what was effectively a 50 kilometres an hour zone. The council also said that Bicentennial Drive is part of the Queanbeyan bus route, including a school bus route, which results in many pedestrians crossing Bicentennial Drive to catch

the bus, and that the traffic-calming measures aim to improve the safety of those vulnerable road users. It also said that council had received concern from residents, and this was supposed to be the killer fact:

> As well as numerous phone calls there have been 9 letters and one petition with 19 signatures calling for traffic management.

Naturally, slow points, narrower roads, unnecessary bike paths and chicanes did not appeal to me all that greatly. I was unsure how we could make a road safer when it had had only one crash per year on average, other than closing the road completely, so I wrote:

> The percentile figures quoted are meaningless in the context of my original point, which was that the 50 kph limit is ridiculously low for the conditions of the road, and that the safety of the road is still excellent despite large numbers of drivers routinely ignoring the arbitrary 50 kph speed limit. Seeing that you have the statistics, perhaps you could indicate the percentage of users who are travelling ABOVE 50 kph along Bicentennial Drive, according to the information that you have.
>
> I am unsure how you can claim that the obstructive traffic measures proposed will make pedestrians safer when the figures indicate that they are pretty much as safe as they could possibly be without closing the street to traffic and turning it into a pedestrian mall.
>
> The addition of set bike paths is already unnecessary, given (a) the width of the road at the current time, which allows drivers to provide great leeway for cyclists BECAUSE THERE ARE NO ROAD LINE MARKINGS and (b) the profusion of bike paths that already exists which lead down the hill to the oval and thence to the roundabout.
>
> This brings me to the final point. Why is this happening?
>
> 1. You state: "Council has received concerns from residents. As well as numerous phone calls there have been 9 letters and one petition with 19 signatures calling for traffic management."
>
> Not to put it mildly, 19 signatures and 9 letters (in ten? twelve? years) is a pathetically small number, especially considering the number of people who live East of the roundabout and who use the road regularly. Moreover, if I get a petition done with 20 or more signatures in opposition, will Council officers cancel this ridiculous proposal?
>
> I can only assume that this is yet another hare-brained scheme from the professional agitators on the Jerrabomberra Residents' Association. I may be wrong in that regard, but I'll be willing to bet that I'm not.

Basically we have a situation where they asked for my advice, and I gave them quite a comprehensive answer. The problem is that they did not really care what my answer was. They did not care about the historical facts relating to the use of that road and accidents on that road. They did not care about anything like that. They were interested in going ahead with their plan come what may. I did not know this at the time. I thought it was a genuine search for information, and so the mayor kindly said this in reply:

> Just to let you know I have previously door knocked this area twice over. The residents have had enough of the dangerous driving behaviours exacerbated by the wide street design encouraging speed. Residents have repeatedly demanded action on the part of the council. I am acutely aware that some residents will not even permit their children in their own front yards where the property adjoins a bend in the road—in fear of speeding drivers losing control.

Unfortunately, the mayor wrote to me without realising that his own officials had written to me almost at the same time, giving me the details which indicated that that was not the case.

The Hon. Rick Colless: How embarrassing.

The Hon. Dr PETER PHELPS: Very embarrassing I would say. He spoke about the dangerous driving behaviours. What sort of dangerous driving behaviours produce, on average, one crash per year, none of which were fatal and only six of which occasioned injury? How could he say that these bad behaviours were exacerbated by wide street design encouraging speed when, at the same time, he refused to give me any data relating to the number of crashes that took place on the narrower, traffic-calmed Cooma Road. When he said that residents have demanded action on council, he did not mention—but fortunately the Queanbeyan council official did—that they could only get 19 residents out of the entire suburb of Jerrabomberra south of the main roundabout to sign a petition in favour of these traffic-calming measures.

The mayor said that some residents do not permit their children in their own front yards. I have always looked at those houses and there are few, if any, that have front yards suitable for children play areas. Almost invariably they are ornamental gardens. More to the point, even if they were not, such fears are totally unjustified based on actual accident statistics. Finally, when he said there may be some residents who are not in agreement with the decision, there is a sensible reason for that. The proposal made no sense from a safety perspective and is fiscally irresponsible on the part of council. Moreover, if an irrational bleating from a tiny minority of the community is to be the new standard by which council disapproves of a project, are we to take it that the Edwin Land Parkway extension will not be going ahead because of the complaints of a vocal minority, certainly larger than 19 people in the Greenleigh Estate. I ended my letter with this: Finally, I am confused as to why you, as a fiscal conservative and a person who has previously sought to make assessments based on fact (not emotions) would be supporting this nonsense.

Obviously, I pricked a conscience somewhere along the line, because I was invited to meet the mayor and one of his officials at council chambers. I attended that meeting on 29 January 2015. The resoluteness of the mayor and

his official correlated almost exactly to the level of illogic which they used to support their arguments. It was clear that there was a façade, that there had been no real attempt to seek genuine consultation. There had been no attempt to take—as we like to say in government—an "evidence-based" approach to policy. Someone had obviously decided that there was enough money left in the traffic budget and that they would spray some white lines on a road, which patently did not need it because—and here my libertarianism comes out—we do not need government telling us how to behave sensibly.

The council obviously felt that there was an absence of government stricture, control or diktat, and this created a horrid void which needed to be filled by the council's own ridiculous schemes. Time went by and no action was taken. I had a horrible sensation that, just maybe, my own limited skills had managed to convince them of the idiocy of their plan. But I was wrong, and the plan went ahead. A bike lane went in, although multiple bike paths already exist throughout the parklands in Queanbeyan's Jerrabomberra estate. But the bike lane was located on only one side of the road, so that bikes coming down the hill have to ride on the wrong side of the road. The bike lane is only one bike wide so that if another bike is going up the hill the bike coming down the hill, using the normal rules of the road, would move to the left-hand side and, presumably, into any oncoming traffic which happens to be going up the hill at that time.

The Hon. Shayne Mallard: Be honest, it is probably not bi-directional.

The Hon. Dr PETER PHELPS: I note that interjection. It is supposed to be a bi-directional bike lane.

The Hon. Shayne Mallard: It should be more than a metre wide.

The Hon. Dr PETER PHELPS: It was built that way. The great thing about it is that, like so many other bike lanes, I have never seen it used, which goes further to prove that its addition in the first place was completely and utterly irrelevant, given its width. The council, as part of its traffic-calming proposal, constructed quite unusual chicanes. The trouble was that the first chicane made the road less safe because it was constructed on a reverse-camber bend so that drivers turned in the incorrect direction and were more likely, especially on wet nights, of going into oncoming traffic. That chicane did not last very long—in fact, it only lasted a week—before the crews were out again, busily scraping off the white lines and then reapplying them. So the whole effect of having a traffic-calming chicane was completely obviated.

The Hon. Matthew Mason-Cox: Where is this?

The Hon. Dr PETER PHELPS: I am talking about the south-eastern arm of Bicentennial Drive in Jerrabomberra. I invite all members, if they are visiting the wonderful metropolis of Queanbeyan, to see what an utter balls up the council has made of the traffic-calming devices in Queanbeyan east. But wait, there is more. Not satisfied with putting in the original white lanes, quasi-chicanes and a bi-directional bike path which is only one bike wide on the wrong side of the road, the council decided to construct giant concrete abutments coming out from the kerb, which narrowed the road.

That is a legitimate traffic-calming device but there is no illumination on these concrete abutments, so on dark nights, if a driver going up the hill is distracted momentarily they will find themselves mounting the new concrete abutment at the side of the road. Those structures are still there but they have been made even safer because there are now pillars on those abutments with "50 kilometres an hour" road signs on them. The final indignity was that the council's traffic management authoritarianism was not met by the lived experiences of people in that suburb, because the council has now decided to plaster giant white 50-kilometre speed markings on the road. That is all well and good because they are very easy to see, especially when you are driving up or down the hill at 70 kilometres an hour.

The Hon. CATHERINE CUSACK (16:15): On behalf of the Hon. Duncan Gay: In reply: I thank all honourable members who have contributed to the debate on the Local Government Amendment (Governance and Planning) Bill 2016: the Hon. Peter Primrose, the Hon. Paul Green, the Hon. Ernest Wong, the Hon. Courtney Houssos, Mr David Shoebridge and the Hon. Dr Peter Phelps. This bill is a further milestone in the Fit for the Future local government reforms. Local councils need the tools to improve their performance, and the Government is committed to making them stronger.

The process to reform the Local Government Act so it meets the future needs of councils and their communities is underway. The proposals for reform in this bill commence the modernisation of the Local Government Act, in phases, to support improvement across the local government sector. This bill gives effect to many of the recommendations of the Local Government Acts Taskforce and the Independent Local Government Review Panel.

Turning now to specific issues raised during the debate, I acknowledge the continuing presence of the Hon. Peter Primrose, who has raised many issues. I appreciate his courtesy in remaining to hear the answers to

his questions. I acknowledge that a number of honourable members do not support council-elected mayors. Consequently, they do not support the proposal in the bill to extend councillor-elected mayoral terms from one to two years. The Government believes the extension of councillor-elected mayoral terms from one to two years will address the concerns relating to the short period currently in the Act. The Government considers it is unnecessary and inflexible to respond to these concerns by mandating four-year popularly elected mayors in every case, as suggested by the Opposition.

If a council wishes to have a popularly elected mayor for its area it can choose to do so. The Opposition also questions whether certain aspects of the bill will assist leaders in local government to discharge their responsibilities. The Government believes the bill will promote stronger political leadership and effective representation, which are essential to strengthening and supporting local communities. The bill will do this, in part, by setting out the different responsibilities of the roles of mayor, councillor and general manager so that their responsibilities and duties are clearly understood by those performing the roles, and by the people and communities who interact with them.

I note the Opposition does not agree that the role of general manager warrants clarification and updating along with the roles of councillor and mayor. The Government is confident, however, that these updates will help councils to operate smoothly. There will always be differing views about how to best describe in legislation what local government does, the role of each participant and the principles that should inform that work. However, the bill has been developed through extensive consultation to apply across the full range of council functions and responsibilities.

Some speakers also raised concerns about the role of councillors referred to in the proposed new section 232 (f). This section states that councillors will uphold and represent accurately the policies and decisions of the governing body. This precise wording was a recommendation of the Independent Local Government Review Panel. There is nothing untoward about councillors—who are members of a governing body of council—upholding the decisions of that governing body. The proposal does not silence dissent or require councillors to agree. It simply requires them to act with integrity.

The Opposition and The Greens also mentioned the way in which the bill changes the approach to managing the ethical obligations of councillors, and asked me to reply to some of those matters today. The bill will ensure that strong ethical obligations are maintained while consolidating those obligations for councillors into one instrument for easier reference and understanding. However, the Government accepts that the provisions around pecuniary interests in this bill are complex. It is not a straightforward drafting process to move disclosure obligations into the code of conduct while ensuring that no-one who is currently subject to pecuniary interest duties falls through the cracks in the process. Once the bill moves all those duties into the code, a breach of the code by councillor will be able to be dealt with as councillor misconduct under the Local Government Act.

However, the bill must retain a separate framework for investigating and punishing breaches of pecuniary interest duties by council staff, advisers, committee members and delegates. That is the reason some of the provisions of the bill now must exclude references to councillors and former councillors. The exclusions are not narrowing councillor accountability, as mistakenly suggested by some members. Rather, they are the drafting consequence of placing a breach of a pecuniary interest duty by a councillor within the separate councillor misconduct framework under the Act. Making a councillor's breach of a pecuniary interest duty a question of misconduct will help councillors to be clear on all their ethical obligations. However, there are two other important benefits from taking the approach of the bill that pecuniary interest duties become a form of councillor misconduct under the Act.

First, the powers of the Chief Executive of the Office of Local Government to take disciplinary action against councillors for pecuniary interest breaches will be expanded. Currently, all pecuniary interest breaches requiring disciplinary action against councillors, regardless of severity, can be progressed only through the New South Wales Civil and Administrative Tribunal. This bill removes that limitation. The tribunal of course will continue to be able to impose a range of serious sanctions against councillors. Those sanctions still include disqualification for up to five years from being on a council, if a councillor is found to be in breach of the pecuniary interest duties under the code of conduct. Second, the bill also brings suspensions for pecuniary interest breaches under the ambit of the three strikes provisions of the Act. This operates to automatically disqualify a councillor from holding office in a council for five years when they have been suspended on three or more occasions for misconduct. This provision does not currently apply to repeated pecuniary interest breaches but will do so once the bill's changes are made.

