



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Sixth Parliament
First Session**

Tuesday, 15 November 2016

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Tuesday, 15 November 2016

The PRESIDENT (The Hon. Donald Thomas Harwin) took the chair at 14:30.

The PRESIDENT read the prayers and acknowledged the Gadigal clan of the Eora nation and its elders and thanked them for their custodianship of this land.

Commemorations

CENTENARY OF FIRST WORLD WAR

The PRESIDENT (14:32): On 18 November 1916 the Battle of the Somme officially ended. The Battle of the Somme had in every respect been the beginning of modern warfare, and it changed forever the nature of the term "total war", as well as our understanding of it. For the first time, all the elements of warfare that we see today came together: mass artillery, air power, tanks, and even poison gas. However, despite all the machines of destruction employed on the Somme, it was a battle fought by individual soldiers—a mixture of ordinary and extraordinary men, face to face and hand to hand. The names of places such Verdun, Fromelles, and Pozières, which had been unfamiliar to anyone in Australia before 1916, became household words. They entered our national consciousness and our national history; they left their mark on every city, town and station across the Australian continent; they gave birth to legends and to aspects of our national character. At the same time, they gave rise to questions about our national identity, our national interests, and our nation's independence.

It is difficult to grasp the enormity of what happened in those fields and trenches between 1 July and 18 November, when more than one million men were killed or wounded. There were more than 23,000 Australian casualties. The casualties also included 7,500 New Zealanders, 23,000 Canadians, and 3,000 South Africans, all of whom were there to fight for the British Empire from countries far away and geographically removed from the politics of Europe. Alongside them were 350,000 British casualties, 200,000 French casualties, and more than 600,000 Germans killed or wounded. The toll in human life and suffering was on a scale almost unimaginable to us today. For what? At the end of 3½ months, the Allied powers advanced into German-held territory by just 10 kilometres. Little wonder then that the German officer Friedrich Steinbrecher would say, "Somme. The whole history of the world cannot contain a more ghastly word." Truly—lest we forget.

Motions

TYLER WRIGHT, WORLD SURFING CHAMPION

The Hon. PAUL GREEN (14:36): I move:

- (1) That this House congratulates Australian professional surfer and world champion, Tyler Wright, for her win in the World Surfing League at the Roxy Pro in France.
- (2) That this House notes:
 - (a) Tyler's dedication and love for the Aussie sport of surfing;
 - (b) the support of her family, friends and fans;
 - (c) her coach, former world tour surfer Glen Hall; and
 - (d) that Tyler was born in Culburra Beach in the picturesque Shoalhaven—God's Country.

Motion agreed to.

COMMISSIONED POLICE OFFICERS SIXTY-NINTH ANNUAL DINNER

The Hon. DAVID CLARKE (14:37): I move:

- (1) That this House notes that:
 - (a) on Friday 26 August 2016, the sixty-ninth Commissioned Police Officers Annual Dinner of the Police Association of NSW was held at New South Wales Parliament House, Sydney;
 - (b) those who attended as guests included:
 - (i) the Hon. David Elliott, MP, Minister for Corrections, Minister for Emergency Services and Minister for Veteran Affairs, representing the Hon. Troy Grant, MP, Deputy Premier, Minister for Justice and Police, Minister for the Arts and Minister for Racing;
 - (ii) Police Commissioner Andrew Scipione, APM;
 - (iii) Acting President of the Police Association of NSW, Mr Tony King;

- (iv) Mr Luke Foley, MP, member for Auburn, and Leader of the Opposition;
 - (v) Reverend the Hon. Fred Nile, MLC, Assistant President of the Legislative Council, and Leader of the Christian Democratic Party;
 - (vi) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (vii) the Hon. Robert Borsak, MLC, Shooters, Fishers and Farmers Party;
 - (viii) Mr Guy Zangari, MP, shadow Minister for Justice and Police, shadow Minister for Corrections, and shadow Minister for Emergency Services;
 - (ix) New South Wales Police Deputy Commissioner Catherine Burns, APM;
 - (x) New South Wales Police Deputy Commissioner David Hudson, APM;
 - (xi) New South Wales Police Acting Deputy Commissioner Carlene York, APM;
 - (xii) the Hon. Justice Conrad Staff [retired];
 - (xiii) retired New South Wales Police Commissioner Ken Moroney, AO, APM;
 - (xiv) Commissioner Peter Hastings of the New South Wales Crime Commission;
 - (xv) Assistant Commissioner Peter Dein of the New South Wales Crime Commission;
 - (xvi) Lance Corporal Gary Wilson, Australian Army, special guest of honour and featured speaker at the dinner;
 - (xvii) Reverend Daniel Connor, New South Wales Police Senior State Chaplain;
 - (xviii) First Assistant Director General of the New South Wales Attorney General's Department, Mr Rob Delaney; and
 - (xix) distinguished guests from the military, police and emergency service departments throughout Australia.
- (c) during the evening Acting President of the Police Association of NSW Mr Tony King and Superintendent Gary Merryweather made an awards presentation to:
- (i) retired Chief Inspector Dennis Bray for 40 years service; and
 - (ii) retired Inspector David Evans for 43 years service;
- (d) also receiving a presentation was the guest of honour and featured speaker Lance Corporal Gary Wilson, a member of the Australian Defence Force for 17 years, who in 2010, whilst deployed to Afghanistan with the Special Operations Task Force, sustained life-threatening injuries from which he was not expected to survive but through resilience, determination and heroic virtue made a recovery which has defied all the odds;
- (e) Superintendent Gary Merryweather read an honour roll of commissioned police officers who have passed away in the preceding year, which comprised the following officers together with their last position in the Police Force:
- (i) Richard Kane—Chief Superintendent;
 - (ii) Clarence Overton—Inspector;
 - (iii) Ian Fitzsimmons—Inspector;
 - (iv) Gregory Brown—Superintendent;
 - (v) Ross Baldwin—Chief Inspector;
 - (vi) Wayne Chapman—Detective Inspector;
 - (vii) Glen Graham—Senior Inspector;
 - (viii) Ernest Day—Assistant Commissioner;
 - (ix) Keith Skene—Inspector;
 - (x) Raymond Bell—Chief Inspector;
 - (xi) Richard Lamb—Superintendent;
 - (xii) Kevan McAuliffe—Chief Superintendent;
 - (xiii) John Sato—Detective Inspector;
 - (xiv) Gordon Ball—Detective Chief Inspector;
 - (xv) Robert McCracken—Inspector;
 - (xvi) Adrian Cosatto—Chief Inspector;
 - (xvii) Clifford Love—Senior Inspector;
 - (xviii) Brian Gardner—Inspector;

- (xix) Robert Rolfe—Inspector;
 - (xx) Ronald Dobson—Chief Inspector;
 - (xxi) John Eisenhuth—Inspector;
 - (xxii) Robert Gould—Chief Superintendent; and
 - (xxiii) John Turner—Superintendent.
- (f) the Police Association of NSW:
- (i) was formed in 1921 and represents the professional and industrial interests of approximately 16,500 members, covering all ranks of sworn police officers in New South Wales;
 - (ii) is non-political, non-sectarian and affiliated with the Police Federation of Australia, Unions NSW and the Australian Council of Trade Unions; and
 - (iii) is based on fraternalism for and on behalf of police officers and their families in both trying and better times.
- (2) That this House:
- (a) congratulates and commends the Police Association of NSW for:
 - (i) hosting and organising the sixty-ninth Commissioned Police Officers Annual Dinner; and
 - (ii) its long and laudable service in representing the interests of New South Wales police officers and their families.
 - (b) congratulates and commends:
 - (i) retired Chief Inspector Dennis Bray for 40 years of service in the NSW Police Force;
 - (ii) retired Inspector David Evans for 43 years of service to the NSW Police Force; and
 - (iii) Lance Corporal Gary Wilson of the Australian Defence Force for his service to our nation and for the fine example he has set in overcoming extreme adversity against all the odds.
- (3) That this House honours serving and retired members of the NSW Police Force for their outstanding service to New South Wales and Australia in building the reputation of our State's Police Force as one of the finest in the world.

Motion agreed to.

THE ORDER OF AUSTRALIA ASSOCIATION MULTI-FAITH OBSERVANCE SERVICE

The Hon. DAVID CLARKE (14:37): I move:

- (1) That this House notes that:
- (a) on Sunday 25 September 2016, the annual service for the Multi-Faith Observance of the Order of Australia Association was hosted by and held at the Great Synagogue Sydney;
 - (b) the Observance, which pays tribute to those who have made a significant contribution to Australia and have been honoured by the nation, was this year conducted by Rabbi Dr Benjamin Elton, Chief Minister of the Great Synagogue, assisted by:
 - (i) Reverend David Hilton, Minister of the Great Synagogue;
 - (ii) Michael Gold, OAM, former President of the Great Synagogue;
 - (iii) the Hon. Justice Stephen Rothman, AM, President of the Great Synagogue;
 - (iv) Reverend John Sanderson;
 - (v) Reverend Father Dr Arthur Bridge, AM;
 - (vi) Leva Mostaghim;
 - (vii) Rosalind Fischl, OAM, former President of the Great Synagogue;
 - (viii) John Archer, OAM, Chairman of the Order of Australia Association New South Wales Branch;
 - (ix) Cantor Joshua Weinberger;
 - (x) the choir of the Great Synagogue conducted by Robert Teicher;
 - (xi) the band of The Scots College; and
 - (xii) the Third Rose Bay Judean Scouts who provided the Guard of Honour.
 - (c) those who attended as special guests included:
 - (i) Mr Julian Leeser, MP, Federal member for Berowra;
 - (ii) Mr Ron Hoenig, MP, member for Heffron;

- (iii) Mr Tony Burke, MP, Federal member for Watson, shadow Minister for Environment and Water, shadow Minister for Citizenship and Multicultural Australia, shadow Minister for the Arts, as well as Manager of Opposition Business in the House of Representatives;
- (iv) Senator Pauline Hanson, Leader of the One Nation Party;
- (v) the Hon. Ben Franklin, MLC, Deputy Government Whip in the Legislative Council;
- (vi) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
- (vii) the Hon. Scott Farlow, MLC;
- (viii) the Hon. Shayne Mallard, MLC;
- (ix) the Hon. Ernest Wong, MLC;
- (x) Beverly Adcock, AM;
- (xi) John Archer, OAM, Order of Australia Association;
- (xii) Dalia Ayalon-Sinclair, OAM, former President National Council of Jewish Women;
- (xiii) Denise Begg, OAM;
- (xiv) Garry Browne, AM;
- (xv) Wesley Browne, OAM;
- (xvi) Sari Browne, OAM;
- (xvii) Susan Bures, AM;
- (xviii) Helen Christian, AM;
- (xix) John Christian, AO;
- (xx) Joyce Duncan, OAM;
- (xxi) Herman Eisenberg, AM;
- (xxii) Peter Falk, OAM, Order of Australia Association;
- (xxiii) Zelda Feigen, OAM, Life President Jewish Centre on Ageing;
- (xxiv) Ros Fischl, OAM;
- (xxv) Professor Philip Foreman, AM;
- (xxvi) William Galvin, OAM, National Chairman of the Order of Australia;
- (xxvii) Michael Gold, OAM;
- (xxviii) Julia Golding, OAM, CEO, Jewish Centre on Ageing;
- (xxix) Andrew Gullotta, OAM, Order of Australia Association;
- (xxx) Andrew Havas, OAM;
- (xxxi) Rachel Hore, OAM;
- (xxxii) Edward Jaku, OAM;
- (xxxiii) Dr Michael, Joel, AM;
- (xxxiv) Colleen Keys, OAM;
- (xxxv) Robyn Lenn, OAM, President, International Council of Jewish Woman;
- (xxxvi) Dr Harris Lewis, AM;
- (xxxvii) Ruth Lillian, OAM;
- (xxxviii) Dr Hilarie Lindsay, MBE, OAM;
- (xxxix) Emeritus Mayor Councillor John Lutman, OAM;
- (xl) Anna Marks, OAM;
- (xli) Professor James May, AC;
- (xlii) Ian McKnight, OAM, Order of Australia Association;
- (xliii) Shirley Politzer, OAM, Scout Guard of Honour;
- (xliv) Elaine Rich, OAM;
- (xlv) Dr Lyon Robinson, AM;
- (xlvi) Dr David Rosenwax, AM;
- (xlvii) Justice Stephen Rothman, AM;

- (xlviii) Justice Ronald Sackville, AO, QC;
 - (xlix) Eddie Selwyn, OAM, Order of Australia Association;
 - (l) Robin Smith, OAM;
 - (li) Dan Stafford, OAM;
 - (lii) Shula Andrey Walder, OAM, Gift of Life Founder;
 - (liii) Colleen Wardell, OAM, Order of Australia Association;
 - (liv) Zara Young, OAM;
 - (lv) Dorrit Mahemoff, Chairwoman of the B'nai B'rith; and
 - (lvi) Len Mahemoff, consultant to the Jewish National Fund.
- (2) That this House:
- (a) congratulates and commends all those who organised this year's annual service for the Multi-Faith Observance of the Order of Australia Association held at the Great Synagogue Sydney; and
 - (b) extends its best wishes and grateful thanks to the Order of Australia Association and its members for their service to Australia.

Motion agreed to.

ARMENIAN NATIONAL COMMITTEE OF AUSTRALIA GALA BANQUET

The Hon. DAVID CLARKE (14:38): I move:

- (1) That this House notes that:
- (a) on Friday 4 November 2016, the Armenian National Committee of Australia held its annual gala banquet at the Miramare Gardens, Terry Hills, attended by several hundred members and friends of the Armenian Australian community; and
 - (b) those who attended as guests included:
 - (i) Mr Raffi Hamparian, National Chairman of the Armenian National Committee of America, the guest speaker for the event;
 - (ii) the Hon. Gladys Berejiklian, MP, member for Willoughby, Treasurer and Minister for Industrial Relations;
 - (iii) the Hon. Amanda Fazio, former member and President of the Legislative Council;
 - (iv) Reverend the Hon. Fred Nile, MLC, Assistant President of the Legislative Council, Leader of the Christian Democratic Party;
 - (v) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, and Mrs Marisa Clarke;
 - (vi) Mr John Alexander, MP, Federal member for Bennelong;
 - (vii) Mr Trent Zimmerman, MP, Federal member for North Sydney;
 - (viii) Mr Jason Falinski, MP, Federal member for MacKellar;
 - (ix) Ms Marie Ficarra, former member of the Legislative Council and former Parliamentary Secretary to the Hon. Barry O'Farrell, former Premier, and to the Hon. Mike Baird, MP, current Premier;
 - (x) Mr Stuart McMillan, National President of the Uniting Church of Australia;
 - (xi) Mr Eddie Demirjian, Principal of Galstaun College Ingleside;
 - (xii) representatives of Armenian Relief Society of Australia;
 - (xiii) representatives of Armenian Youth Federation;
 - (xiv) representatives of Hamazkaine Armenian Cultural Society;
 - (xv) representatives of Homenetmen Armenian Sporting Association; and
 - (xvi) representatives of various Armenian churches.
- (2) That this House:
- (a) congratulates the Armenian National Committee of Australia on the occasion of its annual gala banquet 2016, particularly its Board of Directors, including:
 - (i) Mr Greg Soghomonian, Chairman;
 - (ii) Mr Vache Kahramanian, Managing Director; and
 - (iii) Mr Arin Markarian, Executive Administrator.

- (b) extends best wishes to the Armenian Australian community and commends it for its ongoing positive contribution to the cultural and social life of New South Wales.

Motion agreed to.

FILIPINO AUSTRALIAN MOVEMENT FOR EMPOWERMENT CHRISTMAS CELEBRATION

The Hon. DAVID CLARKE (14:38): I move:

- (1) That this House notes that:
- (a) on Saturday 5 November 2016, the Filipino Australian Movement for Empowerment held its annual Christmas celebration and induction of a new Executive Committee at a function held in the Pabico Club 55 function centre at Mount Druitt attended by members and friends of the Filipino Australian community;
 - (b) the Filipino Australia Movement for Empowerment was founded eight years ago as a non-partisan advocacy group to promote the political, economic and social empowerment of Filipino Australians to become active members and stakeholders in Australian society;
 - (c) those who attended as invited guests included:
 - (i) the Hon. Anne Jalando-On Louis, Consul General for the Philippines in Sydney;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iii) Mr Naji Peter Najjar, former Councillor of Bankstown City Council and current advisor to Canterbury-Bankstown City Council;
 - (iv) Marissa Manoto, representing Councillor Rey Manoto, Campbelltown City Council;
 - (v) Jose Ian Israel, representing Councillor Carol Israel, Blacktown City Council;
 - (vi) Councillor Linda Santos, Blacktown City Council;
 - (vii) Councillor Jess Diaz, Blacktown City Council, also representing Councillor Jaymes Diaz;
 - (viii) Councillor Frederick Brillo, Blacktown City Council;
 - (ix) Mr Ronald Manila, Head of Filipino Programs, SBS Radio;
 - (x) Dr Corazon Francisco, Founding President, Philippine Australian Medical Association;
 - (xi) Evelyn Zaragoza, publisher, Philippine Community Herald; and
 - (xii) Mr Dante Maribbay, President, Filipino Communities Council of Australia.
 - (d) the following new Executive Committee members were inducted into office for 2016- 2018 by the Hon. Anne Jalando-On Louis Consul General for the Philippines in Sydney:
 - (i) Cesar Bartolome, Executive Director;
 - (ii) Danny Peralta, Assistant Executive Director;
 - (iii) Penny Perfecto, Secretary;
 - (iv) Dennis Laxamana, Treasurer;
 - (v) Fiel Santos, Auditor;
 - (vi) Rod Dingle, Press Relations Officer;
 - (vii) Ferdi Francisco, Director;
 - (viii) Emily Rudd, Director;
 - (ix) Ben Bongat, Director; and
 - (x) Neria Soliman.
- (2) That this House:
- (a) commends the Filipino Australian Movement for Empowerment for its declared purpose of promoting on a non-partisan basis the political, economic and social empowerment of Filipino Australians to become active participants and stakeholders in Australian society; and
 - (b) extends best wishes to the Filipino Australian community and commends it for its ongoing positive contribution to the State of New South Wales.

Motion agreed to.

DIWALI FESTIVAL

The Hon. DAVID CLARKE (14:39): I move:

- (1) That this House notes that:

- (a) on Saturday 5 November 2016, the India Club Inc. held its annual Diwali Festival Grand Celebration in The Hills at the Castle Grand Pioneer Hall, Castle Hill, attended by several hundred members and friends of the Indian Australian community,
 - (b) those who attended as guests included:
 - (i) Mr Ray Williams, MP, member for Castle Hill, Parliamentary Secretary for Western Sydney, representing the Hon. Mike Baird, MP, Premier, and representing the Hon. John Ajaka, MLC, Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism;
 - (ii) the Hon. David Elliott, MP, member for Baulkham Hills, Minister for Corrections, Minister for Emergency Services and Minister for Veteran Affairs, and Mrs Nicole Elliott;
 - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, and Mrs Marisa Clarke;
 - (iv) Mr Damien Tudehope, MP, member for Epping, and Mrs Dianne Tudehope;
 - (v) Mr Julian Leeser, MP, Federal member for Berowra;
 - (vi) Councillor Yvonne Keane, Mayor, The Hills Shire Council;
 - (vii) Councillor Robyn Preston, Deputy Mayor, The Hills Shire Council;
 - (viii) Councillor Michelle Byrne, former Mayor, The Hills Shire Council, and her husband, Mr Matt Fuentes;
 - (ix) Councillor Ryan Tracey, The Hills Shire Council;
 - (x) Reena Jethi, Treasurer, Women's Council of the Liberal Party (New South Wales Division);
 - (xi) Nalika Padmasena, solicitor for elderly rights and services;
 - (xii) Uma Mennon and Aurelia Rehman from the Community Migrant Resource Centre;
 - (xiii) Suhas Mahajan, Senior Investment Advisor, Macquarie Bank;
 - (xiv) Sanchay Mohan, Head of Operations, Multiconnexions; and
 - (xv) Satram Bajaji, former President, Australian Hindi Indian Association,
 - (c) the India Club's Star Award for someone serving the community and making a positive difference to society went to Ms Nalika Padmasena, by a decision of the Club's Judging Panel comprising:
 - (i) Ms Aparajita Tayal;
 - (ii) Mrs Marisa Clarke;
 - (iii) Mrs Abha Gargya; and
 - (d) the India Club Inc. is a voluntary organisation of Australians of Indian origin which hosts a variety of entertainment activities and community projects and is supportive of a number of charities with the purpose of generating good will and harmony within the New South Wales community.
- (2) That this House:
- (a) congratulates and commends the India Club Inc. for organising the annual Diwali Festival Grand Celebration in The Hills held on 5 November 2016, particularly Dr Aksheya Kumar, its chairman and chief-coordinator, and Mrs Shubha Kumar, its president, who were assisted by:
 - (i) Abha Gargya, treasurer;
 - (ii) Puneet Grover;
 - (iii) Mona Grover;
 - (iv) Ram Ramamurthy;
 - (v) Anita Malhotra;
 - (vi) Aparajita Tayal;
 - (vii) Jaya Singhal;
 - (viii) Jyoti Khanna;
 - (ix) Shyam Malhotra;
 - (x) Nav Gargya;
 - (xi) Madhu Misra;
 - (xii) Satya Khanna; and
 - (b) commends the ongoing contribution of the India Club Inc. to our State's cultural life and work in support of worthy charitable causes.

Motion agreed to.

*Documents***TABLING OF PAPERS**

The Hon. NIALL BLAIR: I table the following papers:

- (1) Annual Reports (Departments) Act 1985—Reports for year ended 30 June 2016:
Crown Solicitor's Office;
Department of Family and Community Services—volumes 1, 2 and 3;
Department of Planning and Environment;
Judicial Commission;
Office of the Director of Public Prosecutions;
Office of Environment and Heritage, incorporating Heritage Council of New South Wales;
Office of Sport.
- (2) Annual Reports (Statutory Bodies) Act 1984—Reports for year ended 30 June 2016:
Centennial Park and Moore Park Trust;
Destination NSW;
Environment Protection Authority, incorporating Regulatory Assurance Statement 2015-16;
Greater Sydney Commission;
Health Care Complaints Commission;
Historic Houses Trust of New South Wales;
Jenolan Caves Reserve Trust;
Legal Aid Commission of NSW;
Legal Profession Admission Board;
Lord Howe Island Board;
Multicultural NSW;
New South Wales Institute of Sport;
NSW Architects Registration Board;
NSW Environmental Trust;
NSW Trustee and Guardian;
Parramatta Park Trust;
Rental Bond Board;
Royal Botanic Gardens and Domain Trust;
State Insurance Regulatory Authority;
State Sporting Venues Authority;
Sydney Olympic Park Authority;
Venues NSW;
Western Sydney Parklands Trust;
Zoological Parks Board of New South Wales, trading as Taronga Conservation Society Australia.
- (3) Annual Reports (Statutory Bodies) Act 1984 and Growth Centres (Development Corporations) Act 1974—Reports for year ended 30 June 2016:
Central Coast Regional Development Corporation;
Fair Trading Administration Corporation;
Hunter Development Corporation;
Landcom (trading as UrbanGrowth NSW);
Ministerial Development Corporation;
UrbanGrowth NSW Development Corporation.
- (4) Annual Reports (Statutory Bodies) Act 1984 and Health Practitioner Regulation National Law (NSW)—Report of Health Professional Councils Authority volumes 1, 2 and 3 for year ended 30 June 2016, incorporating:

Aboriginal and Torres Strait Islander Health Practice Council;
 Chinese Medicine Council of New South Wales;
 Chiropractic Council of New South Wales;
 Dental Council of New South Wales;
 Medical Council of New South Wales;
 Medical Radiation Practice Council of New South Wales;
 Nursing and Midwifery Council of New South Wales;
 Occupational Therapy Council of New South Wales;
 Optometry Council of New South Wales;
 Osteopathy Council of New South Wales;
 Pharmacy Council of New South Wales;
 Physiotherapy Council of New South Wales;
 Podiatry Council of New South Wales;
 Psychology Council of New South Wales.

- (5) Anti-Discrimination Act 1977—Report of Anti-Discrimination Board of New South Wales for year ended 30 June 2016.
- (6) Civil and Administrative Tribunal Act 2013—Report of NSW Civil and Administrative Tribunal for year ended 30 June 2016.
- (7) Community Services (Complaints, Review and Monitoring) Act 1993—Report of NSW Child Death Review Team for year ended 30 June 2016.
- (8) Energy and Utilities Administration Act 1987—Report of NSW Climate Change Fund for year ended 30 June 2016.
- (9) Government Information (Public Access) Act 2009—NSW Scientific Committee GIPA Report for 2015-2016.
- (10) Health Administration Act 1982—Report of New South Wales Health Foundation for year ended 30 June 2016.
- (11) Health Practitioner Regulation National Law (NSW)—Reports for year ended 30 June 2016:
 Australian Health Practitioner Regulation Agency;
 National Health Practitioner Ombudsman and Privacy Commissioner.
- (12) Health Services Act 1997—Report of Administrator of the National Health Funding Pool for year ended 30 June 2016.
- (13) Law and Justice Foundation Act 2000—Report of Law and Justice Foundation for year ended 30 June 2016.
- (14) Law Reform Commission Act 1967—Reports for year ended 30 June 2016:
 Law Reform Commission;
 New South Wales Bar Association.
- (15) Legal Profession Act 2004—Report of Law Society of New South Wales for year ended 30 June 2016, together with financial statements.
- (16) Legal Profession Uniform Law (NSW)—Report of the Office of the Legal Services Commissioner for year ended 30 June 2016.
- (17) National Health Reform Act 2011 (Cth) and Public Service Act 1999 (Cth)—Report of National Health Funding Body for year ended 30 June 2016.
- (18) Professional Standards Act 1994—Report of Professional Standards Council for year ended 30 June 2016.

I move:

That the reports be printed.

Motion agreed to.

NSW SOUTH WALES OMBUDSMAN

Reports

The CLERK: According to the Surveillance Devices Act, I announce receipt of a report of the NSW Ombudsman entitled "Report under section 49 (1) of the Surveillance Devices Act 2007, Police Association of New South Wales for the period ended 30 June 2016", dated November 2016, received out of session and authorised to be printed.

*Petitions***COMMERCIAL FISHING INDUSTRY ADJUSTMENT PROGRAM**

Petition requesting the Government to pause the NSW Department of Primary Industries Fisheries Business Structural Adjustment Program and consult on the future direction of essential fishery management region by region, received from the **Hon. Mick Veitch**.

*Business of the House***POSTPONEMENT OF BUSINESS**

Ms JAN BARHAM: I move:

That Business of the House Notice of Motion No. 1 be postponed until 16 November 2016.

Motion agreed to.

Mr JEREMY BUCKINGHAM: I move:

- (1) That Business of the House Notices of Motions Nos 3 and 4 be postponed until the first sitting day of 2017.
- (2) That Business of the House Notices of Motions Nos 5 and 6 be postponed until Wednesday 16 November 2016.

Motion agreed to.

The Hon. ADAM SEARLE: I move:

That Business of the House Notice of Motion No. 2 be postponed until 17 November 2016.

Motion agreed to.

*Members***LEADER AND DEPUTY LEADER OF THE NATIONALS**

The Hon. DUNCAN GAY: I inform the House of the election on 15 November 2016 of Giovanni Domenic "John" Barilaro as Leader of The Nationals and the Hon. Niall Mark Blair as Deputy Leader of The Nationals.

*Business of the House***PRECEDENCE OF BUSINESS**

The Hon. DUNCAN GAY: I move:

That Government Business takes precedence of debate on committee reports this day.

Motion agreed to.

*Committees***GENERAL PURPOSE STANDING COMMITTEE NO. 4****Extension of Reporting Date**

The Hon. ROBERT BORSAK: I inform the House that on Monday 14 November 2016 General Purpose Standing Committee No. 4 resolved to extend the reporting date for the inquiry into museums and galleries until 23 February 2017.

GENERAL PURPOSE STANDING COMMITTEE NO. 3**Membership**

The PRESIDENT: I inform the House that today the Clerk received correspondence from Ms Jan Barham advising of her resignation from General Purpose Standing Committee No. 3. I further inform the House that the Clerk will call for nominations from crossbench members to replace Ms Jan Barham on that committee.

*Bills***BIODIVERSITY CONSERVATION BILL 2016****LOCAL LAND SERVICES AMENDMENT BILL 2016****Second Reading**

Debate resumed from 9 November 2016.

The Hon. PENNY SHARPE (14:59): Sometimes one cannot see the forest for the trees. In the case of members of the Baird Government it appears as though they have never met a tree that they did not think could be or should be cut down. Future generations will wonder what we were thinking in this last parliamentary sitting week for 2016 when we were considering these bills. At a time when the planet is facing a collapse in biodiversity, the populations of mammals, birds, fish, amphibians and reptiles has shrunk by an average of 58 per cent. At a time when global warming as a result of greenhouse gas emissions is causing climate change that could be irreversible, and at a time when our State of the Environment 2015 report found ongoing biodiversity loss in New South Wales, with more than 1,000 native species listed as threatened—an addition of another 10 species since 2012—we should be doing everything we can to reverse this impact. Yet the bills before us today will do the complete opposite.

The Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016 ignore the advice of scientists, including the Government's own expert scientist on biodiversity. These bills ignore the advice of environmentalists who have backed up their contributions with scientific and evidence-based submissions. These bills also ignore the advice of many farmers who believe that this approach takes sustainable farming backwards in New South Wales. In short, these bills have the support of the NSW Farmers Association, The Nationals and pretty much no-one else—not even many members of the Liberal Party. These bills repeal the Threatened Species Conservation Act 1995, the Nature Conservation Trust Act 2001, the provisions relating to animals and plants in the National Parks and Wildlife Act 1975, and the Native Vegetation Act 2003. These laws have protected native wildlife and native vegetation and stopped broadscale land clearing in this State.

What is being proposed in these bills today will result in significant increases in land clearing and the destruction of precious native vegetation in New South Wales; reduced habitat and weakened protection for native animals, including species under threat of extinction; degraded soil quality and increased erosion, impacting on future food production; reduced water quality and damage to creek and river ecosystems; and increased carbon emissions that significantly contribute to climate change. When only 9 per cent of the State's native vegetation is considered to be in good condition it makes no sense that weakened protections for native vegetation will reverse this trend. When we know that the soils are continuing to deteriorate, with 74 per cent of priority soil units being rated as poor or very poor, and that New South Wales continues to lose much of its precious soil to erosion at the same time as salinity and acidification continue to rise, allowing more clearing of native vegetation is another backward step.

River health continues to deteriorate and 10 of our catchments are rated between poor and extremely poor. We know that coastal, estuarine and marine environments have been extensively cleared, with only one in five retaining more than 90 per cent of the natural, uncleared vegetation. We know that in reports of the United Nations Framework Convention on Climate Change Australia has stated that from 2005 to 2013 land-use emissions dropped by 10 per cent, but that they will increase by 8 per cent from 2013 to 2020. We know that Environmental Economic Consultancy's CO₂ modelling indicates that cumulative emissions from tree clearing from 2016 to 2030 are likely to be between 673 million and 826 million tonnes of CO₂, based on Queensland's existing laws and New South Wales' proposed laws—the laws that we are debating today. To put this into perspective, those emissions are the equivalent of operating at least three to four Hazelwood coal-fired power plants for this same period. We must do more to protect what is left, not open up more land for clearing. The bills before us today ignore the Government's State of the Environment 2015 report, which says:

Clearing is therefore accepted as being the main cause of vegetation change and decline. Clearing of native vegetation, and the associated destruction of habitat has been identified as the process representing the greatest single threat to biodiversity in NSW.

The report also says:

Clearing facilitates land-use change and due to the ongoing nature of the subsequent uses of cleared land it is generally irreversible.

In 1995 no statewide records existed to monitor the extent of clearing in New South Wales, but some estimated it to be around 150,000 hectares per year at that time. Clearing rates were excessive and utterly unsustainable. After efforts to introduce regulation and legislation to curb this runaway broadscale land clearing resulted in deep disagreement with many farmers and landholders, the then Labor Government resolved to negotiate a sustainable set of laws with all relevant stakeholders. The Carr Government acknowledged the need for change and went about negotiating it. There was not, as outrageously characterised by the Minister in his second reading speech, a so-called "divisive and destructive" political narrative created by the Labor Government. That task was carried out by The Nationals then and continued in the years since.

We cannot have this debate without acknowledging that the fights over land use have been tough. I acknowledge the brutal murder of a dedicated public servant, Glen Turner, who sought to do nothing more than the job he was tasked to do under laws made by this Parliament that were designed to protect our environment. I pay tribute to all those public servants who work so hard for all of us, and especially those who have led the efforts that have delivered fundamental change in land management in New South Wales. What worries me more

as we have this debate is that The Nationals have not learned that their rhetoric on environmental protection continues to stoke division. We need look no further than the actions of the member for Barwon, who actively lobbied for environmental agencies to cease investigations into illegal land clearing and who threatened his ministerial colleagues with riots if they allowed investigations to go ahead. Perhaps what is most disturbing is that under Minister Speakman and Minister Blair these investigations have ceased.

In 2002, during the millennium drought, the Wentworth Group of Concerned Scientists published a document entitled "Blueprint for a Living Continent". Premier Bob Carr then sought advice from the Wentworth group on resolving the issues and conflicts of land management in the State, which led to a document entitled "A New Model for Landscape Conservation in New South Wales". The group recommended a change in natural resource management in New South Wales, with a focus on individual property holders while also looking at the bigger picture—the need for investment in the revegetation of overcleared land. The Government formed the Native Vegetation Reform Implementation Group chaired by Ian Sinclair, former leader of The Nationals, and it included representation from the NSW Farmers Association as well as scientists and environment groups. Unlike the consultation on this legislation, no group felt compelled to abandon negotiations, no member resigned and no scientists wrote articles and commentaries denouncing the Government's plans. No groups felt so aggrieved that they felt they had no choice but to walk out on negotiations, unlike the present situation.

The Labor Government at the time was able to bring all parties together and come to appropriate compromises that had the support of all stakeholders. The Labor Government at the time was careful to craft legislation that struck a balance between land productivity and the protection of the environment, but this Government is now seeking to remove that balance. In fact it will almost remove the side of the equation that protects all of our environment. Let us remember that the then president of the NSW Farmers Association, Mal Peters, called it a great step forward for farmers. This is important because a large part of the false narrative being performed theatrically by The Nationals is that when the laws were introduced farmers were not party to them. For a short history lesson I refer to *The Land* newspaper report on 11 December 2003, which states in reference to the Native Vegetation Act:

The NSW Farmers Association and key conservation groups have welcomed the legislation.

It quotes comments from Mr Peters that, after intense negotiations with the Government, the final bills were a "dramatic improvement", and that the legislation was "an historic milestone". Those were the words of the president of the NSW Farmers Association after the introduction of the Native Vegetation Act—an Act that The Nationals would have people believe was foisted on farmers and communities. The consultation on the Native Vegetation Act did not end while the bills were going through the Parliament. The Labor Government was big enough, able enough and committed enough to continue to negotiate with stakeholders, making an additional 30 amendments to its own legislation during the passage of the bill after negotiations with those stakeholders. Labor wanted to get the balance right and largely it did. The introduction of the Native Vegetation Act 2003 was accompanied by a \$430 million package that was made available to catchment management authorities to assist farmers to repair the landscape.

A minimum of \$120 million of the package was earmarked to assist farmers to protect and replant native vegetation for biodiversity, water quality, soil and salinity outcomes over the following four years. In 2005 a further \$37 million package was announced for farmers adversely affected by the reforms, including \$15 million for sustainable Farm Link grants, \$12 million in exit assistance and \$10 million for offset pools. There has been much discussion about ongoing funding for landholders. It is clear that over the long term not enough resources were dedicated for the stewardship of land conserved by landholders. I acknowledge that failure of resourcing openly in this debate. No-one is arguing that landholders should not be paid for the conservation and management of their land for environmental purposes. Caring for our environment is a shared responsibility. However, that fact does not form a reasonable argument that the legislation underpinning the protection of native plants and animals is somehow at fault. It is not.

The Native Vegetation Act, which was agreed between farmers, government, scientists and environmentalists, prohibited broadscale land clearing unless it could be demonstrated that the clearing would improve or maintain environmental outcomes, usually by landholders offsetting other vegetation on their land. It reduced extensively land clearing approved in New South Wales and saved hundreds of thousands of native animals as well as protecting forest, woodlands and the economic benefits they provide—particularly protection against salinity, drought and erosion. Prior to the Native Vegetation Act, more than 100,000 hectares of land, which is equivalent to half of Sydney's urban area, was being cleared every year. Since then that has dropped to less than 12,000 hectares per year. Importantly, the laws have delivered a 20 per cent reduction in clearing of remnant bushland, saved 116,000 native animals from being killed each year through clearing, and saved more than 400 koalas from a human-caused death every year.

The halt to broadscale land clearing in New South Wales and Queensland is the only reason that Australia has been able to meet its commitments to reduce greenhouse gas emissions under the Kyoto Protocol. The Threatened Species Conservation Act and the Native Vegetation Act have played a crucial role in the protection of biodiversity and management of climate change in New South Wales and play a vital role in managing key land-use challenges, such as salinity, soil erosion and water quality—issues that taxpayers and farmers have spent billions trying to manage over many years. The science is in on these laws. They have delivered.

I turn now to examine some the details of the Biodiversity Conservation Bill. However, I put on the record that the Parliament has been given so little notice of these complex and detailed bills that Parliamentary Counsel has not had time to put forward all the amendments that Labor will seek at the Committee stage of the Biodiversity Conservation Bill. Regardless of where one stands on this matter, this is an abrogation of our democratic system and an insult to the role of the Legislative Council as the House of review, if this House cannot deal with amendments sought by members because Parliamentary Counsel is not resourced to do the job that is asked of it.

Currently the Native Vegetation Act provides for the control of the clearing of native vegetation, except in accordance with a development consent granted by the Minister or through a property vegetation plan. This includes controls on clearing remnant native vegetation and protected regrowth vegetation. The current laws permit clearing of native vegetation that is only regrowth, clearing for routine agricultural management activities, and clearing of groundcover that contains less than 50 per cent of an indigenous species of vegetation. There is scope under those laws for certain types of clearing without approval, generally for appropriate farm management and maintenance. Importantly, the current laws prevent land clearing unless it passes a specific test, which is that it improves or maintains environmental outcomes. Property vegetation plans are the key compliance and regulation mechanism to ensure approved native vegetation clearing is in accordance with those environmental principles. There are now more than a thousand property vegetation plans around the State, resulting in more than four million hectares of native vegetation on farmland under improved management.

The proposed bill to replace the Native Vegetation Act intends to replace the system with self-assessed code-based clearing. There are no clear environmental baselines, aims or targets. There is no ban on broadscale clearing, no mandatory soil, water or salinity assessment, and no maintain or improve standard to ensure environmental outcomes. The bill implements flexible and indirect biodiversity offsets as opposed to maintaining existing vegetation. The fundamental change is that the bill removes the current requirement that any offsets are to be undertaken on a like-for-like basis. There is also the option to pay money in lieu of an actual offset. Offset areas may be further offset later on rather than protected in perpetuity. This inevitably will result in a net loss of certain threatened species and communities and allow those with deep pockets to pay money to destroy native vegetation and the habitat it provides. There is a strong consensus that rural landholders should be eligible to receive incentive and stewardship payments to conserve and protect environmental values. The Government has allocated \$240 million over the next five years and Labor welcomes this.

The difficulty with the legislation is that it guts the rules and targets that prevent valuable biodiversity being cleared in return for those payments. This new system is supposed to be governed by a single scientific method called the Biodiversity Assessment Method, or BAM, and an agreed set of maps. We note during this debate that none of those is finalised; nor is there consensus about how they will be finalised and how the maps will operate. In addition to this, within this bill there is also further discretion as to whether the consent authority—whether that is the Minister, the Local Land Services, the Office of Environment and Heritage, or Planning—have to apply the results of some of those tests anyway. Offset requirements can be discounted, based on the subject of considerations. There is even some discretion around red lights; that is to say, when clearing and development could cause serious and irreversible biodiversity loss. State environmental planning policies [SEPPs], regulations and variation certificates provide for additional exemptions. A truck could be driven through some of the exemptions that are in the bill.

The public consultation requirements in this bill are welcome but again are undermined by a number of get-out-of-jail-free clauses. Decisions and instruments are not invalid even if the consultation processes are not followed. Public consultation can be based on summary documents. Issues raised in submissions may be summarised by proponents instead of directly considered by the decision-makers. Despite the overblown rhetoric of the Minister, the bill will not reduce red tape. The initial sensible logic of repealing 3½ Acts to create one coherent Act was something that Labor was willing to agree to and wanted to see succeed. Labor is not arguing in this debate for a status quo in relation to what is there; Labor is arguing for strong environmental protections and an easier system for landholders and others to understand. That is not what is being delivered by this bill.

The scheme will result in the carving up of responsibilities into a number of different Acts—the Local Land Services Act, the Environmental Planning and Assessment Act and the new Biodiversity Conservation Act. It is also being carved up into regulations, SEPPs and codes. The New South Wales Government is departing from

a key recommendation of the Independent Biodiversity Legislation Review Panel, which is that land clearing involving a change of use should be assessed under planning laws, and is instead handing the vast majority of clearing approvals to Local Land Services, which currently does not have the resources or the expertise to carry out those functions. My colleague the Hon. Mick Veitch will have much more to say about this in his contribution to the debate.

These two bills also are contradictory. The Biodiversity Conservation Bill carries over provisions of current threatened species laws, such as listing threatened species and ecological communities by the Scientific Committee, but the Local Land Services Amendment Bill will increase known threats to those species. The bills fail to tackle the conflict between reducing the impact of listed key threatening processes to biodiversity and permitting more land clearing by self-assessable codes and discretionary development applications. Biocertification should be an important process to address biodiversity loss, yet the proposed biocertification scheme for large areas of land removes the requirement to maintain or improve environmental outcomes. Instead it applies the BAM and imposes a broad discretion to impose conditions. It replaces the current positive test with a negative one to avoid serious and irreversible environmental outcomes as a result of biocertification.

The bills will deliver weak and uncertain compliance, enforcement, monitoring and reporting. If ever there was an argument for those being strong, it is exactly through what the House is being asked to examine today. Many of the issues that Labor raises in relation to these bills could be better dealt with if we were confident that attention would be given to compliance, monitoring and reporting. However, that does not exist in these bills. The New South Wales Government has been unable to estimate how much land clearing will occur under the new relaxed system, in particular how much clearing will occur under the new self-assessable codes.

How can members of this House legislate properly, knowing exactly what we know in relation to the parlous state of our environment and our need to care for it, if we cannot even estimate how much land clearing will occur under the current system? Surely members of this House should be very worried about that. The proposed legislation includes updated offences and penalties. The objects of the Biodiversity Conservation Bill include improving and sharing knowledge, including drawing on local and Aboriginal knowledge and the Independent Biodiversity Legislation Review Panel's report hinged on high-quality data monitoring and reporting. However, the legislation does not set clear requirements for these essential elements, so it will be difficult to determine how much biodiversity is being lost under the weakened rules.

Finally, the bill does not address cumulative impacts or take sufficient account of the impact that land clearing has on greenhouse gas emissions. It does not address cumulative impacts and climate change impacts of clearing. If we are serious about trying to tackle climate change, then the impact of land clearing on greenhouse gas emissions needs to be included. We note that climate change provisions appear in the bill, and we welcome the rectification of a large omission from the initial draft, but the current provisions are not enough. We contend that the bill does not seriously consider this matter. The bill weakens so many environmental protections—and just one example is the bill removes the legislative licensing system for protecting native wildlife. The Government tells us that there has been no change in relation to climate change and to trust it as this matter will be dealt with in the regulations. Members on this side of the Chamber do not trust the Government and we do not trust the Minister because time and again we have found the Government untrustworthy when it comes to protecting our environment.

The Hon. Mick Veitch: Like the people of Orange.

The Hon. PENNY SHARPE: Like the people of Orange, correct. Labor will be moving a series of amendments at the Committee stage to try to ameliorate our concerns and to return the protections that are being lost. These amendments are not negotiable for Labor. I again place on record that Labor would have liked to have pursued many more amendments but the time frame for the passage of the legislation has been tight and there have been insufficient resources for the Parliamentary Counsel to draft further amendments. Labor's was not the only view these bills have significant problems. Until recently they had the support of precisely no-one. As it stands now, the Government has one solitary stakeholder group that we now know received a lot of what the Minister calls "targeted consultation". This group supports this bill: NSW Farmers Association.

The job of the NSW Farmers Association is to represent the interests of its members. Labor has no quibble with its position on these bills; it is doing its job. However, we do have a problem with the Government listening to only one stakeholder group. The Minister described the consultation process that has preceded this bill. Many organisations, scientists and individuals have expressed their strong views about conserving and improving our environment and the need to preserve habitat, protect species from extinction and protect the landscape. It is clear that the Government has largely ignored them. I will briefly run through the views of some of the stakeholders to whom the Government chose not to listen. By the Government's own report on the submissions received, these views represent the vast majority of the response to the draft bills. The Opposition has a copy of the letter sent by the Wentworth Group of Concerned Scientists, who warned:

These retrograde changes risk returning NSW to an era of unsustainable environmental damage by reinstating broadscale land clearing, resulting in more degraded land, more damage to river systems, increased carbon emissions and the loss of habitat critical to the survival of threatened species.

In a submission the group stated:

This [current] system [under the Native Vegetation Act], designed by farmers and scientists working together, shows just how effective laws can be in securing the long-term protection of NSW's natural assets while also promoting sustainable agricultural enterprises.

Professor Hugh Possingham, an expert panellist on the Independent Biodiversity Legislation Review Panel for the Government, and a world-renowned conservation biologist, resigned from the expert committee stating that his advice was being ignored and the codes that have been inserted will lead to broadscale land clearing. Mr Possingham wrote to the Premier. I seek leave to incorporate that letter into *Hansard*.

Leave granted.

Sunday, 30 October 2016

Dear Mr Baird, Premier of NSW,

I was a member of the four person **Independent Biodiversity Legislation Review Panel** chaired by Neil Byron that reported to your government on December 18 2014. Since then I have been providing ongoing advice to your government.

A few weeks ago it became clear to me that my advice was being ignored, and as a consequence I resigned my position on the panel and as an advisor. More importantly, the principles of the original panel report that your government endorsed, were not being followed.

The review panel charted a path forward for NSW biodiversity legislation reform that would be win-win—a win for land managers in terms of providing flexibility in farm operation and a win for biodiversity and the environment. The panel report is built on several principles: providing flexibility for land managers through risk-based and proportionate legislation, equity for farmers relative to other land-users, maintaining or increasing the quality and extent of native vegetation in every region, and using the mitigation hierarchy and biodiversity offsetting as mechanisms to deliver win-win outcomes. A key intent of the report is that broad scale land-clearing would only be possible through the biodiversity offsetting process. Biodiversity offsetting, by definition, means no net decrease in the quality and quantity of native vegetation.

Your government agreed to adopt and implement all the recommendations of our review panel. Despite that, your government has introduced components to the legislation that are not consistent with the review panel's recommendations. In particular there are a series of "codes", such as "the equity code", that will enable broad-scale clearing of 100s of hectares of native vegetation on individual farms without offsetting. These codes are not consistent with biodiversity offsetting. Codes in native vegetation legislation are normally intended to facilitate minor clearing to make farming profitable—for example, clearing for fences and buildings. These should amount to the odd hectare here and there, not hundreds of hectares of clearing which leads to the degradation of soil, water and biodiversity.

I ask your government to change the legislation so that it both delivers no-net loss of native vegetation at a regional scale and facilitates increased agricultural productivity. Such a suite of legislative changes has been outlined by the Wentworth Group, of which I am a member.

In a short time I will make the contents of this letter publicly available. I am free to discuss this letter any time, working hours or otherwise, on +61 434 079 061.

Professor Hugh Possingham DPhil (Oxon) FAA FNAS (USA)
Member of the Wentworth Group of Concerned Scientists

Cc: Minister Speakman, Minister Blair, Minister Stokes

The Hon. PENNY SHARPE: It is a pretty big indictment of these bills that the Government's own expert basically has withdrawn from the process. Professor Possingham took his role very seriously and his participation was criticised by some environment groups. The World Wildlife Fund found that the loosening of land-clearing controls in New South Wales could leave more than one-third of the State's woodlands exposed to bulldozers, including prime koala habitat. We talk a lot about koalas in this place because of the current parlous state of our koala habitat. If we continue to clear land, thus leading to a further loss of habitat for koalas on top of other climate change challenges this species faces, koalas will be extinct in New South Wales by 2055. This legislation will not help them. The Royal Zoological Society of NSW has warned that removing the licence to kill native animals will cause the neglect of three-quarters of protected fauna in New South Wales and "will almost certainly miss the species that are sliding towards threatened status". A group of more than 650 farmers across New South Wales have run a counter campaign to that of the NSW Farmers Association. They are reported to have said:

As farmers, land managers and food suppliers, we are alarmed at the Baird Government's proposed changes to land management laws. The changes will lead to wide scale land clearing and land management practices that have no place in modern farming.

The Nature Conservation Council has said:

The fact that the reform package contradicts science, facilitates increased land clearing, fails to protect environmentally sensitive areas and does not adequately address climate change impacts is in direct contradiction to the principles of ecologically sustainable development (ESD), in particular the principles of inter-generational equity and conservation of biological diversity and ecological integrity.

Rather than repealing outright the (NVA) laws that provide important protection for our native vegetation, soils and water, we suggest that there should be increased efforts in properly implementing the laws, including increased funding for private land conservation under the existing laws and increased capacity for LLS to develop and approve PVPs.

The Australian Museum Research Institute of the Australian Museum said:

AMRI strongly suggests reconsideration on the lifting of controls on land clearing on the basis that land clearing as a primary, scientifically well-documented long term threat to biodiversity in NSW.

BirdLife Australia said:

The proposed reforms are not in the public interest; any economic gains are likely to be short lived and at the expense of threatened species and biodiversity in NSW. The proposed changes undermine many years and millions of dollars our supporters have invested in the conservation of birds in NSW.

The Colong Foundation for Wilderness said:

This new legislation increases the pressure on wilderness by fragmenting corridors between these areas that are so essential for the more than 1,000 threatened native animal and plant species that are currently facing extinction in NSW. The proposed legislation will also enable clearing of NPWS identified wilderness that is in private hands, such as at Timbarra, Macleay Gorges and Cataract to name three areas with a significant component of wilderness.

The Ecological Consultants Association of NSW had this to say:

The ECA strongly believes that the draft Biodiversity Conservation Bill 2016 is regressive and will not protect or slow the rate of biodiversity loss in NSW. Rather it will create a pathway for biodiversity decline.

The Environmental Defenders Office New South Wales said:

Our conclusion is that the proposed laws are a retrograde step for NSW biodiversity and land management. While the proposed investment private land conservation is welcome, once this money runs out, we will be left with weak laws that offer no real protection for our unique threatened species and ecological communities and will facilitate ongoing decline in biodiversity. Consequently, we cannot support the proposed package.

The Wilderness Society said:

The proposed reforms are too reliant on incentives to conserve biodiversity, with significantly weakened regulation. Previous experience in Australia has shown that incentive approaches must be mixed with government regulation to maintain a minimum level of biodiversity, and that uptake of incentive schemes is limited to people already undertaking conservation actions, limiting their usefulness in stopping broad-scale vegetation loss.

I have read onto the record only a selection of the many submissions to these bills, but we should heed their advice and the many wise words in them. There is consensus about the concerns in these submissions. Unfortunately, those concerns have not been heard by the Government. Today the Liberal-Nationals Government is intent on delivering something that almost no-one supports. Fundamentally these laws will increased broadscale land clearing, lead to further extinctions of native animals and drive up greenhouse gas emissions. These laws are a capitulation on environmental protection. Dead rivers, erosion, salinity and further extinctions of our plants and animals should not be accepted lightly, yet that is what these bills ask us to do. Future generations need us to take action now, not make it easier to undermine the ecological systems we all depend on. Labor opposes these bills.

Mr SCOT MacDONALD (15:29): I support the Biodiversity Conservation Bill 2016 and Local Land Services Amendment Bill 2016. My political awakening began in 1995 with the announcement of State Environmental Planning Policy No. 46 [SEPP 46]. Our business in Guyra was immediately impacted as SEPP 46 relied on farmers renovating their pastures and purchasing seed, fertiliser and chemicals. There was confusion and anger. I attended a public meeting in Glen Innes addressed by Minister Kim Yeadon. He did his best to explain the new regulation to a very hostile audience, and promises of financial and advisory support were made. Little or none of that support reached those most impacted.

Businesses such as ours were collateral damage. The subsequent legislation and its amendments entrenched inequity between those who had developed and those farmers who thought they had a right to increase their productivity but missed a regulatory deadline imposed without warning. It cemented a deeply resented compliance approach to natural resource management, produced questionable biodiversity outcomes and alienated the custodians of two-thirds of the environment we were seeking to protect. I came into this Parliament in 2011, in part motivated by this policy failure. In my first speech in this place I said:

Living in regional Australia, I have been a witness to well-intentioned but poorly executed environmental public policy: vegetation management regulation that was introduced without consultation and enforced with the perspective that all farmers are vandals ...

I listen to the warriors of Sydney's inner west and leafy North Shore advocating in the pages of the metropolitan papers and warning there will be broadscale land clearing and the State's natural resources will be doomed. Of course, none of them have skin in the game. They are beneficiaries of the environmental services of good land management without having to put their hand in their pocket. Instead, they loudly insist on blunt restrictions that have demonstrably not worked for anyone. Themes 12 and 13 of the Environment Protection Authority report, "New South Wales State of the Environment 2015", state:

12: Threatened species

The number of species considered to be threatened, or at risk of survival over the longer term, continues to rise, but at a slower rate.

Native species remain under threat in NSW, with 999 species presently listed as having a threatened status. Ten additional species have been listed as threatened since 2012 ...

13: Native vegetation

Clearing rates for native vegetation in NSW have remained relatively stable for most of the past 10 years, but the overall condition of vegetation is deteriorating.

... the rate of clearing is now recognised to be lower than previously reported, presently at around 11,000 hectares per year. Changes in the condition of vegetation are harder to monitor. While about 61% of the state has not been cleared of native vegetation, its condition is considered to be good in only 9% of the state.

Albert Einstein is thought to have said, "The definition of insanity is doing something over and over again and expecting a different result." To persist with the current legislation is to condemn the environment to a slow and incremental decline. The evidence is in: We have to change our approach to natural resources. We should be raging at the Australian Labor Party and The Greens for their defence of the indefensible. The current pathway will see continued degradation of the ecosystem and loss of biodiversity. The flaw in the current legislation is that it marginalises the very people who most directly husband vegetation and biodiversity. In my view, we simply cannot reverse or even stabilise the degradation New South Wales is recording without embracing farmers as part of the solution. This is the key point of difference in this debate. The Greens and Labor do not trust farmers; we on this side do.

These bills strike the right balance. There remain checks, controls and codes, but the emphasis is on partnering with land managers to preserve critical habitat and reward environmental services through mechanisms such as offsets. We all benefit. I do not want my remarks interpreted as somehow endorsing unregulated clearing. Nevertheless, clearing of invasive species has been desperately needed in parts of our State. Private and public areas in and around the Pilliga are environmental wastelands because sensible thinning has not been possible where there clearly is a need to clear. In certain circumstances there is sound rationale to remove vegetation, but there is a collective responsibility to preserve biodiversity and support ecosystem services. At least now that is a shared responsibility, and all beneficiaries across the community are contributing through the funding announced by this Government. Additionally, I repeat my call for Local Land Services and the Office of Environment and Heritage [OEH] to be adequately resourced to undertake their advisory, mapping and other support roles.

Regional New South Wales was let down miserably by the former Carr Government, which promised so much in this area and delivered so little. This has been a long journey for many of us. I acknowledge members such as the Hon. Rick Colless, who has relentlessly carried the fight against this unfair and unworkable legislation, beginning with SEPP 46 in 1995. I also thank former OEH staffer Simon Smith, Julian Prior from the University of New England [UNE] and Jacqueline Williams and Professor Paul Martin from UNE's Australian Centre for Agriculture and Law, who helped put together the "Managing Native Vegetation Forum: Too Important to Fight About" in February 2015.

The then Minister for the Environment, Rob Stokes, was guest speaker and Adam Marshall and Kevin Anderson also attended. I personally invited Leader of the Opposition Luke Foley and members of The Greens; none attended. They are too comfortable in a polarising, non-productive slugfest that suits their political branding. We brought together farmers, including those prosecuted for clearing, and ecologists in the same room. There were stark differences, but there was also a lot of commonality. There was a strong will to find a framework to protect the environment, have a fair burden across the community to carry the cost of environmental services and enable—

The Hon. Mick Veitch: You guys did not front any election on the weekend. Three by-elections and no Liberals. These guys didn't even front.

Mr SCOT MacDONALD: Are we going to have six hours of interjection?

The Hon. Mick Veitch: You bet! I was here in 2011 when you guys threw hubris at us across the Chamber.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): The Hon. Mick Veitch will cease interjecting. Mr Scot MacDonald has the call.

Mr SCOT MacDONALD: There was a strong will to find a framework to protect the environment and to have a fair burden across the community to carry the cost of environmental services and enable profitable, productive agriculture. One should remember this forum was held only six months after the murder of OEH officer Glen Turner while investigating vegetation clearing breaches near Croppa Creek. The community was rattled and deeply saddened. Glen's colleagues were in shock. The death of a public servant carrying out his functions was outrageous and flies in the face of regional communities that always endeavour to sort out their differences rationally.

We should acknowledge and record our respect and sympathies to Glen's partner, Alison McKenzie, and their two children, Alexandra and Jack. I sincerely hope there is never a recurrence of this type of tragedy. In conclusion, I urge this House to support these cognate bills and to accept that the current rules are not working; they divide rural communities and put a wedge between the city and country. They are manifestly unfair for negligible biodiversity or environmental gain—in fact, they entrench continued ecological degradation. These bills strike a workable balance and give our best chance of pragmatic, effective and fair conservation.

Dr MEHREEN FARUQI (15:37): When The Nationals are introducing what purports to be environmental legislation, one knows we are in trouble. What the Biodiversity Conservation Bill 2016 and Local Land Services Amendment Bill 2016 will do is nothing short of ecocide—a massive expansion of land clearing, the release of millions of tonnes of greenhouse gases adding to the climate change emergency and an acceleration in the loss of already threatened species. Perhaps in the very near future we will see the New South Wales Scientific Committee listing Premier Baird, Minister Speakman, Minister Stokes and Minister Blair as key threats to our precious wildlife and threatened species. They would definitely meet the criteria because these laws they are responsible for are the number one threat to the environment in this State. It is disappointing that the Minister for the Environment is missing in action. Despite the Minister for the Environment claiming he was the lead Minister for this package, the Minister for Primary Industries and now, of course, the Deputy Leader of The Nationals, has introduced them.

The Hon. Penny Sharpe: That is why he is the Deputy Leader.

Dr MEHREEN FARUQI: Exactly right: I acknowledge that interjection. One can only assume that the Minister has finally realised what his two predecessors realised—that the Minister for the Environment who signs off on this kind of environmental legislation will forever be known as the Minister Against the Environment or perhaps The Nationals have yet again rolled the Liberals in the Cabinet. Either way, this is a bad news story. I have seen some terrible things happen in my 3½ years in this place, and many of those decisions will have lasting negative effects on our communities and our environment.

These cognate bills—the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016—will have the most devastating effect, much more than even the Government or the other members of the crossbench realise. They will do irreversible damage. I have no doubt that when these laws are finally repealed—members should make no mistake, they will be repealed—and there is a full investigation into the carnage and the irreversible loss and damage, people will see the voting record in *Hansard* and hold us to account. Perhaps that is the point; that is, to scorch this land of native vegetation and habitat and it does not matter what comes in next. Whatever the next native vegetation regime may be, there will not be much native vegetation to manage.

I do not expect The Nationals to care about things like climate change or the environment, even though it is those things that will affect their constituencies the most. We know the short-term gains from clearing land of native vegetation will have ongoing disastrous effects on erosion, water quality and land productivity. However, who cares about these things when a narrow industry group purporting to speak on behalf of farmers is calling the shots? Who cares as long as the mining companies get what they want? Who cares as long as the developer lobby can make money by destroying trees and animals? The Liberal-Nationals Baird Government definitely does not care. However, the people of New South Wales do. Fulfilling the wishes of narrow political interests, filling the pockets of a few elites and doing the bidding of the anti-environment extremists does not work for the people of this State.

One of the first things I did when I came into Parliament was to move to disallow the Native Vegetation Regulation 2013, which members will remember introduced the first flirtation with self-assessable codes and which is the hallmark of the Local Land Services Amendment Bill. We have been able to piece together what just one of these codes has done to the landscape, no thanks to the Government, which has never proactively released any information on the impact of its changes to the regulation. Recent figures show that the rate of paddock tree

clearing under the self-assessable "clearing of paddock trees in a cultivation area" has increased 140 per cent under the Native Vegetation Regulation 2013, and there has been absolutely no compliance checking.

At least 21,716 paddock trees had been chopped down in 498 days until April 2016—that is 48 trees being bulldozed every day. Since then, another 4,400 have been added to the list. These numbers are from self-assessable code notifications because the Office of Environment and Heritage [OEH] reports only on these and not actual monitoring of tree clearing. According to information provided by the OEH, not one has ever been checked for compliance. I am willing to be corrected, but I would like to know whether the Government has ever investigated anyone for misusing the codes.

The reality is that the Government has been repeatedly told about the destruction that these laws will cause. However, members opposite prefer to bury their heads in the sand. They need a good kick in the bum. A World Wildlife Fund report has estimated the effect of just one code in this bill—the so called "equity code". The fund found that under this exhibited code, eight million hectares of the State could be cleared and 2.2 million of that could be koala habitat. What was Minister for the Environment's response? He said, "The great majority of land that may be legally capable of being cleared will not be cleared." Environmental policy in this State is now a fantasy land—a fantastical realm where laws do not matter and where we must simply cross our fingers and hope for the best.