I also acknowledge concerns raised in debate about changes to the process for dealing with pecuniary interest complaints against councillors. The bill makes some consequential changes for councillors and former councillors in order to realise the benefits of consolidating all councillor ethical obligations into one instrument. As noted in the explanatory paper about these amendments, which was released in January, the Code of Conduct

Model Procedures mandates complaints-handling processes. Councils that receive pecuniary interest complaints under the code of conduct will continue to be required by the procedures, as they are now under the Act, to refer them to the Chief Executive of the Office of Local Government for assessment and possible investigation as misconduct. The chief executive also is authorised to conduct on his own initiative investigations into possible councillor misconduct, which will include pecuniary interest matters.

The model procedures, plus other guidance material issued by the Office of Local Government about making complaints, will be updated to reflect the bill's changes, along with the model code. The pecuniary interest complaints process as it relates to council staff, advisers, delegates and council committee members is not changed under the bill. I also note that amendments will be moved by the Opposition that would delete a provision in the bill relating to the Minister's power to permit participation in meetings, notwithstanding a pecuniary interest. The inclusion of a new section 370A in the bill is purely consequential moving most pecuniary interest duties out of the Act and into the code of conduct. It is almost identical to section 458 in the Act as it exists now, which is a necessary last-resort mechanism for dealing with situations in which potential conflicts cannot be managed in another way. It is not new at all, as has been suggested by the Opposition. It has just been renumbered.

I have been advised that the equivalent power under section 458 has been exercised on a number of occasions by Ministers from both sides of this House. The concerns are a misunderstanding of the Act and of the bill. Some members indicated that they will oppose provisions making important red tape reductions for councils, such as the deletion of the State of the Environment Report. It is regrettable that this sensible measure is not more broadly supported as the bill clearly makes environmental issues integral to future cultural decision-making. A number of members have criticised the improved financial accountability mechanisms in the bill—in particular, the role of the Auditor-General as set out in the bill. The Government is confident that this reform will ensure better financial management, including more robust financial reporting. This will help councillors to be more transparent and accountable and to be better able to plan for their communities.

The Government has been advised that the Auditor-General plans to engage accredited private auditors to undertake the vast majority of its council audits. The Government understands that auditors-general in all other States use contractors for a significant proportion of their local government work. However, I note that the Opposition plans to move amendments that will prevent such contracting-out. Such a limitation is misguided. It would make the Auditor-General's new role unworkable. It also is likely to increase costs for councils and will have a major adverse impact on regional businesses. The local government reforms are wideranging. The New South Wales Government continues to work on further reform measures in consultation with the local government sector. The Government looks forward to the next phase of reform for the Local Government Act. I commend the bill to the House.

The DEPUTY PRESIDENT (The Hon. Bronnie Taylor): The question is that this bill be now read a second time.

The House divided.

Ayes 21
Noes 15
Majority.....6

AYES

Ajaka, Mr J	Amato, Mr L	Blair, Mr N
Borsak, Mr R	Brown, Mr R	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Farlow, Mr S
Franklin, Mr B (teller)	Gallacher, Mr M	Gay, Mr D
Green, Mr P	Khan, Mr T	MacDonald, Mr S
Maclaren-Jones, Ms N (teller)	Mallard, Mr S	Mason-Cox, Mr M
Mitchell, Ms S	Nile, Reverend F	Phelps, Dr P

NOES

Buckingham, Mr J	Cotsis, Ms S	Donnelly, Mr G (teller)
Faruqi, Dr M	Houssos, Ms C	Mookhey, Mr D
Moselmane, Mr S (teller)	Pearson, Mr M	Primrose, Mr P
Searle, Mr A	Secord, Mr W	Sharpe, Ms P

NOES

Shoebridge, Mr D	Veitch, Mr M	Wong, Mr E

PAIRS

Pearce, Mr G	Voltz, Ms L

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): Is leave granted to take the bill as a whole? There being no objection, I will proceed accordingly. I have three sets of amendments, being Opposition amendments appearing on sheet C2016-064, The Greens amendments appearing on sheet C2016-065A and Christian Democratic Party amendments appearing on sheet C2016-071D. I indicate that there are some conflicts between the amendments, so we will deal with these conflicts as we proceed. Appropriately, we will first go to The Greens amendments appearing on sheet C2016-065A.

Mr DAVID SHOEBRIDGE (16:36): I move The Greens amendment No. 1 on sheet C2016-065A:

No. 1 **Guiding principles for councils**

Pages 3 and 4, Schedule 1 [2], proposed section 8A, line 28 on page 3 to line 20 on page 4. Omit "should" wherever occurring. Insert instead "must".

This amends proposed subsections 8A (1) and (2) of the bill, which deal with the guiding principles for councils. The bill proposes that there be a set of guiding principles that apply to the exercise of functions by councils, and it enumerates these principles. By and large The Greens believe they are a good set of principles: that councils should provide strong and effective representation, leadership planning and decision-making; that councils should carry out functions in a way that provides the best possible value for residents and ratepayers; that councils should plan strategically; that councils should apply an integrated reporting framework; that councils should work cooperatively with other councils and the State Government; that councils should manage land and other assets so that current and future local community needs can be met in an affordable way; that councils should work with others to secure all appropriate services for local community needs; that councils should act fairly, ethically and without bias; and that councils should be responsible employers and provide a consultative and supportive environment.

The Greens can pretty much tick off on that list. The difficulty we have is the word "should". We believe that these principles should be obligations—indeed, they must be obligations on councils. If councils are not working fairly, ethically and without bias in the interests of the community, they should be in breach of the Act. It is for that reason that this amendment, first, proposes to delete the word "should" in each of those guiding principles and instead insert the mandatory term "must". We believe that that would be a very clear statement from this Chamber. When it comes to decision-making, we adopt the same approach. Currently, the proposed section 8A (2) provides that the following principles apply to decision-making by councils. First, councils should recognises diverse local community needs and interests. Again, we do not think that councils "should"; we think they "must".

Second, councils should consider social justice principles. Unlike the Government, The Greens believe that if a council is not considering social justice principles when it makes a decision it should be in breach of the legislation. Legislation should not constitute empty words that councillors can refuse to consider; the provisions should be mandatory. Clause 8A (2) (c) provides that councils should consider the long-term and cumulative effects of their actions on future generations. Of course, that should be mandatory, and that is why The Greens have proposed to delete "should" and to replace it with "must".

The bill also states that councils should consider the principles of ecologically sustainable development. That should be a rock-solid obligation. It is an extremely important principle given the economic, environmental and social costs of council decisions. That must be a primary obligation in council decision-making. Finally, the Government proposes in its guiding principles that council decision-making should be transparent and that decision-makers should be accountable for their decisions and omissions. Again, this should be black and white: When councils do things they must be transparent. If members do not agree to this amendment, we will have a bunch of pretty words that will not be binding on councillors. The Greens believe that those pretty words should have some backbone, and that is why we have moved this amendment.

The Hon. CATHERINE CUSACK (16:40): The Government does not support this amendment, which proposes the replacement of "should" with "must". Including guiding principles in legislation allows Parliament to make its policy intentions clear to the decision-makers who are charged with administering important legislation. That includes Ministers, State public servants and, in this case, local government councillors and council employees. It also increases community understanding of our laws. For example, the new principles in clause 2 are intended to reflect the contemporary aims and concerns of the local government sector and to make its role in our society clear, both to the community and to those who may wish to stand for election or seek employment in the sector. These are important changes that set the tone for how councils should behave and exercise their functions, and they have been the subject of careful consideration. The principles could have been drafted in many different ways, but it is clear that they are meant to offer guidance. They do not confer a new set of statutory functions on councils, and it would be counterproductive to use "must" in such circumstances. The Government does not support the amendment.

The Hon. PETER PRIMROSE (16:41): The Opposition has listened carefully to the arguments put by both The Greens and the Government and considered them carefully. However, The Greens have made a far stronger case, so the Opposition will support the amendment.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 1 on sheet C2016-065A. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): We have before us The Greens amendment No. 2 on sheet C2016-65A and Christian Democratic Party amendment No. 1 on sheet C3026-071D, which are identical. Given that The Greens amendment was received first, I call on Mr Shoebridge to move his amendment. Irrespective of what happens to it, the Christian Democratic Party amendment will lapse, unless The Greens amendment is withdrawn.

Mr DAVID SHOEBRIDGE (16:43): I move:

No. 2 **Abolition of wards**

Page 5, Schedule 1 [3], lines 15–25. Omit all words on those lines.

As the Chair said, this amendment is identical to the amendment proposed by the Christian Democratic Party. It is clear that it is not only The Greens who have real concerns about the proposal in this bill to allow for the ready abolition of wards. Proposed new section 210B allows for the abolition of all wards in a council area. Section 210 was inserted by the Labor Government to give councils a six-month window during which to pass a resolution to abolish wards. Apparently, a head of steam had built up and some councils wanted to abolish their wards, or perhaps the Labor Government wanted to allow them to do so. That might be a fairer description of the history of the matter.

A window was opened to allow for the abolition of wards to be resolved by councils and approved by the Minister without having to trouble the local residents. The compromise eventually agreed to by the Labor Government was to allow residents to be removed from the process, but only for six to 12 months. That time limit in the Act has well and truly expired. Without this amendment, if a council wanted to abolish a ward it would require the support of a majority of councillors and the decision would need to be signed off by the Minister, but it would need to be voted on by the local residents. The Greens fundamentally believe that residents should make any decision about whether or not they have wards.

There are different streams of thought in The Greens about the value of having council wards. Some local members of the party say they definitely do not want them. They believe that a council-wide election is far more democratic because it allows for greater proportional representation. However, other local groups believe that the council wards in their local government area work well and that they reflect the local identity. They might reflect a part of the municipality gathered in a particular township, or a metropolitan area that has a distinct community of interests. Some local groups say that they like council wards because they give councillors a readily identifiable area in which to work. The Greens do not have a blanket position stating that there should not be wards or that every council should have them. We fundamentally believe that the decision should be made taking into account the diversity of views in the local government area. It should not be up to a majority of councillors on a given day to come up with a proposal and to have it signed off by the Minister. Any such decision should be put to the residents, and that is why I have moved this amendment.

The Hon. PETER PRIMROSE (16:47): I was proud to serve as both mayor and deputy mayor on the great Campbelltown City Council. That council did not have wards, and councillors often discussed the need for them and whether they would be appropriate. A number of surrounding councils do have wards. Liverpool City Council has only a north ward and a south ward, but I recall that Camden Council has three or four. Having wards

allows councillors to get to know a small area extremely well. They know what is happening in their ward and they can argue very strongly for it. They might argue for the provision of a footpath, the removal of a tree, or some other issue that is important to the local residents.

One of the values of having wards is that it is possible to very strenuously proceed and take up small issues about which one has great knowledge. The countervailing argument to that is that sometimes, if there are three or four wards, there are concerns about one or two lots of councillors in those wards ganging up and seeking to get resources for their wards rather than for a minority who may be adversely affected for geographical reasons because of the very ward structure. That is why in Campbelltown, for example, we consistently made the decision that we would not proceed towards a policy of having wards. We believed that it was more appropriate that councillors made a decision in relation to the whole area.

But in the end it is a decision for the whole community. It is a decision that the whole of a local council area and the people who are resident there must be able to make. After all, local government is not simply a board of directors. On boards of directors there may be particular groups, but local government is very much about local people discussing local issues and making local decisions. The decision as to the best way of structuring that should be made by locals. At this point I think I have made my position clear in relation to both the philosophy and the psephology of wards. I would like to hear some debate from others in the Chamber and then perhaps speak again in relation to the details of the amendment as it eventually appears before us.