I remind members that an extremely credible voice on the Independent Biodiversity Legislation Review Panel, Professor Possingham, has resigned from the panel and as an adviser to the Government on land-clearing laws. Professor Possingham, no doubt with the best of intentions, presumed that the Government was sincere in wanting to improve conservation in this State, not the green washing that is occurring. One of the most offensive things about this Government's land-clearing laws has been the way it has pretended that they will benefit the environment. At least now we can see that this has nothing to do with protecting the environment.

I will spend a moment dealing with consultation. Last week Minister Blair, when speaking to the urgency of this bill, stated that consultation "was not tokenistic, tick-the-box public consultation; it was genuine". I do not think I have heard a statement more removed from reality from the Minister. Every time this Government has asked for submissions on this issue, the overwhelming consensus has been that we need to strengthen, not reduce, environmental oversight. Thousands of people made submissions, including scientists, ecologists, land carers, soil carers, farmers and environment groups, including the Environmental Defenders Office, Nature Conservation Council of NSW, Total Environment Centre, World Wildlife Fund, Colong Foundation for Wilderness and many others.

Mr Josh Gilbert, a young farmer and entrepreneur, resigned as chair of the NSW Young Farmers on 26 January 2016 because of his opposition to these land-clearing laws and because legitimate environmental concerns were too often falling on deaf ears within farmers' associations. Yet, here we are. What else are we to call it but a tick-a-box consultation process if the outcome was predetermined from the very beginning? That is why it is important that these bills be referred to a committee. That would allow a genuine process of engagement with all stakeholders, not the narrow list of groups to which the Government has pandered. Members of this Chamber need the opportunity to hear from them further, especially given the long-term and irreversible implications of this legislation. The urgency pushed by the Government has not given members sufficient time to draft amendments.

The review recommended that the Native Vegetation Act should be repealed because it has not stopped biodiversity loss. This unsophisticated approach completely ignores the huge reduction in broadscale land clearing that has resulted from the passage of strong laws, despite inadequate resourcing for their implementation and enforcement. Fewer than 30 staff members manage the Native Vegetation Act, which covers hundreds of thousands of square kilometres. Implementation of the Native Vegetation Act 2003 must be matched with sufficient resources. Moreover, we cannot turn a blind eye to the multitude of government policies that result in major biodiversity losses—for example, mining approvals that clear swathes of forest and habitat. We still have not forgotten the clearing of the Leard forest.

These bills will achieve a few things. They completely sideline the OEH from native vegetation beyond mapping. I would like the Minister to clarify what compliance and enforcement role the OEH will have. The bills ensure that land clearing in large parts of the State is completely unregulated and with no mechanism for estimating the amount of native vegetation loss. For the rest of the State, they establish a pathway for clearing just about anything. They expand a biodiversity offset system that will inevitably lead to net loss, no matter how the Government wants to spin it. What we really have are empty shells of bills with no legislative commitment to end broadscale land clearing or to improve or maintain environmental outcomes. We have two contradictory laws. While the Biodiversity Conservation Bill has some focus on protecting threatened species, the Local Land Services Bill will increase those threats. There is no doubt about that.

The Biodiversity Conservation Bill lists "loss of hollow bearing trees" as a key threatening process while, at the same time, the Local Land Services Bill will unleash chainsaws on paddock trees without any requirement for approval. We have totally incomplete legislation; we have no final codes; we have no biodiversity offset methodology; we have no native vegetation map; we have no codes of practice for managing wildlife interactions; and we have no urban vegetation State environmental planning policy. The Government is pinning its false hope on two things—mapping and biodiversity offsetting. Apparently, the whole State can be mapped with the click of our fingers. We can divide the State up into category one and category two land. However, there are, and have been for some time, real concerns about the ability of satellite monitoring alone to detect native vegetation loss at the individual tree level.

A paper by John Hunter, an ecologist and lecturer at the University of New England, found that the automated mapping system that uses pattern-recognition technology delivers just 17 per cent accuracy in identifying and determining individual plant communities in the Upper Hunter Valley. I ask members to imagine the difficulty in mapping the entire State with only 17 per cent accuracy. Perhaps a vague map is entirely the point of this exercise for the Government. It has promised precision, but it will deliver opaqueness and ambiguity that will be used to clear land. This magic mapping has not been developed yet, but the bill it underpins has been introduced in this place and will likely be passed tonight. The other magic pudding in all of this is biodiversity offsetting. Somehow we can destroy huge amounts of the State's environment under the guise of offsetting it. Biodiversity offsetting and biobanking is one of the biggest scams perpetuated.

The theory goes that if you have two areas of value you can destroy one and save the other, despite the fact that you now have half the area you started with, thanks to the magic of offsetting, or perhaps you can plant more of the habitat you can destroy. But it is not possible to assure that biodiversity in two locations is the same or equivalent in quality. Biodiversity offsets are often not even established before the environment is ruined. In fact, it could take hundreds of years before an offset replaces a destroyed ecosystem, if ever. The evidence is there; it is just that biodiversity offsetting has become a very convenient and flawed answer to a vexed question and creates a false illusion that we can continue with business as usual and the environment will not suffer.

This proposed offset policy takes the already low bar of biobanking through the floor. It hides behind the "no net loss" standard, which in simple terms means: one unit destroyed, one unit retained or preserved. But does this actually work? A 2012 paper in the journal *Biological Conservation* entitled "Achieving no net loss in habitat offset of a threatened frog required high offset ratio and intensive monitoring" shows the problems with the no net loss approach. The threatened green and golden bell frog, which was impacted by urban development through the removal of nine ponds at Sydney Olympic Park, ended up requiring 19 units for every one unit destroyed. This is a standard that most definitely will not be replicated by this approach. For the first time, proponents can now satisfy offsetting obligations in their consent conditions by paying into a new Biodiversity Conservation Fund, which places the onus of locating equivalent offsets on the proposed Biodiversity Conservation Trust, a public organisation. Even if the trust is unable to locate an equivalent offset, clearing can take place regardless, resulting in biodiversity loss. In short: "No offset? No worries mate. Just sign the cheque."

Many people have contacted my office about other objectionable aspects related to private land conservation agreements and the licences to harm animals. On private land conservation, many private landholders have entered into voluntary and legally binding agreements to place conservation land title covenants on their rural property in order to ensure it is protected in perpetuity. The new regulations will allow the conversion of existing, stronger private conservation agreements to offset development, despite already being protected. Many people want their land protected in perpetuity, not to become part of a flawed biodiversity offset system.

It is unacceptable that land subject to a private land conservation agreement or that has been conserved with public funds is categorised as regulated land, which is land that can be cleared in accordance with an allowable activity or code under the proposed bills. This means land that is currently protected, such as land subject to biobanking, now has a pathway to be cleared. This makes a further mockery of the already weak biodiversity offsetting approach. Let me be clear about private land conservation measures. I think funding private landholders to actively manage their native vegetation and habitat is a good idea—but there is no reason funding for private land conservation could not happen without a corresponding massive decrease in environmental protection. The financial assistance announced by the New South Wales Government is not legislated and can be cancelled by the Government at any time.

Having an adequate number of environmental officers on the ground across the State would decrease the amount of time taken to produce property vegetation plans—if the current Act continues—and allow for increased availability of expertise to rural landholders and farmers while also monitoring compliance and reporting on the state of biodiversity. Ultimately this package makes a mockery of any commitment this Government has to combat climate change. Increasing land clearing will reduce vegetation and trees that act as a carbon sink, leading to the

release of more carbon while also reducing habitat and increasing fragmentation of native vegetation, and making species more vulnerable to the impacts of climate change as they take hold.

When the Queensland Government severely weakened native vegetation laws, there was a resulting doubling of land clearing, the removal of almost 300,000 hectares of bushland and the resulting release of 35 million tonnes of carbon dioxide. This essentially cancelled out 80 per cent of the greenhouse gas abatements recently purchased by the Federal Government at a cost of \$557 million. Native vegetation is a carbon sink which allows us to meet our international obligations. These proposed laws will counter any such agreements. The biodiversity conservation law reform package, including the objects of both the draft bills, makes reference to the principles of ecologically sustainable development. However, the approach in these bills appears to be removing the focus on the environment and sacrificing the environment and wildlife for short-term economic gain.

The changes proposed ignore the precautionary principle and the intergenerational equity principle. These are critical to decision-making, especially when there is uncertainty. Conservation of biodiversity must be underpinned by the principles of ecologically sustainable development, including the precautionary principle. This is the only way of ensuring that further irreplaceable biodiversity is not lost. In addition, there is clearly a societal benefit in maintaining ecosystem services and preserving the environment for the long term. These laws facilitate land clearing which is against the interests of the community, the environment and the economy.

This is a watershed moment. We know exactly what the future looks like by looking north to Queensland. And we will not stop. We will hold the Liberal Party and The Nationals responsible for every ton of greenhouse gas that is released into the atmosphere, for every piece of endangered ecological community that is destroyed and for every native animal that becomes threatened. There is a poster displayed across town at the moment that portrays Premier Baird as an environmental and social vandal. It is now also in my office because I am in vigorous agreement with that portrayal. I finish with a quote from one of the thousands of people who have signed on to our "Biodiversity is life" letter:

Do you really want to be remembered for your environmentally destructive policies & actions? Is that the legacy you wish to leave to this planet, state & city, not to mention your grandchildren? I don't know what motivates your decisions but short term economic gains appear to be foremost. This will only lead to future disaster both economically & environmentally. I therefore beg you not to abolish this Act & to demonstrate you do have a conscience.

I also foreshadow that I will be moving a range of amendments that will go some way to improving this bill. I hope the Government will listen to sense and agree to at least some of these as they will make a really shitty bill a little bit less shitty. The Greens vigorously and vehemently oppose these bills. I move:

That the question be amended by omitting "be now read a second time" and inserting instead "be referred to General Purpose Standing Committee No. 5 for inquiry and report by the first sitting day in February 2017".

The Hon. PAUL GREEN (15:56): Today I speak to the Local Land Services Amendment Bill 2016 and the Biodiversity Conservation Bill 2016. I want to put on the record that the Christian Democratic Party would have liked The Greens not to have given urgency on the greyhounds bill too, but they thought it was good enough just to rip that through the House without giving it the five days' exposure for us to consider that bill in detail. The two bills being debated here today seek to respond to the unjust burden many farmers have placed upon them from the implementation of State Environmental Planning Policy No. 46 (1995), the Native Vegetation Conservation Act 1997 and the Native Vegetation Act 2003.

The Christian Democratic Party believes strongly that we are called to be good stewards of the land. As it says in Genesis: "In doing so, we must work to protect, preserve and cultivate what we have been blessed with." Unfortunately the introduction of these conservation measures 20 years ago resulted in little support being given to our farmers, many of whom have had their land sterilised and all the while, most unfortunately, the biodiversity in New South Wales has actually declined. These conflicting interests have pitted farmer against environmentalist when in fact agriculture and the environment are not opposed; they are co-dependent. Farmers require the environment around their properties to do well in order to ensure the longevity and prosperity of their businesses from one generation to the next.

It has often been said in this Chamber that farmers are the best environmentalists. These bills seek to recognise farmers as the critical link in biodiversity management. By introducing these reforms the Government recognises that farmers require additional support to ensure that they can afford to properly manage their land, crops and stock, while improving biodiversity on their properties. It did not take long to hear from farmers that the existing legislation placed an unreasonable burden on farmers and resulted in the sterilisation of some of their land, a steep decline in their yield or an inability to manage expectation and time demands placed on farmers, when they are merely seeking to manage their property to ensure they can continue to grow our food, generate an income for years to come and look after not only their own family but many other families.

The introduction of the bills follows the final report of the Independent Biodiversity Legislation Review Panel by Dr Neil Byron in 2014. The Government made a commitment to implement all 43 of the recommendations made in the report. The Government released public consultation drafts on 3 May 2016, calling for submissions to proposed draft legislation. I acknowledge that the Minister stated, "Rural communities are suffering and our environment is in crisis. Agriculture is stifled"—therefore, beef prices, droughts and floods—"and biodiversity is going backwards." The Minister highlighted in his second reading speech that we have arrived at this point for two reasons:

First, it is because the productivity of the State's primary producers are being unduly impeded by unfair and unworkable legislation. Secondly, it is because the principal stewards of the State's environment are fighting to deliver outcomes on behalf of us all without guidance—

The PRESIDENT: Order! According to sessional order, proceedings are now interrupted for questions.

Questions Without Notice

ORANGE BY-ELECTION

The Hon. ADAM SEARLE (16:00): My question is directed to the Leader of the Government, representing the Premier. Given the Orange by-election result, will the Government honour the \$330 million worth of promises it made to the electorate?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:00): I thank the member for his question. I can indicate that not for one moment would I—without checking—accept that the Labor Party's arithmetic is correct. Nothing it does adds up. I am proud to say without any doubt that any commitments we make in this State, we honour.

The Hon. John Ajaka: Always.

The Hon. DUNCAN GAY: We always have, and we do.

The Hon. Adam Searle: You went \$330 million large. I just thought I would check.

The Hon. DUNCAN GAY: We question Labor's arithmetic, but we do not question the commitments that we made not only during the election campaign but also the commitments we made to regional New South Wales, in particular, the Orange electorate over a long time. The facts speak for themselves. Since 2011 the Government has delivered for communities right across the Orange electorate, the likes of which have not been seen in the 16 years that—what is the word?

The Hon. Mick Veitch: I think that has all gone now, Duncan.

The Hon. DUNCAN GAY: —came before us. The Labor Party is asking me questions about our commitments in Orange.

The Hon. Adam Searle: Point of order: The Minister is debating the question.

The PRESIDENT: Order! There is no point of order. The Minister has the call.

The Hon. DUNCAN GAY: The Labor Party is asking me a question about our commitments. As we usually do, we will honour them. One does not make a commitment unless one is willing to honour it. We are careful in the commitments that we make.

The Hon. Penny Sharpe: I do not think the people of Orange think that is true.

The Hon. DUNCAN GAY: I heard the Labor Party member say what the people of Orange think. We copped a shellacking, but on the day when the Government copped heaps, we would have expected that the Opposition would have got some of that vote.

Mr Scot MacDonald: Did they?

The Hon. DUNCAN GAY: Not a vote. On a day when the percentages went in big numbers—

The Hon. Walt Secord: The biggest swing in Australia's history against you.

The Hon. DUNCAN GAY: Quiet, big fellow. The Hon. Walt Secord is not going to like this.

The PRESIDENT: Order!

The Hon. DUNCAN GAY: I heard the Hon. Walt Secord say he was there.

The Hon. Walt Secord: Point of order: The question was specific. I ask that the member be brought back to the relevance of the question. The question was about the \$330 million in promises, and he has not gone a bull's roar near it.

The PRESIDENT: That is not the case. There is no point of order. The Minister has the call.

The Hon. Walt Secord: I wanted to break his momentum.

The Hon. DUNCAN GAY: I have not lost my momentum on this.

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

The Hon. DUNCAN GAY: When there is a move against the Government, there should be a move to the Opposition. What happened? There was a 5 per cent loss. The Hon. Walt Secord said he was there. I attribute it to him. The Hon. Walt Secord gave the Labor Party the biggest hit in a by-election.

The Hon. Walt Secord: Point of order—

The PRESIDENT: Order! The Hon. Penny Sharpe might like to let her deputy leader take his point of order.

The Hon. Walt Secord: My point of order is about relevance; it is not about the massive swings of up to 60 per cent against The Nationals.

The PRESIDENT: Order! The Hon. Walt Secord is making a debating point. I remind the Hon. Walt Secord that he is already on one call to order. It is early in the day and he should be careful. The Minister has the call unless he has concluded his answer.

The Hon. DUNCAN GAY: No, I was just warming up on this subject. The historic roads budget is an example. We have already spent a record \$400 million on the Newell Highway since 2011, which was a 25 per cent increase on the former Government. As part of the record spend, we have already delivered—*[Time expired.]*

BEMBOKA BRIDGE

The Hon. MATTHEW MASON-COX (16:06): My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on the opening of the Bemboka Bridge crossing the Bemboka River in the kingdom of Monaro as part of the \$410 million Bridges for the Bush program?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:06): I thank the member for his question. We are going to take an orientation trip across southern New South Wales. Whilst the Bemboka Bridge was in Monaro, it is now in Bega. He was correct; it was in Monaro. In fact, when it was first promised, it was in the electorate of the member for Monaro. He knows that; Labor members do not know that. It was part of the kingdom of Monaro, but now it is in the kingdom of Bega. As part of our \$410 million Bridges for the Bush program, we are upgrading key freight pinch points to keep the State's freight on the move. Earlier this month I joined the member for Bega, Andrew Constance, to officially open the \$14 million Bemboka Bridge on the Snowy Mountains Highway. This upgrade has improved the capacity of the New South Wales freight network because the bridge, which is eight kilometres east of Bemboka, is now able to carry larger trucks.

The completion of this project is part of the Bridges for the Bush program of this Government and is vital for the State's south to cater for the growing freight task as the region moves. As part of the project, the new bridge was built immediately downstream of the existing bridge. The existing bridge has undergone major upgrades. A new surface and a central median strip have been installed. The project also involved protecting the much-loved platypus habitat. An ecologist specialising in the platypus was employed to be on the worksite to provide advice when contractors were working to install the bridge supports so that the platypus habitat would be protected. This bridge is now officially open to traffic, and already we can see the massive difference in improved freight efficiency. It is yet another example where we are building infrastructure to keep trucks off the local road network.

This additional bridge will improve the flow of traffic along a major freight route in the region and means there is a continuous 370-kilometre stretch of road for heavy-load vehicles to travel. Southern New South Wales is booming and we need to make sure we have the right infrastructure to support the growing region. Keeping freight moving to service our local businesses and communities is vital. The New South Wales Government's Bridges for the Bush program has 17 projects, seven of which have been completed. This program alone will remove 8,000 heavy vehicle trips from the freight task each year. The State's freight task is the backbone of many of our regional communities, and the New South Wales Liberals and Nationals Government is determined to make it easier for country New South Wales to do business. Because of our care for the platypus, we worked in winter,

where possible, outside the breeding system, to make sure that there was the least amount of disturbance. [*Time expired.*]

LEADER OF THE GOVERNMENT IN THE LEGISLATIVE COUNCIL

The Hon. WALT SECORD (16:10): My question without notice is directed to the Leader of the Government, representing the Premier. Given that the Premier has described the former Nationals leader and former Deputy Premier Troy Grant's resignation after the Orange by-election as "noble", will he now follow suit and tender his resignation as Leader of the Government in the Legislative Council? He should do the right thing and resign.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:11): I thank the honourable member for his comments about the Hon. Troy Grant, because he is, indeed, a noble person. I suspect that there is no-one in this House who would take suggestions or advice from Walt Secord.

The Hon. WALT SECORD (16:11): I ask a supplementary question. Will the Government leader elucidate his answer with regard to whether he has discussed resigning with his colleagues?

The Hon. Catherine Cusack: Point of order: The Hon. Walt Secord has been going around Orange running a "Save Orange Hospital" campaign resulting in a fall in his party's vote. He needs to establish at least some tenuous relationship between the answer given by the Minister and his supplementary question.

Mr David Shoebridge: To the point of order: The Hon. Cusack should be ruled against because her point of order is a debating point, and you have repeatedly ruled on that.

The PRESIDENT: There is no point of order.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:12): The only thing that would tempt me to leave this House early is a commitment from the Hon. Walt Secord to go if I went.

INVICTUS GAMES

The Hon. DAVID CLARKE (16:13): My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. How is the Government raising awareness of the importance of disability inclusion in New South Wales?

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) (16:13): Last Friday, 11 November, at the eleventh hour, Australia came to a standstill. In homes, offices, factories and public places across our country, Australians stopped what they were doing. For one brief moment, as a collective we paused to reflect on the bravery, courage, devotion, fortitude and selflessness of all of those who had paid the supreme price in war. As the words of the solemn *Ode of Remembrance* were read aloud, we all pledged to ourselves and to one another, never to forget and always to remember. But just as important as remembering the fallen is honouring and never forgetting our veterans. We can never forget that brave men and women have fought, and continue to fight and sacrifice for their countries in distant battlegrounds and conflict zones. The Invictus Games are about doing just that. To paraphrase His Royal Highness Prince Harry, the games are about shining a spotlight on service men and women.

The games are about shining a light on their unbreakable, undefeatable spirit. As Premier Mike Baird said, "The Invictus Games are a testament to the formidable strength and resilience of our military veterans, and provides a powerful platform for raising awareness of the obstacles they face on and off the battlefield." The Invictus Games are a multi-sport event in which wounded, injured or sick armed service personnel and their associated veterans take part in sports, including wheelchair basketball, sitting volleyball and indoor rowing. Importantly, the sport is just the means. The end is in helping veterans recover from their wounds, both physical and mental, and supporting a greater awareness and respect of service men and women in the wider community. I am pleased to inform the House that His Royal Highness Prince Harry has announced that Sydney will host the fourth Invictus Games in October 2018.

The PRESIDENT: Order! There is a little too much chatter around the Chamber. I am sure Hansard is having difficulty hearing the answer.

The Hon. JOHN AJAKA: Talking about why Sydney won, His Royal Highness said:

We had three key criteria ... First, it had to be an iconic city—somewhere known the world over. Second, it needed to be a city with a proud military heritage, which would welcome competitors from all over the world with open arms. And finally, we wanted to go somewhere where they are absolutely sports mad and would really get behind our competitors. It was an easy decision really—the 2018 Invictus Games are coming to Sydney.

His Royal Highness would have been justified in adding a fourth key criteria—that he wanted the games to be held in the number one inclusive city in the number one inclusive State—Sydney in New South Wales. The Games will be delivered by the Australian International Military Games in the final year of the Centenary of ANZAC. The Games will bring over 500 athletes to Sydney from more than 17 nations, accompanied by their loved ones, families and friends. The Games will showcase our sporting and tourism attractions, our inclusive and accessible venues, and once again the spirit of Sydneysiders as spectators and volunteers. As Minister for Veterans Affairs, David Elliot, said, "Sydney had a proven track record of hosting major events, including Olympic and Paralympic Games."

ONLINE GAMBLING

The Hon. MARK PEARSON (16:18): My question is directed to the Minister for Primary Industries, the Hon. Niall Blair, representing the Hon. Troy Grant, Minister for Racing. The Australian Gambling Research Centre has identified that online gambling sites play an important role in the development of gambling problems. Online sports betting is a growth industry—a fact recognised by NewsCorp, the owner of the *Daily Telegraph*, when it recently bought the gambling website punters.com.au. Given the increasing popularity of online betting on greyhound racing with males aged 18 to 34, can the Minister advise if the New South Wales Government's "You're Stronger than You Think" campaign has been successful in reducing the incidence of online problem gambling in young men?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:19:0): I thank the Hon. Mark Pearson for a very long and detailed question. It is a question that was directed to my colleague in the other place. I will refer the question to him, seek a detailed response, and reply to the Hon. Mark Pearson in due course.

CHILD SEXUAL ABUSE

Mr DAVID SHOEBRIDGE (16:19): In directing my question without notice to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism, representing the Attorney General, and noting the comments from former District Court Judge Ralph Coolahan, as reported in today's *Newcastle Herald*, regarding a child sexual abuse case in relation to which the judge said, "The fact that someone is brought to trial, 26 years after an alleged offence, is in itself a disgrace", and noting also His Honour's querying of child abuse victims' delay in reporting abuse to police by saying, "So they've waited 20 years since they attained their majority? Well that's just ridiculous. It is truly ridiculous.", I ask: What training is now available and undertaken by this State's judges to ensure they understand the complexities of child sexual abuse, and the barriers to reporting that many child sexual abuse victims face?

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) (16:20): I thank Mr David Shoebridge for his question, which clearly seeks extensive detail in a number of areas. I will refer it to the Attorney General and come back with a response.

LOCAL GOVERNMENT AMALGAMATIONS

The Hon. PETER PRIMROSE (16:20): My question is directed to the Minister for Roads, Maritime and Freight, and Leader of the Government in the Legislative Council, representing the Premier. Given Sunday's comments by senior Nationals member of Parliament Andrew Fraser in regard to the Orange by-election in which he said, "There are three things that gave us such a poor result in Orange. Number one was leadership, number two was greyhounds, and number three was councils", I ask: Why is the Minister still supporting forced council mergers?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:21): I thank the Hon. Peter Primrose for his question. Assuming that what he has said is an accurate reflection of my friend Andrew Fraser's comments, I suspect it was one of the few times in Andrew Fraser's life that his comment was probably a slight understatement. They were the main issues, but there were other issues of concern as well. As many Government members have indicated, we need to take the issues on board. Government members should have listened to those communities and that was a huge message. But it was not just a message for The Nationals because, as I said earlier, there was a swing of 5 per cent away from the Australian Labor Party. On a day when the Coalition was doing it pretty tough in the trenches, Labor did not get any of the benefit. There are some lessons for the Opposition as well.

The PRESIDENT: Order! I call the Hon. Penny Sharpe to order for the first time.

The Hon. DUNCAN GAY: Is it not interesting that the Coalition acknowledges that there are lessons to be learned—certainly those mentioned by my friend Andrew Fraser and others—but Labor Opposition members are not willing to accept that they have anything to learn—not a thing?

The Hon. Adam Searle: Only two more question times. Come on.

The Hon. DUNCAN GAY: The Leader of the Opposition in this House keeps sending out the Hon. Walt Secord to areas where he is not user friendly, and that is what happens—Labor keeps losing votes. There are ongoing issues, and one of them at the moment is local government.

The Hon. Walt Secord: This will pay well in the Central West, Duncan.

The Hon. DUNCAN GAY: Mr President, I really am having a lot of trouble.

The PRESIDENT: Order! I completely understand. The House will come to order. There is far too much chatter on both sides of the House.

The Hon. Daniel Mookhey: Sixty per cent swings will do that to you.

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

Mr David Shoebridge: Just say sorry.

The PRESIDENT: Order! I call Mr David Shoebridge to order for the first time. Would anyone else like to be called to order?

The Hon. Shaoquett Moselmane: Sixty per cent—remember that.

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

The Hon. DUNCAN GAY: I am milking it for each one I can get, Mr President.

The PRESIDENT: Order! I call the Hon. Penny Sharpe to order for the second time.

The Hon. DUNCAN GAY: Not only were there lessons to be learned on the day, but there are ongoing lessons. Certainly I know the new Deputy Premier, the Deputy Leader of The Nationals and many other Government members intend to go back to those communities, sit down with them, talk and listen, as we should.

The Hon. PETER PRIMROSE (16:24): Will the Minister elucidate regarding his statement that the Government will now review its policy of forced council mergers?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:24): You have to love the Labor Party: They listen to an answer and then, with a straight face, totally distort that answer. It is no wonder that Labor lost 5 per cent of its support. Opposition members have not learned a thing about honesty—ever.

THE NATIONALS AND REGIONAL NEW SOUTH WALES

The Hon. BEN FRANKLIN (16:25): My question is addressed to the Minister for Primary Industries, and Minister for Lands and Water, and the Deputy Leader of The Nationals. Will the Minister update the House on how the New South Wales Nationals are delivering for regional New South Wales?

The Hon. Mick Veitch: Hooray!

The Hon. Walt Secord: Ben knows on which side his bread is buttered.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:25): I thank the Hon. Ben Franklin for his question and I thank Opposition members for being so happy. I know that the Hon. Walt Secord is eyeing this off as a potential way through for him. He now sees that The Nationals are setting some precedents by having a Deputy Leader in the upper House. I can almost hear him running into the Labor Leader's office saying, "See! It can be done. It can be done!" Regional communities demonstrate the very best of New South Wales. They are resilient, entrepreneurial, devoted to their local area and vital to our economy. The New South Wales Liberals and Nationals are proud to represent the people of regional New South Wales and what they stand for. The Coalition Government knows that regional communities want a strong economy, job opportunities and access to the essential services of a modern economy—roads, bridges, hospitals and schools.

The Coalition Government's strong record is clear. We have the strongest regional economy in the nation and the lowest regional unemployment rate of all States and Territories. New South Wales has continued job growth. In the year ending August 2016 on the North Coast, employment increased by 12,000 people; in southern New South Wales, 2,800 more jobs were created; in New England/north-west, there are more than 8,200 jobs; and in western New South Wales, there are 7,600 more jobs. Moreover, the Coalition Government has opened seven hospitals in regional New South Wales—Tamworth, Dubbo, Parkes, Forbes, Wagga Wagga, Bega and Lismore, and upgrades are also underway. The Coalition Government has spent \$8.8 billion on road and rail

infrastructure across regional New South Wales. The Government has done the hard yards and has created the right economic conditions for growth as well as a clear rationale for investment. But there is more to be done.

The Coalition Government has developed a regional development framework, which reaffirms the New South Wales Liberals and Nationals Government commitment to regional New South Wales. The framework underpins the Government's priorities to grow business confidence, create jobs and encourage business investment to build a skilled workforce and secure a strong future for our regions. It is the first of its kind and shares our vision for regional development in New South Wales. It provides a clear direction across all of government for future work to deliver for regional New South Wales. The Government wants to pinpoint opportunities that can make a real difference to regional communities while at the same time focus our efforts on achieving results.

The Government already has some runs on the board—probably more than the Australian cricket team. For example, the Government has invested in the Mobile Black Spots program to the tune of \$24 million in round one, with a further \$15 million in round two; invested \$22 million in 34 businesses across the Murray-Darling Basin to expand across a range of diverse industries and created more than 650 new full-time jobs, thereby helping to drought-proof many communities; and invested \$70 million in vital airport upgrades across regional New South Wales, which enabled Rex Express airlines to resume services from Cooma to Sydney after a break in 2008.

This Government has also invested in health care. In 2011, 40 per cent of cancer patients had to travel to Sydney. That has now decreased to 7 per cent. We want to turbocharge investment in regional centres experiencing strong growth—for example, Orange, Bathurst, Dubbo, Wagga Wagga, Queanbeyan, Albury, Tamworth and the Tweed. In smaller communities we will identify and activate the game-changing economic opportunities that may exist to support investment and job creation outside of regional growth centres. Our geography brings enormous opportunity, and we should not deter people from choosing where they live, work and play. We have achieved a lot, but we recognise that there is more to do. We will continue to work to ensure greater opportunity and prosperity for regional New South Wales. [*Time expired.*]

NEWELL HIGHWAY FLOODING

The Hon. PAUL GREEN (16:29): My question without notice is directed to the Minister for Roads, Maritime and Freight. As is well known, recently the Newell Highway has been inoperable due to flooding. When this Federal highway is impassable, it places additional strain on the surrounding State roads caused by national freight carriers, and that impacts on the profitability of local businesses. The local community would like to see the Newell Highway rebuilt so that it is able to withstand the flooding that was experienced recently. Will the Minister update the House on the New South Wales Government's response to this request, and how the New South Wales Government is partnering with the Federal Government to make the highway passable in times of flood?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:30): As the Hon. Paul Green correctly indicated, during the recent flood event the Newell Highway was closed to traffic for six weeks. During the early part of that closure no alternative routes were viable, but as the water dropped in the areas there were alternative routes, which helped the traffic to flow between Brisbane, Melbourne and Adelaide, a key link through the centre of New South Wales that also services our industries in the Central West and the west of the State. The good thing was that the traffic started to get through using shorter detours; the bad thing was that many of the roads used as detours were local roads, and a huge amount of damage has been done to these roads.

We have faced a combination of issues as we come out of the flood event. The first one is the Newell Highway itself which, thankfully, was not extensively damaged by floodwaters. Whilst the floodwaters remained for a long time as they fed back from the Lake Cowal side near West Wyalong, they were not fast-flowing waters. That meant that normal flood damage to the road and the substructure did not happen. The highway is now open, and at the time of reopening the highway I announced several things that have already happened. First, I committed \$13.5 million to local councils affected by the flooding—the ones that had the detour routes through them received \$1 million and the ones that were just affected by flooding received \$500,000. Councils could make their own decisions about what to do with this funding, including fixing their roads. We have received many letters of appreciation because councils could not believe that this funding was made available so quickly.

Second, the then Deputy Premier, acting with the Federal Minister for Infrastructure and Transport, very quickly put into place natural disaster provisions. In the six years that I have been in charge of this portfolio I have not seen these provisions brought into play as quickly as was the case during this flood event. That funding is helpful because it puts the process in place for councils, under a set of plans, to get the roads fixed, but they must adhere to natural disaster funding rules to get their money back.

The last part of the member's question was about the future of the Newell Highway. We have already committed hundreds of millions of dollars for projects addressing issues on the highway, but these projects do not include flood-proofing. These projects are aimed at safety issues, bypasses and freight. The highway floods for only a short time, but we are investigating this issue, particularly flooding between Forbes and Parkes. We know that if Forbes is disconnected from Parkes, that disconnection kills those communities because of the complementary hospitals in these cities, and causes problems for the people who live in one city and work in the other. This connection is the main supply route during a flood event. [*Time expired.*]

RURAL AND REGIONAL INFRASTRUCTURE

The Hon. MICK VEITCH (16:34): My question without notice is directed to the Minister for Roads, Maritime and Freight, representing the Premier. How can the Government claim to be listening to rural and regional communities that are crying out for infrastructure when the first act after the Orange and Wollongong by-elections was to announce more infrastructure spending for Sydney?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:35): I do not get many questions from the Hon. Mick Veitch and I am disappointed that I do not when they are such silly questions that I can tap them away on a full toss.

The Hon. Adam Searle: Point of order: The Leader of the Government is debating the question and he should be called to order.

The PRESIDENT: Describing a question as "silly" can only be regarded as debating the question. I would ask the Minister to continue with his otherwise in order answer.

The Hon. DUNCAN GAY: It is ludicrous to say that the Government cannot announce something in one part of the State because something is happening in another part of the State. If we think about the member's suggestion, it ignores the fact that this Government is spending record amounts in regional New South Wales and precludes the fact that we should spend some money in Sydney. For example, some of those opposite would say that this Government should not spend money on WestConnex but should spend money on regional New South Wales.

The Hon. Shaoquett Moselmane: It is \$10 billion. You should spend more in the regions.

The Hon. DUNCAN GAY: The Opposition Whip said we are spending \$16 billion. The fact is that we are not spending \$16 billion; we are spending \$3 billion and the rest is user pays.

The Hon. Lynda Voltz: Thank you very much for that.

The Hon. DUNCAN GAY: It is a fact.

The Hon. Lynda Voltz: You have never put it on the record before.

The Hon. DUNCAN GAY: We have never denied that. When we build the roads in regional New South Wales—whether it is the Princes Highway, the Newell Highway, the Pacific Highway, the Silver City Highway, the Cobb Highway or the Golden Highway—we fund that infrastructure 100 per cent, and that accounts for a large amount of infrastructure spending. We have spent \$4 million on the road, maritime and freight projects in country New South Wales, a 67 per cent increase on when Labor was in government. That is why I am pleased the member asked me a question like this. Under Labor, between 2001-02 and 2010-11 the average spend was \$2.4 billion. For decades bridges across country New South Wales were left in a state of disrepair; meanwhile we are investing \$300 million as part of Bridges for the Bush. We have built new bridges in places like Boorowa, and I know that the member has privately said, "Good on you, that was needed".

Other members have talked about the bridge at Captains Flat, near Queanbeyan. That bridge was built in what is not a heartland of conservative politics. We used to count on the fingers of one hand how many people in Captains Flat voted for us. That is the sort of Government we are: We do it for the whole community. Now there are a few more voters for us in Captains Flat. Nearly \$100 million is currently being invested in 140 projects over the Fixing Country Roads program on council roads. This is the first time a government in New South Wales has put large amounts of money into council roads. How dare those opposite try to suggest we do nothing! [*Time expired.*]

REGIONAL MARITIME INFRASTRUCTURE

The Hon. GREG PEARCE (16:39): My question is addressed to the Minister for Roads, Maritime and Freight. Will the Minister update the House on the Government's investment in improving the boating experience in regional New South Wales?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:40): I thank the member for his question. Right across regional New South Wales we are building, fixing and upgrading regional maritime infrastructure. The *NSW Boating Statement* published in March last year demonstrates this Government's commitment to ensure New South Wales waterways remain safe and accessible.

The PRESIDENT: Order! I note both the Hon. Walt Secord and the Hon. Penny Sharpe are on calls to order.

The Hon. DUNCAN GAY: We are delivering new wharves, upgraded boat ramps and better facilities under our Boating Now program. This program allocated \$70 million over five years to improve boating facilities. The first round of funding identified 192 priority regional projects, many of which are already underway. Roads and Maritime Services is currently working with more than 50 partners, including local government, other State government departments and community groups, to deliver these projects. The program aims to deliver all of these projects by December 2017. We know that boating is an important part of the fabric of many regional communities. Many of the key projects in the program will go a long way to improving the maritime experience in our regional towns.

Some of the key projects identified include: \$3 million for projects on the mid North Coast, including the upgrade of the Westport Park Boat Ramp at Port Macquarie and the boat ramp at Shelly Beach at Nambucca Heads; \$2.81 million for projects in the Tweed-Clarence, including upgrade of the timber jetty at Tumbulgum and upgrade of the Lennox Head boat ramp; \$3.68 million for projects in Port Stephens and the Hunter for the construction of an additional lane to the boat ramp, installation of pontoons at Lemon Tree Passage boat ramp, and improvements to the Karuah boat ramp; and \$4.7 million for projects in the Shoalhaven-Illawarra, including the redevelopment of the existing Huskisson Wharf facility, including installation of a new pontoon on the eastern wharf and new decking, upgrade of the boat ramp and parking and installation of a pontoon at Sanctuary Point boat launching ramp on Sanctuary Point Road.

This will certainly help at least one member of the Legislative Council when a well-known floating gin palace gets launched from there. There is also \$3.64 million for projects in the Murray-Riverina for installation of pontoons at Euston and upgrade of the boat ramp and parking at Apex Park in Wagga Wagga. We are committed to improving the way we do things in the regions. We do this through delivering projects, no matter how big or small in scale. There is \$70 million in this area, which is a large amount of money.

STATE FORESTS AND REGIONAL FOREST AGREEMENTS

Ms JAN BARHAM (16:43): My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. Researchers at the Australian National University's [ANU] Fenner School of Environment and Society recently published a set of ecosystem accounts for the Victorian Central Highlands that showed that the value of water, carbon, tourism and provisioning services for agriculture far outweighed the value of timber and, furthermore, that logging reduces carbon stores, jeopardises water supplies and causes the loss of tree hollows, thus threatening biodiversity. Will the Minister commit to follow ANU's lead and deliver a comprehensive appraisal of the values of New South Wales forests before the expiry of the regional forest agreements?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:44): I thank the member for her question. The member may well know that we have put some of the value of those forests and the contribution that forestry makes to the New South Wales economy and our regional communities in our *NSW Forestry Industry Roadmap*. This is a Government that has put down in writing a commitment to that sector, to that industry, that had both the buy-in of the Minister for Primary Industries and the Minister for the Environment. This Government is committed to ensuring that forestry survives for another 100-plus years in this State. We believe it is a valuable industry that makes a significant contribution to our New South Wales economy. It employs many people. It underpins some of our regional communities. We believe that both the hardwood and the softwood sectors have strong futures in this State.

The New South Wales Government is also committed to supporting the regional forest agreements [RFAs] and the certainty they provide. The fact remains that native forest operations in New South Wales are carefully and sustainably managed, as they have been for a century, as I mentioned earlier, and that the hardwood timber industry continues to experience high demand for native timber products. Rigorous peer-reviewed research findings by the NSW Department of Primary Industries also consistently show that actively managed forests generate better carbon outcomes than areas of forest that are locked up.

Sustainably managed native forests provide a renewable source of timber and internationally certified environmental management at no real cost to the taxpayer. A century after the Forestry Act 1916, the State forests

of New South Wales remain full of trees, are integral to the environmental protection in the forest landscape, will provide habitat for native animals and will contribute 14 per cent of all timber produced in Australia each year. We need an evidence-based discussion about this sector based on peer-reviewed science rather than a discussion based on ideology and facts and figures that are cherry-picked and misrepresented to support an argument. This is something that we are committed to. We are committed to the sector, we are committed to regional New South Wales, we are committed to the economies that rely upon the sector and we will continue to support it in any way we can.

ILLEGAL LAND CLEARING

The Hon. PENNY SHARPE (16:48): My question is directed to the Minister for Primary Industries, and Minister for Lands and Water. In light of reports that the Government has failed to investigate illegal land clearing, did the Minister make representations to Minister for the Environment, Mark Speakman, to cease investigations? What discussions or representations have the Minister or the Minister's office had with Minister Speakman, the Premier or their offices about investigations into illegal land clearing?

The Hon. Rick Colless: Point of order: This issue is in relation to a bill that is currently before the House. Therefore, the question is out of order.

The Hon. Adam Searle: To the point of order: The question relates to the regulatory functions of government in relation to existing investigations under existing law and not to any bill before this House.

Mr Scot MacDonald: To the point of order: I listened to the Hon. Penny Sharpe's speech in the second reading debate and she raised exactly that point, so it relates to the bill.

The Hon. Penny Sharpe: To the point of order: This is not a matter before the House; it relates to operational legislation. This is a serious matter and it should be addressed.

The PRESIDENT: Order! I will allow the question.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:50): I cannot comment on the specifics of cases that are obviously the subject of active investigation. However, this Government will never condone or allow illegal land clearing to occur. That said, there is overwhelming evidence that the current system is broken; it is not protecting our biodiversity and it is preventing farmers from being more productive and being able to manage their land flexibly. That is why there is legislation before the House. The new legislation contains strong penalties for illegal land clearing.

The Hon. Lynda Voltz: Point of order: Members opposite just took points of order about legislation before the House. The question was not about that legislation. In fact, the Minister should not be referring to legislation before the House. Mr President, I ask that you draw the Minister back to the question he was asked.

The PRESIDENT: Order! The Minister was in order.

The Hon. NIALL BLAIR: The Government's new legislation contains strong penalties for illegal land clearing. For example, a corporation that illegally clears native vegetation will be fined \$2 million.

The Hon. PENNY SHARPE (16:51): I have a supplementary question. Can the Minister elucidate his answer in relation to active investigations, and confirm that the cases mentioned in the media reports are still under investigation?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:52): The member has not given me any specifics about the cases to which she is referring. I assume she is talking about the *Lateline* story. Because it related to an active investigation, I cannot comment on the specifics.

DISABILITY SERVICES

The Hon. LOU AMATO (16:52): I address my question to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister advise the House about creative initiatives designed to support adults with an intellectual disability?

The Hon. JOHN AJAKA (Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism) (16:53): On 28 October 2016 I had the pleasure of attending the closing ceremony of the 2016 SPARK Festival. The creative arts festival was organised by The Junction Works, a not-for-profit organisation funded by the New South Wales Government to provide specialised support services to people with disabilities and their families in the south-western Sydney region.

The Hon. Shayne Mallard: A great organisation.

The Hon. JOHN AJAKA: It is a great organisation. The Junction Works SPARK Festival is unique because it is the only arts festival in Australia designed especially for the needs and interests of adults with an intellectual disability. Now in its thirteenth year, this annual residential festival is held at Stanwell Tops over four days and three nights and provides a range of creative workshops run by artists and performers. This year's theme was "Worlds within Worlds", and the event included various workshops designed to fascinate, enlighten, encourage and stimulate participants. The festival attracted 229 people with disability from across New South Wales, with 95 support staff, 12 students from Holsworthy High School, 14 artistic teams, and five company volunteers. Each participant at SPARK was allocated a group that provided them with the opportunity to experience nine creative art workshops. After completing the nine workshops, people could then participate in a showcase of their chosen workshop by attending the performance on the last evening of the festival.

SPARK is not only about expressing creativity; it also offers a safe and encouraging environment in which people with an intellectual disability can experience living away from home and have the opportunity to increase their independent living skills. SPARK also offered artists and volunteers the opportunity to work with and share this experience with people with disability. The festival has received great feedback from participants, support workers, carers, and volunteers alike. One carer commented that 2016 SPARK was, "Sunshine from beginning to end. Just a great experience for all." A support care worker said, "Thank you for accommodating our clients. It was an exciting event that they look forward to every year".

Another important component of SPARK was the enthusiastic participation of year 10 students from Holsworthy High School as volunteers. The Junction Works runs a Youth Clicks Program to address high youth unemployment and disengagement from education in the Liverpool area. The students were supported by youth workers from The Junction Works to volunteer at the festival. Volunteering at the festival has proved to be a valuable learning experience for students because they learnt new skills and grew in confidence. This experience not only promoted their engagement in education but also developed employment pathways within the service sector.

Feedback was positive, with one of the students stating, "I wanted to go to SPARK to gain new experiences and have fun. I also had a thought about having a career in helping people with disabilities. My experience has been better than I expected. I've loved every second of it and have made plenty of friends that I will always remember. For me the best part of SPARK was seeing how happy everyone is. It made me smile non-stop." As we transition to the National Disability Insurance Scheme we will need almost 30,000 new employees in the disability sector, and providing opportunities like this for young people to consider a career in caring for people with disability is a wonderful outcome. SPARK was a great success thanks to the passion and commitment of talented artists, support workers, carers, and volunteers. *[Time expired.]*

ILLEGAL LAND CLEARING

The Hon. DANIEL MOOKHEY (16:57): I direct my question to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister guarantee that his department and relevant government agencies have investigated all cases of illegal land clearing on Crown land, particularly in the Walgett and Wee Waa regions? Does the Minister stand by the integrity of those investigations?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:57): I am the Minister responsible for a number of departments within my portfolios, and it would be well above my pay grade for me to give a guarantee on behalf of all government departments. However, I will take the question on notice and provide the member with a response. In respect of the issues relating to my portfolio, I will provide the member with the relevant information.

PRIMARY INDUSTRY SECTOR ACHIEVEMENTS

The Hon. RICK COLLESS (16:58): I address my question to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister provide the House with an overview of the New South Wales Government's achievements in the primary industry sector?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:59): This question should have been a Dorothy Dixier earlier in question time. The clock is going to beat me and I will not get through all this information but I will come back to it tomorrow. I will start on it now and touch on a little of the good news and come back to it tomorrow when I will have more time to talk about our valuable primary industry sector. We are trying to increase the value of our primary industry sector by 30 per cent by 2020 and support that sector in New South Wales. There is so much good news and so many things we are doing but there is so little time for me to talk about it. Members should stay tuned as I will come back to it and do this again tomorrow.

The Hon. DUNCAN GAY: The time for questions has expired. If members have further questions I suggest that they place them on notice.

Deferred Answers

GREYHOUND RACING INDUSTRY BAN

In reply to **the Hon. SHAOQUETT MOSELMANE** (11 October 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—
The Minister provided the following response:

I am advised New South Wales Government spending on greyhound communications was within guidelines. This Government has spent less than Labor on advertising.

Since the announcement of establishment of former Premier Iemma's panel all matters about further advertising as required is a matter for that body.

FOOD SAFETY

In reply to **the Hon. MARK PEARSON** (12 October 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—
The Minister provided the following response:

Testing of animal and plant produce destined for human consumption is undertaken at the Commonwealth level through the National Residue Survey.

WATER ALLOCATIONS

In reply to **the Hon. ROBERT BROWN** (19 October 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—
The Minister provided the following response:

The water allocation process results in water being credited to water licence holders' accounts. Water licence holders need certainty that their account water will be delivered when needed.

The three elements that make up the water availability assessments are current resources, foreseeable resources and unforeseeable resources.

Current resources refer to water that is already captured in dams and weirs, for which delivery can be guaranteed to water users when required.

Foreseeable resources assume no more rainfall but include the water still flowing in tributaries and receding rivers, which will ultimately become a "current resource" in the days/weeks ahead.

It is only the third element, the unforeseeable resources component, to which the conservative modelling of historical rainfall and streamflow is applied. However, rather than assume zero additional inflow, the department, based on historical data, chooses a low flow sequence that is almost certain to be exceeded. This safely provides some extra unforeseeable water to the current assessment for water users.

To do otherwise is to take risks with the livelihoods of those with water-dependent businesses. To allocate water that cannot be guaranteed is to gamble with the crops, incomes and the families of hard working farmers.

Importantly, the resource assessments are undertaken regularly, at least monthly, and more in some valleys, so the resource visibility is always being updated and resource improvements provided in a timely manner to water users. This enables water users to plan their cropping programs with confidence.

Members

DEPUTY PREMIER

The Hon. DUNCAN GAY: Further to my statement earlier this day, I inform the House that today His Excellency the Governor accepted the resignation of the Hon. Troy Wayne Grant, MP, as Deputy Premier. I further advise that today His Excellency the Governor appointed the Hon. John Giovanni Domenic "John" Barilaro, MP, a member of the Executive Council and Minister of the Crown, as Deputy Premier.

Documents

TABLING OF PAPERS

The Hon. NIALL BLAIR: I table the following reports:

- (1) Crimes (Sentencing Procedure) Act 1999—Report of NSW Justice Sentencing Council under section 73A entitled "Intensive correction orders: Statutory review" dated September 2016.
- (2) Law Enforcement (Powers and Responsibilities) Act 2002—

- (a) Report of NSW Crime Commission under section 242A with respect to covert search warrants for year ended 30 June 2016; and
- (b) Report of Ombudsman entitled "Report under Section 242 (3) of the Law Enforcement (Powers and Responsibilities) Act 2002-Covert Search Warrants", for period ending 28 May 2016.
- (3) Surveillance Devices Act 2007—Report of Attorney General according to section 45 of the Surveillance Devices Act 2007 for period ended 30 June 2016.
- (4) Terrorism (Police Powers) Act 2002—Report of New South Wales Crime Commission under section 27ZB of Terrorism (Police Powers) Act 2002 for period 1 July 2015 to 4 November 2015.
- (5) Workplace Surveillance Act 2005—Report of Attorney General according to section 42 of the Workplace Surveillance Act 2005 for period 1 January 2015 to 31 December 2015.

I move:

That the reports be printed.

Motion agreed to.

Committees

LEGISLATION REVIEW COMMITTEE

Reports

The Hon. GREG PEARCE: I table the report of the Legislation Review Committee entitled "Legislation Review Digest No. 29/56", dated 15 November 2016. I move:

That the report be printed.

Motion agreed to.

Bills

BIODIVERSITY CONSERVATION BILL 2016

LOCAL LAND SERVICES AMENDMENT BILL 2016

Second Reading

Debate resumed from an earlier hour.

The Hon. PAUL GREEN (17:02): In his second reading speech the Minister said:

First, it is because the productivity of the State's primary producers is being unduly impeded by unfair and unworkable legislation. Secondly, it is because the principal stewards of the State's environment are fighting to deliver outcomes on behalf of us all without guidance, without assistance, without recognition and without reward.

He reminds us:

It is only in collaboration with farmers that we can improve the efficiency and sustainability of our primary industries ...

To ensure that this State maintains and increases its biodiversity, we must work together. Everyone needs to be in step and understand the importance of our environment. It is imperative that we work together to see it preserved, maintained and, ultimately, improved. Recently I visited Mr Harris's macadamia farm which is located between Ballina and Byron. This farm is an example of when we get it right, when we marry people who are passionate about the environment and their agricultural business—in this case, macadamia farming. Mr Harris took the initiative with his many hundreds of acres to repopulate the riparian zone with 60,000 trees, mostly specific temperate rainforest trees suited to the climate of that area. This gentleman poured approximately \$1.8 million into his property to make it hum organically.

He uses organic treatments on his macadamias. The bees are native. He uses the little bugs that stop the beetles from getting into the nuts. I am not an expert in this area but the whole organic macadamia farm was humming. This guy had set it all up. He provided a nest for the eagles and rests for the owls when they come out at night to get the rats that are trying to eat the macadamias—the circle of life. This guy got it right. Everything hums when one has in place the right infrastructure as one achieves the right biodiversity outcomes—the right sorts of habitats in the right places. This guy got it right. But guess what this Government wants to do? It wants to map an existing private biodiversity protected area to claim back a buffer zone of approximately 30 metres, which could reduce productivity on this farm by up to one-third.

The Hon. Robert Brown: Disgraceful.

The Hon. PAUL GREEN: I acknowledge the interjection of the Hon. Robert Brown. It is disgraceful. This person is doing the right thing by the environment. He is growing organic crops, providing a home and paying

wages for his employees through regional employment and this Government wants to sterilise half of his productive land through environmental zoning, which is crazy. The Christian Democratic Party and the Shooters, Fishers and Farmers Party have been working tirelessly with environment Minister Speakman who, to his credit, held a roundtable discussion. Early in the new year Minister Stokes will visit this farm to see what can be done when people care for the environment and are also passionate about their businesses. We look forward to Minister Stokes visiting this productive organic business—a productive business in a burgeoning market that employs local people.

When we get things right it is fantastic but when we get things wrong we have to be big enough to stand up and say, "We have to revisit some of these planning rules." The decision taken regarding this macadamia farm must be revisited to ensure we are not sterilising this person's property or restricting his production. We must also ensure that we do not destroy his dream or his quality of life. He must be able to hand his property on to those he loves so they can prosper from his input. We want to encourage things such as planting 60,000 trees, investing \$1.8 million in a riparian zone, increasing the habitat corridor and enabling aquatic animals to thrive. We should not map these areas and sterilise the land because we think we know better. We are not paying the bills. The people who are writing laws often do not understand what it is like to pay bills, which is a problem.

The Hon. Niall Blair: No skin in the game.

The Hon. PAUL GREEN: I acknowledge the Minister's comment. It is easy for us to write laws that sterilise people's properties but do we know what is happening at the grassroots level? What does it cost farmers and people on the land to comply with the legislation that is enacted in this Chamber and in the other place? This legislation will have a major impact on farmers across New South Wales. I have mentioned only one macadamia farmer who will be impacted by this legislation but it will also affect cattle drovers whose stock routes will be affected. Most people have no idea what it is like to rear cattle to a weight of 800 kilograms and then drive them for hundreds of kilometres to market in order to obtain a return on an investment. It is easy for us to write laws that will sterilise farmers' land and then still expect them to make a profit. Most farmers are going to the bank and are looking for cash injections because they are overcome by floods or droughts.

The Hon. Robert Brown: Or fire.

The Hon. PAUL GREEN: Or fire. Most of us do not understand as we do not know what it is like to live off the land. We are happy to nick down to Coles, Woolworths, IGA, Aldi or some other grocery store and buy our nice little slabs of steak from those supermarkets.

The Hon. Mark Pearson: Excuse me.

The Hon. PAUL GREEN: With all due respect to the Animal Justice Party. We are happy to take a packet of macadamia nuts or a bottle of milk off supermarket shelves but not for one minute do we appreciate how much blood, sweat and tears it takes for farmers to produce one litre of milk, or to put meat through a processing plant and then make it available on supermarket shelves. We pay more for a bottle of water than we do for a bottle of milk, which is crazy. The Christian Democratic Party and the Shooters, Fishers and Farmers Party are of the same view. My dad worked extremely hard for many hours seven days a week but he used to take the time one night a week to play a game of tennis, which was his time out. Day in and day out he got up at 4.00 a.m., milked the cows, planted and tended crops, dealt with noxious weeds, looked after stock and cows calving and ensured that paddocks were rotated and that fences were not broken. He moved around the property to ensure everything was in sync, which takes a lot of effort.

When we throw a piece of steel in the works everything stops working smoothly. Farmers work to a biological clock. They know their land, their stock and their crops and they must ensure that everything is ready on time. They get it. When we make laws in Parliament concerning biodiversity and certification it affects farmers and people on the land when we get it wrong. We do not want to do that. Imagine if someone came into our home and told us we could only use two-thirds of our home and that the remainder would be preserved. We would have no right to go into our lounge room or kitchen. We would get a shock if we were also told that we had to maintain those rooms because the general public ruled they were so special they had to be sterilised. That is what we are doing to farmers. The pendulum has swung too far one way and it needs to be brought back. That is what this important legislation will do. We will not sterilise prime agricultural land. We will give farmers an opportunity to make a dollar and to prosper but we will also look after the environment and nurture biodiversity on their properties. We will do that in sync with them and their farming practices.

The Local Land Services Amendment Bill will repeal the Native Vegetation Act 2003 and confer new powers on Local Land Services with respect to native vegetation land management in rural areas. Ultimately, our farmers will partner with Local Land Services to ensure they have access to and support for the proper management of natural resources. The land management framework contains four key elements—new criteria for

determining land on which native vegetation impacts are regulated and not regulated, new allowable activities permitting landholders to undertake routine land management activities without permission, new codes of practice permitting impacts on native vegetation in regulated rural areas, and a new clearing approval process that leverages the Biodiversity Banking and Offsets Scheme and requires triple bottom line decision-making.

The bill also provides for the production of a native vegetation regulatory map to identify where clearing is regulated or not regulated. Under this map land will be defined as category one or category two. Category one will be land that is not regulated where the clearing of native vegetation takes place. Category two consists of two types of land—category two regulated land where the clearing of native vegetation is regulated, and category two vulnerable regulated land where clearing of native vegetation is regulated and subject to additional restrictions because it is vulnerable. The Government has advised that the maps should be completed within six months. Following this, the maps will be open for review for a further six months should proponents wish to raise concerns regarding the recategorisation of land. I note that proponents have a right of review and judicial appeal against recategorisation decisions. The bill seeks to manage impacts of biodiversity from native vegetation clearing in a regulated area using a risk-based approach. In particular, the three responsive clearing pathways to be established by this bill include allowable activities, codes of practice and clearing material.

The Biodiversity Conservation Bill will repeal the Threatened Species Conservation Act 1995, Nature Conservation Trust Act 1991, and parts of the National Parks and Wildlife Act 1974. It will also introduce statutory objects that will incorporate ecologically sustainable development and maintain resilient environmental and biodiversity outcomes across the State. It has already been noted that biodiversity in New South Wales is in decline. In seeking to work in partnership with our farmers this bill will enable us to engage in biodiversity conservation as opposed to locking up tracts of land and leaving environments alone. The bill also updates the threatened species listing process to reflect international practices. It will also give effect to the intergovernmental memorandum of understanding for listing threatened species and ecological communities. Unlike the current framework, the bill will establish a new standard to identify areas of outstanding biodiversity. Sites that contribute significantly to the State, national or global persistence of biodiversity will be recognised.

The bill introduces flexibility for the Office of Environment and Heritage to address the diverse areas of interactions between humans and wildlife, specifically supporting the Office of Environment and Heritage in focusing largely on activities that will be of greatest risk to wildlife conservation. The bill will also establish a new Biodiversity Conservation Trust that will deliver the Government's Private Land Conservation Program, including the \$240 million investment already committed by it. I hope that this trust does not do what the section 88 waste levy did—that is, put money into a trust that was to be given back to local areas to prevent rubbish from going into landfill. That money is now going into general revenue. It would be disgusting if the Biodiversity Conservation Trust performed in that way. We want to ensure that waste is kept out of landfill. I hope that this type of biodiversity investment is acknowledged by Labor and The Greens, who are opposed to these bills. The Biodiversity Conservation Bill will introduce a new scheme called the biodiversity assessment method—a transparent and consistent approach to biodiversity.

Finally, this bill will deliver a range of compliance tools to ensure enforcement action is appropriate to risk. The Office of Environment and Heritage will be responsible for compliance and enforcement under both bills. Local Land Services will provide extension and advisory services for native vegetation management. Since the release of the draft bill for public consultation I have been contacted by many concerned individuals and organisations, some of whom are in the gallery tonight. We have raised two concerns about these bills. The first concern relates to key information such as maps and the second concern relates to the level of land clearing. [*Time expired.*]

The Hon. MICK VEITCH (17:18): Along with my colleague the Hon. Penny Sharpe, I speak to the cognate bills: the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016. The majority of my comments will be focused on the Local Land Services Amendment Bill. I state at the outset that I am extremely concerned about the capacity and resourcing of Local Land Services and its ability to implement the transitional arrangement to these changes, as well as the longer-term arrangements. Labor has been critical of the Local Land Services [LLS] model for reasons articulated in many forums but we do accept, as flawed as it is, it is here to stay for a while.

The Government is also hanging a large proportion of the work in delivering the biodiversity legislative changes on the Local Land Services hook so we must be diligent in ensuring that this Parliament provides the hardworking but underresourced LLS workforce with the tools, resources and support required. In the recent budget there were massive cuts to staff and resources in the Local Land Services. This was a worry to all on the land, even that august newspaper *The Land* raised significant concerns over these decisions. Am I worried about Local Land Services? You bet I am. It is not a good look for the Government when the organisation it is looking to champion its ideological reforms is subject to the slash-and-burn mentality we saw in the last budget. Farmers

are genuinely concerned about the capacity of LLS to complete its current work and to handle the implementation of this bill.

The Minister has a responsibility to clearly outline the funding and resource allocations to be provided to Local Land Services so it can professionally and responsibly deal with native vegetation and land management in New South Wales under this new regime. I ask that the Minister in his speech in reply tell us where the resources are coming from. Where are the skills? Where are the boots on the ground needed to drive this change and make it work? Some farmers have said to me this is simply ideologically-driven change from some elements within the Coalition and that native vegetation law reform is not on the list of issues they think need addressing. Some have said that the importance of this issue depends upon where you live in regional New South Wales. Things like road and rail are much higher on the list of needed reforms. So is the state of the Local Land Services. My office is still receiving many complaints about the failings and inadequacies of Local Land Services. Those complaints worry me. This legislation is placing a burden on an already stretched organisation.

I am proud of Labor's record in natural resource management. The introduction of the Native Vegetation Act 2003 was Labor at its strongest—a positive, bold step in the right direction when it came to an ecologically, and indeed, economically sustainable approach to primary production and its reliance of healthy soil and water. To that end, I pay tribute to the vision of the responsible Ministers, the Hon. Craig Knowles and the Hon. Bob Debus—two of the finest Ministers in the Carr Government. The Native Vegetation Act 2003 framed the way we manage native vegetation in New South Wales by preventing broadscale clearing unless it improves or maintains environmental outcomes. Were there issues? Yes there were. Was a review necessary? Yes it was. Do we need such a dramatic legislative change? No we do not.

Under the Act landholders could still clear and manage native vegetation without approval if the clearing was for routine agricultural management activities [RAMAs]. Landholders could also submit property vegetation plans [PVPs] for approval that described how native vegetation was to be managed on the property. The Natural Resources Commission was established along with 13 catchment management authorities, bringing together the best and brightest in the region to work collaboratively on sustainable strategies for our catchments, land and water, along with the communities that depended on a healthy, sustainable environment. This was not only visionary but also workable legislation. It embraced flexibility and underlined the need to retain native vegetation to protect biodiversity and ensure the long-term health of our soil, water and landscapes. Importantly, it was a collaborative effort, symbolised by the fact that the chair of the New South Wales Native Vegetation Reform Group was the Rt Hon. Ian Sinclair. That was a great example of when the National Party could work with this side of politics in implementing historic reform.