Mr DAVID SHOEBRIDGE (16:51): The outcome here is important for us. We do not care if it is put forward as a Greens amendment or an Animal Justice Party amendment. We would like to see it as a Government amendment. I have had a chat with my colleague the Hon. Paul Green. He has asked The Greens to withdraw the amendment and allow the Christian Democratic Party to move the exact same amendment. We are outcome oriented and I respect the member. For that reason I will withdraw The Greens amendment and allow the Hon. Paul Green to move it. I withdraw The Greens amendment No. 2 on sheet C2016-65A.

Amendment withdrawn.

The CHAIR (The Hon. Trevor Khan): I thank Mr Shoebridge for his approach in this.

The Hon. PAUL GREEN (16:52): Thank you to Mr David Shoebridge, who has been very gracious in this matter. It is very important that the outcome of this legislation has the support of the whole Chamber. This will certainly help negotiate that outcome. I move Christian Democratic Party amendment No. 1 on sheet C2016-071D:

No. 1 **Removal of abolition of wards provision**

Page 5, Schedule 1 [3], lines 15-25. Omit all words on those lines.

Mr David Shoebridge was eloquent once again in speaking about local government. It is a great concern and it is a 50:50 call. Some councils believe in doing it one way and others the other way. We are of the view that there are not enough protections for the community if wards are abolished across New South Wales. Councillors will always tend to weigh in on their own best interests and may not do the appropriate thing and go out to the community, which would normally need a referendum or something like that to make such a significant decision. Rather than put local communities in that situation, the Christian Democratic Party is more reserved on this matter and would rather retain the status quo, hence the movement of this amendment.

The Hon. CATHERINE CUSACK (16:53): The Government supports the amendment to remove the bill's special mechanism for abolishing council wards. The Government understands that rural councils face unique administrative and governance pressures. They need to have long-term solutions to these pressures so they can continue to represent and serve their diverse local communities. In previous amending bills councils have been given an opportunity to streamline governance arrangements prior to a specified ordinary election. This included the chance to abolish wards without a constitutional referendum before the 2012 elections. This bill proposed to remove the 2012 date limit in the Act and includes instead a new power to prescribe which councils may apply to the Minister to streamline governance up to 12 months out from an ordinary election. The Government intends to continue to consult with the local government sector about this proposal.

The Hon. PAUL GREEN (16:54): I reiterate an issue for rural areas that has come to the attention of the Christian Democratic Party. For a resident in a local government area such as Walcha, having a councillor from their own area is really important. For instance, a local road does not seem to get as much attention if there is no-one in there fighting for that particular part of the regional area. These are very significant amendments.

The CHAIR (The Hon. Trevor Khan): The Hon. Paul Green has moved Christian Democratic Party amendment No. 1 on sheet C2016-071D. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): I now move on to The Greens amendment No. 3 on sheet C2016-065A.

Mr DAVID SHOEBRIDGE (16:56): I move The Greens amendment No. 3 on sheet C2016-065A:

No. 3 **Reduction of councillor numbers**

Page 6, Schedule 1 [5], lines 14–24. Omit all words on those lines.

This amendment largely repeats the debate from the previous amendment but instead of the word "wards" the phrase is "councillor numbers". The Greens believe it is important to have sufficient councillors in a local area to properly represent the interests of local communities, particularly as this Government is proposing to super-size councils and potentially have councils with 300,000 or 400,000 residents in them. The idea that a council could of its own volition pass a resolution to reduce its councillor numbers down to whatever limit it wants without going to residents and have it ticked off by the Minister seems an extremely dangerous outcome.

Councils with either a conservative or a progressive majority may think that fiddling with the numbers might help them at the next council election. This proposed legislation would allow them to pass a resolution at a council meeting without troubling the residents and get it signed off by a local government Minister. The council would then have changed the makeup of the council and reduced the number of councillors without ever asking the residents. Who should decide how many councillors there are in a local council area? The Greens have one pretty simple answer to that: the local residents. The local residents should have to be consulted in a referendum before a council reduces its councillor numbers.

I can almost hear the Government's response. It is saying, "Communities like getting rid of councillors. Councillors are wasteful. They cost too much money. Blah, blah, blah." The fact is councillors are important. They are a fundamentally important part of our democratic makeup. They are the level of government closest to the people. The Greens do not believe that the number of councillors in a local council area should be determined by a potentially behind-closed-doors conversation between a majority of councillors on council and the local government Minister of the day. If the council thinks that the community wants the councillor numbers reduced, it should be obliged to ask the community and be bound by a referendum of the local community. That is why we are moving this amendment.

The Hon. PAUL GREEN (16:58): Unfortunately, on this particular matter we do not agree with The Greens. We are of the view that community consultation should obviously always take place when major decisions are being made in local communities, and the councils are the vessels for that. There would not be too many councillors who would want to reduce their own numbers, taking their own jobs away. Not in every case, but probably in most cases, the incentive is to keep your own job. So I do not think there would be too many councillors racing to reduce their numbers, or racing to vote that way.

But, at the end of the day, there is also an opportunity. The benefit of the provision in the bill, the one The Greens amendment seeks to delete, is that if councils and communities out there are looking at their balance sheets and they want to achieve better financial outcomes, one consideration could be the expense involved in having so many councillors—so an option could be to reduce the number of councillors. I would encourage councils in such situations to enter into a dialogue with their community to see if that is their will. We will not be supporting this amendment.

The Hon. CATHERINE CUSACK (17:00): The Government does not support the amendment to remove the bill's special mechanism for a reduction in councillor numbers. The Government understands that rural councils face unique administrative and governance pressures. They need to have long-term solutions to these pressures so they can continue to represent and serve their diverse local communities. In previous amending bills, councils have been given the opportunity to streamline governance arrangements prior to a specified ordinary election. This included a one-off chance to reduce councillor numbers without a constitutional referendum before the 2012 elections.

This bill removes the 2012 date limit in the Act and includes a new power to prescribe those councils that may apply to the Minister to streamline governance up to 12 months out from the next ordinary election. Councils will still be required to give six weeks public notice of their intention to pass a resolution to apply to the Minister for streamlined arrangements. This will ensure that local communities can still debate the merits of the proposal and have a say about what is right for their local areas.

The Hon. PETER PRIMROSE (17:01): The Opposition supports The Greens amendment for the reasons outlined by Mr David Shoebridge.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved Greens amendment No.3 on sheet C2016-065A. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): We will now move on to page 7 of the bill. I will call the Hon. Peter Primrose. I understand that he intends to seek leave to move a number of Opposition amendments together. Before he does, I note for the benefit of Mr David Shoebridge that Opposition amendment No. 2 is in the same terms as The Greens amendment No.5. As the Opposition amendment was received first, irrespective of what happens, The Greens amendment No. 5 will lapse. In a similar vein, it has been pointed out to me that Opposition amendment No. 19 conflicts with The Greens amendment No. 10. Again, the Opposition amendments was received first, so this proposed The Greens amendment would lapse once we have dealt with the Opposition amendment.

The Hon. PETER PRIMROSE (17:01): By leave: I move Opposition amendments Nos 1 and 2 and Nos 4 to 19 on sheet C2016-064 in globo:

No. 1 **Terms of mayors**

Page 7, Schedule 1 [7], lines 11 and 12. Omit all words on those lines.

No. 2 **The role of a councillor**

Page 7, Schedule 1 [8], lines 26 and 27. Omit all words on those lines.

No. 4 **Determination of structure**

Page 9, Schedule 1 [21], lines 24–38. Omit all words on those lines.

No. 5 **Re-determination of structure**

Page 10, Schedule 1 [23] and [24], lines 8–12. Omit all words on those lines.

No. 6 **Functions of general manager**

Page 10, Schedule 1 [25], lines 13–41. Omit all words on those lines.

No. 7 **Powers of Minister in relation to meetings**

Page 12, Schedule 1 [30], lines 1–14. Omit all words on those lines.

No. 8 **Auditor-General to be council auditor**

Page 16, Schedule 1 [40], proposed section 422 (2), lines 7–9. Omit all words on those lines.

No. 9 **Auditor-General to be council auditor**

Page 16, Schedule 1 [40], proposed section 423 (1) and (2), lines 26 and 30. Omit "or a person authorised by the Auditor-General".

No. 10 **Auditor-General to be council auditor**

Page 16, Schedule 1 [40], proposed section 423 (2) (a), (b) and (e), lines 36, 38 and 47. Omit "or person".

No. 11 **Auditor-General to be council auditor**

Page 17, Schedule 1 [40], proposed section 423 (4), line 4. Omit "or a person".

No. 12 **Auditor-General to be council auditor**

Page 17, Schedule 1 [40], proposed section 424 (1), lines 20 and 21. Omit "or a person authorised by the Auditor-General".

No. 13 **Auditor-General to be council auditor**

Page 17, Schedule 1 [40], proposed section 424 (1) (a) and (b), lines 22 and 25. Omit "or person".

No. 14 **Auditor-General to be council auditor**

Page 17, Schedule 1 [40], proposed section 425 (1), lines 33 and 34. Omit "or any person exercising the functions of the Auditor-General".

No. 15 **Auditor-General to be council auditor**

Page 17, Schedule 1 [40], proposed section 425 (1), lines 35 and 36. Omit "or person".

No. 16 **State of the environment reports**

Page 18, Schedule 1 [42], lines 13 and 14. Omit all words on those lines.

No. 17 **Audit, Risk and Improvement Committee**

Page 18, Schedule 1 [43], proposed section 428A, line 19. Insert "At least 1 member of the Committee must be a person who is not a councillor, a staff member of the council or a member of an entity controlled by the council." after "Committee.".

No. 18 **Terms of mayors**

Page 27, Schedule 1 [90], lines 14–17. Omit all words on those lines.

No. 19 **Election of mayors**

Page 29. Insert after line 32:

Schedule 2 Amendment of Local Government Act 1993

No 30—election of mayors

[1] Section 16 What matters must be dealt with at a constitutional referendum?

Omit section 16 (b).

[2] Chapter 4, Part 3, note

Omit the following:

• Change in the way in which the mayor is chosen

[3] Sections 227–230

Omit the sections. Insert instead:

227 Who elects the mayor?

The mayor of an area is the person elected to the office of mayor by the electors.

228 For what period is the mayor elected?

A mayor holds office until the day appointed for the next ordinary election or, if the election of the councillors is uncontested, until the day on which the election of the councillors would have been held if it had been contested, subject to this Act.

[4] Chapter 10 How are people elected to civic office?

Omit the third paragraph from the introduction to the Chapter.

[5] Section 275 Who is disqualified from holding civic office?

Omit section 275 (7). Insert instead:

(7) Despite anything to the contrary in this Chapter, a member of the Parliament of New South Wales is not disqualified because of subsection (1) (a1) from being nominated for election or being elected to a civic office. If elected, the person is disqualified from holding that civic office unless the person has ceased to be a member of that Parliament before the first meeting of the council concerned after the election.

[6] Section 280 Ward election of councillors—method 1

Omit "if the mayor is to be elected by all the electors for the area" from section 280 (2).

[7] Section 281 Ward election of councillors—method 2

Omit "if the mayor is to be elected by all the electors for the area" from section 281 (2).

[8] Section 282 Election of mayor

Omit "who is to be elected by the electors" from section 282 (1).

[9] Section 282 (2)

Omit the subsection.

[10] Section 283 Double candidature

Omit "by the electors" from section 283 (2).

[11] Section 289 When is an election of a mayor to be held?

Omit "by the electors" from section 289 (1).

[12] Section 289 (2) and (3)

Omit section 289 (2). Insert instead:

(2) A mayor of an area is to be elected on the day on which a contested election of councillors for the area is to be held.

(3) If the election of the councillors is delayed for any reason, the election of the mayor is also delayed and must be held on the same day as the delayed election of the councillors.

[13] Section 290 When is an election of a mayor by the councillors to be held?

Omit the section.

[14] Section 291A Countback to be held instead of by-election in certain circumstances

Omit "elected by the electors of an area" from section 291A (2) (a).

[15] Section 292 When is a by-election to be held?

Omit "elected by the electors".

[16] Section 294 Dispensing with by-elections

Omit "elected by the electors" wherever occurring in section 294 (1) and (3).

[17] Section 294 (2)

Omit "(but not the office of a mayor elected by the electors)".

Insert instead "(other than a mayor)".

[18] Section 294A Casual vacancy not to be filled where councillor numbers reduced

Omit "(but not a mayor elected by the electors)" from section 294A (1).

Insert instead "(other than a mayor)".

[19] Section 294B Casual vacancy not to be filled where councillor numbers reduced—approved by constitutional referendum

Omit "(but not a mayor elected by the electors)" from section 294B (1).

Insert instead "(other than a mayor)".

[20] Section 295 Casual vacancy in office of mayor elected by the councillors

Omit the section.

[21] Section 296 How elections are to be administered

Omit "the mayor or a deputy mayor by councillors" from section 296 (8).

Insert instead "a deputy mayor".

[22] Section 306 Nominations

Omit "by the electors of an area" wherever occurring in section 306 (1) and (2).

[23] Section 309 Contested elections

Omit "by the electors of an area as mayor of the area" from section 309 (2).

Insert instead "as the mayor of an area".

[24] Section 311 Uncontested elections

Omit "by the electors of the area as the mayor of the area" from section 311 (2).

Insert instead "as the mayor of an area".

[25] Section 312 Offence

Omit "(other than an election of the mayor by the councillors)".

[26] Section 318B Postponement of elections

Omit section 318B (7).

[27] Section 438S Election of mayor during suspension period

Omit the section.

[28] Section 438ZB Election of mayor during suspension period

Omit the section.

[29] Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts

Insert at the end of the Schedule, with appropriate clause numbering:

Existing arrangements to continue for mayors

If, immediately before the commencement of Schedule 2 to the amending Act, the constitution for an area provides that the mayor of the area is to be elected by the councillors, the amendments made by that Schedule do not take effect in that area until the next ordinary election after that commencement.

Amendment Nos 1, 18 and 19, regarding the election and term of mayors, require mayors for the council's full term to be popularly elected. This will, as we outlined in the second reading debate, stop the horsetrading between parties. It has been indicated by all speakers that they recognise that such horsetrading goes on, but simply extending the period to two years will not stop the horsetrading. The only way of stopping the horsetrading is to

have popularly elected mayors. The amendments give local communities the ultimate say on who they wish to be the mayor and key community leader for the full length of the council's term.

Amendment No. 2 deals with the role of the council. The Opposition values the role of local communities in local government. Local councils are supposed to be representative of their local communities, including when there are divergent opinions on issues. Councillors should be able to express the views of their constituents whether there is agreement or disagreement about council policies and decisions and should not be limited solely to upholding and representing accurately the policies and decisions of the governing body. Council is a local government body responsible to the various constituencies in its community and not a board of directors. I have not moved amendment No. 3. We will deal with that at an appropriate time.

Amendment Nos 4, 5 and 6 relate to determination of the structure of council and the role of the general manager. Proposed section 332, item [21], provides that the general manager, rather than the council, is to determine the organisational structure of the council. Proposed section 335, item [25], also specifically expands the role and power of the general manager. This removes the legitimate role that should be played by elected councillors. Council is the level of government which is closest to the community. It interacts with its constituents. Its elected representatives should be able to have a say in the organisational structure of the council, especially as this has implications for the implementation of key decisions and service delivery.

Amendment No. 7 relates to powers of the Minister. Item [30] would allow the Minister to approve a councillor with a pecuniary interest attending, speaking and voting at a council meeting to maintain a quorum without falling foul of councillor misconduct provisions. The Opposition accepts that the quorum issue is a real one for local government, but this problem has been brought about by the Government's own refusal to ensure that real estate agents and property developers are not banned from being elected to local councils. Ban them from standing and the quorum issue will disappear overnight—without requiring this provision to be brought in, a provision we believe is conducive to corruption.

Amendment Nos 8 to 15 relate to audit. We support the Auditor-General as the auditor for all councils. That is a good proposal. However, we oppose proposed section 442 (2), which would allow the Auditor-General to appoint another person or firm to be auditor for the council. This important role should not be delegated. Amendment No. 16 relates to state of the environment reports. The Opposition acknowledges that councils are asked to do many reports on a diverse range of issues. However, the state of the local environment is a critical issue, especially as the bill proposes that local decisions should consider "the long-term and cumulative effects of actions on future generations" and "the principles of ecologically sustainable development". Doing away with the requirement for this report is a retrograde step in our view.

While we support the proposal to require councils to have an audit, risk and improvement committee, we believe that the committee should also involve an independent person—someone from outside the council and its organisation. Amendment No. 17 reflects that. Involving a person external to council will help in the planning and management of the issues identified by the committee, and it has long been recognised that it is also a way of ensuring that an environment conducive to corruption is not allowed to develop by simply having those beholden to the organisation being the only ones involved with that committee.

Mr DAVID SHOEBRIDGE (17:08): The Greens do not support Opposition amendment No. 1, which is the proposal to delete the provision in the bill that increases the mayoral term from one year to two years. I hear what the Hon. Peter Primrose says. I am not saying there is no merit in his argument. There are democratic arguments to elect a mayor every 12 months. It is not a suspicious argument, by any means; it comes from a philosophy. My experience on council and the overwhelming experience of other councillors I know from around the State of New South Wales is that yearly mayoral elections create instability. The balance is best achieved by extending the mayoral term to two years so then councillors and existing mayors know that when they are elected, they can provide leadership with the support of the majority of councillors. Therefore, sufficient stability will be provided for two years and will reduce the mayoral horsetrading.

For instance, we may have a mayor on council who pisses everybody off 12 months into their term, thereby losing the majority, or they may annoy a key independent which results in them having a difficult time in their last 12 months. It could happen. The Greens say that having a two-year term is a statutory urge from the Parliament for councillors and mayors to get on. There are arguments both ways. We think a two-year term is a better outcome. In fact that is what we committed to when we supported the report that came out of the local government statewide review, and we will stick to that opinion when considering the amendments before the Committee.

The Greens support the balance of the propositions that were put by the shadow Minister. I made a contribution to the second reading debate about our opposition to the changes being proposed by the Government regarding the role of council. As the Hon. Peter Primrose said, councils are not company boards. We cannot treat

councils like company boards and expect that once the majority has made a decision everybody has to agree and implement it. Councils are democratic institutions where people are entitled and, we say, have a constitutional right to express their free political opinions and, if necessary, to disagree. They can and will disagree in the council chamber and they should be able to disagree in a public debate in their local council areas. We strongly object to the Government proposal to gag councillors and think it is potentially unlawful.

Regarding the expansions of the functions of general managers, The Greens think general managers already have too much power in councils. Some councils are a group of people that the general manager brings together once a month, feeds well, pats on them on the head, makes some inconsequential decisions, and pushes them off again for another month until they come back for the next council meeting. Meanwhile, the general manager basically runs the place.

The Hon. Shayne Mallard: Your days on Woollahra, is it?

Mr DAVID SHOEBRIDGE: No, that was not Woollahra. I strongly object to any criticism about the council that I think is one of the best functioning and most democratic and competent councils in the State. In terms of looking after the interests of ratepayers and their local community, Woollahra council shows us in many ways how much better local government can be than State or Federal governments.

The CHAIR (The Hon. Trevor Khan): Order! I encourage Government members not to interrupt Mr David Shoebridge. We are keeping to the topic and moving well. Interjections will only retard progress.

Mr DAVID SHOEBRIDGE: I will say for the record—and Gary if he is reading this in *Hansard*—that I thought sometimes the general manager did have too much power. More power should have been given to councillors. That concern can be replicated and The Greens believe is already being replicated around the State. Already too much power is given to general managers; we should not be giving them more. We believe that audits should be done by the Auditor-General and should not be privatised. The Auditor-General should not have the capacity to appoint private auditors to take over the role of auditing councils. We can see real merit in having the Auditor-General perform a statewide audit of councils and we acknowledge that advance in the bill, but we do not want to see it privatised.

We believe that the Opposition amendment relating to the Audit Risk and Improvement Committee flows from an understanding and practise in council that it is good practice to have somebody who is not in the system on the Audit Risk and Improvement Committee. As the Opposition amendment says, it is good practice to have at least one member of the committee who is not a councillor, a staff member of the council, or a member of an entity controlled by the council. Councils need to have some independence to be able to properly undertake the important role of an Audit Risk and Improvement Committee.

I am not here to run Labor's argument, but this amendment shows that the Opposition has thought about how to improve the bill. The Greens considered making this amendment but we saw that the Opposition amendment got it right. If there is to be a genuinely robust audit committee then the people on it should not have a role in council. We need somebody from outside who is generally independent and the Opposition amendment recognises that. Amendment No. 19 is about the election of mayors. We do not think this amendment is well thought out by the Opposition. There are some potential benefits in it, but there are also some issues.

The Hon. CATHERINE CUSACK (17:16): The Government does not support the Opposition amendments. Opposition amendment No. 1 relates to changing the term of councillor-elected mayors from one year to two years. The Government believes that councils are best placed to make a choice on the method of electing mayors in consultation with their communities, based on what is locally appropriate. In relation to Opposition amendment No. 2, the Government believes councillors remain entitled to work towards changing a council's position on a matter but, until it is changed, councillors should not feel free to exercise their functions in disregard of lawfully made council decisions or to misrepresent agreed council policies. The amendment simply requires councillors to act with personal integrity, not purely politically, to ensure there can be effective governance in councils. Opposition amendment No. 3 has not been moved. The Government cannot support Opposition amendment No. 4 as it would retain unnecessary uncertainty in governance arrangements for councils.

Regarding Opposition amendment No. 5, there is no need for councils to completely revise this structure every year. This is red tape. Councils need only keep the structure as determined under regular review. That is what the bill does and the amendment proposed by the Opposition is unwarranted. Opposition amendment No. 6 relates to the functions of the general manager. The specified roles in the bill are intended to provide useful guidance. The bill contains a number of key measures to delineate who should do what in local government, including setting out the functions of a general manager. It does not make sense to update the roles of mayors, councillors and governing bodies but not the general manager.

Opposition amendment No. 7 relates to the power of the Minister in relation to meetings. The Government does not support this amendment. The amendment seems to misunderstand section 370A. Section 458 of the Act already provides in almost identical words that the Minister may authorise councillors to participate in meetings where they have a pecuniary interest in a matter. This power already exists to deal with quorum, where it is in the interests of the area to do so. All the bill does is to preserve that existing power and re-number the section, consequential on moving all other pecuniary interest provisions out of the Act and into a code of conduct. It would not be appropriate to delete this provision or to move it into a code of conduct. So the Government believes that the amendment is misconceived.

In relation to amendments Nos 8 to 15 concerning the Auditor-General, the Government believes that the Auditor-General is best placed to determine the extent to which she wishes to use contracted service providers. The Act should not limit her in that regard. In relation to Opposition amendment No. 16, the Independent Pricing and Regulatory Tribunal's [IPART] draft report into its "Review of Reporting and Compliance Burdens on Local Government" in January this year noted that councils were concerned that the State of the Environment Report duplicated environmental reporting objectives in the Community Strategic Plan and created confusion. The capacity of councils to focus on environmental responsibilities in a clear and integrated way will be enhanced by the Government's proposals in the bill.

In relation to Opposition amendment No. 17, it is unnecessary to clutter the Act further with details about membership of the Audit, Risk and Improvement Committee. Opposition amendment No. 18 concerns the terms for mayors. The proposed amendment is consequential to amendment No. 1, which was proposed by the Opposition and which the Government also does not support. Opposition amendment No. 19 relates to the election of mayors. The Government does not support that amendment. The changes would have the effect of mandating direct elections for mayors for all councils, irrespective of their size and local circumstances. While there may be advantages in having popularly elected mayors with a four-year term, there are also disadvantages. There have been examples of councils that have been paralysed for the full four-year term of council because they have a popularly elected mayor who does not enjoy the support of the majority of their fellow councillors.