I question the timing of this bill. I think it had a fair bit to do with the political future of The Nationals in one by-election, rather than the future of the communities it purports to represent. Whilst the Opposition believes that a review of the current laws was appropriate and timely, particularly when it comes to providing incentives and stewardship payment for landholders, the result before us today is not a good result. This bill aims to overthrow all the effort, good work and sustainable principles embodied in the Native Vegetation Act. That is why the Wentworth Group of Scientists is appalled and the conservation biologist on the Government's review panel resigned. That is why newly emergent groups like Farming Future have spoken out so strongly against the principles embodied in these two bills.

I turn now to the detail of the Local Land Services Amendment Bill 2016. This bill is cognate with the Biodiversity Conservation Bill 2016. It repeals the Native Vegetation Act 2003 and amends the Local Land Services Act 2013 to deal with native vegetation land management in rural areas. Division 1 sets out where the proposed bill will apply. Division 2 provides for the designation and categorisation of areas through a native vegetation regulatory map based on three categories: category 1, exempt; category 2, regulated; and category 3, vulnerable regulated land. Division 3 deals with the regulation of native vegetation clearing in regulated areas. Division 4 sets out the clearing for allowable activities to be authorised without any approval. Division 5 provides for the clearing of native vegetation under native vegetation codes. Division 6 deals with the approval of clearing of any other native vegetation not already authorised through the Native Vegetation Panel. Finally, division 7 sets out provisions regarding various miscellaneous matters.

When one steps back to look at the bill one gets an appreciation of its intent. It sets out a hierarchy of steps required to clear vegetation—from exempt, through to self-assessment and finally through to the panel. It is a menu from which you can determine how to clear vegetation. There is no statement on the value of native vegetation to the health of our soil or rivers and the future of our rural communities. In those respects it is silent, and that speaks volumes. The Opposition has several concerns about the Local Land Services Amendment Bill and I congratulate my eximious colleague, the Hon. Penny Sharpe, on her work in leading our response to it. This bill comes before the House incomplete and underdone. The critical part of the legislation—the mapping, its quality, and who pays for what—remains undetermined. Why did the Government introduce this bill without

detail on the mapping? Again, political considerations overrode policy ones. I contend that for any informed discussions to be made on this legislation we must see the mapping.

Even the Minister in his comments to *The Land* reflected the terrible state of the work done on mapping. He referred to "stakeholder concerns" as well as the lack of "sufficient confidence in its accuracy". Stakeholders have definitely expressed concern to me about the lack of mapping. This bill should be deferred until the maps are finalised. I have been advised by groups like the respectable Zoological Society that current mapping is lucky to be 30 per cent accurate. There is a real question here on the scientific basis upon which decision-making around native vegetation will be cleared. The precautionary principle, evidence and science looks like being thrown out. There is also real concern amongst rural landholders as to who will pay for the mapping work and how much it will cost. Will these cognate bills result in farmers and other landholders having to pay?

The Minister needs to give an undertaking to this Chamber that farmers will not pay for the mapping. We need some upfront clarity. In this year's budget jobs at Local Land Services were slashed. There is clearly a lack of staff and expertise within Local Land Services. This is not an attack or a slight on the hardworking LLS staff; it is more a plea for government to adequately fund it. From a landholder's perspective not only is there no detail on how LLS will effectively carry out its new responsibilities but also that landholders will be hit-up to offset costs in the scramble to fund the work. This will increase red tape on farms—not reduce it. We could have a situation where all landholders, regardless of their circumstances or position in relation to the new legislation and operational framework, could be forced to pay for part of the costs.

Several critical issues arise in the detail of the bill. The first concerns appeals against categorisation. We know that the science and the mapping is unsound, yet new section 60M sets out the appeals mechanism on categorisation. Whether land is exempt, regulated or vulnerable regulated essentially is a private matter between landholder and government. The Opposition is concerned that given the paucity of detail and lack of confidence in the science, appeals from third parties should be permitted, and we will be moving amendments to that end. New section 60U is another of this Government's get-out-of-jail clauses. It deals with the adequacy of public consultation on proposed codes. New section 60U (5) states:

A failure to comply with a requirement under this section in relation to a proposed code does not prevent the code from being made, or invalidate the code once it is made.

So if there is no consultation or reduced consultation, the codes still apply. in the hands of this Government, or as we said in the Crown lands bill with "a future bad Minister", we have significant issues and an undermining of open and transparent legislation regarding the native vegetation codes. Where are the checks and balances? This subsection should be struck out. Similarly, subsection (6) appears to be another one of this Government's notorious "trust us" clauses, where the regulations may make further provision for the public consultation. We do not know whether these unknown regulations are improvements, dilutions or further exemptions, yet we are being asked to decide on the bill today. Subsection (6) may be a Henry VIII provision and regulations may make subsequent changes to the nature of public consultation. This subsection should also be struck out.

New section 60V of schedule 1 to the amending bill is extraordinary and gives the Minister for Primary Industries unacceptable powers in the amendment of codes. This new section allows two things: the Minister for Primary Industries can dispense with public consultation on any amendment of a code if he or she is satisfied it should be dispensed with because of the minor nature or urgency of the matter; or it may dispense with the concurrence of the Minister administering the Biodiversity Conservation Act 2016 if the matter is considered by the Minister for Primary Industries to be of a minor nature, or urgent. There are urgency provisions elsewhere such as those contained within section 60O, so urgency as a reason to avoid consultation and concurrence is a nonsense.

There is no strict definition around those terms. How will the Minister be satisfied? How it is deemed to be of a minor nature? It allows too much latitude to a Minister to dispense with consultation with the general public or the Minister for the Environment. I am concerned about how a future Minister could abuse those powers. What are the structural protections contained within this bill? What is defined as urgent? What is defined as minor? Why not talk to the public? Why not consult with the Minister for the Environment, Minister for Heritage, and Assistant Minister for Planning? What about parliamentary oversight? It is those types of exemptions and exclusions as well as how it is framed that condemn this bill.

The nature and scope of the public information registers in which details of clearing are kept are also deficient. The details are not linked to title and provide only aggregate information. The information in the registers is ill defined. It is not location-specific and information is compiled on a regional basis. The new sections in new part 5A demonstrate the secrecy of this Government and its unwillingness to allow the public to have information on what is being removed in any detail. No doubt that oft-used phrase of this Government: "red tape reduction", is the reason to deny information to the public. If the Government considers this reform worthy, then

why the secrecy? Why is the Government trying to hide information from the general public? I pose a further question to the Minister for Primary Industries: Is the specific information that will not appear on the public information registers available through the Government Information (Public Access) [GIPA] Act? If not, why not?

The Government places a lot of responsibility upon the Native Vegetation Panel established under new section 60ZE in schedule 1 to the amending bill. Presently, the Government intends the panel to comprise three members—the chair with a planning, public administration or social assessment background, a second member with an economics, agricultural economics or agricultural land production systems background, and a third with expertise in ecology or the protection of the environment. The chair has the casting vote. The Minister will appoint and determine the panel's remuneration. There is no potential or perceived conflict there! The Opposition contends that there is a need to strengthen the transparency and accountability of the panel. The panel should have five members with a quorum of five. The Opposition would increase both the number of ecologists and experts in primary production, with any decision of the panel requiring a two-thirds majority. Furthermore, the panel should be appointed by Cabinet and the remuneration of panel members should reflect acceptable rates paid to comparable boards in terms of workload and importance of tasks performed.

The Opposition also is concerned about a sneaky Henry VIII clause, subsection (6) of new section 60ZE of the Local Land Services Amendment Bill, which allows the membership and procedure of the panel to be amended by regulation. That subsection should be removed. Subsection (5) of new section 60ZI allows for the regulations to make further provision regarding modification of approvals, including exemptions to the application of this section. That is too fundamental an issue to push off to the regulations. The Government must come back to Parliament if it wants to modify approvals or create a new list of exemptions. As we have seen in many other areas of public policy, this Government cannot be trusted. We must resist any move to push critical matters off to a regulation.

Finally, new section 60ZJ deals with appeals of landholders against approval decisions in circumstances in which a landholder can appeal to the Land and Environment Court against a decision to refuse an application for approval or to modify an approval. Not only should third parties be able to appeal, but appeals will also be pursued by those who are big and powerful, not necessarily those with the most to lose financially—small to medium-size family run operations. This concerns Labor. The Labor Government's native vegetation legislation was sustainable and sought to embody the principles of ecologically sustainable development. It understood the primary need of our biodiversity, our soil health, and water quality. Through property vegetation plans [PVPs] the day-to-day operational needs of farming could be addressed, but that needed to be done within a scientific and evidence-based framework. With these bills, if someone has the will and, importantly, the financial ability to pay for offsets, even if they cannot be subsequently found, that person can clear pretty much to their heart's content. A number of farmers will not have that luxury.

The weasel words, the get-out-of-jail-free clauses, the exceptions to the rule all ensure that farmers will lose out. I repeat: this is yet another "trust us" bill from the Government. There is no detail on the mapping or who pay will pay for it. There is no assurance over the quality of the mapping. For those reasons alone, the bills should be opposed—at least until this House has all the relevant information at its disposal. Members of the New South Wales Parliament are being asked to consider these bills without all of the necessary information. That is not the way to legislate for New South Wales. Labor will oppose the legislation.

Mr JUSTIN FIELD (17:34): I oppose the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016. The Greens and I are opposed to this legislation because this will lead to more land clearing in New South Wales and that land clearing will be environmentally destructive. It also will increase carbon emissions and reduce habitat available for native animals, including threatened species. The people of New South Wales will be losing diversity in the environment—the environment that we rely on for our own survival. I echo the comments of my colleague Mehreen Faruqi as Environment spokesperson for The Greens, who spelt out in full the issue with this legislation—the failure of the Government to administer responsibly existing laws—but I want to focus on my own experience of working with farmers over the past few years.

I see in the public gallery representatives of the Nature Conservation Council of New South Wales and the NSW Farmers Association—the representative peak bodies of the environment movement and farming in this State. These are two groups with whom I have worked closely over the last few years. I have respect for both and I acknowledge their contribution to public debate and to challenging governments on bad policy. I regret that we are here today. Those two groups seem to embody the different sides of this debate because I do not think there is a world of difference between the principles underpinning the intentions of both groups when it comes to responsible land management in this State. I say that while recognising that there is great diversity across both environmentalists and farmers and I know that those groups are not entirely defined by their peak bodies, so I do

not mean to lump people together in this debate. Excuse me if that seems to be the case: It is not the intention. I just want to share my experiences of working with those groups.

The Hon. Robert Brown: I am happy to do it for you, Justin.

Mr JUSTIN FIELD: I am sure. However, I fundamentally disagree with the NSW Farmers Association in its position on this legislation and its focus since the change of government in 2011 on repealing the Native Vegetation Act. I have expressed that view many times to representatives of the association and well-regarded members over the last few years. I appreciate that we can have that debate and still work together, but I still think that is a mistake. I think that this legislation risks positioning, in the mind of the general public, farmers as environmentally destructive when I know that that is not a fair characterisation of most farmers in this State. This legislation will allow the minority—those who are not interested, necessarily, in responsible land management—to undertake activities that will be destructive to our environment and that will risk the reputation of the majority of responsible farmers. That is a shame.

I know many, if not most, farmers value biodiversity; that they are working to improve water management; and that they are revegetating creek lines and slowing water flows to reduce erosion and improve soil quality. The Greens, farmers and environmentalists share support for investing in regional communities and renewable energy on-farm as an economic opportunity at a scale applicable to regional communities; we share support for reinvigorating regional rail services and investing in public services in regional New South Wales; and we have a shared interest in protecting land and water, stopping destructive mining on good farming land, and taking action to address climate change, which will impact on farms significantly. The Greens support connecting farmers to consumers directly and reducing the power of the duopoly supermarkets in setting prices. The Greens, farmers and environmentalists can and should work together at all times and whenever possible.

As I said, I have worked closely with both environmentalists and farmers over the last few years, primarily in the community campaign to oppose coal and coal seam gas development in this State. The push by the Government to expand coal continues to have a disproportionately large impact on farming communities and is a risk to good agricultural land and water in this State. Much has been made of the alliance between farmers and environmentalists in that campaign. In my opinion, there has been a real coming together and a shared understanding between individuals but, more broadly, between the organisations that work in this space.

I helped to bring them together for the massive rally just outside Parliament House in 2012. A founding member of The Greens at that time representing the Lock the Gate Alliance, Drew Hutton, and the President of the NSW Farmers Association, Fiona Simson, spoke alongside each other in opposition to the Government's coal and coal seam gas plans for this State. It was, and is, a powerful movement that continues to this day, albeit in a slightly different form. It was, and remains, an example of how we can work together to turn the table on bad government decisions, and I wonder if we could not have come together on even something like this.

I knew at that time that legislation like this would come before the Parliament so I spoke with many farmers, croppers, graziers and others. I admit they instinctively opposed the native vegetation laws or did not really know the details of them. I asked those who opposed the current laws what they wanted to do that they could not do under the existing laws. Mostly the response was silence. The truth is that the existing laws, including the ability to enter into private vegetation plans, do support the needs of farmer to manage their land, and those who had engaged in those processes often were very supportive of how those laws were applied and the government support, including at times financial support, available to do that.

I share the concerns raised by Dr Faruqi that the lack of enforcement of the current rules over the last few years has led to deteriorating outcomes in biodiversity protection, which is a real shame. Supporting farmers to work within current laws may have had far better outcomes for assisting in land management and for protecting biodiversity, which we all support. Indeed, if that effort had gone into making sure laws were understood and adaptable, we probably would not be debating the legislation before us today. I understand the frustration of farmers about governments having one set of rules for them while watching the wholesale destruction of land and water by mining companies. In my opinion that injustice is more responsible for frustration with the current laws than anything else, and I again note that it is The Greens and environmentalists who stand with farmers in opposition to that hypocrisy along with some other members of this Chamber at times. We have been very successful in that endeavour. Doing away with biodiversity protection cannot be the response to the frustration of farmers. Two wrongs do not make a right.

This morning I listened to the Federal Minister for the Environment and Energy, Josh Frydenberg, speaking to Fran Kelly on *Radio National Breakfast* from the Marrakesh climate talks. He talked up the efforts of the Federal Government in working with developing countries to protect forests. He mentioned this because, as he noted, deforestation is one of the biggest contributors to climate change world-wide. Other speakers have noted that if these bills become law they will result in more tree-clearing in New South Wales. We do not exactly know

how much but it will contribute to accelerating global warming, and its impact will most be visited upon regional communities and farmers through changing weather patterns and increased extreme weather events. Last week this Government release its Climate Change Policy Framework for public consultation. This week it is bringing forward legislation that will hasten tree-clearing in this State. This Government cannot be taken seriously when it comes to reducing our carbon footprint or helping the New South Wales economy and community to be prepared for the impacts of climate change. This Government lacks a credible position on a critical issue where we need leadership. I urge members to oppose the bills.

The Hon. ROBERT BROWN (17:43): My contribution to debate on the cognate Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016 will be brief. I am standing on the Opposition side of the dispatch table because I wish to address most of my comments not to the Opposition, who will oppose this legislation, but to the Government. The Government needs to ensure that stakeholders, who are still nervous about this legislation, are reassured. I state at the outset that the Shooters, Fishers and Farmers Party supports this legislation. Together these cognate bills make a fairly hefty piece of legislation, which is extremely difficult to understand for anyone who does not have an understanding of what this legislation is all about. It is a good body of work.

This legislation has been formulated over a long period of time with oodles of consultation. Some of that consultation has not been all that successful, with parties walking away from the table because they do not get their own way. Included in those parties at one stage was the NSW Farmers Association, which was not happy so it walked out of the tent with the Nature Conservation Council because neither side was happy. I note that the NSW Farmers at least are now back inside the tent. I have taken most of my advice on these bills from the NSW Farmers Association, and I put on record my thanks to the association for having taken the time to help us with this legislation. The crossbench parties have very limited resources to help us to review legislation such as this.

I remind members that in 2014 my party put forward a proposed bill that would have shortcut this legislation. We did this out of frustration—frustration that promises that had been made before the 2011 election by the incoming Government, at the time, still had not been met. I will not go over that ground. I can count and I know that we lost that effort. The Hon. Paul Green in his contribution to this debate said everything that I would have said, so I can make my contribution short. I will concentrate on one area of the legislation—the private native forestry elements. I have had extensive discussions with private native forestry advocates within the NSW Farmers Association, and I notice that at least one of them is in the gallery tonight. A lot of people have been waiting for a review and for a proper place for private native forestry [PNF]. This legislation was thought to be the panacea to that issue. It has not proved to be that, but the Government has given certain people assurances that it will be.

I ask for those assurances to be placed on the record tonight. Recommendation 7 of the Independent Biodiversity Legislation Review Panel was that a review of regulatory arrangements for private native forestry should occur through a separate process. In fact, that is the course that the Government has taken. However, doing that has resulted in advocates and stakeholders—people who have their livelihoods on the line—demonstrating that they do not necessarily trust governments of any sort. I am seeking a government commitment for this review to commence without any further delay. I also call for extensive consultation as part of the review on the new framework as it has been developed. It is important that any new process for managing PNF does not regulate the sustainable harvesting of native timber as a land-use change. PNF is not land clearing; it is a long-term sustainable management of a natural resource for timber production and biodiversity. It is exactly the same as grazing cattle on a pasture, native or otherwise; it is a long-term, sustainable, repeatable process.

The independent panel also said that regulating sustainable forestry operations based on scale and intensity, rather than tenure, should be the way. This should include options for permitting low-intensity PNF operations without the need for endless red tape, green tape and approvals. I was glad that earlier this year the Minister for Primary Industries, and Minister for Lands and Water released the Forestry Industry Roadmap. That was launched with a commitment from the Government to a program of ongoing reform in the forestry sector to ensure a sustainably managed forest estate. The Biodiversity Conservation Bill provides that native forestry carried out on private property will continue to be required to comply with the PNF code of practice and be authorised by a PNF plan.

The difference of opinion here is that some of the stakeholders are not so happy that the private native forestry will be parked temporarily inside the Forestry Act. Again, perhaps that is just nervousness at a government's ability to keep its word. I put it on the record that I do not have that concern—but, then again, I am in a position to fight back if something does go wrong. I conclude by asking: As private native forestry is simply one component of integrated farm management, can and will the Minister confirm that private native forestry will be part of a suite of codes administered by Local Land Services when the new system finally commences as a one-stop shop for farmers, with private native forestry rightfully returning to be administered by one agency, as

was previously the case? The agency that all hope and wish for is Local Land Services. On that note, I repeat that the Shooters, Fishers and Farmers Party supports the Government's initiative here. It has been a long time coming.

The Hon. JOHN GRAHAM (17:50): I oppose the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016. I knew biodiversity was important, but I was influenced recently by the good work of Bridie Smith, who wrote an article that appeared in the scientific journal *Toxins*. Its recent edition featured Australian researcher Dr Bryan Fry, who has been studying the long-glanded blue coral snake. The snake has electric blue stripes with a bright red head and tail. Its venom glands are one quarter of its length, and its venom almost instantly induces paralysis. Crucially, Dr Fry said, it is also the first vertebrate to do this via the sodium channels. These are receptors that are regarded as critical to pain management in humans. This research could be the key to a whole new way of treating and managing pain for humans.

In good news, the long-glanded blue coral snake is not endangered or even threatened; in better news, it is not found in Australia but in countries such as Burma and Malaysia. However, this provides a timely reminder of the expected medical research discoveries that we are still to make, underpinned by the world's remarkable biodiversity. Australia has no shortage of unusual animals, many of them dangerous, as a result of our unique geological and natural history. We have more to give the world than most countries, but we also have more to lose. I note the findings of the Independent Biodiversity Legislation Review Panel. First, on biodiversity loss, it noted that 59 per cent of all native mammals in New South Wales are now listed as threatened with extinction, along with 34 per cent of amphibians, 30 per cent of birds and 14 per cent of native plants. It also said:

The panel notes that there is a lack of comprehensive information about the status of biodiversity in NSW ...

That indicates the scale of the challenge before the House today. On conservation, the panel made this important point, one referred to by other speakers in the House:

As more than 90 percent of the land in NSW lies outside the public reserve system, private land conservation plays an essential role in conserving biodiversity at the state scale.

That indicates the importance of this set of bills to succeeding or failing in this area. The report does not shy away from pointing to some of the failures of the current system, including delays. I was concerned by some of these aspects of the report. The report said that under the current system:

... average waiting times for a Local Land Services officer to first visit the property as part of the process was on average 13 weeks and in the case of one Local Land Service 80 weeks ...

That is no way to run a system. That was not what was envisaged when the system was set up. I can understand the frustration of landholders with that system. I suspect, though, it is a lack of funding rather than the regulatory regime that is at fault here. I recognise the success of the previous regime in stopping land clearing. Since the implementation of the Native Vegetation Act 2003 there has been a reduction in areas approved for clearing from 80,000 hectares per year from 1998 to 2008 to 911 hectares per year from 2005 to 2013. This was crucial to moving New South Wales from its past record as having some of the highest rates of land clearing in the world.

Land clearing has been an issue since Phillip was a Governor soon after 1788. He declared a 15-metre wide green belt either side of the Tank Stream to prevent people cutting down trees or grazing stock in this area. Penalties included being fined £5 or having your house demolished. The land clearing debate started then, and the debate will continue long after this legislation. That is because of the competing views about this legislation, the divisions in the Independent Biodiversity Legislation Review Panel and the way this package has been introduced. The Government has not kept everyone at the table and as a result has not produced a package that will last. That is bad for the environment, but it is also bad for business certainty for the farming community. How far apart are the views? I will quote the Nature Conservation Council, which said:

If implemented, we believe that these laws will lead to a return to broadscale land clearing in rural and regional NSW, and increased clearing of bushland in urban and coastal areas.

There is also the view of Josh Gilbert, who stepped down from his role as Chair of the NSW Young Farmers this year as a result of his concerns:

Similarly, the proposed "native vegetation policy" lacks foresight and vision and further risks the brand of "Australian agriculture" and the livelihoods of our farming families and rural communities.

I quote this view from the joint submission of environment groups:

... the reform package contradicts science, facilitates increased land clearing, fails to protect environmentally sensitive areas and does not adequately address climate change impacts ...

The most concerning part of the last statement is that the "package contradicts science". It is true that the package represents a move away from mandatory soil, water and salinity assessment and from a "maintain-or-improve" standard to ensure environmental outcomes. The truth is that we need science, not politics, at the centre of this debate if we are ever going to settle it. I support the principle of stewardship payments for landholders. However,

the new regime leans heavily on this regulatory tool. It should not be the main protection in the bill to prevent continued biodiversity decline. If it is, it will not succeed. I recognise the commitments to substantial payments that the Government has signalled as a part of this package and I accept them in good faith. I do not accept that they will continue, particularly given the direction of these reforms.

We know what Treasury will want to do with this money over time, particularly given the nature of this Government and its focus on the bottom line. If the money goes under this model, the protection goes too. I am happy to support stewardship payments from government to landholders, but much less happy to support a culture of cash for offsets. We know where that will lead in places such as the North Coast of New South Wales. Worryingly, this legislation has used the lowest common denominator in setting standards for biodiversity offsets. On the question of information, I note in particular recommendation 30 of the Independent Biodiversity Legislation Review Panel to:

Better harness data collection efforts and make this data available to the public as part of open government through a whole of government biodiversity portal.

This followed a recommendation of the NSW Chief Scientist and Engineer. I strongly support this recommendation and note that the Government has already commenced some work in this area. The current work does not go far enough, and I encourage the Minister to examine the potential of opening up this information to public scrutiny over time, something the Hon. Mick Veitch has already spoken strongly for in this debate. It represents one way to get the politics out of this debate and to put the science at its centre. Like others, I place on the record my sympathy for the family of Glen Turner, who was doing his job working for the people of New South Wales. That is work that might be difficult, but it should never be deadly. We know how difficult enforcement can be in this area of public policy. The plan for enforcement of this legislation and the funding for it are very unclear to the House. I will be listening carefully to the Minister's response regarding enforcement and its funding.

I note NSW Farmers' early call for the mapping for this package to be released; in fact, it was insistent. *The Land* newspaper has indicated that that will not happen for some time—perhaps six months. The Minister has given some public assurances about the reasons for that. It is no coincidence that this legislation was introduced to the Parliament one week before the by-election in Orange. The timing looks like it is driven by the politics rather than the development of good policy. I warn NSW Farmers that we may all regret that the Government ignored its pleas to get the package right in its rush to legislate.

It is sometimes said that we are living through the sixth extinction; that is, the sixth period in the Earth's history when a mass extinction is occurring. There is only one mass extinction that the timing of this bill was meant to stop, and that is the mass extinction of the leadership of The Nationals. However, it did not stop it; in fact, the Orange by-election delivered it. I welcome the Minister to the deputy leadership of his party, but this legislation is a very bad start. What might a better package look like? It would be one that rules out a return to broadscale land clearing, that rules out offsets that let developers destroy habitat in exchange for cash, and that publicly maps all of the State's biodiversity so that we can protect it properly. I return to the long-glanded blue coral snake. Dr Bryan Fry states in *Toxins*:

It's a great example of why studying the really weird animals is a great path for biodiscovery and you can't get any weirder than this snake with the longest venom glands in the world... You can't predict where the next wonder drug came from, so you need to protect what you have.

These bills fail that test, and I urge members to oppose them.

The Hon. Dr PETER PHELPS (18:02): I support the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016. I will speak about the Local Land Services Amendment Bill, which repeals the Native Vegetation Act. This is an excellent bill, one that is long overdue. At its heart lies a principle for which I and others on my side of politics have long argued. Although this bill was initiated by a Nationals Minister, it has at its very core the philosophical basis of the Liberal Party—a party of classical liberalism. I cannot see how any person who claims to be a Liberal could find fault with this bill, other than to say that it perhaps does not go far enough.

What does it mean to be a classical liberal, and why should we support this bill? Classical liberals espouse the three great natural law rights: life, liberty and property. Property is a human right. The product of your life and liberty is your property. Property is the fruit of your labour, the product of your time, energy and talents. It is that part of nature that you turn to valuable use. So, too, is the property of others that is given by voluntary exchange and mutual consent. In the context of this bill, it is the land that you have inherited or bought or leased, or in some other way over which you exercise legal control. At times people use force or fraud to take from others without wilful, voluntary consent. Normally, the initiation of force to take property is theft. It is the same whether these actions are done by one person acting alone, by the many acting against a few, or even by officials with fancy titles.

The Native Vegetation Act was legalised theft. It stole the right to the lawful enjoyment of legally acquired property, and for that property to be put to productive use. It did it for the most tendentious of reasons—the usually unstated, but nonetheless omnipresent belief that farmers were incompetent land managers, and that they needed the coercive power of the State to bring them to enlightenment. It was the conscription of men and materiel—for a conscription it most certainly was—into the agenda of the Green left of locking up land but providing no compensation for the loss of amenity. It demanded that farmers manage land on behalf of the State—that great, amorphous juggernaut that purports to represent the collective will of society—whether or not the farmer wished to do so. It was nothing less than institutionalised slavery.

Every person has the right to their own life, liberty, and justly acquired property. Governments do not have a right to initiate force against the life, liberty, or property of others. Governments, by their announcements or their laws, may purport to void these rights, but they are never extinguished. Just as you have no right to tell your neighbour what to do with their land, there is no right to designate some person to initiate force against others on your behalf.

Mr Jeremy Buckingham: What if they set it alight?

The Hon. Penny Sharpe: Point of order: I cannot hear the Hon. Dr Peter Phelps and I am only three feet away from him. There are too many interjections.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): I ask members to keep their comments to themselves and that the member be heard in silence.

The Hon. Dr PETER PHELPS: Of course, the usual caveat remains—you are free to do whatever you like, as long as it does not cause harm to others. This theory found voice in the old Common Law rule in *Rylands v Fletcher*, and now in the modern statutory tort of nuisance. A bad landowner whose decisions have detrimental consequences for his or her neighbours should compensate them for that behaviour. However, a landowner whose own incompetence hurts nobody but themselves should not be subject to punitive measures of government—the consequences of their own failure is surely punishment enough. How much more unjust is it then for the Government to punish the landowner for their productivity and competence?

Elections come and elections go. People have the right to seek leaders for themselves and their society, but no matter how officials are selected they are only human beings and they have no rights or claims that are higher than those of any other human beings. Regardless of the imaginative labels for their behaviour or the numbers of people encouraging them, officials have no right to steal. You cannot give government any higher rights than you possess. If people believe that I am wrong in this regard, pray tell: What is the mechanism whereby a person becomes a god, a titan, that can transcend the natural law rights that accrue to every other human, simply because they have been elected to Parliament, or gain a high enough position in the bureaucracy of government? You are responsible for your own life. You do not rent your life from others who demand your obedience. Nor are you a slave to others who demand your sacrifice. You choose your own goals based on your own values. Success and failure are both the necessary incentives to learn and to grow.

A farmer who does not care for their land fails. A farmer who cares for their land succeeds. Sometimes even a farmer who cares for their land does not succeed because of the vagaries of the Australian climate, world markets, changes in demand, or for a host of other reasons. But how disgusting is the concept that a farmer should be induced to fail because of arbitrary rules imposed by outsiders who have no stake in the capital of their enterprise, and whose whole agenda is the syrupy poison of Green leftism?

An official's actions on behalf of others or their action on your behalf is only virtuous when it is derived from voluntary mutual consent. Virtue can only exist when there is free choice. This is the basis of a truly free society. It is not only the most practical and humanitarian foundation for human action; it is also the most ethical. Problems that arise from the initiation of force by government have a solution. The solution is for people of the world to stop asking officials to initiate force on their behalf. Evil does not arise only from evil people but also from good people who tolerate the initiation of force as a means to their own ends. In this manner, good people have empowered evil throughout history.

If you truly believe that land must be locked up to save the purple-spotted tree frog or the yellow-eared whistling budgee then there is something that can be done: buy the land yourself or with other like-minded people and establish a private nature conservancy but you cannot do is use the coercive power of the State to strong-arm landowners into your own private morality. In other words, put your money where your mouth is. Unfortunately, of course, this is not the *modus operandi* of the contemporary Left. Instead of relying on private virtue they use the bludgeon of State power to give effect to their peculiar vision of society.

You would think by now that they would have learned—the inner-city bourgeois Leftist elite who feel the need to tell others how to live their lives with no skin in the game, just a litany of virtue signalling and disdain

for rural people. They hate loggers, they hate miners and it appears they also hate farmers. Even now, in this bill, I believe that we still kowtow far too deeply to the socialistic notion that your property is not your own but merely held by you at the pleasure of the Executive and subject to the whim of whatever legislative demagogue seeks to boost his or her "progressive" credentials.

If we are to survive we must have confidence in a free society and focus on the process of discovery in the marketplace of values rather than focus on some imposed vision or forced goal. Using government force to impose a vision on others is intellectual sloth and typically results in unintended, perverse consequences. This bill reverses that trend. This bill is a new beginning. This bill does what I hoped we would do but feared we would never do—not to make cosmetic changes to the edifice of green leftism, not to concede to the one-way ratchet of the bourgeois elite, but to look the enemy in the eye and say, "No more," to roll back bad laws and to take up the fight for a free society. I commend this bill, but not merely this bill; I commend the philosophical principles that underlie it to the House, to the State and to the nation as a whole.