I also note that the Independent Local Government Review Panel, while supporting popular elections in large local government areas, also supported the retention of council-elected mayors in smaller areas, as the default position. The proposed Opposition amendments do not respond to those differences. The Government believes that councils, which are made up of popularly elected representatives, are best placed to make a choice on the method of election of the mayor, in consultation with their communities and based on what is locally appropriate.

The Hon. PETER PRIMROSE (17:21): I would like to respond, briefly, to one item—Opposition amendment No. 17, relating to the Audit, Risk and Improvement Committee. This amendment proposed that one independent person be on those committees. The Government response has been that that proposal would clutter the bill. The word "clutter" was actually used by the Hon. Catherine Cusack in her response. The Government's proposal that there by an Audit, Risk and Improvement Committee is a good proposal. The Opposition has no problems with that. The committee will be a better committee, and it would be good practice, if there is someone external to the council on that committee.

I am talking about how we structure this very important committee. Setting out how the committee is structured is not clutter. I would hold that proposing to have one independent person on the committee is not clutter. I am talking about setting up a good process from the very beginning. I do not know how many reports I have read over the years that say that it is good corporate management practice to have someone external to the agency on the committee to keep it on the straight and narrow. That is not clutter. I strongly support this amendment because it is good policy.

The Hon. CATHERINE CUSACK (17:23): I apologise for overly condensing the Government's response on that particular amendment, and I acknowledge the contribution of the member. I will respond to him in more detail. The Government does not support the amendment proposed for the Act to require at least one person who is not a council official to be a member of the Council's Audit, Risk and Improvement Committee. The Government agrees with the importance of independent membership of the Audit, Risk and Improvement Committee. It is in the interests of streamlining the principal Act, however, that the Government proposes to prescribe all details relating to the membership and the operation of the Audit, Risk and Improvement Committee by regulation. It is in that context that the Government seeks not to add further detail about the membership to the Act.

The Hon. PETER PRIMROSE (17:23): I thank the Parliamentary Secretary and urge that in the development of that regulation the importance of this amendment be considered.

Mr DAVID SHOEBRIDGE (17:24): I ask that Opposition amendments Nos 1, 18 and 19 be put separately. I would be happy for them to be put together but I ask that they be addressed separately from the balance of the amendments. It is on each of those amendments that the Opposition and The Greens do not agree.

The CHAIR (The Hon. Trevor Khan): Because they are dealing with different matters it is probably more appropriate that I put those questions separately. I do not think it will slow down events very much. As a matter of form I think it is probably better that they be put separately.

Mr DAVID SHOEBRIDGE: I am comfortable with that; I am in your hands. I would like to add briefly to our reasons for opposing Opposition amendment No. 19. This is the proposal from the Opposition that every mayor in the State—regardless of the wishes of the local residents, regardless of whether it would work in a local council area and regardless of the size of the council—should be popularly elected. The Greens do not believe that that is right. There may be councils where that would work, in which case the residents and the council should be persuaded of that and then it should be tested.

In a series of cases, popularly elected mayors have failed spectacularly. When a popularly elected mayor does not have the support of the council there have been years of dysfunction. We do not want to invite that, let alone force it, on local communities. The Government, in this regard, has looked at the reports obtained from Professor Sansom and the Independent Local Government Review Panel. He made the same observation. There may be cases where it would work, but there definitely would be cases where it would not work, so it should not be mandated across the State.

There is a limited, glossy electoral appeal in saying to residents, "You get to choose your mayor". But we do not get to choose our Prime Minister or our Premier; nor traditionally, at a local council level, have we chosen the mayor. Our system of government has recognised that it works when whoever gets the majority chooses the leader—mayor, Premier or Prime Minister. It does not work perfectly but at least under that system the leader of the governments at local, State and Federal levels will have the confidence of the majority of members. For those reasons we do not support the Opposition amendment.

The CHAIR (The Hon. Trevor Khan): The question is that Opposition amendment No. 1 on sheet C2016-064 be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): The question is that Opposition amendments Nos 2 and 4 to 17 inclusive on sheet C2016-064 be agreed to.

The Committee divided.

Ayes 16
Noes 22
Majority.....6

AYES

Buckingham, Mr J	Cotsis, Ms S	Donnelly, Mr G (teller)
Faruqi, Dr M	Houssos, Ms C	Mookhey, Mr D
Moselmane, Mr S (teller)	Pearson, Mr M	Primrose, Mr P
Searle, Mr A	Secord, Mr W	Sharpe, Ms P
Shoebridge, Mr D	Veitch, Mr M	Voltz, Ms L
Wong, Mr E		

NOES

Ajaka, Mr J	Amato, Mr L	Blair, Mr N
Borsak, Mr R	Brown, Mr R	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Farlow, Mr S
Franklin, Mr B (teller)	Gallacher, Mr M	Gay, Mr D
Green, Mr P	Harwin, Mr D	MacDonald, Mr S
Maclaren-Jones, Ms N (teller)	Mallard, Mr S	Mason-Cox, Mr M
Mitchell, Ms S	Nile, Reverend F	Pearce, Mr G
Phelps, Dr P		

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): The question is that Opposition amendment No. 18 on sheet C2016-064 be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): The question is that Opposition amendment No. 19 on sheet C2016-064 be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (17:36): I move The Greens amendment No. 4 on sheet C2016-065A:

No. 4 **Role of councillor**

Page 7, Schedule 1 [8]. Insert after line 25:

(f) to ensure that diverse community views are represented to the governing body;

Unfortunately, a majority of the members did not support the amendment that was just moved, which would have lifted the gag on councillors. Currently, the bill says, essentially, that it is the job of a councillor to get out there and advocate for the views of the majority, even if the councillor disagrees with them. The Greens think that is dangerous, undemocratic and potentially unlawful. One way The Greens see of avoiding the undemocratic consequences of that is to seek to deliberately, openly and clearly state that one of the roles of a councillor is to ensure that diverse community views are represented to the governing body. Of course, it should be the role of the councillor to ensure that diverse community views are represented to the governing body.

There are communities in this State, particularly in Sydney, where there are people from 80 different countries, where there are literally dozens of different languages spoken, where there is an array of different religions, and where there are different age groups. We should be expressly saying that it is part of the role of a councillor to not just work out what the majority think but to be out there with their radar turned on trying to find out all the diverse community views and bring them to the governing body.

If this amendment is passed, it will provide some statutory teeth to a councillor who says, "Do you know what? The majority has said X, but I know there is a bunch of people out in my community who don't think that way and I am going to continue to advocate for them." The Greens think that is the role of the councillor—not just to be part of a tyranny of the majority but to listen to and represent everybody. For those reasons, The Greens have moved this amendment.

The Hon. CATHERINE CUSACK (17:38): The Government does not support this amendment to require councillors to ensure that diverse views are presented to the council. Enhancing engagement between a council and the community that it serves is a driving principle of these reforms.

At first glance, there is apparently nothing much to object to in the amendment—after all, the Government has been making great efforts of late to ensure diversity in the candidates running in next month's council elections. Why not specifically encourage a diversity of views to put to councillors once elected? The problem is that the bill already does this in a number of ways. Section 232 (1) (e) requires a councillor to facilitate communication between the local community and the governing body. The local community necessarily encompasses diverse community views.

It is also difficult to understand how councillors could make considered and well-informed decisions, as required under the bill, if the councillors have not informed themselves about the range of views in their community. A councillor is also required under section 232 (1) (c) of the bill to participate in the development of an integrated planning and reporting framework. The bill makes changes to that framework which put community engagement front and centre. Every council will now need to establish and implement a community engagement strategy, and individual councillors are expected to participate in it. It would be superfluous to include a provision that councillors present diverse views to the governing body when the bill already achieves that outcome.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 4 on sheet C2016-065A. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (17:42): I move The Greens amendment No. 6 on sheet C2016-065A:

No. 6 **Role of councillor**

Page 7, Schedule 1 [8], line 31. Insert "and is to provide leadership and guidance to the local community" after "council".

This amendment would make it clear that one of the roles of a councillor is not just to participate in a majority role on council but to provide leadership and guidance for the local community—to get out and be a community leader, whether in improving water efficiency, encouraging a more active lifestyle or talking about local planning issues and how to protect the local community. One of the most important roles of a councillor is to get out and provide leadership and guidance for the local community. Strangely enough, that role has been stripped out of the Act. One of the existing roles of a councillor in the current Local Government Act, and traditionally one of the really important roles of a local councillor, is to provide leadership and guidance. The Greens think that role should be maintained, and that is why we are moving this amendment.

The Hon. CATHERINE CUSACK (17:43): The Government does not support this amendment.

The Hon. PETER PRIMROSE (17:43): The Opposition does support this amendment.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 6 on sheet C2016-065A. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. PAUL GREEN (17:44): I move Christian Democratic Party amendment No. 2 on sheet C2016-071D:

No. 2 **Removal of extension of postal voting provision**

Page 9, Schedule 1 [19], lines 19 and 20. Omit all words on those lines.

This amendment seeks to remove the extension of the postal voting provision, which would give local governments the opportunity to broaden postal voting. We believe that would not be a great option for grassroots democracy. We also believe that many councils would not have the capacity to pay for postal voting, which takes a lot of money. Extending postal voting would not be fair for a lot of councils that do not have sufficient resources as they would immediately be at a disadvantage if the system was deployed in many areas of New South Wales. Once again, we are of the mind that we would not totally exclude postal voting as part of a local election. But we believe it should not be used to conduct an entire election. The Christian Democratic Party believes the legislation should stick with the status quo, so we are moving to remove the extension of the postal voting provision.

The Hon. CATHERINE CUSACK (17:45): The Government does not oppose the amendment. The proposal was recommended by the Joint Standing Committee on Electoral Matters in its report on the 2012 local government elections, which the Government has accepted. The City of Sydney was permitted to use universal postal voting under the Local Government Amendment (Elections) Act 2014. Under section 310B of the Local Government Act, other councils can only decide to conduct elections exclusively by postal voting if they are prescribed by regulations. The Government believes it would be more efficient for all councils after the next ordinary elections to be able to choose whether to conduct elections exclusively by postal voting rather than to require regulations to be made on a case-by-case basis. Universal postal voting could realise administrative efficiencies and cost savings and have the potential to raise participation of electors. However, the Government does not oppose the amendment and notes that councils that wish to use universal postal voting may still be prescribed by regulation.

The Hon. PETER PRIMROSE (17:46): The Opposition certainly shares the concerns that have been expressed by the Christian Democratic Party. Now that the Government has caved on this amendment, we are very pleased with that outcome. We support the Christian Democratic Party on this amendment.

Mr DAVID SHOEBRIDGE (17:46): The Greens think that this amendment will improve the legislation. I am not entirely sure that the Government is ideologically persuaded by the outcome, but it seems to be numerically persuaded by the outcome. We think the proposed changes to postal voting would have been undemocratic, as I said in my contribution to the second reading debate. Whether we have this amendment by goodwill, by ideology or, as in this case, by sheer weight of numbers, it is a good outcome. We support this amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Paul Green has moved Christian Democratic Party amendment No. 2 on sheet C2016-071D. The question is that the amendment be agreed to.

Amendment agreed to.

Mr DAVID SHOEBRIDGE (17:47): I move The Greens amendment No. 8 on sheet C2016-065A:

No. 8 **Reduction in meetings**

Page 11, Schedule 1 [29], line 26. Insert "The number must not be less than 6 meetings each year." after "resolution".

The bill as currently drafted allows for a council to resolve to make an application to the Minister to approve a reduction in the number of times that a council is required to meet each year to a number specified in the resolution. When I first saw this bill I looked for the safeguard, the provision saying "You cannot have fewer than six" or "You cannot only have one". I read the subclauses of this provision and there is no safeguard. Basically this proposal would allow a council to say, "We are going to have one meeting a year", and if the Minister agrees to it, that is it and local democracy could consist of a 15-minute meeting once a year of the council. Why would the Government not put a floor on it?