The Hon. MARK PEARSON (18:12): The Animal Justice Party obviously will oppose the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016. Today we are faced with a bill that makes a mockery of concerns about maintaining biodiversity. This bill makes no attempt at balancing the needs of animals and humans and our shared environment. The Baird Government has instead kept its election promise to landholder vandals with an eye to immediate profit and not to the long-term wellbeing of the animals that share our environment. Harm will be caused to threatened species—harm that it should be promised never affects other beings or animals on the land that is controlled by and under the care of a person.

The proposed legislation will eviscerate our environmental protections and allow unfettered destruction of what remains of habitat on marginal farmlands. Our current biodiversity protections urgently need strengthening, not weakening. Just as the Prevention of Cruelty to Animals Act provides a legal framework for engaging in animal cruelty, our existing environmental laws regulate the methods for harming flora and fauna. Despite our current protections being less than optimal, the Native Vegetation Act has slowed down the rate of agriculture clearing since its introduction in 2004. There has been an estimated reduction of wild animal deaths of more than 100,000 per annum. Thousands still die every year from land clearing. The needless death of even one animal is a cause for concern.

It is the one animal that is important to the Animal Justice Party, just as it is to the Prevention of Cruelty to Animals Act. It is not just about protecting a particular number of animal species; we need to be turning our minds to protecting an animal from distress, pain and suffering, and harm. This is what landholders must take into consideration when looking at their land—that on that land animals are passing through, nesting, breeding and then moving on. The responsibility to those animals that did not give their consent to be invaded by these processes is much greater.

Only last week it was reported that the world is heading towards a mass extinction of animal life not seen since the disappearance of the dinosaurs millions of years ago. By 2020 the populations of mammals, birds, fish, reptiles and other vertebrate species are on course to have fallen by more than two-thirds over a period of just 50 years, according to the Living Planet Report. In New South Wales there are 989 species of plants and animals and 107 ecological communities threatened with extinction. Why on earth would we do anything to risk adding to that dreadful toll? We owe it to future generations to ensure that we do not cause the extinction of any more species on our watch. It beggars belief that the Baird Government would even contemplate introducing legislation that will make it easier to wipe out the habitat that our rare, vulnerable and endangered animals rely upon for food and shelter.

The Government states that this bill and its administration is and will be based on science, yet, as was referred to earlier, it is clear the science community does not agree. In fact, I received a letter and a public statement signed by 73 New South Wales based scientists condemning the bill and its associated methodology. This statement goes on to confirm that land clearing is the primary threat to our biodiversity and is also a major contributor to climate change as well as the deterioration of soils and water quality. These scientists called on the Government to sincerely apply the principles of ecologically sustainable development under section 6 (2) of its own Protection of the Environment Administration Act 1991.

Over the past 200 years we have lost 75 per cent of our rainforests, almost 50 per cent of all forests and 99 per cent of south-eastern Australia's temperate grasslands. It is time to reverse the damage caused by land clearing, not to encourage greater destruction—rather, to give something back, not keep tearing away. With the looming impacts of climate change we need to repair and return agricultural land to native bush and grasslands for carbon sequestration in trees and soils. I find it completely astounding that this bill does not address the significant challenges we face because of climate change. There are only two brief mentions in a 200-page document. The climate change deniers have won out in drafting this bill and capturing this Government.

Like all members here today, I have been inundated with emails, letters, submissions and requests for meetings to discuss the dangers of this bill. Many farmers and landholders have written to me stating that they do not want or need these proposed laws. I note landholders and farmers have written and come to see me. It has been heartening to meet with farmers who recognise that, as true guardians of their lands, they want to enrich the diversity and complexity of animal and plant life on their landholdings. They know that attempting to farm on marginal lands is a zero-sum game for both humans and animals.

The health of any landscape is measured by its biodiversity, not by its yield and not by its economic profit. In a time when the divide between city and country is expanding, people are questioning the status quo of agriculture practices. This bill, not unlike the so-called Biosecurity Act 2015, further exacerbates this divide; it does not bring us together. Rather than be open and honest about how food is produced, how land is treated and how animals are treated, it seems the industry, again, has wielded its Thor-like hammer on a captured government. Let us hide the truth. Let us remove laws that are moderately effective in their outcomes. Let us make legal what is illegal.

One obvious example is the continued demonisation of the kangaroo. As more habitat is cleared, more kangaroos are forced from their grassland homes to graze on pasture, but up goes the cry that we have too many kangaroos. Overwhelmed, hunters take their deadly aim and millions of kangaroos are slaughtered. It is the world's largest land-based slaughter of any mammal. This is what precedes. Then, as former grasslands turn to dust with the cloven hooves of conscripted sheep and cattle, the profit mongers demand more land to desecrate and desiccate. It is noted that the requirement for fauna assessment has been significantly reduced in this bill. There is now a heavy reliance on habitat as a surrogate for determining the presence of fauna. Our environment has become so degraded in some parts of the State that paddock trees have become crucial for the survival of many animals. Under this bill, paddock trees in category one land will be able to be cleared without assessment.

There are large amounts of published scientific information that support the crucial importance of paddock trees as habitat for fauna and as avenues to allow movement of fauna across vast partially cleared landscapes. It is on this basis that they have been protected in the past. Under the proposed Local Land Services Act, the impacts of the removal of paddock trees can be self-assessed by a landholder under a self-assessable code. Some threatened species that use paddock trees have cryptic behaviour. For example, hollow dependent microbats are not likely to be detected by a landholder who does not have expertise in fauna surveys. The presence of those lone trees with hollows, leaves, blossoms and seed could mean life or death for animals seeking rest, refuge and sustenance as they make their way to safer and more abundant habitat. With migratory birds experiencing massive habitat loss around the globe, those resting trees may be the only thing between survival and extinction.

On my recent trip to Menindee and Broken Hill with my dear friend Uncle Max, elder of the Yuin people, we stood by a century-old seemingly dead tree. Uncle Max stated that those trees are as alive now as they were when they had leaves. Birds and small mammals make nests and homes in the hollows and birds take the fallen branches of those trees to far places to build nests. Those trees do not die. With the stake so high, why would we rely on the obvious conflict of interest regarding self-assessment to protect migratory birds and travelling wildlife? Another important teaching of Uncle Max is the importance of the totem animals as well as the songlines of the land. Those songlines and totem animals, which will be dramatically affected by the repercussions of this bill, are the lines and centres of energy around which Aboriginal culture and all humanity is dependent for sustaining its balance and centredness.

Kangaroos have already been failed by the Scientific Committee, which will continue to determine the listing for protection. The Scientific Committee has failed previously to identify that certain kangaroo populations are threatened or vulnerable as a result of commercial and non-commercial killing. With the proposal for greater streamlining of the committee's processes, kangaroos are even less likely to be afforded protection. The bill waters down the protection of individual animals as well as groups and numbers of animals with a risk-based approach to regulating wildlife. Under the current legislation, this approach differentiates between low- and high-risk activities. The existing legislation prohibits certain wildlife activities without first obtaining a licence. For example, it is currently an offence to harm a protected animal such as a kangaroo unless a licence is obtained.

Under the proposed tiered approach, people can carry out certain low-risk activities that harm wildlife without obtaining a licence. Harming wildlife as part of these activities would not be an offence should the bill be passed into law. Exactly what activities would be allowed is yet to be seen given that, as usual, the devil will be in the detail of the regulations and industry codes of practice. We know that the risk relates to populations of animals, not individual animals. The Animal Justice Party believes that protections should be accorded to individual animals as well as populations. All animals are sentient and have the capacity to experience harm and pleasure. The question must be asked: Without the protection of a licence, will people who cause harm to individual animals under the tiered approach be committing an offence under the Prevention of Cruelty to Animals Act?

The failure to include the "improve or maintain environmental outcomes" protection from the existing legislation means that there is no mechanism to ensure that there will be no net loss of vegetation at the local level. The bill relies heavily on self-assessment, which renders animals vulnerable to those with a vested interest in not seeing koalas in trees. The biodiversity offset scheme is a bait-and-switch scam of the worst order. There is no requirement to meet the like-for-like criteria. The offsets do not even have to be in the same area, only within New South Wales, and 200-year-old trees with nesting hollows are not replaceable by 200 seedlings. It does not make any sense to approve the draining of a wetland by paying credits into an offset scheme. Money for rehabilitating one part of New South Wales will not bring back dead ecosystems approved for destruction in another part of the State.

Of great concern to me are the amendments to the Local Land Services Act 2013 to align with the provisions of the proposed Biodiversity Conservation Bill that gives powers to authorised persons under the Act. The proposed changes seem to corrode and undermine the importance of environmental protections by focusing on the use of the land for human exploitation. Any such protective measures in the Biodiversity Conservation Bill are then further diluted as they are overridden by allowable activities under the proposed amendments to the Local Land Services Act 2013. The Local Land Services Act is essentially concerned with agricultural production, biosecurity and pest management. There is scant reference to environmental values and land, and land is seen more in respect of resource management rather than its importance being recognised as habitat for numerous animals.

It is inappropriate for Local Land Services to play any role in regulating the management of native vegetation. It does not have the expertise nor is its focus on habitat protection. Its power to allow clearing that is considered to have a lesser impact on biodiversity through a framework of allowable activities and codes of practice is a recipe for disaster. As any animal protection advocate will say, codes of practice have a habit of regulating industry practices rather than seeking best practices and outcomes for animals.

I am also deeply concerned by the panel's recommendation to streamline the regulation of human and wildlife interactions, which has been included in the bill. Under the bill, interactions with wildlife will be assessed according to the risk to human safety, populations in the wild and animal welfare. This allows low-risk activity to occur without licencing. In effect, it opens the door to the private keeping of native animals. Any move from licencing towards codes of practice makes for less protection for animals. The Government's own explanatory fact sheet on the bill flags the possibility of wildlife management codes of practice to allow the keeping of certain reptiles as pets.

We have enough problems with puppy farms without a pet trade in native species. The Government states that licensing will be retained for situations where there is a risk that a code-based regulatory approach may cause any animal species to move toward extinction. How will this be monitored and assessed? I am deeply disappointed and concerned about the direction of these reforms. I am not convinced that they are necessary or desirable, or indeed that they will have the desired effect of improving biodiversity. This bill is a colossal failure for animals and the environment. I cannot support the passage of this bill.

Mr DAVID SHOEBRIDGE (18:30): As one of The Greens members in this House, I strongly oppose the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016. This is, effectively, 258 pages of deregulation and self-assessment. It is designed to do two things—to reinstate broadscale land clearing of native vegetation in this State, and to allow for the unregulated killing of native animals. As a Greens member committed to our environment and to reducing cruelty inflicted on native animals in this State, I strongly oppose these two bills. The Australian Government says it is committed to the Paris Agreement on climate change, which is meant to see the Australian Government working with State and Territory governments to reduce carbon emissions by between 26 per cent and 28 per cent in 2030, as compared to 2005 levels. The single biggest threat to the modest Paris Agreement commitment is the expansion of the clearing of native vegetation across New South Wales and the country.

Since the passage of the 2003 Native Vegetation Act it is clear that clearing rates for native vegetation in New South Wales have generally been relatively stable, and substantially reduced from the very aggressive clearing that happened, particularly in the 1980s and 1990s. What does that mean? According to the 2015 State of the Environment report from the New South Wales Environment Protection Authority [EPA], 61 per cent of New South Wales remains covered by native vegetation but only 9 per cent of the State has vegetation that is considered to be close to a natural condition. The condition is described as "variable" in the remaining 52 per cent of the State, but has deteriorated, in the words of the EPA, "largely due to the effects of different land use and land management regimes". Any reading of the State of the Environment report reveals that the main threat to the extent and condition of native vegetation is not hidden—it is right up there, highlighted at the start of the New South Wales Government's own report. The report states:

Land clearing has been recognised as the main threat to the extent and condition of native vegetation in NSW.

These two bills aim to remove restrictions on clearing native vegetation from parts of the State that have been set aside for agriculture but have had relatively low disturbances or limited changes to native vegetation. Much of the State is under threat from the deregulation bulldozer being rolled out by the Baird Government—no doubt to satisfy ultra Right ideologues like the Hon. Dr Peter Phelps, who thinks that any kind of environmental regulation is, somehow, property theft; or the extremely aggressive interests that have captured a part of The Nationals who think that farmers should be allowed to clear whatever they like because any intervention for the environment is an inappropriate restraint on farming practices.

How much of the State is under threat? So-called relatively natural environments in this State—that is, land that is used primarily for agriculture but with limited changes to native vegetation—comprise a staggering 40 per cent of the State. That 40 per cent of the State is being targeted by the Baird Government in order to pacify the far Right in The Nationals and their own crazy ideologues such as the former Government Whip, the Hon. Dr Peter Phelps. The part of the Native Vegetation Act that this Government hates is set out in the objects of the Act. This 2003 piece of legislation, while contentious at the time, has proven to be extremely important in protecting native vegetation in New South Wales. The objects of the 2003 Native Vegetation Act are:

- (a) to provide for, encourage and promote the management of native vegetation on a regional basis in the social, economic and environmental interests of the State, and
- (b) to prevent broadscale clearing unless it improves or maintains environmental outcomes, and ...

Far Right property interests in New South Wales have been trying to tear down paragraph (b)—the provision that has protected native vegetation in this State for more than a decade. I give credit to the Labor Government—it was an achievement—which worked with Greens members in this Chamber to put in place that key provision to prevent broadscale clearing unless it improves or maintains environmental outcomes. That provision has been a target ever since for a minority of farming interests who want to be able to treat their land—their soil—as a disposable asset. They are prepared to beggar their neighbours and beggar the future. Good farmers have not had a problem with the Native Vegetation Act. They have recognised that they can work with it to protect their land and maintain an economic living off the land. But this angry minority that has empowered some of the ugliest behaviour in rural New South Wales has now captured the Baird Government—The Nationals and the Liberal Party—which is a disgrace.

Getting rid of key protections for native vegetation and reopening broadscale land clearing will ruin Australia's capacity to meet the modest targets in the Paris Agreement, to which the Turnbull Government has agreed. We know that because this Government is trying to replicate the damage that has been done to native vegetation laws in Western Australia and Queensland. In Queensland, the ultra Right Campbell Government tore down the State's native vegetation laws in 2013 and the clearing of native vegetation in Queensland skyrocketed. In 2013-14 Queensland cleared a staggering 300,000 hectares of native vegetation. That was a result of this style of law. That was more than double the rate of native vegetation clearing before the Liberal-Nationals in Queensland tore down their native vegetation legislation in 2011-12. In Western Australia in 2013, another ideologically driven attack from a Coalition Government stripped away key native vegetation protections in that State. Native vegetation is being lost again, at near historical levels in Western Australia. Now the Baird Government wants to replicate that in New South Wales.

The Hon. Rick Colless: That is rubbish.

Mr DAVID SHOEBRIDGE: It is not rubbish; it is a disgraceful attack on the environment. This Government will stand condemned by future generations for what it is attempting to do. As other speakers have said, there is little consensus on this legislation and much opposition. There is no democratic mandate to shove it through the House. Whatever reforms are put through now, if the farming community thinks this will provide certainty they are dead wrong because this legislation has a target on it. It will be the work of a future government—hopefully in 2019—to strip back these laws, to go back to first base and to reinstate the key provisions of preventing broadscale clearing and maintaining and improving standards in the Native Vegetation Act.

If anyone thinks that this legislation represents longstanding reform in New South Wales, they are swimming against the tide of history. Come 2019 they also will be swimming against the tide of politics in this State. I have been greatly assisted, as I am sure have other members of this Parliament, by representations I have received from organisations around the State. I particularly note concerns that have been put onto the record by the Environmental Defenders Office [EDO] NSW, which has its top 10 concerns with the former draft Biodiversity Conservation Bill and the Local Land Services Amendment Bill that unfortunately is now live legislation in this Chamber.

The Hon. Daniel Mookhey: Just 10?

Mr DAVID SHOEBRIDGE: I note the interjection. It is the top 10 concerns of the Environmental Defenders Office NSW. I will not read all the concerns. The first two concerns really sum up for many people what the key attacks are. The first is the repeal of the Native Vegetation Act and the environmental standards that go with it. The EDO submission states that the Local Land Services Amendment Bill replaces the Native Vegetation Act and its world-class environmental outcomes. It also replaces assessment methodology with self-assessable codes. It has exemptions and discretionary clearing. There are no clear environmental baselines, aims or targets. There is no ban on broadscale clearing and no mandatory soil, water and solidity assessment. There is also no maintain or improve standards to ensure environmental outcomes either at the site scale or at the landscape scale. Provisions are less stringent, less evidence-based, less accountable and are likely to result in significant clearing increases in New South Wales. That is the EDO's first concern.

The EDO's second concern is related to the heavy reliance on flexible and indirect biodiversity offsets; in other words, the ability for unscrupulous landholders to buy their way out of environmental protections and to destroy and pay repeatedly. The EDO states that the proposed scheme is heavily reliant on offsetting biodiversity impacts by managing other areas for biodiversity rather than preventing the impacts and adopts the standards of the problematic major projects offset policy. The biodiversity assessment methodology is therefore significantly weakened. For example, direct like-for-like offsetting requirements have relaxed and can be circumvented. The option to pay money in lieu of an actual offset will result in net losses of certain threatened species and communities. Offset areas and set-asides may be further offset later on rather than protected in perpetuity.

The EDO has those concerns about offsets, particularly the appallingly weak major projects offset policy, because it has seen it in action for years—for example, in mining approvals. Land that was once set aside for environmental protection in the initial mining approval is later cleared in mines in a subsequent approval. The EDO has seen how weak the offset policy is in situations in which environmentally critical land, in places like the Lower Hunter—where there are ecologically endangered communities—have been allowed to be cleared and destroyed. What is set aside? It will be 30 hectares somewhere up near Dubbo. The EDO has seen the rorting of offsets for years. Now the Government wants to expand that methodology across native vegetation in New South Wales. That is a future inquiry by the Independent Commission Against Corruption [ICAC] waiting to happen—unless, of course, this Government guts the ICAC.

I am also grateful for the briefing note that was provided by Stand Up For Nature, which is an extraordinary alliance of the Nature Conservation Council of New South Wales, the Total Environment Centre, the National Parks Association of NSW, the Humane Society International, the Wilderness Society, the Colong Foundation for Wilderness, the NSW Wildlife Information, Rescue and Education Service Inc., Sydney Wildlife, the World Wide Fund for Nature [WWF], the National Trust, and BirdLife Australia. Basically they are the key interest groups in this State that have a deep understanding of and compassionate concern for the protection of our environment and our flora and fauna in this State as well as our natural and built heritage.

They describe the key political issues as follows: First, the reform package is not about biodiversity conservation. The process has been hijacked to deliver political outcomes, but some stakeholders will not be happy until all land-clearing regulation is removed. I know that is exactly what this legislation is. It is a hijacking of good policy that is based on science and study to deliver for an ugly and militant minor sector of both the farming lobby and a section within The Nationals. Secondly, the scientific community has raised significant concerns over the reform package. Key scientific advisers have gone to the extent of resigning and walking away from this reform package because they have seen how far it has strayed from science and reason.

Thirdly, there is significant public concern about the proposed changes that is coming not just from environmental groups that support strong biodiversity laws. Farmers, high-profile community members, scientists, councils and lead organisations all have raised concerns about the changes. They note that the proposed laws are similar to, and in many ways are the ugly child of, former Queensland Premier Campbell Newman's land-clearing laws. There are inadequate safeguards in this legislation to prevent a return to broadscale land clearing and an increase in carbon emissions. We have seen similar laws fail in Queensland. Instead of learning from that, the New South Wales Government is replicating it.

Those who do not learn from history, particularly the mistakes of history, end up replicating them. Note it was the former Premier of Queensland, Campbell Newman—I emphasise "former"—who went so far into the lunar far Right—that is occupied by people such as the Hon. Dr Peter Phelps, who is part of the lunar Right fringe of the Liberal Party—that the Coalition Government in Queensland got thrown out of office. That is exactly where the Baird Government is heading with this type of ideologically driven attack on our environment. The Ecological Consultants Association, which was formed in 1999 to promote and enhance best practice in ecological assessment, planning and management in accordance with the principles of ecologically sustainable development, has listed concerns as well.

In a very clear and detailed dissection of the proposed Biodiversity Conservation Bill, key points are made. I will not read them all, but I recommend to Government members that they read the whole document before they vote for this appalling legislation. The association states that of its many concerns, first, this legislation will lead to a reduction in the protection of biodiversity; secondly, the legislation will be more complicated to interpret and implement because it combines Act and policy within the one document. I pause there to make the point that most consultants usually like complexity because they are paid more to deal with it, but this association is concerned about the impact of this legislation on the ground.

Thirdly, the legislation does not conform to the scientific rigour statement of the Office of Environment and Heritage. In fact, this legislation is so far from scientific rigour that it is quite embarrassing. That is why the scientific advisers have resigned and walked away from the process. Fourthly, the association says that this legislation is contrary to evidence-based policy because it significantly reduces requirements for field survey and other essential data collection. The self-assessable codes are really a manifestation of hope and prayer. Perhaps that is why the Christian Democratic Party has ended up supporting this legislation—it is all about hope and prayer, rather than anyone truth testing what the native vegetation is before it is cleared by the bulldozers that are unleashed by Mike Baird.

Fifthly, the association states that the legislation is based on a system to determine the values of biodiversity—in other words, credits—that has been shown to be inaccurate, bases calculation of credits on cursory and, at worst, inaccurate ecological information, relies on maps that are compiled on broad-based data and modelling to provide fine-scale assessment. In other words, the Government does not have the knowledge; nor does it have the mapping; nor does it have an understanding of the native vegetation to allow even its high-level objectives to be implemented. Worse still, members of this House are getting 250-odd pages of legislation when all the detail of the codes and the mapping is yet to be done. Talk about hope and prayer! There is the idea that it will just magically appear. The Government does not have the mapping and does not have the data, but the Government is putting through the legislation regardless.

Point 6 is where the ECA makes the point that this bill "is missing important information that underpins it, in particular the land category maps, threshold values maps, methods to assess habitat suitability, assessment thresholds and sensitivity classes. There is a real risk of the preparation of these documents being rushed to meet government requirements reducing the reliability of the data they contain". The last point I raise from the ECA is that this bill will "not 'slow the rate of biodiversity loss' (Purpose (a) of the new Act). There is no procedure to measure biodiversity loss. Monitoring of species, their populations and factors that affect the status is the only way of measuring rates of biodiversity loss. The provisions of the proposed biodiversity conservation strategy are inadequate for this purpose".

This legislation is not fit for purpose if its purpose is to protect the biodiversity of this State. It is fit for purpose if its purpose is to unleash broadscale land-clearing and the destruction of native flora and fauna. That is what the bill is really. It is fit for the real political purpose, if not the stated objectives in proposed section 3 of the bill. It is an ugly piece of legislation coming from an ugly agenda that will not last long in statute books of New South Wales.

The Hon. DANIEL MOOKHEY (18:50): Should Parliament pass the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016, a precedent will be set. This precedent is that whenever The Nationals end an industry vital to the livelihood of regional New South Wales, whenever they end local democracy in regional communities and whenever they close regional TAFEs, sell Crown land, privatise regional hospitals and run down regional schools, land will have to be cleared. This is because in exchange for six years of unstinting vassalage of The Nationals, permission to clear nature from land will be unbounded by either the legal obligation to care for the environmental impact or the moral obligation to steward the land for the next generation. This is a precedent we will set tonight. For all of the bleating of the Minister for Primary Industries, and Minister for Lands and Water about antiquated laws imposing—

The Hon. Niall Blair: Bleating?

The Hon. DANIEL MOOKHEY: Yes, look it up—too high a toll on primary production, the truth is that since the laws that will be repealed when this legislation before us has passed through the Parliament were enacted, primary production in New South Wales has grown by an average of nearly 3 per cent every year. Through global recessions and global financial crises this State's farmers have sold more produce to more people in more markets than ever before. This astounding level of growth has occurred amidst the most significant sustained fall in the number of hectares of land cleared in this State's history. The claim that New South Wales current biodiversity protections are an extensive tax on agricultural growth in this State is a furphy.

The truth is that the tension between preserving biodiversity and increasing agricultural output is over. The future is in higher productivity farming in harmony with nature, not treating nature like the enemy as these

laws do. It is not at all clear how these laws will help to spur this adaptation, how the laws we enact tonight will help the agricultural sector to transition to higher productivity farming. It seems that these laws revive the nineteenth-century growth strategy to clear more land, plant more crops, graze more cattle. This strategy will confer a huge competitive advantage on industrial-scale producers. It will impose a heavy disadvantage on the ecosystems of small-scale farmers who drive innovation and productivity growth. That is not my view, but theirs. It is the view of Dr Guy Fitzharding, AM, a grazier, who said:

Land clearing has long been recognised as a key threat to an ecologically functional and biodiversity landscape—key elements in ensuring that our agricultural production systems are recognised for producing food of the highest quality in a sustainable manner and will continue to do so in the future. The relaxation of land clearing laws seriously challenges this.

Anika Molesworth, the 2015 Young Australian Farmer of the Year, said:

As a sector we are highly reliant on the health of the landscape. Proper ecosystem functioning is the foundation for agriculture. Our actions and inactions today can jeopardise the rights and wellbeing of the next generation of farmers. Irresponsible and short-sighted land management will contribute to climate change and risks passing on to young farmers a legacy irreparably diminished.

Michael Hogan, the Chair of Soilcare, said:

Any stock and station agent will tell you that a well-treed property will attract a higher price than a cleared farm. While farmers should be able to clear re-growth and woody weeds without too much red tape, the proposed changes go way too far.

The tragedy is that these laws will pass when New South Wales agriculture's brand premium is its reputation for ecologically healthy food. The price premium we get is real. The spike in the farmers' terms of trade is because international buyers trust the health and integrity of our exports over their domestic production. This brand is threatened by this legislation. If the contest for India's and China's food wallet is between industrial-scale farmers, the United States will win. If the contest is over health, taste and quality, our farmers will win that contest every time.

The Hon. Niall Blair: Are you Country Labor?

The Hon. DANIEL MOOKHEY: The other threat this legislation poses to the future of agriculture is climate change related.

The Hon. Niall Blair: Or are you a Country Labor spy?

The Hon. Penny Sharpe: Point of order: I have been patient with the interjections of government members at the table. I have asked them to cease interjecting. The Minister will have an opportunity to respond to comments in his speech in reply. They should allow the speaker to be heard in silence.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The Deputy Leader of The Nationals will cease interjecting.

The Hon. DANIEL MOOKHEY: I would observe that his interjections are not the standard of a deputy leader. As I was saying, the other threat this legislation poses to the future of agriculture is climate change related. Other members have said that carbon dioxide and other greenhouse gases are released when vegetation is burned or left to decay and as soil carbon declines over time following a clearing event. In 2009 land clearing accounted for around 7 per cent of Australia's net emissions of 564.5 million tonnes of carbon dioxide equivalent reported under the Kyoto Protocol. The land sector, like all sectors, will have to contribute to meeting Australia's emission reduction goals.

If this legislation is passed we should note that the laws it will repeal have helped us to meet our Kyoto targets. The laws that replace these repealed laws will not help us meet the targets. Amongst the many consequences of this failure will be the failure of our farmers to earn income they could have earned under any climate abatement program. There is strong consensus that rural landholders should be eligible to receive incentive and stewardship payments to conserve and protect environmental values. Money will be paid by this Government to this State's farmers for that purpose and in future other money can also be paid. Under any carbon abatement program sponsored by Commonwealth governments, both Labor and Tory, farmers earn revenue for preserving wild lands.

Bankers place a premium on this revenue when valuing a farm and deciding if a farm can support debt. That assessment depends on the stability of the regulatory framework—that is, banks have more confidence in the integrity of abatement payments if farms are assessed under stable and enduring laws incorporating the highest standards. This will not be the case under the cobbled together codes no-one has seen that will replace the current methodology if this legislation passes tonight. These bills threaten that stability. There are also other threats that are posed by this legislation. Other Labor members have spoken about these threats, as have my good friends at the Nature Conservation Council of NSW. These threats are from replacing the current scientifically based assessment process that determines clearing with self-assessable codes; I share that concern. There are the threats

from dropping the current requirement that any environmental offsets need to be undertaken on a like-for-like basis; I agree with that concern.

There are many other concerns. The first is a surfeit of discretion and a deficit of science in the bad process that will be enacted if the legislation passes. The second is no guarantee of public participation in land clearing decisions. The third is contradictory laws with uncertain compliance and enforcement. I was concerned when the Government's own expert involved in designing these laws denounced the laws saying that they will revive broad-based land clearing. Surely this is reason enough to give this House pause, but ultimately this legislation will pass. Then the contest will move out of this Parliament and into the field, and we will see whether the benefits the Minister claims are in fact realised. But what we will definitely see is what has happened in Queensland and Western Australia, the return of broad-based land clearing. In time we will be back in this House undoing the harm that tonight we commit.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I will now leave the chair. The House will resume at 8.00 p.m.

The Hon. RICK COLLESS (20:00): This is an important day in my parliamentary career. In 1995 I held the position of the District Soil Conservationist in the New England district of Inverell, covering an area that extended from Guyra in the east, Kingstown in the south, Delungra in the west, and Yetman and the Queensland border in the north. This district is a large area of agricultural land uses, including sheep and cattle grazing, winter and summer cropping, irrigation and intensive animal industries. In my role as District Soil Conservationist, I was responsible for providing expert advice and works implementation to the farming community on all aspects of land management to ensure that they could continue their operations without causing land degradation to their resource base. As part of that advice, I became aware that this region had a large proportion of land that still contained significant stands of native vegetation, most of which was not in pristine condition after being cleared in the early to mid-1900s. This land had either regrown or recolonised with a variety of native grasses and shrubs.

The land use was changing from a predominantly grazing industry to include more annual cash cropping. The days of landholders only being wool-growers, cattlemen or farmers were at an end. All primary producers were looking to diversify their income streams as a risk management strategy. It was also during this period that those landholders who were predominantly farmers producing winter and summer crops, dry land and irrigated, were moving towards larger, more fuel- and time-efficient farming machinery. The introduction of less aggressive tillage machinery, such as the blade plough, saw machines with up to nine six-foot wide blades ganged together to comprise a machine that was 54 feet wide. For those who are not familiar with the measurement of feet, that is a width of 16.5 metres. Those sorts of implements were gaining popularity in the cropping areas. Modern machinery has continued to get bigger. The widest plough now available is more than 23 metres wide, the widest header is more than 18 metres wide, the widest boom spray is more than 50 metres wide, and the widest planter in Australia is 64.6 metres wide, or 212 feet.

Many grain growers now employ a technique known as tramlining. They use permanent wheel tracks in their cropping paddocks to reduce the compaction caused by agricultural machinery moving randomly over the paddock. To facilitate this, farmers will use their machinery in multiples of their basic tramline spacing, operating their machinery only on those tramlines. How does it work in practice? Let us assume a planter being used by a farmer is 40 metres wide, as many are in the broadacre farming areas of New South Wales. That farmer probably would have a boom spray that is also 40 metres wide. If they still use a plough, it is likely to be 20 metres wide. Every time an operation is conducted on their farm, the wheels of the machinery will run in the same tram tracks, thereby reducing soil compaction in the remainder of the paddock. One can only begin to imagine the difficulty of navigating a 65-metre wide planter around a series of individual paddock trees where the area has been tramlined and the machinery is using a global positioning system for guidance to maintain accuracy.

During the late 1980s and early 1990s, as a result of changing land use and bigger agricultural machinery, some of those stands of non-pristine native vegetation were being recleared to allow farming operations to commence or, in the case of grain farmers, to allow larger machines to operate more efficiently. As a result of this clearing and after being contacted by one of my clients for advice about his wish to reclear some country, I took the initiative to commence an advisory program to assist landholders who were looking to clear some of their land. I acquired aerial photographs of the properties. Quite often it was a formal farm plan prepared by the Soil Conservation Service. Marked on the aerial photo were changes in soil types, geological and topographical features, and land capability that might impact on the suitability of the land for cropping or increased grazing intensity. The result was a clearing plan that the landholder would give to the machine operators to follow. The plans were productivity based only and landholders were confident that the area I had recommended to be cleared provided them with the best possible financial result for the cost they would incur for investing in the clearing.

I was astounded by the response to this program. By mid-1995 I was taking eight to 10 requests each month for advice. It also gave me the opportunity to raise various land management issues with clients that I thought they should be addressing, such as advice on fencing location, construction of soil conservation earthworks, water supply, dry land salinity management, soil acidity, and organic matter management. This is how an effective comprehensive land management advisory service should operate. During the third week of August in 1995 I travelled from Inverell to Gunnedah to attend the annual agquip machinery field days. I called into the district office in Gunnedah before going to the site. One of my colleagues handed me a copy of the *Sydney Morning Herald*. The front page headline was about the introduction of State Environmental Planning Policy [SEPP] 46, which immediately banned all clearing of native vegetation in New South Wales to an individual plant level.

This article also announced that officers of the Soil Conservation Service were now the compliance officers and that if any member of the public observed clearing occurring, they were to report it to the nearest Soil Conservation Service office and officers would commence legal action against the landholder and the contractor doing the work. After reading the article my colleagues asked me what I thought of it. I clearly remember my response, "I will not be doing that." One of them tried to tell me that if it was Government policy then I had to do it. I informed them that I did not do anything I did not want to do, and that we all have choices in life. My choice was to leave the Soil Conservation Service two years later and start my own agricultural consulting business to free me from the shackles of being a vegetation compliance officer when I was a dedicated agricultural advisory officer. I still regard the decision as one of the best decisions I ever made.

Over the next two years I did not receive one more phone call requesting clearing advice. The reputation of the Soil Conservation Service was trashed. Landholders were not game to contact the service about land management issues, although the demand for earthworks remained. After leaving the service, my clients still made contact with me about clearing issues. They were mainly seeking advice on how they should proceed without speaking to the vegetation compliance officers. This issue is one of the major failings of the current Native Vegetation Act and its regulations—an advisory program versus a compliance regulatory program—and the focus of the Labor Government on all matters environmental, which put regulation first and compliance second, while having virtually no advisory functions.

The current Act is a disaster for the primary producers of New South Wales. It was brought on at 8.43 p.m. and forced through this House on 4 December 2003, which was the last sitting day of that year. In her contribution the shadow Minister talked about the Sinclair report, which was published in October 2003. A lot of work was done with the NSW Farmers Association. It believed that the bills that were introduced would reflect the Sinclair report. We can only imagine the dismay, disappointment and embarrassment of farmers at the end of the week when they had an opportunity to read the bills that Minister Knowles presented to the other place at 10.47 p.m. on Wednesday 12 November. That said, that the bill "delivers the Sinclair Report's standard definitions for native vegetation, regrowth and protected regrowth". In that report Sinclair made the point:

The real debate about land clearing is not about trees, it's about better management of native vegetation so that farmers can protect our rivers which produce fresh water, and manage our land so they can continue to produce the food we eat and the clothes we wear.

Under the stewardship of Minister Craig Knowles, the Carr Government introduced that bill into this Chamber on Thursday, 4 December—the last sitting day of the year. At 8.15 p.m. that evening the Government released its extensive list of amendments to the bill, which we in Opposition at the time had not seen nor had the opportunity to discuss with the stakeholders. At 1.15 a.m. on the Friday, the debate stalled and shadow Minister Duncan Gay and I approached Minister Knowles to express our disgust with the way the bill was being forced through in the middle of the night. He agreed to a few hours off, and the Parliament reconvened at 11.00 a.m. on Friday morning.

In his speech in reply Minister Costa acknowledged the work of Mal Peters in developing the amendments for his "intense involvement in recent days and weeks, and even last night". Mr Peters was the President of the NSW Farmers Association at the time. Mr Peters recently referred to the Native Vegetation Act 2003 as "the cancer on farmers' property rights" but it was all his own work, with the previous Labor Government, that delivered that cancer. When this Government was elected in 2011, we thought very carefully about the process we wanted to go through to put in place a much more sophisticated, fairer and more effective suite of environmental management legislation that would reduce the restrictions on primary producers, deliver the environmental outcomes that Labor was unable to deliver, restore the trust and faith in Government advisors, reduce the single-minded focus on compliance and rebuild the community confidence in the overall process.

The Biodiversity Conservation Bill and the Local Land Services Amendment Bill will provide sophistication, fairness and effectiveness in the way our natural resources are managed in this State. These bills will repeal the repugnant Native Vegetation Act 2003, the Threatened Species Conservation Act 1995, the Nature Conservation Trust Act 2001 and those provisions of the National Parks and Wildlife Act 1974 relating to plants

and animals. The Government commissioned a review of biodiversity legislation in New South Wales, and the review panel delivered its final report on 18 December 2014. That review made the point very clearly that the current "native vegetation laws are based on a command and control approach to regulation and there is clear evidence that this approach has resulted in mistrust between the farming community and the government". This is the key failing that we want to overturn. We must reinstate the confidence of the community in Government employees that they are there to help all sections of the community, not just blindly implement some ideological philosophy through a regulatory process—an ideology that in no way reflects the management techniques of the first Australians.

I refer honourable members to a very important publication, "The Biggest Estate on Earth: How Aborigines made Australia", which was written by historian Professor Bill Gammage, who outlines how the Aboriginal people managed the land. It bears no resemblance to the management techniques that have been employed when areas are locked up, as they are today. The final report made a total of 43 recommendations, and the Government committed to adopting legislative reform encompassing all 43 recommendations made by the review panel. On re-election in 2015, the hard work began to build the reform package that is now presented in the two bills before the House that will introduce a completely new four-tier approach to biodiversity management in the State. Under the first tier, rural landholders conducting a primary industry business on their land will work under a new rural land management framework, allowing them to expand their business opportunities with improved efficiencies. Under this tier land will be divided as either category 1 unregulated land or category 2 regulated land, and four key elements will come into play.

The first of these will be the agricultural land on which there will be no regulation of native vegetation; the second is a range of allowable activities to allow landholders to undertake day-to-day activities without permission. If farmers wish to expand their productive land beyond the first two elements they will be subject to a range of codes of practice that will allow minor impacts on native vegetation but that will include limits on clearing, conditions and some restrictions for sensitive land and vegetation types. If they wish to clear more significant areas they will be subject to a new clearing approval process that will leverage the biodiversity offsets scheme, which will also require decision-making to ensure that economic, social and environmental benefits are secured.

Secondly, there will be a market-based system to assist developers in avoiding, minimising, measuring and offsetting the biodiversity impacts of their development. The third tier will provide a modern risk-based approach for identifying, protecting and regulating interactions with native plants and animals. The final tier is to establish a new suite of arrangements that will deliver proper biodiversity outcomes on private land through a long-overdue and unprecedented level of direct Government investment. Private land conservation agreements will enable direct Government investment in biodiversity outcomes on private land, with a commitment of \$240 million over five years.

I must make a comment on the private native forestry [PNF] provisions within these bills. As Chair of the Forest Industries Taskforce, I work very closely with all sectors of the forestry industry in New South Wales—there is no more important industry in many communities than the forest industry. The previous Government attempted to completely close the forest industry in New South Wales by declaring as national parks vast tracts of land that had been sustainably managed as State forests for the past 100 years. This included large tracts of plantation native hardwoods that had been planted for the purpose of future harvesting for timber supply to the industry. Indeed, the Centenary of Forestry celebration dinner was held recently. I refer members to the Minister's response to a question without notice during the last sitting week.

Recommendation 7 in the Review of Biodiversity Legislation in New South Wales recommended that the regulatory arrangements for timber harvesting on private land be reviewed as part of a separate process that does not regulate the harvesting of native timber on private land as a form of land use change. It also recommended that options be considered for regulating sustainable forestry operations based on their scale and intensity rather than tenure, including options for permitting low intensity operations on private land without the need for approval, and a focus on outcomes rather than process. Forest operations on privately owned or legally held leasehold land, held for the purpose of agricultural production, are part of an agricultural production system, not a forestry system, and as such should be managed under the same legislative process as any other agricultural activity.

In his second reading speech the Minister outlined the methodology for dealing with private native forestry [PNF] in the interim—before the regulatory process occurs. He made it very clear that harvesting private native forestry is not clearing but is a sustainable form of land use. I reiterate that commitment. The Government is fully committed to implementing all recommendations of the Independent Biodiversity Legislation Review Panel, including recommendation 7, which relates to private native forestry. A lot of people have been waiting for the results of that review. They are looking forward to a proper home for PNF in the legislation. Once the Native

Vegetation Act is repealed it is very important that the provision relating to private native forestry lives somewhere until such time as recommendation 7 of the independent panel has fully assessed the PNF through that separate process.

I am looking to make sure that there is a Government commitment to that. As Chair of the Forest Industries Task Force I seek a commitment from the Government for that review to commence without further delay. I would like to see an extensive and complete consultation process of that review and the development of a new framework as quickly as possible to allow the new private native forestry codes of conduct to be implemented. It is worth looking back at the chronology of private native forestry [PNF]. Prior to August 2007, approximately 20 per cent of PNF activities across the State required consent under the Native Vegetation and Conservation Act 1997 and the remaining 80 per cent of the PNF industry had been unregulated and had been operated under an exemption to the Native Vegetation Act 2003. That had been carried forward from the repealed State environmental planning policy 46.

To streamline and simplify the regulation of PNF operations, the New South Wales Government developed a specific regulatory framework for PNF under the Native Vegetation Act 2003. Underpinning that framework is a code of practice that sets the minimum operating standards for harvesting in PNF. From 1 August 2007 harvesting of timber for the purposes of PNF has required approval through a PNF property vegetation plan that adopts that code of practice. In my view this is landmark legislation that will provide not only better outcomes for farmers in New South Wales but also much better biodiversity outcomes for the New South Wales community. If both of those things are working in concert, huge social benefits will accrue as time goes on. It is with a great deal of pleasure and pride that I commend these cognate bills to the House. I look forward to their passage through the Parliament.

Mr JEREMY BUCKINGHAM (20:20): I join in debate on the Local Land Services Amendment Bill 2016 and its cognate bill, the Biodiversity Conservation Bill 2016. War is peace; freedom is slavery; ignorance is strength; and clearing trees from vast swathes of New South Wales promotes biodiversity.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Order! Interjections are disorderly. In anticipation of how this contribution to the debate will be received, I warn Government members who interject that they will be called to order.

Mr JEREMY BUCKINGHAM: Do not wreck my video.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Mr Jeremy Buckingham should be careful. I have warned Government members. Mr Jeremy Buckingham should not start; if he does, he will be called to order as well.

Mr JEREMY BUCKINGHAM: As I was saying, war is peace; freedom is slavery; ignorance is strength; and clearing trees from vast swathes of New South Wales promotes biodiversity. The only thing that surpasses the madness of the statement I have just made is the complete lack of science in the Local Land Services Amendment Bill. The bill is not about science, biodiversity or conservation. It is a politically ideological fix that is being delivered by a Coalition Government to appease a noisy minority that does not represent the majority of the farming community—the Harrises, the Phelps, the Greentrees of north-western New South Wales, who are big contributors to The Nationals coffers. They are getting their payday. That is what this legislation is about.

I make the commitment tonight in this House that The Greens will undo this bill. The politics of this legislation is utterly stupid. If this bill is passed and implemented, by the time the Government has done its maps and has enacted the legislation, The Nationals will be facing electoral oblivion in 2019 and The Greens will undo this mistake. In 2019 repealing this legislation will be the first order of business of The Greens. I am sure it will be one of the first things that a new Labor government will do. The Nationals who are presently in the House will not be members of Parliament in two years time. There are just seven seats between them and oblivion. The Nationals need only a 6 per cent swing to be out of government. Peak organisations whose representatives are in the public gallery have backed the wrong horse because in two years time Government members will be occupying the Opposition benches.

In a year's time the Government might have completed the maps to be able to implement these bills, so peak organisations that are supporting the Government's legislation might get a year of it, if they are lucky. But the legislation will be gone in two years time because Government members are electorally toasted. What we saw today was a government in absolute disarray. The Leader of The Nationals fell on his sword and there has been flip-flopping on policy. The Nationals failed to deliver for farmers on the land-use conflict. Do members of this House remember the big promise to get the balance right for strategic regional land use and the aquifer interference policy? What did The Nationals deliver? It was a dud. There was chaos and no certainty, and the very same is the case with this legislation. Where are the marginal seats? They are Tweed, Lismore, Monaro, Upper Hunter, Oxley

and Clarence. The Nationals are gone—just The Nationals—with swings of 30 per cent, and 10 per cent swings will mean that The Greens will be on the government side of the Chamber and will tear up this legislation.

The Hon. Rick Colless: Point of order: As entertaining as is the contribution to debate by Mr Jeremy Buckingham, I hardly think it addresses the objects of the bill. Mr Deputy President, I ask you to direct Mr Jeremy Buckingham to confine his remarks to the leave of the bill before the House.

Mr JEREMY BUCKINGHAM: You did not like it, did you, Rick?

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Order! Mr Jeremy Buckingham will cease interjecting and will allow me to rule uninterrupted. Mr Jeremy Buckingham is entitled to wide latitude in the second reading debate. I extend wide latitude to Mr Jeremy Buckingham, but I invite him to address the Chair instead of directing his remarks across the Chamber.

Mr JEREMY BUCKINGHAM: The Government is gone. It is absolute toast. One has only to look at what the bookies are saying and what the community is saying. One has only to get out into the community to recognise that this is a disconnected, arrogant and foolish government that is delivering a silly bill at the eleventh hour of its term—and everybody knows it. This bill will not deliver certainty for the farming community of New South Wales. The Greens respect the work that the vast majority of farmers do, despite the challenges of dealing with variable climatic conditions, changes in animal welfare expectations and the vagaries of the market. The Greens know that 99 per cent of farmers are doing the right thing, and that number reflects the fact that the vast majority of farmers do not need to clear any vegetation.

This legislation is about a noisy minority of farmers. The Greens know that the vast majority of farmers do not need to clear vegetation and could operate under the existing Acts because they have been doing that. That is reflected in the State of the Environment report, which shows that only a tiny fraction of the State is being cleared. Only a tiny number of applications have been made for clearing vegetation. Only 25,000 hectares of land has been cleared in almost a decade. That is because most of the area that needed to be cleared for productive agriculture already has been cleared. This legislation is about a few greedy landholders in the north-western part of the State not being happy, as the Hon. Rick Colless said, about driving around a few paddock trees in their attempts to get as much as possible from the land in the Walgett and Wee Waa areas. This legislation is not about the science. It also is not about what is in the best interests of the State.

The people of New South Wales will not be fooled. The Greens know that this legislation has nothing to do with biodiversity conservation. The people of this State know, as do all members of this House, that this legislation is really about ripping up our native vegetation laws so that a few influential croppers can clear again—those who know that Mike Baird runs a government that does not give a damn about killing wildlife, destroying ecosystems and degrading soil and releasing huge quantities of carbon into the atmosphere. They also know that most farmers and land managers do not support undermining decades of soil and landscape restoration with a return to widespread and destructive land clearing.

I know that because throughout debates about coal seam gas, coal, mining and land use, The Greens have had relationships with farmers across the State. They have been calling The Greens in their scores and saying, "We think this will do long-term reputational damage to our communities. We only have to have the images of bulldozers letting rip, koalas being killed, people doing the wrong thing, and trees being piled up and being burned and we will lose the goodwill of the community." This legislation is simply the next tranche in Mike Baird's anti-environmental agenda as he cosies up to the lobbyists and ideologues on the far Right of his political party and as he desperately tries to please the dinosaurs in The Nationals.

This legislation comes from a Premier who is responsible for the biggest expansion in coalmine approvals in the State's history and from a government that approved the destruction of the Laird Forest for Whitehaven's mega mine and failed to solve the land-use conflict between agriculture and mining. The Government abolished the Office of the Independent Western Lands Commissioner, which is supposed to protect the environment in the fragile western half of the State. This legislation comes from a government that has completely failed to take climate change seriously. This State is ranked dead last in our nation for the supply of renewable electricity. This legislation has been panned by scientists and conservationists everywhere including the Government's own scientific adviser on the development of these laws, Professor Hugh Possingham, who said just weeks ago that these laws will "enable broadscale land clearing of hundreds of hectares of native vegetation on individual farms without offsetting."

Many groups have made representations on this legislation because they are alarmed by these regressive laws. The Wentworth Group of Concerned Scientists, the Royal Zoological Society NSW, 750 scientists and four scientific societies are all very concerned, as are the Hunter councils and chef Neil Perry. I join the Hon. John Graham in noting that Josh Gilbert stood down as the chair of the NSW Young Farmers because he could not

support the organisation's position on land clearing. That was a truly courageous move by a principled person who made a principled decision based on the science, not an ideology that a person can do whatever they want, or the science of the 1980s that guides the Hon. Rick Colless. We must make decisions on the reality of today that our biodiversity is under threat. We are entering a new age, the Anthropocene, which will be characterised by the catastrophic loss of biodiversity and wildlife and the undermining of the very ecological systems that protect us. As they say about the triple bottom line—there is no economy on a dead planet.

Another concern about this legislation is that we have heard it before. Anyone who remembers the Native Vegetation Regulation 2013 would know that in the document the Government said the regulation would cut red tape and enable farmers to get on with doing what they need to do and conduct their routine agricultural management activities [RAMAs] free from the prying eyes of the bureaucracy. The regulation was aimed at making sure that they could function efficiently and it was brought forward by the former Leader of The Nationals, Andrew Stoner. In September 2013 the regulation was revised to allow for self-assessable codes. Where have I heard that term before? These codes would apply to the clearing of invasive native species and the thinning and clearing of paddock trees. Under this regulation a significant number of successful property vegetation plans were developed under the Act that resulted in more than four million hectares of native vegetation on rural land being preserved and managed.

That regulation worked, but it was not good enough. This legislation is not about the science; this is a crusade. It is because a group of farmers objected to anyone being concerned about what was happening on their land—because of a belief that what was happening was not in the long-term public interest. These farmers believed that any objection would undermine the productivity of the land. This legislation is aimed at allowing a few cowboy farmers to do exactly what they want. I was recently contacted by a member of the NSW Farmers who lives at Walgett. He told me he was standing on his property watching piles of native vegetation burning. He recited a litany of breaches of the Act that was shocking. Were the people who were breaching the Act having the book thrown at them and being fined? Absolutely not. This member of the NSW Farmers was shocked that the proposed legislation would allow further land clearing.

Last night's *Lateline* aired the scandal erupting around the member for Barwon, Keven Humphries, from the allegations of his interference in the operations of the Office of Environment and Heritage to do the bidding of a few mates who had been on the phone to tell him, "I will do what I want, how I want and when I want. This is my country and I will clear it if I see fit." As the Hon. Dr Peter Phelps said, this is not how our society works. It is not in the public interest and we have to keep an eye on the wildlife that has been so damaged by many different types of land use. We also have to think about future generations and not just today's farmers. The NSW Farmers were successful in having the 2013 regulation passed, but it was not good enough. I have done a lot in trying to build bridges with farmers and I warn them that this legislation will not stand.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I remind Mr Jeremy Buckingham not to address the gallery.

Mr JEREMY BUCKINGHAM: I did not mention the gallery.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): All members will address their comments through the Chair and not to the gallery.

Mr JEREMY BUCKINGHAM: This legislation will not stand. Amending these bills will be the first order of business when this Government loses power. The mapping of the Biodiversity Assessment Method will not be completed in six months. In order to do this mapping the State will be carved up into two sections, one where biodiversity is regulated and the other where it is not regulated. The Government could not get the strategic regional land-use plan for four parts of the State done in six years and yet it claims it will map all the vegetation in the State in six months. That will not happen before we are in the middle of a State election campaign.

In the next State election, Government members will be going to the wall, and this legislation will be an albatross around their necks because they and Labor members will need the preferences of The Greens to get elected. We will make this legislation a key part of the State election, which I believe the Government will lose. Government members are already on the nose. On the far Right, we have witnessed the rise of One Nation and the anticipated win of the Shooters, Fishers and Farmers Party in the Orange by-election. On the Left, in the north of the State, the marginal seats of The Nationals are going to fall because the people who live on the North Coast do not want native vegetation cleared. This legislation is aimed at pleasing a few rich farmers in a postage stamp-sized area of the State.

How do we know what the farmers think? We have the case study of the Walgett cluster property vegetation plan from the NSW Farmers. This case study does not cover a coastal region but Walgett, which has been denuded of native species and trees. Anyone in that area who believes more vegetation should be cleared

would have to be an idiot, because that place has lost 90 per cent or more of its vegetation and most of its native species. Some farmers argue that more needs to be cleared because they have a 50-metre wide planter that cannot easily go around trees. That is absolutely ridiculous. Where will that land clearing hurt? It will hurt in Ryde, Epping, Coffs Harbour, Tweed and the rest of the State where people think our environment should be protected for future generations. The community is interested in protecting our native vegetation and has heard that this Government is tearing up the Threatened Species Act and the Native Vegetation Conservation Act.

The Greens recognise that the farmers feed us, although they might not want to feed me after tonight. That is why we believe our legislation has to get the balance right. That is why I argued that we should support the Local Land Services Amendment Bill but write into the objects of the Act that if farmers are asked to conserve land they should be remunerated accordingly. There should be financial compensation for it. That is the path we should be going down. We should be finding ways to pay farmers financially for the work they do in conserving biodiversity for us now and into the future. But we have not done that. Instead we have said, "We'll sell some assessable codes. We'll have RAMAs, the regulations that allow you to do what you want." That is not good enough. In the ideal world of people like the Hon. Dr Peter Phelps, we would have no regulation, we would have a free-for-all and people who own land could do whatever they want. That does not fly.

We have seen a biodiversity disaster in this country, and we are seeing a biodiversity disaster globally. One's head would have to be in the sand to not understand the absolute catastrophe that the world's ecosystems are facing with climate change, land degradation and poisoning of the oceans—and here we have a Government that wants to wind back the clock to 1978 or 1982: "Let the 'dozers rip! Get on the D9s!" What a catastrophe. Wrong way; go back. This legislation will be torn up in a matter of months because this Government will fall—and it will fall on the basis of its attack on the environment.

Ms JAN BARHAM (20:40): I also speak against the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016. It is a sad day to have to stand in this Chamber and speak against a piece of legislation that takes us back a long way in recognising the values of the State. I have lived through the introduction in 1995 by the Labor Government of State environmental planning policy 46 [SEPP 46] on the promise of protecting what is precious—biodiversity and our forests. It was done but perhaps not well with the introduction of SEPP 46. I acknowledge that some members have said it was a process that was introduced without a good consultation process and that open and transparent processes were a better way to achieve an outcome. To think that in 2016 we are going beyond where we were in 1995 is truly sad.

I have listened to some of the debate. I am shocked to have heard a lot said about why these laws are so important and so necessary, but I have seen very little evidence of the pain and problems the current prescriptive laws are said to be causing people across the State and I do not believe that is true. I think it is a false premise from the Government to introduce this legislation. I note that the Wentworth Group of Concerned Scientists came together when the Labor Government was still in power, and it is even more concerned now. It has written to all of us in this place about the concerns it has with the current proposals. The group made a major statement that it believes that these proposed changes:

... will breach the Baird Government's election promise to 'enhance the State's biodiversity for the benefit of current and future generations'.

Sadly, nothing could be further from the truth than this promise, since today we see a winding back of the biodiversity protections. I wonder whether many people in this Chamber really understand what biodiversity is. This bill proposes a nonsensical idea previously put by a Labor government that we can transpose, transplant or relocate biodiversity. Anyone who says that shows their ignorance of science. We cannot recreate, transplant or transpose biodiversity. The nature and the science of biodiversity tells us that it is unique in situ—in its place—because it relies on the soil, the microorganisms and the unique and often chaotic accumulation of specific ecological factors that create it. That part of the bill is an insult to the people of New South Wales, just as that concept was insulting when previously proposed by the Labor Government. I note that the Environmental Defenders Office NSW [EDO] submission to the threatened species review refers to the fact that under the proposal:

... the direct like-for-like offsets have been relaxed and can be circumvented. For example offsets do not need to be of the same species or vegetation type as the one being impacted.

What are we talking about? There is a sleight of hand here. A nonsense is being put forward by the Government—and by anyone who proposes that we can offset what we destroy in the name of science and biodiversity. It is impossible to do what is being proposed. The fact that the State would throw money at it, propose laws that make it possible for people to destroy what is valuable and priceless—biodiversity—and seek to replace it with something of a lesser value does not deliver for the place or for the planet. Nothing can replace or compensate for what is allowed to be destroyed. I return to the statement from the Wentworth group, which succinctly identified three major flaws in the current legislation. The first major flaw is that:

... the codes (activities allowable without formal application to government) allow broadscale land clearing. Codes should facilitate farm management with respect to small-scale management actions, such as clearing to allow fencing buildings, not enable broadscale clearing. Codes that facilitate broadscale clearing should be removed from the legislation. If broadscale clearing is to occur, it must be consistent with the Biodiversity Review Panel's report which means that it follows the mitigation hierarchy—avoid, minimise and offset. Offsetting is where the loss of native vegetation from clearing is fully compensated for, either on farm or elsewhere in the region.

I think the whole notion of offset is wrong and contradictory to any science evaluation. The statement goes on to say:

The second flaw is the lack of mapping for areas of high conservation value that was recommended by the Biodiversity Review Panel.

I have been looking at reports from 1995 and 2002 that consistently told government that it was not investing in mapping and that, if it was to propose that there were ways to get around the values or allow any assessment analysis of vegetation clearance, mapping was essential. I have recently heard that on the North Coast local councils are being halted in their ability to deliver management plans and local environmental plans. They cannot continue to implement the work of providing environment zones because the Government has not done its work. It has not done the mapping and the aerial work to allow proper documents to be written and assessments to be made by councils and by the community; it has not done the work to know whether or not vegetation is of value and therefore how it can be regulated.

This is where government has failed. With all the technology and all the ideology about the need to get on with business and do things, it has not kept its part of the deal. It has not delivered the baseline information that is required for individuals, councils, or any other government agency or business to be able to deal with, understand or consider what happens when clearing or any other development is proposed. It is a bit rich that the Government is declaring legislation urgent when for more than 20 years—

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Order! The Hon. Rick Colless and Reverend the Hon. Fred Nile should move away from the table to have their conversation.

Ms JAN BARHAM: The Government must be upfront about its role if it wants to introduce laws to allow certain activities that are against the public interest and the interests of our natural environment and future generations. It should have got its house in order and ensured that the mapping and assessments were done properly. The Wentworth Group has indicated that the third flaw is the design of the \$240 million investment in this new private land conservation. It states that this program is a welcome initiative. That is because the Government has not recognised the need to assist private landowners in protecting and preserving land, in restoring degraded land, and in managing land with high conservation values where land clearing was not permitted. It will instead require New South Wales taxpayers to pay compensation for additional land clearing that will result from the weakening of existing clearing controls. Again, the taxpayers are expected to subsidise farmers to degrade land. This is an ongoing story, and it is one of the reasons I feel despondent.

We are in the twenty-first century but we are going backwards. We have the technology and the science to achieve this. We have everything except the will of government to do the right thing and to preserve what is precious and valuable—that is, our biodiversity. I am lucky to live in one of the most biodiverse areas in this State. I am proud that I live in an area which values biodiversity and the natural environment and which understands that we are stewards. We have a responsibility to protect and preserve our land. In 1998 I was involved with a group in the Byron community that produced a biodiversity conservation strategy. We knew that we wanted to protect and to preserve the environment. We also recognised that we had amazing agricultural land that was very quickly diminishing as a result of development pressures. Ours is still the only area of the State that has a 117 direction for farmland protection because our soils are so valuable.

I feel insulted by the ignorance of members who do not understand that conservation is respectful of the rights and values of other people who for economic reasons want to work the land, to deliver agricultural goods, and to feed the nation. They are all good aims. As a community we said that we should pursue those processes together; we should consider our biodiversity values and farming. We brought the two together and had parallel processes; we did the science and the work to understand the value of our natural environment. At the same time we had a sustainable agricultural roundtable. We brought together farmers and members of the community who consume agricultural products. We also included government agencies. We developed the first sustainable agricultural strategy, and it is probably still the only such strategy in the State. We married the values of our shire and worked together. We brought people together in a respectful way. We found that we had values that could co-exist and we could work together to preserve both.

We were recently awarded for having the most creative, valuable, and forward-thinking sustainable agricultural region in the State—probably on the planet. As a community we have acknowledged our values and recognised what some see as competing values but we see as complementary values. Having developed two

award-winning documents, we brought people together to co-exist and to implement complementary processes. The council employed an ecologist who worked directly with landowners to find out how we could get money out of the State and Federal governments to protect and to preserve the land, to repair the riparian zones, and to link corridors. Community members went on to private land to do plantings and weeding, thereby enhancing the value of properties. We treat people respectfully, we give them good information, and we invite them to do this together. As a result, many people agree and want to take on the challenge. They acknowledge that it is something we can do. We love the area and want to treat it well. People are good, and when they are treated respectfully they will work together rather than see only competing values. That happened in 1998, and we won awards. However, most importantly, we delivered outcomes on the ground.

We worked with the farming community to enhance and to support biodiversity. We also acknowledged that we had a unique opportunity to assist the farming community with branding. We explained that if they could offer consumers a product that had an environmental stamp of approval they would expand their market. If producers are respectful of the true values of biodiversity, consumers will buy their products. We developed a lovely logo stating "Greenprint for a sustainable future", which is what we were trying to achieve. We thought about how we could work in a truly ecologically sustainable way for the future and bring everyone on board so that they could feel proud of what we achieved. My disappointment is the lack of creativity and respect. The modern world and governments are sadly dumbed down. Governments do not realise the true value of the resources and assets that they have responsibility for managing or regulating. They also do not realise how amazing people are if they are treated respectfully. They should encourage people to do something world class. That would be truly fantastic.

I also had the opportunity to participate in former agriculture Minister Ian Macdonald's sustainable agriculture roundtable. At the time he was interested because he saw that organic agriculture and sustainable products were the fastest growing sector of the agriculture market. Through that process I met an organic soybean farmer who was selling his crop in the international market using new technology. He offered his crop at auction and he was able to repitch his product to the world. Japan was initially willing to pay the highest price, but then the Saudis said that they would pay even more for his next crop. Unfortunately, I cannot remember his name. He explained that he was able to confidently sell an ecologically sustainable product because he protected his land and produced an organic crop. He felt proud that as a North Coast farmer he was delivering a top-range product and getting top dollar. Governments missed the opportunity to do that. They did not see the potential of our fabulous soils and the amazing opportunities that were there for the taking.