Does the Government actually think that it is a good idea to have a council that has only one meeting a year? If we do not add a floor to it and put in an minimum number, there may be a council that says, "Well, everything's going pretty well in the local community. We don't want to trouble the locals with any of these meetings—we'll meet again next December", and resolves to reduce its council meetings and have just one a year. Far from being a fanciful concern, that may well happen if the bill goes through as it currently stands. The Minister would have to sign off on it, but the Minister may be persuaded—and the Minister has put forward an amendment which would allow for that outcome. That is why we have proposed a minimum number of council meetings. Our amendment would insert the following:

> The number must not be less than 6 meetings each year—

That is, a minimum of six. If a council thinks that it can meet once every two months and adequately deal with its work because it is a very small council in a regional area, we can understand that. We think most councils would want to meet a great deal more often than six times a year, but we should not be allowing a bill to pass this House that allows a council and a Minister to decide between them to reduce the number of council meetings to one a year. That is not democracy; that is some Suharto form of democracy. It should not be contemplated for local government, and that is why I have moved the amendment.

The Hon. CATHERINE CUSACK (17:50): The Government does not support the amendment. The Local Government Act 1993 currently mandates a minimum of 10 meetings per year. It is too inflexible to mandate a further absolute minimum of six. There may be exceptional circumstances that a council, its community and the Minister consider justify fewer than six meetings. As the explanatory paper released in January noted:

> This proposal is intended to facilitate a flexible response to the needs and circumstances of different regions.

That flexibility is unacceptably reduced if a secondary minimum is imposed.

The Hon. PETER PRIMROSE (17:51): It is not good enough to say that because something is increasing flexibility it is in order for a council to have only one meeting a year. That is not flexibility; that is taking away the whole purpose of local representative democracy. The Greens proposal to put in a minimum of six as a floor at least guarantees that there is a number of council meetings that will be held a year. It is stretching the meaning of the term "sufficient flexibility" to say that it will technically be in order for a council to have only one. Let us make it clear in the bill. Ultimately I do not care whether it is six, eight or even four, but there does need to be a floor otherwise the provision will be exploited and people will be able to drive a truck through it.

The CHAIR (The Hon. Trevor Khan): The question is that The Greens amendment No. 8 on sheet C2015-065A be agreed to.

The Committee divided.

Ayes 15
Noes 21
Majority.....6

AYES

Buckingham, Mr J	Cotsis, Ms S	Donnelly, Mr G (teller)
Faruqi, Dr M	Houssos, Ms C	Mookhey, Mr D
Moselmane, Mr S (teller)	Pearson, Mr M	Primrose, Mr P
Searle, Mr A	Sharpe, Ms P	Shoebridge, Mr D
Veitch, Mr M	Voltz, Ms L	Wong, Mr E

NOES

Ajaka, Mr J	Amato, Mr L	Blair, Mr N
Borsak, Mr R	Brown, Mr R	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Farlow, Mr S

NOES

Franklin, Mr B (teller)	Gallacher, Mr M	Gay, Mr D
Green, Mr P	MacDonald, Mr S	Maclaren-Jones, Ms N (teller)
Mallard, Mr S	Mason-Cox, Mr M	Mitchell, Ms S
Nile, Reverend F	Pearce, Mr G	Phelps, Dr P

PAIRS

Secord, Mr W	Taylor, Ms B

Amendment negatived.

Mr DAVID SHOEBRIDGE (17:59): By leave: I move The Greens amendments Nos 11 to 16 on sheet C2016-065A in globo:

No. 11 **Pecuniary interest conduct provisions**

Pages 20–22, Schedule 1 [52]–[55], line 43 on page 20 to line 7 on page 22. Omit all words on those lines.

No. 12 **Pecuniary interest conduct provisions**

Pages 22 and 23, Schedule 1 [57]–[64], line 10 on page 22 to line 38 on page 23. Omit all words on those lines.

No. 13 **Pecuniary interest conduct provisions**

Pages 24 and 25, Schedule 1 [66]–[77], line 1 on page 24 to line10 on page 25. Omit all words on those lines.

No. 14 **Pecuniary interest conduct provisions**

Page 25, Schedule 1 [80] and [81], lines 15–20. Omit all words on those lines.

No. 15 **Pecuniary interest conduct provisions**

Page 26, Schedule 1 [89], lines 23 and 24. Omit all words on those lines.

No. 16 **Pecuniary interest conduct provisions**

Page 29, Schedule 1 [90], lines 6–24. Omit all words on those lines.

During my second reading contribution I set out why The Greens believe that all the pecuniary interest provisions in the Local Government Act should be retained. They should be there in black and white. The Act provides that councillors cannot vote on matters in which they have a pecuniary interest, and that provision should be retained. The Minister, in his wisdom, has decided to strip from the Act the provisions stating that councillors cannot vote on a matter in which they have a pecuniary interest. The rationale seems to be that the Government wants to put those provisions in a separate subsidiary document called the "Code of Conduct". That code is not an Act of this Parliament but is an instrument that can be amended at will using the Minister's regulation-making power.

This Government has already tinkered with the pecuniary interest provisions in the Local Government Act to its detriment. It amended the legislation in 2012 to allow councillors to vote on planning matters in which they had a pecuniary interest. Accompanied by the same hollow words about security that we are hearing now, the Government said that the 2012 amendments were fine, that they had been workshopped, that everyone's interests would be protected, and that councillors would not act badly. Then we had the Auburn Council scandal and the emergence of Deputy Mayor Salim Mehajer and the resulting catastrophe. The Government was wrong in watering down those provisions in the Local Government Act. It is equally wrong now; in fact, it is even—

The Hon. Ben Franklin: Wronger!

Mr DAVID SHOEBRIDGE: I acknowledge that interjection. The Government is not simply watering down the provisions; it is removing them entirely from the Act. The Greens believe in local government. In fact, we think it is the level of government closest to the people and that is the true reflection of democracy. We also believe it has a very bright future. We believe in giving local government more autonomy and more financial security. The Greens do not believe in what this Government believes in—that is, removing community protection by stripping these essential anticorruption provisions from the Local Government Act.

I will not beat around the bush by using the term "pecuniary interest provisions". These are anticorruption provisions that are at the heart of the Local Government Act. They provide that councillors cannot vote on a matter if they have a dollar in it, and they should remain in the Local Government Act. The legislation should be unambiguous; its intention should be stated in black and white. This should not be duck-shoved off to a code of

conduct that can be amended at the whim of the Minister of the day using his or her regulation-making powers. To suggest that this Chamber will retain some control because it can disallow a particularly venal change to the code of conduct in the future avoids the real question. This Chamber should be standing up for the most robust possible anticorruption provisions in the Local Government Act, and that is what these amendments will achieve.

The Hon. CATHERINE CUSACK (18:04): I will go through this issue one more time. The Government does not support The Greens amendments. If members were to support them, councillors' pecuniary obligations would remain separate from their other ethical obligations. The bill proposes moving the pecuniary interest disclosure obligations relating to councillors and other officials out of the Act and into the model code of conduct prescribed under the regulation. Councillors will continue to be subject to the same substantive obligations in the Act in relation to the disclosure and management of pecuniary conflicts of interest. All that is changing is the instrument by which the standards are mandated. This change is intended to improve councillor awareness of these responsibilities by keeping all ethical obligations together in a single statutory instrument. Currently, councillors must be familiar with their obligations under both the model code of conduct and the pecuniary interest provisions in the Act. The separate regulation of the obligation of councillors to disclose and to appropriately manage conflicts of interest is an historical anomaly.

The distinction arises because pecuniary interest provisions predated the prescription of a model code of conduct and a disciplinary regime in respect of councillor misconduct. Consolidation of councillors' ethical obligations into a single instrument—the model code of conduct—will highlight and reinforce all councillor ethical obligations and simplify their regulation. As a consequence of these changes, the Government will be conducting an implementation review of the model code of conduct, which will be supported by extensive sector consultation to maintain the strong ethical obligations applied to councillors. While this occurs, the current pecuniary interest obligations in the Act will be deemed under the bill to be part of the existing model code until the new code is in place. This is seamless.

Councils will continue to be required to refer pecuniary interest breaches by councillors to the Office of Local Government, and the office will continue to investigate breaches and under the councillor misconduct provisions of the Act. Where appropriate, it will refer them to the NSW Civil and Administrative Tribunal [NCAT] for disciplinary action. A key difference will be that under the model in the bill the chief executive officer of the Office of Local Government will also have the option of taking disciplinary action against a councillor for a pecuniary interest obligation breach instead of automatically referring all such matters to the NCAT, which will have the same powers to take disciplinary against the councillor if the matter is referred to it.

The bill will also bring pecuniary interest breaches within the ambit of the three-strikes reforms introduced in 2015. Any concern that putting pecuniary interest obligations into regulations somehow undermines their importance or gives the Government of the day too much largesse is inconsistent with other comparable integrity regimes. For example, the pecuniary interest disclosure obligations of members of this Parliament are prescribed by the Constitution (Disclosure by Members) Regulation. The pecuniary disclosure obligations of Ministers of the Crown are also now prescribed through the Ministerial Code of Conduct under the Independent Commission Against Corruption Regulation 2010. It is hard to understand why this approach is not good enough for local councillors. A regulation is a disallowable instrument, so there is no sound basis for arguing that the pecuniary interest disclosure obligations of local government officials are not subject to parliamentary scrutiny.

The Hon. PETER PRIMROSE (18:08): I covered my concerns in relation to these provisions at great length in my contribution to the second reading debate and I do not seek to go through them again. My final words were that this matter is clearly going to end up in the courts. It is so complex and the Government has made such a mishmash of this that it is unable to answer some pretty basic questions. In the end it would be far better to deal with it by way of The Greens' proposed amendment. I can almost be prescient on this matter: Some judge is going to have to deal with this and then wonder how the legislature could possibly allow it to occur.

For example, there is nothing in the proposed model code of conduct that allows for the making of a pecuniary interest complaint by any member of the community about councillors or administrators, current or former, which would allow such a matter to be investigated by the appropriate body or authority. Further, given that the model code of conduct complaints provision does not pertain to any complaint made under part 3 of chapter 4, how does a council ultimately deal with misconduct about pecuniary interests of a councillor, especially where it may deal with a performance improvement notice or another alternative to disciplinary action? Also the savings and transitional arrangements in the bill indicate that the complaints procedures do not apply to any matter for which a complaint may be made under part 3 of chapter 14. I cite that as one instance and I have raised it before. This is such a mishmash. Dealing with it by way of supporting The Greens amendments would be one way of resolving it. Notwithstanding that, I can count and I fully expect that this matter will be in the courts. I look forward to hearing the good judges' decisions.

Mr DAVID SHOEBRIDGE (18:10): The Government says—we heard it from the Parliamentary Secretary and I accept she has the notes from the Minister's office; I am not critiquing the Parliamentary Secretary—it is okay because the current provisions in the Act, through a deeming provision buried away somewhere in a schedule of the Act, will become part of the code whenever this Act gets the royal assent. And of course 10 minutes later the Minister can amend it by regulation. We are handing the Minister—not the Parliament but the Minister—the ability to simply rewrite the pecuniary interest provisions or the anti-corruption provisions for local government. A minute after assent, the Minister can just rewrite it. Why would we be giving that power to a member of the Executive, particularly given that this Government has form on getting it wrong on pecuniary interest and anti-corruption provisions in local government? And no doubt it is the same people giving the Government advice on these changes as gave the Government advice on those disastrous 2012 amendments.

Then the Parliamentary Secretary says, "It is okay because all we are doing with the changes to the Local Government Act is reflecting the kind of regulation-making powers that apply to the code of conduct for State members of Parliament,"—those fabulous, robust provisions that were put in place in 2003 with a regulation-making power to pass a code of conduct that keeps New South Wales parliamentarians acting in accordance with that code of conduct. Since 2003 and that regulation-making power that put in place a code of conduct, a cricket team of Coalition members has been dragged before the Independent Commission Against Corruption [ICAC]. We still have not seen Operation Spicer—it did not do anything for that. There has been Mr Obeid and Mr Macdonald—one could just keep naming them.

Putting these kinds of anti-corruption provisions in regulations does not work. It has not worked for the New South Wales Parliament and it will not work for local government. Surely this Government should realise at some point that anti-corruption provisions are important and should not be buried away in regulations such as those that have spectacularly failed for New South Wales parliamentarians. They should not be buried away in regulations for local government. We should be saying unambiguously that if a councillor has a financial stake in anything happening in council then they must get out of the chamber. It should be in the Local Government Act and it is plain outrageous that the Government wants to strip it out.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 11 to 16 appearing on sheet C2016-065A. The question is that the amendments be agreed to.

The Committee divided.

Ayes 14
Noes 20
Majority.....6

AYES

Buckingham, Mr J (teller)	Cotsis, Ms S	Faruqi, Dr M (teller)
Houssos, Ms C	Mookhey, Mr D	Moselmane, Mr S
Pearson, Mr M	Primrose, Mr P	Searle, Mr A
Sharpe, Ms P	Shoebridge, Mr D	Veitch, Mr M
Voltz, Ms L	Wong, Mr E	

NOES

Ajaka, Mr J	Amato, Mr L	Blair, Mr N
Borsak, Mr R	Brown, Mr R	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Franklin, Mr B (teller)
Gallacher, Mr M	Gay, Mr D	Green, Mr P
MacDonald, Mr S	Maclaren-Jones, Ms N (teller)	Mallard, Mr S
Mason-Cox, Mr M	Mitchell, Ms S	Nile, Reverend F
Pearce, Mr G	Phelps, Dr P	

PAIRS

Donnelly, Mr G	Farlow, Mr S
Secord, Mr W	Taylor, Ms B

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): We will now deal with the final amendment: Christian Democratic Party amendment No. 3.

The Hon. PAUL GREEN (18:21): I move Christian Democratic Party amendment No. 3 on sheet C2016-071D:

No. 3 **Removal of abolition of wards provision**

Page 27, Schedule 1 [90], line 7. Omit "210B (8),".

I will not take up the Committee's time on this amendment. It is virtually in conjunction with Christian Democratic Party amendment No. 1.

The Hon. CATHERINE CUSACK (18:22): The Government does not oppose the amendment.

The Hon. PETER PRIMROSE (18:22): The Opposition thinks it is a good idea.

The CHAIR (The Hon. Trevor Khan): The Hon. Paul Green has moved Christian Democratic Party amendment No. 3 on sheet C2016-071D. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): The question is that the bill as amended be agreed to.

Motion agreed to.

The Hon. CATHERINE CUSACK (18:22): I move:

That the Chair do now leave the chair and report the bill to the House with amendments.

Motion agreed to.

Adoption of Report

The Hon. CATHERINE CUSACK (18:23): On behalf of the Hon. Duncan Gay: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. CATHERINE CUSACK (18:23): On behalf of the Hon. Duncan Gay: I move:

That this bill be now read a third time.

Mr DAVID SHOEBRIDGE (18:23): The bulk of the important amendments did not succeed in Committee. The watering down of pecuniary interests got through the Committee stage. The undemocratic provisions about gagging dissenting councillors remain.

The Hon. Catherine Cusack: Point of order: Mr David Shoebridge is reflecting on a decision of the House.

The DEPUTY PRESIDENT (The Hon. Paul Green): Order! I will extend a little latitude to Mr David Shoebridge to allow him to speak in defence of why he is not supporting the third reading of the bill.

Mr DAVID SHOEBRIDGE: The provisions about gagging the minority on council remain, despite the efforts in Committee. This bill, despite three amendments, will take local government back to the ugly days of the 1970s, in part. It will take us back to a period before we had some of the key anti-corruption provisions in the 1993 Act. The Government may think it has won today in getting these changes to the Local Government Act. It might think that this series of undemocratic changes to the Local Government Act—having shoehorned them through with a majority in this Chamber—is a win. It will not be. The Government has created a rod for its own back by passing these undemocratic and corruption-ready changes to the Local Government Act.

The Greens will not be supporting the third reading of this bill. We will not be calling for a division because we can see that the numbers in this Chamber are narrowly in support of the third reading. However, I want to make it clear that The Greens do not support the overwhelming bulk of these changes. I want to make it clear that The Greens and the community—those who care about local government—will be watching this Government and holding it to account for the inevitable undemocratic and corrupt outcomes that will eventuate as a result of these changes.

The DEPUTY PRESIDENT (The Hon. Paul Green): The question is that this bill be now read a third time.

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. CATHERINE CUSACK: I move:

That this House do now adjourn.

LOCAL GOVERNMENT RATING SYSTEM

The Hon. PETER PRIMROSE (18:27): On Monday this week the Independent Pricing and Regulatory Tribunal [IPART] released its draft report entitled "Review of the Local Government Rating System". Premier Mike Baird requested the review last December and the final report is due to be provided to the Government in December of this year. While it will take time to fully analyse the report and consult with affected stakeholders, it is already clear that some things in the report are very wrong. Take, for example, the rate deferral proposal under which pensioners would no longer get a rate subsidy but would instead incur a debt which would be paid out of the proceeds when their property was sold. The debt would then have to be repaid with interest—and with the addition of an administration charge. This is a huge cost shift onto the elderly by the Baird Government.

Organisations such as the Combined Pensioners and Superannuants Association of NSW strongly oppose the Government's plan. They point out how unfair it is and how much anxiety it is already causing the elderly. Some pensioners, they believe, will not be able to sell their homes and downsize in a few years because they will not be able to afford it after they pay Mike Baird's debt, interest and administration charges. On Channel Ten last night representatives of the Council on the Ageing said:

> For some people it could be tens of thousands of dollars … off the final price that they get for their house. And it's not necessarily that their house will only be sold when they die. They could very well be selling their house to move into a retirement village. Mr Baird's measure will cause real distress for many older people in our community; they have a genuine reason to worry about being ripped off. His budget saves money by abolishing the current subsidy and cost shifts the total cost on to pensioners. Yesterday the Minister for Local Government is also quoted as saying:
>
> I will not be doing anything that disadvantages pensioners. Pensioners have paid taxes and rates all their life and it's not too much to ask to give pensioners some extra help with rates.

In light of his comments, the Minister can stop the stress and worry for older people straightaway. He can acknowledge, as he does in his comment from last night, that they have paid taxes and rates all of their lives. He can be true to his word and not do anything "that disadvantages pensioners". The Minister should listen to the Combined Pensioners and Superannuants Association of NSW, listen to the Council on the Ageing, and listen to pensioners. I am asking tonight for Premier Baird and the Minister for Local Government to categorically rule out any change to local government rate exemptions for pensioners that disadvantage them in this way.

In the past all governments have ruled out specific unconscionable proposals from bodies before receiving their final reports. Given the stress this proposal will cause amongst the elderly, the Liberal-Nationals Government in New South Wales should do the same immediately. I will have more to say about all the recommendations in the report, but this proposal targeting pensioners is one that should be knocked on the head straightaway. Whether it is forced council mergers or changing rate structures, Premier Mike Baird does not get local government. Local Government NSW hit the nail on the head when it said that the Independent Pricing and Regulatory Tribunal [IPART] report is only fiddling around the edges of the real problem facing local communities and their councils.

The Baird Government restricted its term of reference for the IPART report and refuses to look at the core issues about how councils can fund the services and infrastructure that communities demand while at the same time being squeezed by factors such as $680 million of cost shifting by the New South Wales State Government on to councils every year without additional funding. We need a full and comprehensive inquiry into local government funding, as was recommended last year by the Legislative Council Inquiry into Local Government. We do not need the proposal from the IPART report being considered by the Government that cost shifts from the Government on to aged pensioners in New South Wales. Pensioners are the next target for Mike Baird and this is where our community must say enough and draw a line in the sand.

[*Business interrupted*.]

Visitors

VISITORS

The DEPUTY PRESIDENT (The Hon. Paul Green): I welcome to the President's gallery a former Leader of the Government, the Hon. Ted Pickering, and his guest.

Adjournment Debate

BRITISH RULE IN INDIA

[*Business resumed.*]

Dr MEHREEN FARUQI (18:32): Last week Indians and Pakistanis around the world celebrated the anniversary of the independence of the subcontinent from the British rule and the creation of two new nations of Pakistan and India in August 1947. This year was the seventieth annual celebration of this independence. I am proud to say that my paternal grandfather, who was also the first speaker of the Punjab Legislative Assembly after partition, was part of the massive people's movement to free themselves of the British colonisation of India. While it is not in doubt that the British exit from India was necessary and long overdue, the swift partition of India and Pakistan was a bloody and devastating exercise that dislocated millions of people and tore apart families, friends and colleagues, many of whom had lived in peace and harmony for generations but found themselves separated from each other on either side of the new borders.

I remember stories from my mother about how difficult it was for her aunts and grandfather to leave everything behind in what is now India and cross the border. My pregnant great-aunt made the journey hidden under a blanket on the floor of a car. When my great-grandfather arrived in Lahore at his daughter's house, he was in tattered clothes and so dishevelled that his grandson would not open the door for him, thinking he was a thief or a beggar. They were the lucky ones; they survived, unlike the hundreds of thousands who were killed.

Sadly, animosity remains between the two nations to this day because of the legacy left by the British Raj Kashmir was one of the longest running and dangerous conflicts in the world. In 1947 the then independent kingdom of Jammu and Kashmir was asked during partition to join with India or Pakistan. It had a Muslim majority but was ruled by an unpopular Hindu ruler, Maharaja Hari Singh. Singh sought military assistance from India and was later incorporated into that State to the objection of the populace.

There is much to reflect on how the British actually ruled in British India and too often it is done with rose-coloured glasses. Colonialism by its nature is exploitative, extractive and deliberately provokes differences between communities in order to fulfil its divide-and-rule mentality, which was so successful in subjugating people. The Raj was, in many ways, a regime characterised by incompetence, intolerance and violence. For the British, pre-partition India was nothing more than an economic opportunity, paid for by the lives of those who dared to resist. In his 2001 book *Late Victorian Holocausts*, American historian Mike Davis wrote:

> If the history of British rule in India were to be condensed into a single fact it is this: there was no increase in India's per capita from 1757 to 1947. Indeed, in the last half of the nineteenth century, income probably declined more than 50%.

More insidiously, it has been recently noted that an intolerance for gender diverse people and social structures such as a strict gender binary were brought into India by the British through a penal code that recognised only males and females. Writing in *The Hindu* in 2014, Chapal Mehra argued that "the transgender community was, until the advent of colonialism, a respected section of society". Almost 70 years after partition, and despite colonialism being physically long over, the combined forces of colonialism and assimilation have impacted migrants and their children as distinct cultures have been undermined and in many ways destroyed. European culture hegemony is global and the destruction of culture is still continuing inside and outside India and Pakistan.

Although the British left India approximately seven decades ago, a strong cultural and social presence remains through aspects of society such as popular culture and the education system. British cultural supremacy lives on in the worlds of the children and grandchildren of Indians and Pakistanis who thought they had seen the backs of the British in the 1940s. I marked independence day for Pakistan with the Australian-Pakistani community in Sydney on 14 August this year, but I recognise that decolonisation is indeed an ongoing project.

LITIGATION FUNDING

The Hon. TREVOR KHAN (18:37): I speak on the issue of litigation funding and some of the alarming recent developments in this space. In 2006 the High Court of Australia, with its decision in *Campbells Cash and Carry v Fostif*, lifted the cloud of uncertainty that had veiled litigation funding since the abolition of the tort of champerty in 1993. Litigation funding, as the term makes plain, is when special corporations known as litigation-funding companies agree to provide finance to litigants often involved in class actions in exchange for a share of the damages awarded upon a favourable judgment being entered.

There is an extremely valid public policy argument for litigation funding: going to court is expensive and when people have suffered significant loss—for example, in times of natural disaster or when hundreds of people lose their jobs as a result of their employer going insolvent—the likelihood of them being able to reach into their own pockets to retain solicitors and barristers for long periods of time means often they may never have a chance of receiving what is owed to them. There are, however, significant concerns to be raised about the process as well, which was acknowledged by *Campbells v Fostif*.

"Victims get nothing as litigation funder, lawyers share the spoils," reads a headline in the *Australian* on 22 August. More than 300 workers were sacked from the Huon Corporation in 2006, when the company collapsed. CBL Insurance refused to honour the policy of insurance that had been arranged by the National Union of Workers representing the employees while Huon was still solvent. In 2011, having received the financial backing of Sydney-based Litigation Capital Management [LCM], the employees took CBL Insurance to the Victorian Supreme Court and won. They were awarded $5 million in damages. However, every single dollar of those damages went to the litigation funders, lawyers and other administration costs.

If that report in *The Australian* is correct, then it is shameful. It is simply staggering. Litigation Capital Management—the litigation funder—received $1.85 million. Law firm Piper Alderman received more than $1.7 million. Counsel instructed in the matter collected a somewhat healthy $885,000. Not one cent ended up in the pockets of the plaintiffs. Three hundred workers who had lost their jobs went to court and won but got not one cent. Reportedly, the initial estimates of legal costs were hopelessly inadequate, given the expected long and protracted time in court. Those of us who have practised law understand that sometimes we get estimates wrong, but in this case the workers did not get one cent.

Victorian Attorney-General Martin Pakula is considering a review of the rules with a view to tightening them so that problems like this will not arise again. This disaster is in a similar vein to the concerns that have been raised about the so-called labour firm Maurice Blackburn and the delays in payments to victims of the 2009 Black Saturday bushfires. That matter is ongoing. New South Wales is not immune to this. It is perhaps appropriate that we, too, should turn our minds to reforming litigation funding rules to ensure that the benefits they are intended to provide actually are provided. It is about making the legal system fairer and more equitable. We must remember that lawyers work for their clients. They exist to solve problems for people who cannot solve them themselves. A change in the rules may well be the only way this can be guaranteed.

WENTWORTH PARK

The Hon. MICK VEITCH (18:42): I draw the attention of the House to community concerns over the future of Wentworth Park and its links with the Baird Government's decision to shut down the greyhound industry from July 2017. As members would know, Wentworth Park is the spiritual home of greyhound racing in New South Wales, greyhound racing meets having been held there since 1932, shortly after the sport was legalised by Premier Jack Lang. It is also Crown land which is managed by two trusts: the Wentworth Park Sporting Complex Trust—comprising the dog track, grandstand and associated facilities—and the Wentworth Park Trust. Wentworth Park is an important community facility. It not only accommodates the dogs but serves the broader community—from local schools and student exams through to community events in the grandstands.

The importance of this parcel of Crown land is reflected in its status, which I am advised is akin to a dedication—that is, it has the oversight of Parliament, not just the Minister. This adds further protection to the use and purposes of the land—like other iconic Crown land parcels such as Hyde Park and Rookwood Cemetery. As I said, the park comprises two trusts, one managed by Sydney City Council, and the other, until recently, managed by a community trust. Members would be aware that on 26 May the Minister chose not to renew the community trust when its term expired, but to appoint an administrator—coincidentally, the same administrator engaged to manage the affairs of the Rookwood General Cemetery Trust.

The community has also become aware that UrbanGrowth has identified Wentworth Park as part of the Bays Precinct. The community is still unsure as to how active UrbanGrowth will become in the management of Wentworth Park. As I said, the members of the community trust were, in the words of the last chairman of the trust board, "all made feather dusters". They were informed at the very last moment that a community trust would not be reappointed. That was an unceremonious dumping if ever there was one.

I believe this is a wrong decision. It sidelines members of the community just when they are most needed to ensure Wentworth Park continues to serve the broader community in an appropriate fashion. I am also aware that the community trust included representatives of the greyhound industry. It is of little surprise that the Government chose to remove community input when it is shutting down the dog track and looking at Wentworth Park through different lenses. I recently asked the Minister in this place whether he or his office had had any discussions regarding the future management of Wentworth Park with the Premier, the Deputy Premier or their

offices. Despite the significance of the decision, and the fact it was less than two months ago, the Minister chose to take the question on notice.

The decision-making process around the trust is highly significant, and may give us an insight into who knew what and when, with respect to the decision to shut down the greyhound industry. It will be illuminating once we get the Minister's response to that question. The significance of Wentworth Park to the multi-billion-dollar Bays Precinct proposal is critical, and one wonders whether it was so critical that it required the Government to shut down an 85-year-old industry that employs thousands of people. I understand that the Greyhound Breeders, Owners and Trainers Association [GBOTA] had more than 10 years to run on its licence to operate at Wentworth Park. It was originally negotiating a 40-year lease on the site, until the Government had a road-to-Damascus conversion on the greyhound industry.

Questions remain over the future of Wentworth Park. Was it easier to ban the dogs, thereby removing any potential compensation to GBOTA in kicking it off Wentworth Park? Who had what conversation, and when, about Wentworth Park Trust and the future of greyhounds in New South Wales? Was the rejecting of developers' proposals for the Bays Precinct tied to the decision over the future of Wentworth Park?

In addition to these questions, one has to wonder about what sorts of protections will remain over Wentworth Park if the new Crown Lands Act comes into place. It is essential that there continues to be parliamentary oversight of these parcels of public land. The Greens' failure to back Opposition amendments in the Greyhound Racing Prohibition Bill, which would have strengthened protection of Wentworth Park and other greyhound tracks on Crown land, beggars belief. I note that the member for Balmain in another place backed this amendment when he knew his vote would not count. When it did matter, here in the Legislative Council, The Greens sided with the Liberal Party and The Nationals.

There are many questions remaining over the rationale and motivation of the Government on Wentworth Park. More will be revealed when the Minister announces whether he will appoint an administrator this Friday to continue to manage the affairs of the Wentworth Park Trust. The Minister should do the right thing and call for nominations for the community. He should put in place a community trust. The Opposition will continue to watch the development of Wentworth Park to ensure that community interest is not sacrificed to the agenda of the Government.

GREYHOUND RACING INDUSTRY BAN

The Hon. ROBERT BORSAK (18:46): Today is a tragic day for the people of New South Wales. It is with a heavy heart that I advise the House that 24 August will be a day that will live in infamy. Every single farmer, every single grazier and every single race horse and greyhound breeder will remember today as the day their industries changed forever. They have changed because of the wilful destruction of a viable industry, while the broadest-sweeping excuses possible have been made by an uncaring Liberal Premier, and his minion Nationals Deputy.

The terms "social licence" and "animal wastage" were completely alien to members of this place before we received the poorly crafted McHugh report into the New South Wales greyhound racing industry. We all know what happened next, and that the first person that Premier Mike Baird consulted before announcing his captain's call decision on Facebook to ban greyhound racing was none other than the Animal Justice Party's Mark Pearson. The Hon. Mark Pearson was elected to this place last year by a whisker. However, most troublingly for The Greens is the fact that his party has proved to be the most effective political party of the far left in securing The Nationals and the Liberal Party to ban greyhound racing.

This is a worrying state of affairs for New South Wales, and indeed for the nation as a whole. The Hon. Mark Pearson has proved himself to be more effective than The Greens—so much so that as of this morning The Greens are running a nationwide campaign to ban greyhound racing, just to save face. While The Greens have been too busy playing factional games within their own party of late, it appears that the Hon. Mark Pearson has been the only person with his eye on the greyhound.

Members will remember that I recently highlighted the devastating potential of the Hon. Mark Pearson's recent contribution in question time concerning the social licence of the egg and poultry industry. Today he started his attack on the social licence of piggeries. These campaigns against agriculture have been given a massive boost today, and the Hon. Mark Pearson and People for the Ethical Treatment of Animals [PETA]—and The Greens, to a lesser extent due to their incompetence—have Premier Mike Baird and The Nationals leader Troy Grant to thank for their introduction of the phrases "social licence" and "animal wastage" to the political lexicon. I am concerned about the perilous impact this will have on already struggling rural industries. This issue raises some startling questions.

For example, will irrigators' water licences now be under threat through arguments that they have lost their "social licence" to draw water for their crops because of so-called climate change? Will graziers be stripped of their livelihood for putting down sick or injured livestock because they have lost their "social licence" to do so—as a result of human values, rights and identities being placed on those animals? Will drought-stricken farmers be ignored for drought relief because The Nationals believe those farmers have lost their "social licence" to remain in agriculture?

It may be easy for someone living on the North Shore or in the eastern suburbs of Sydney to be removed from the realities of living and working on the land, or to be removed from being involved in agriculture, but Premier Mike Baird has a duty to govern and a duty of care more to human beings than any animal. He forgets that only chickens that lay eggs are kept. Slow horses become dog food. Animals with bad genetics in all industries are culled. The first lesson for those who grow up on the land is that one does not put human qualities on animals. I wish to leave members with one final image, raised by George Orwell in August 1945. I fear that it describes the animal farm that this State of New South Wales is slowly becoming:

> The creatures outside looked from pig to man, and from man to pig, and from pig to man again; but already it was impossible to say which was which.

Sometimes I have the same issue when observing those who supported the greyhound racing ban, including the Premier and the Deputy Premier, and of course, the Hon. Mark Pearson.

ABORIGINAL ECONOMIC DEVELOPMENT

The Hon. GREG PEARCE (18:50): Tonight I draw to the attention of the House an important activity that occurred on 18 August—a roundtable organised by the Standing Committee on State Development as part of its inquiry into economic development in Aboriginal communities. I particularly thank the participants in that roundtable because, while the inquiry already has conducted a number of hearings and site visits around the State and released a discussion paper on 7 July, the roundtable was a particularly engaging opportunity for participants to be very generous in helping the committee to do its work as well as raising many of the problems and potential solutions that the committee is looking to try to develop through that inquiry.

As you, Mr Deputy President Green, are fully aware, despite decades of investment and goodwill by successive governments, there continues to be an unacceptable level of disadvantage in Aboriginal communities. The New South Wales Government has taken some positive steps through the Opportunity, Choice, Healing, Responsibility and Empowerment [OCHRE] strategy. However, there continues to be a lack of urgency and a lack of accountability as well as siloed responses. Part of the inquiry's focus is to consider options for the sustainability and capacity building of Aboriginal communities and enterprises. Aboriginal development is socially responsible and a key function of government. Economic development promises better lifestyle outcomes, including those related to health and wellbeing in Aboriginal communities as well as better social and community engagement, and significant savings to the State budget.

The committee's discussion paper focuses on a number of key themes that were highlighted as being fundamental to enhancing Aboriginal economic development and include the need for a strong coordinating agency to drive economic reform; the need to develop and harness capacity-building opportunities at an individual level as well as within Aboriginal land councils and enterprises and the private sector; and the need to ensure that the opportunities envisaged by the return of land to Aboriginal communities under the Aboriginal Land Rights Act 1983 are able to be realised. The discussion paper asks a number of questions about what specific actions can be taken and by whom to address some of those issues.

The committee identified certain key themes that are required to support sustainable and prosperous Aboriginal communities across New South Wales, including empowering the coordinating agency to drive economic reforms; identifying and harnessing capacity-building opportunities for Aboriginal individuals and enterprises; and, as I said, ensuring that opportunities envisaged under the Aboriginal Land Rights Act are realised. The roundtable was an opportunity to discuss specific action that needs to be taken and by whom in order to address the requirements. This information will inform the recommendations of the committee's final report.

The roundtable participants included representatives from the Prime Minister's Indigenous Advisory Council, various New South Wales government agencies, the Independent Commission Against Corruption, Indigenous Business Australia, the New South Wales Aboriginal Land Council, local Aboriginal land councils and Aboriginal enterprises, Supply Nation, the Native Title Service Provider for Aboriginal Traditional Owners [NTS Corp], the Clontarf Foundation, and the New South Wales Indigenous Chamber of Commerce. Obviously, details of the roundtable are available on the committee's website.

I was particularly pleased to have the engagement and participation of Indigenous people of the likes of Warren Mundine, Anne Dennis, Sean Gordon, Laurie Perry and others, and to see their generous and open

participation in the roundtable. They reflected the willingness of Aboriginal communities to participate in attempts to raise their own standards and to improve and move Aboriginal communities out of disadvantage. I thank them as well as other government agencies and others for their participation in that exercise. Of course I also thank the committee's secretariat staff because such things are never possible without them, particularly Rebecca Main and Kate Mihaljek.

The DEPUTY PRESIDENT (The Hon. Paul Green): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 18:55 until Thursday 25 August 2016 at 10:00.