The dull thinking of government these days saddens me. There is a lack of creativity. I have been putting forward motions about natural capital, social capital and the creative accounting that is possible if one truly values the ecological, social and natural capital of this world. But no-one is doing it; no-one is smart enough to see that that is the way the world is going. We in New South Wales hold some of the most valuable assets in our people and in our land; we are throwing it away. We are about to destroy a lot of things with this legislation and it makes me sad. We should all feel sad at the lack of respect for science and for the true potential of people when they are guided by governments who show leadership and who see the future.

There are probably some younger folk in this place who know those possibilities, but legislation like this is going to tear down those possibilities and strip them away because it will allow some old, dull thinkers to destroy what is precious. Members will have heard the views of Hugh Possingham, the Wentworth Group of Concerned Scientists, the Environmental Defenders Office and the wonderful people in the gallery who know the value of things and have tried to make respectful representations. I have not heard the argument put as to why this is necessary, but we are living in times in which politics has become a very second-rate show. It is sad because we are losing the opportunities to be great, to value what is precious and to do that in a way that makes New South Wales great. We are missing that opportunity. People will look back and see this is a sad day on which we did not know how to respect biodiversity and to protect it.

Reverend the Hon. FRED NILE (21:01): I wish to add some remarks to those of my colleague, the Hon. Paul Green. The NSW Farmers Association has raised some concerns with the Christian Democratic Party. They have been campaigning for more than 20 years for a change to land management laws in New South Wales as they believe the current laws have failed not only farmers but also the environment. Their concerns brought back some memories to me. As members know, I have been in the House since 1981 and I have been checking the history books to get some of the background on this issue. In 1997 the NSW Farmers Association came to see me about the Australian Labor Party [ALP] Native Vegetation Act, and they had 40 amendments to it. I asked, "Why are you giving them to me? Give them to the Coalition or to the National Party." They said, "They will not move them." I said, "In that case, I will move them for you." So I moved those 40 amendments. It took about six hours. Most of them were defeated and had no effect on the legislation. The farmers were concerned and still are—which is why we have this bill now—that the concept of native vegetation can be very confusing.

The farmers said that often, over a period of years, they would clear land, plant seed, grow wheat and so on. In the way farming works, crops are not harvested on the same land year after year—the land has to be allowed to rest. So they would set aside some of the paddocks to lay fallow. While they were lying fallow things would grow on the land. Nature would take its course, and various native grasses and bushes would grow. Then some inspector would come along and say, "You cannot clear that land anymore because that is native vegetation." That caused the farmers great frustration—they were not allowed to clear the land they had already farmed. I understood that problem and tried to help them by moving those amendments.

The farmers have also raised concern over rotational farming. There is nothing wrong with that. It has been used under past regimes to preclude genuinely farmed, grazed or managed farm areas from being farmed again because of requirements to prove rotation—for example, requiring landholders to provide evidence of clearing events despite an area being legitimately farmed in the past. That is the confusion to which I have been referring. How can the NSW Farmers Association be assured that the requirements for approving a rotational practice will not prevent legitimately farmed, grazed or otherwise productively managed areas being farmed again, as has happened under the previous regimes? The NSW Farmers Association is also seeking assurances regarding the use of that land.

Some local councils use their local environmental plans [LEPs] and other planning instruments to override and further restrict statewide biodiversity legislation. Can the Minister clarify environmental zones under the standard LEP should not be placed over farmland and that local councils should not use local planning instruments to override the intent of the State biodiversity legislation? I know some people are fearful of what has happened in Queensland and think that it might occur in New South Wales. I do not believe there is any fair comparison between New South Wales and Queensland. The Queensland legislation has no set-asides, no caps and no offsets. This bill introduces set-asides, caps and offsets. In Queensland some single approvals have been as large as 50,000 hectares for one site. In New South Wales it has been capped at 625 hectares every three years.

The New South Wales Coalition Government has sought the balance needed for the control of land clearing whilst still ensuring that this legislation provides flexibility for day-to-day operations. Agriculture in New South Wales generates more than \$11 billion per annum, which is 22 per cent to 25 per cent of Australia's total agricultural production. It is driven by 48,000 farm enterprises employing more than 65,000 people and supports roughly another 120,000 jobs through extension. For many farmers this has been a long and hard 20 years in productivity impacts and because of the continual decline in biodiversity across the State it is important that the legislation that is finally passed has that balance in it.

Finally, the New South Wales Aboriginal Land Council wrote to us raising serious concerns that the proposed legislation does not fully take into account all the interests of the Aboriginal peoples. Its concerns include: that the implementation of the reforms will not put in jeopardy Aboriginal culture and heritage, so that culture and heritage is an upfront consideration in land clearing approval processes to avoid the risk that such approvals also inadvertently green light the harming of culture and heritage, et cetera; that the millennia of accumulated Aboriginal traditional ecological knowledge is incorporated into the implementation of the reforms and resulting new approaches to land management; and that the implementation provides Aboriginal landowners economic opportunities in both putting land into production and managing land for conservation outcomes.

The New South Wales Aboriginal Land Council also extended to the Minister a level of trust that their concerns will be raised appropriately during the implementation of the legislation. The Christian Democratic Party fully supports the New South Wales Aboriginal Land Council and its concerns. We note the Minister gave a commitment in his reading speech to ensure that close engagement with the Aboriginal community will continue throughout the implementation process of this legislation. We have taken that commitment into account in providing our support to the Government and to what it is seeking to do in this legislation.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (21:09): In reply: I thank all members for their contributions to the Biodiversity Conservation Bill 2016 and the Local Land Services Amendment Bill 2016. It has been a wide-ranging debate and I will address some of the issues raised by members. The objects of these reforms are to arrest and ultimately reverse the current decline in the State's biodiversity while facilitating ecologically sustainable development—in particular, efficient and sustainable agricultural development. The existing regulatory framework fails to comprehend that the State's food and fibre producers and the State's biodiversity stewards are one and the same. We can achieve neither production nor environmental outcomes without working hand in glove with the farmers and rural communities that manage most of the State's agricultural land and most of the State's environmental assets. The New South Wales Government commits to ensuring that our natural resource management policies will fully engage the cooperation of landholders.

The Hon. Robert Brown touched on the important industry of private native forestry [PNF]. As I noted in my second reading speech, the Government is committed to implementing the recommendation of the

independent panel relating to private native forestry. The panel requested that we implement it through a different process, which we are doing. I confirm to members that we intend to review the regulation of private native forestry as called for by the independent panel in the near future. The Government is committed to implementing a modern regulatory framework for the New South Wales forest industry that delivers ecologically sustainable forestry management. I encourage members to refer to my second reading speech to fully see the commitment of the Government in relation to recommendation No. 7.

I also confirm that there will be broad stakeholder engagement in this review. This will include a review of the PNF code of practice. In particular, this consultation will be conducted with those stakeholders that are impacted by this regulation—those people who are involved in the PNF industry. The Hon. Robert Brown has called for the PNF codes to be included in the codes regulated by the Local Land Services [LLS]. We have heard that message loud and clear from landholders. I have met with individual participants in the timber industry as well as Timber NSW and the New South Wales Farmers Association. They have advocated that LLS should play a greater role in the regulation and administration of PNF. Their argument is that when the recommendation of the panel is implemented, which is to no longer define it as land clearing, PNF will be more aligned with the function of LLS because it will finally be recognised in legislation as routine agricultural activity.

The Government accepts the recommendations of the panel and it will examine all options to identify the best way to promote and leverage PNF consistent with those recommendations. Given that PNF will be addressed as part of a separate process to the biodiversity reforms, the bills before the House do not substantially address PNF. Instead, as a holding measure, we are transferring the current PNF framework from the Native Vegetation Act and the regulations, which will be repealed, to the Forestry Act. I confirm this is only an interim step before recommendation No. 7 is fully implemented. I agree with the sentiments of the Hon. Paul Green that farmers are the best conservationists. They understand the land and have an innate desire to look after it. To achieve biodiversity outcomes the Government must work and collaborate with farmers. I thank the Hon. Paul Green for his support in this debate. He has raised constructive issues based on what he has observed on the ground, which highlights the urgent need for those reforms.

The Hon. Paul Green has asked to be reassured that in the event of hardship such as fire, drought and flood, et cetera, that the obligations on farmers for set-asides are able to be mitigated or set aside to prevent distress to farmers. There are powers under the Local Land Services Act to amend the management actions that landholders are required to undertake. This is a key aspect of the new legislation that differentiates it from the failed lock-it-and-leave-it approach. Active and adaptive management will mean that management is applied in those circumstances, and this will mean that fire, drought and flood events will cause a review of the appropriate management arrangements. It is also important to note that those management arrangements, while flexible, will always be within known capped costs.

The Government is confident that the bills reflect a balanced response that will address the needs of our primary producers while making a major contribution to the strong commitments of this Government on climate change. Any increased clearing at a property scale will be counterbalanced by the strategic investment of \$240 million over five years, and \$70 million per year thereafter, in private land conservation. Over time the system will become a net consumer of carbon emissions. I am pleased to remind the House of the recent announcement of the Government of its aspirational objective to achieve net zero emissions by 2050. Some members have drawn comparisons with the scheme in Queensland. I can say confidently that the New South Wales reforms are nothing like the Queensland system. We are not allowing broadscale clearing under these reforms, as some members have contended in an alarmist and, at times, extremist manner. We have checks and balances and strict penalties to avoid this outcome. We require set-asides for expansion of agricultural enterprises; Queensland did not. Again, I addressed those points in detail in my second reading speech and I encourage members to refer to it.

The assertions of some members that they have not had enough time to understand the reforms or that we have not consulted enough are frankly absurd. The consultative process that we have followed to get to this point is like comparing chalk with cheese considering what Labor did before it introduced SEPP 46, before it introduced the Native Vegetation Conservation Act 1997, and particularly before the hated Native Vegetation Act 1983 was rammed through this Parliament. Again, I ran through this process in full detail in my second reading speech and I encourage members opposite to refer to those comments. Some members were concerned that this reform package does not implement the intent of the recommendations in the report of the independent expert panel. Nothing can be further from the truth. It has received clear and unequivocal support from panel members with clear experience in natural resource management. Unlike the lock-it-and-leave-it approach of the current Act, the new approach will be about active and adaptive management. It will be informed by a careful collaboration of scientific, agronomic and landscape scale contexts. This is an exciting opportunity for biodiversity in New South Wales.

The panel member concerned resigned on 31 August, which was not long after public consultation but prior to his sighting of revisions of the legislation. Whilst he cited some concerns about the equity code on account of his resignation, he would not have been aware of the subsequent policy direction and detail about active and adaptive management of on-farm set-asides. The further work the Government has done in this area responds to his concerns. The chair, Dr Neil Byron, who is a former member of the Wentworth Group of Concerned Scientists and a Productivity Commissioner, has confirmed that the majority of the panel supports the bills and their alignment to the 43 recommendations and the spirit and intent of their review.

The Hon. Penny Sharpe expressed concern about koalas. These reforms contain an important safeguard as the land management codes will not permit the clearing of land described as koala habitat. The biodiversity assessment methodology also maintains existing assessment processes for development and will incorporate those in the approval framework under the Local Land Services Act. The Government recognises the koala as an iconic species under its innovative Saving Our Species program, to which we have allocated an additional \$100 million. The Hon. Mark Pearson and Dr Mehreen Faruqi raised concerns about kangaroo culling and the wildlife licensing provisions in the Biodiversity Conservation Bill. I advise that this new legislation carries over the existing protections afforded to native animals and plants—that is, it is an offence to harm, buy, sell, trade, import or export native wildlife. This new framework does not weaken protections for wildlife. Nor does it allow for unmitigated killing of native animals. Rather, it increases the penalties to further strengthen existing protections.

Both the Hon. Penny Sharpe and Dr Mehreen Faruqi asserted that the reforms do not have the support of the public. The reforms have the support of the landholders who are most affected by the new framework. Seven thousand public submissions were received on the reforms; however, they were not all critical. While they expressed a variety of views, the majority had one thing in common—the need for change. The Hon. Penny Sharpe, the Hon. John Graham, the Hon. Mick Veitch, Dr Mehreen Faruqi and Mr Scot MacDonald agree on one thing: The implementation of the reforms should be properly resourced. We all know that you cannot have effective reform without supporting it with sufficient resources. This Government is committed to ensuring that this essential reform delivers improvements to on-farm productivity and improvements to this State's biodiversity. To ensure the success of these reforms this Government will be investing in landholders through the service delivery capacity of Local Land Services, including its extension function.

The Hon. Penny Sharpe and the Hon. Mick Veitch questioned why the "improve or maintain" standard is being removed at a site scale. The independent panel recommended removing the improve or maintain standard at a site scale, conserving biodiversity at regional and State scales, and investing in biodiversity to provide for sustainable development. A no net loss standard for the biodiversity assessment method has been maintained. New flexibility in the land management framework is balanced by increased funding for private land conservation. Together, these elements provide balance and will ensure that the reforms conserve biodiversity at bioregional and State scales.

The Hon. Penny Sharpe asserted that the 1,000 PVPs over the life of the Native Vegetation Act represents success. As usual, the facts tell a different story. The Native Vegetation Act has been in operation for more than 10 years, and over that period fewer than 10 per cent of the 42,000 farm businesses have engaged with the framework, and only a portion of these were for clearing. The fact that only a small percentage of landholders could use the Native Vegetation Act for clearing to improve the agricultural production of their land shows that the Native Vegetation Act was not workable for the majority of landholders.

The Hon. Mark Pearson and Dr Mehreen Faruqi are concerned about the plight of the State's paddock trees. I can advise that the new reforms enable some clearing of paddock trees, with sensible restrictions. Clearing of paddock trees in cultivation areas can greatly assist in realising increased farm productivity by enabling the use of more innovative agricultural techniques. To address this, two of the new codes of practice enable paddock trees to be cleared in prescribed circumstances. These codes permit varying degrees of clearing flexibility but also impose higher set-side and management obligations where higher risk activities are being undertaken. The new codes will strike a better balance between ensuring environmental outcomes and enabling farmers to implement innovative farming practices that increase their productivity. In both cases, the Equity Code and the Farm Planning Code will not allow the clearing of paddock trees that form part of a critically endangered ecological community or where critically endangered species are known to be present. Similarly, the clearing of paddock trees on vulnerable land will be prohibited.

The Hon. John Graham and Dr Mehreen Faruqi are also concerned with compliance and monitoring under the reform package. The Office of Environment and Heritage [OEH] will be responsible for investigating possible offences under both bills, and taking action against those who clear illegally. OEH will have a broader suite of options under the Biodiversity Conservation Bill 2016 for taking such action than is currently available. At one end of the scale, for relatively minor offences, OEH may take no action or it may simply give a caution. For more serious offences, OEH may issue a penalty notice or an on-the-spot fine. The amounts of penalty notices

will be set out in the regulations and are yet to be determined. A person given a penalty notice may either pay the penalty or choose to have the charges heard in court.

For the most serious offences, OEH may prosecute the person in either the Local Court or the Land and Environment Court. The courts, if they find the person guilty, may impose a penalty and may also make other orders, such as ordering the person to pay the amount of any monetary benefits acquired by the person as a result of the offence. If a person is in the process of clearing illegally, OEH may issue them with a stop work order to prevent any further clearing and environmental damage. OEH may also issue a remediation order, requiring rehabilitation of the land to repair the damage done. A remediation order may be issued instead of, or in addition to, other action.

The Hon. Penny Sharpe, the Hon John Graham, Mr David Shoebridge and Dr Mehreen Faruqi raised concerns about the use of offsetting. The offset scheme has been designed to achieve clear biodiversity conservation outcomes, whilst being pragmatic to provide flexibility to support economic and social outcomes. The Biodiversity Offsets Scheme offset rules, which will be set out in the regulation, will require like-for-like offsets where they can be found in the first instance. Proponents can only seek to vary the offset type if they have first undertaken reasonable steps to find like-for-like offsets. The reasonable steps will be defined in the regulation.

The regulation will also set out strict rules for how offsets can be varied to ensure biodiversity outcomes are achieved. In some circumstances, proponents will be able to fund conservation actions rather than retire credits, where there will be benefits for impacted species. This approach ensures that development is not unreasonably constrained, while still achieving appropriate biodiversity outcomes. We will seek the community's views on the rules for offsetting as part of public consultation on the Biodiversity Conservation Regulation. The Hon. Mick Veitch raised a concern that the mapping is unreliable. We agree that the mapping is critical and needs to be tested in the community. That is why we will undertake further consultation with landholders and others to ensure that they are right, and have the confidence of the community. Of course, many more issues were raised, but I am confident that these have been addressed satisfactorily in my second reading speech and the other materials the Government has made available.

Before concluding, I acknowledge the large team of people that has been working on these bills for a considerable period of time. I will start with the Department of Primary Industries [DPI]. I know that it is risky to single out individuals, but I mention Kristian Holtz and Nick Cobb for their role in leading this on behalf of DPI. I also acknowledge my ministerial colleagues Minister Speakman and Minister Stokes for their role. In particular, I thank Bran Black and Dominic Kelly from Minister Speakman's office for the working relationship that we have had. I also thank Paul Elton and all of his team from OEH for their work. From my office, I thank my Chief of Staff, Sean O'Connell, but it was led by Nick Savage, who has done an outstanding job. The way that he has been able to work with Dom Kelly from Minister Speakman's office speaks volumes and is evident in the way we have been able to bridge some of the divides that were, originally, in this debate.

I thank all of those involved who have made an enormous effort to get us to where we are tonight. I also acknowledge NSW Farmers. There are farmer representatives, including President Derek Schoen and Chief Executive Officer Matt Brand, in the gallery. I thank them for their role in working with us to get to this point. I have stood on farms all around New South Wales. I have sat in the kitchens of farmers. I have been to public meetings. This legislation has been 20 years in the making. Those on this side of the Chamber have advocated for change on these issues for many years.

Members such as the Hon. Rick Colless have been relentless in making sure that some of the wrongs, particularly with respect to our farming community, are righted. Today marks the end of the Native Vegetation Act story, and the beginning of a much needed new one. We believe that this is the right balance. We believe that this policy setting will stand the test of time. We believe that this is the way that we should engage in this topic—by making the custodians, the people who work the land every day, a part of the solution. We do not demonise them and tell them that they are the problem; we use carrots to make them part of the solution. That is what we are doing here tonight. Once again, I commend the bills to the House.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! The question is that these bills be now read a second time upon which Dr Mehreen Faruqi has moved an amendment. The question is that the amendment of Dr Mehreen Faruqi be agreed to.

The House divided.

Ayes17
 Noes22
 Majority.....5

AYES

Barham, Ms J
Faruqi, Dr M
Houssos, Ms C

Buckingham, Mr J
Field, Mr J
Mookhey, Mr D

Donnelly, Mr G (teller)
Graham, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A
Veitch, Mr M

Pearson, Mr M
Sharpe, Ms P
Voltz, Ms L

Primrose, Mr P
Shoebridge, Mr D
Wong, Mr E

NOES

Ajaka, Mr J
Borsak, Mr R
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Nile, Reverend F
Taylor, Ms B

Amato, Mr L
Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
Khan, Mr T
Mason-Cox, Mr M

Blair, Mr N
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
MacDonald, Mr S
Mitchell, Ms S

Pearce, Mr G

Phelps, Dr P

PAIRS

Secord, Mr W

Harwin, Mr D

Amendment negatived.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The question is that these bills be now read a second time.

The House divided.

Ayes22

Noes17

Majority.....5

AYES

Ajaka, Mr J
Borsak, Mr R
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Nile, Reverend F
Taylor, Ms B

Amato, Mr L
Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
Khan, Mr T
Mason-Cox, Mr M

Pearce, Mr G

Blair, Mr N
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
MacDonald, Mr S
Mitchell, Ms S

Phelps, Dr P

NOES

Barham, Ms J
Faruqi, Dr M
Houssos, Ms C

Buckingham, Mr J
Field, Mr J
Mookhey, Mr D

Donnelly, Mr G (teller)
Graham, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A
Veitch, Mr M

Pearson, Mr M
Sharpe, Ms P
Voltz, Ms L

Primrose, Mr P
Shoebridge, Mr D
Wong, Mr E

PAIRS

Harwin, Mr D

Secord, Mr W

Motion agreed to.**In Committee**

The CHAIR (The Hon. Trevor Khan): We have before us the Biodiversity Conservation Bill 2016 and Local Land Services Amendment Bill 2016. I will deal first with the Biodiversity Conservation Bill. There being no objection, the Committee will deal with the bill as a whole. I am told that for this bill I have five sets of amendments, being The Greens amendments appearing on sheet C2016-118B, which I note were received at 9:22 on 15 November. I have Opposition amendments appearing on sheet C2016-120, which I note were received at 12:46 on 15 November. I also have a Christian Democratic Party amendment appearing on sheet 2016-123A, which was received at 15:35 on 15 November. I also have a later Opposition amendment appearing on sheet C2016-126 and Animal Justice Party amendments appearing on C2016-127. There being no objection, the Committee will deal with the bill as a whole.

Dr MEHREEN FARUQI (21:43): By leave: I move The Greens amendments Nos 1 to 3 on sheet C2016-118B in globo:

No. 1 Purpose of Act

Page 2, clause 1.3, line 12. Insert "or enhance" after "conserve".

No. 2 Purpose of Act

Page 2, clause 1.3. Insert after line 14:

- (c) to support NSW achieving net zero carbon emissions through the protection and establishment of land-based carbon sinks and to take account of the cumulative contribution of broad-scale clearing to greenhouse gas emissions in NSW,

No. 3 Purpose of Act

Page 2, clause 1.3, line 19. Insert ", ecosystem services" after "biodiversity".

These amendments seek to strengthen the purpose of the Biodiversity Conservation Bill 2016 to ensure that it is focused not just on retaining but also on enhancing biodiversity. The Government has repeatedly said that these bills will reverse the decline in biodiversity, so these additional objects ensure that that is the focus of the biodiversity bill. Climate change is a key risk and perhaps an even greater risk with the ascendancy of President-elect Trump of the United States, so it makes sense that climate change be a bigger part of this bill as well. Amendment No. 1 introduces the word "enhance" so that clause 1.3 (a) would now read, "to conserve or enhance biodiversity at bioregional and State scales". This is primarily to ensure that we are not just clutching on to what we have, but that this bill actually guides the Government in enhancing environmental outcomes.

Amendment No. 2 introduces a new purpose to support New South Wales achieving net zero carbon emissions through the protection and establishment of land-based carbon sinks and to take account of the cumulative contribution of broadscale clearing to greenhouse gas emissions in New South Wales. This amendment is crucial. I welcome the Government's announcement that it will work towards zero net carbon emissions by 2050, but native vegetation is a key carbon sink and if we are going to let the Local Land Services Amendment Bill make it easier to clear native vegetation then we need to have that protection in the biodiversity bill.

Amendment No. 3 simply adds ecosystem services to clause 1.3 (e), which will then read, "to support collating and sharing data and monitoring and reporting on the status of biodiversity and ecosystem services and the effectiveness of conservation actions". I am sure no-one in this Chamber denies the value of ecosystem services and how they relate to everything from cleaning to the air we breathe and to soil quality, productivity of agriculture and so forth. It is important that we are collecting that sort of information and any effects on ecosystem services that may occur under the new regime. I commend the amendments to the House.

The CHAIR (The Hon. Trevor Khan): I invite the Opposition to move its amendment No. 1 on sheet C2016-120, which, in a sense, is more expansive than The Greens amendment No. 1. Opposition amendments Nos 2 and 3 are identical to The Greens' amendments. After debate I will put Opposition amendment No. 1 and if that does not succeed then I will put The Greens amendment No. 1.

The Hon. PENNY SHARPE (21:46): I move Opposition amendment No. 1 on sheet C2016-120:

No. 1 Purpose of Act

Page 2, clause 1.3 (a), line 12. Omit all words on that line. Insert instead:

- (a) to conserve or enhance biodiversity and ecological integrity at bioregional and State scales, including to achieve a no net loss of biodiversity, and

Labor is seeking to insert into the purpose of the Act to conserve or enhance biodiversity, ecological integrity and no net loss of biodiversity. The objects of the Biodiversity Conservation Act do not provide an adequate foundation for the protection of biodiversity, and there has been extensive debate about this object that I do not intend to revisit tonight. One of the fundamental objects that Labor believes needs to be included are these additional words to show how serious we are about biodiversity. Labor does not object to The Greens amendment No. 1, as two-thirds of it is the same as ours. Our amendment is slightly more expansive, and we believe it is clearer and that it shows we are serious about arresting biodiversity loss and enhancing biodiversity for the future.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (21:47): I will start with Opposition amendment No. 1. The Government opposes this amendment because it is unnecessary. The Biodiversity Conservation Bill contains appropriate objects to conserve biodiversity at bioregional and State scales. The bill is part of a package that implements the 43 recommendations of the independent review. The object is consistent with the independent panel's report, which said at page 1 the aims of the review were to recommend simpler, streamlined and more effective legislation to improve the conservation of biodiversity. The Government intends to reverse biodiversity decline. The Government is proposing a strategic approach to biodiversity conservation.

The bill includes provisions for the Minister for the Environment to make a biodiversity conservation investment strategy. This strategy will guide the Government's unprecedented investment of \$240 million over five years and \$70 million per annum ongoing in new private land conservation programs. The Government also opposes The Greens amendments Nos 1 to 3. For similar reasons to those I have just outlined the Government opposes The Greens amendment No. 1. The intent of this amendment is covered by object 1.3 (b) of the bill. The Government does not support The Greens amendment No. 2. The Biodiversity Conservation Bill 2016 already contains an appropriate object to support biodiversity conservation in the context of a changing climate. There is no need to deal with climate change issues further in a biodiversity conservation law.

As I mentioned earlier, the Government recently released the NSW Climate Change Policy Framework which commits New South Wales to aspirational objectives of achieving net zero emissions by 2050 and helping New South Wales to become more resilient to a changing climate. Through the Biodiversity Conservation Bill 2016 there is every opportunity for landholders to manage and protect native vegetation for biodiversity conservation and play an even larger role in helping to achieve the Government's climate change objectives. In relation to The Greens amendment No. 3, it is entirely appropriate that the bill focus on collating and sharing data and monitoring and reporting the status of biodiversity only. The bill does not replace the current New South Wales State of the Environment reporting requirement, and therefore the Government opposes that amendment as well.

The Hon. PENNY SHARPE (21:50): I did not speak to The Greens amendments Nos 2 and 3, but I think it is important in this context. The Government said it recently put out a plan for—or at least an aspirational commitment to—zero emissions by 2050. If the Government is serious about that, there is no reason that it should not be supporting this object within the bill. We know that land-based emissions are important and need to be accounted for in any attempts for us to adapt to and mitigate climate change. The idea that we cannot have this in the purpose of the bill when it is the stated aim of the Government shows the Government's very poor commitment to its aspirational goal. When the rubber hits the road, this shows that the Government's commitment around climate change is less than rock solid—and that is being generous.

I also wanted to add something to my comments on Labor amendment No. 1, which I did not speak about before. Our amendment seeks to put into the purpose of the Act the idea of no net loss. Again, the Government has made much of the idea of no net loss as some sort of better test than "improve or maintain biodiversity", which is being lost through these bills. "No net loss" in the purpose of the Act makes it abundantly clear that we are committed to addressing and improving biodiversity in this State. Again, we are very disappointed at the Government's failure to support modest but serious amendments that reflect some of the stated intentions of the Government. It shows a lot about the Government's commitment in relation to these bills.

The CHAIR (The Hon. Trevor Khan): The Hon. Penny Sharpe has moved Opposition amendment No. 1 on sheet C2016-120. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 1 to 3 on sheet C2016-118B. The question is that the amendments be agreed to.

The Committee divided

Ayes16
 Noes21
 Majority.....5

AYES

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

NOES

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

PAIRS

Houssos, Ms C	Ajaka, Mr J
Secord, Mr W	Harwin, Mr D

Amendments negatived.

Dr MEHREEN FARUQI (22:00): I move The Greens amendment No. 4 on sheet C2016-118B:

No. 4 **Biodiversity for the purposes of Act**

Page 3, clause 1.5 (1), lines 7–9. Omit all words on those lines. Insert instead:

- (1) For the purposes of this Act, *biodiversity* means the diversity of life and consists of the following three components:
 - (a) genetic diversity, being the variety of genes (or units of heredity) in any population,
 - (b) species diversity, being the variety of species,
 - (c) ecosystem diversity, being the variety of communities or ecosystems.

The Hon. Niall Blair: Point of order: It is not only hard for members to hear Dr Mehreen Faruqi; it would also be impossible for the Hansard reporter to hear, given the level of noise in the Chamber.

The CHAIR (The Hon. Trevor Khan): That is a fair point of order. Members should keep their voices down or leave the Chamber.

Dr MEHREEN FARUQI: This amendment seeks to retain the definition of "biodiversity" that is in the Threatened Species Conservation Act 1995. It has not been made clear why this fundamental definition, which will guide so many critical decisions, has been changed. We all know that genetic diversity is the key element we are trying to retain because that is the foundation of biodiversity itself. The proposed definition in this bill simply states "within species". I do not believe that is strong enough. The Greens want to ensure that genetic diversity is retained in the definition. I commend the amendment to the Committee.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:00): The Government does not support the amendment because it is unnecessary. The current definition of biodiversity encapsulates the accepted three levels of biodiversity: genetic, species, and ecosystem.

The Hon. PENNY SHARPE (22:02): The Opposition supports this amendment. Again, it does not believe it is a big stretch for the Government to carry over the current definition in the Threatened Species Act.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 4 appearing on sheet C2016-118B. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): It being 10.00 p.m. proceedings are now interrupted to permit the Minister to move the adjournment motion if desired.

The Committee continued to sit.

The Hon. PENNY SHARPE (22:03): I move Opposition amendment No. 4 appearing on sheet C2016-120:

No. 4 **Biodiversity values**

Page 3, clause 1.5 (2), Insert after line 16:

(c) soil and water quality,

This amendment seeks to insert "soil and water quality" as part of biodiversity and biodiversity values for the purposes of the legislation. The Opposition is concerned that the proposed definition of biodiversity values does not encompass important environmental and agricultural values such as soil, water and water quality and what they provide in the resulting improvements in salinity. I commend the amendment to the Committee.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:04): The Government does not support the amendment because it is unnecessary. The bill allows for biodiversity conservation regulations to prescribe other biodiversity-rated values such as soil and water quality. As I said, the amendment is unnecessary.

Dr MEHREEN FARUQI (22:04): The Greens support the Opposition's amendment. We need everything we can get to strengthen this crappy piece of legislation.

The CHAIR (The Hon. Trevor Khan): The Hon. Penny Sharpe has moved Opposition amendment No. 4 appearing on sheet C2016-120. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): We will now deal with The Greens amendment No. 5, which is the same as the Opposition's amendment No. 5 and the Animal Justice Party's amendment No. 1. As The Greens amendment was received first, we will deal with it first.

Dr MEHREEN FARUQI (22:05): I move The Greens amendment No. 5 appearing on sheet C2016-118B:

No. 5 **Harming animals**

Page 7, clause 2.1 (2), lines 19–22. Omit all words on those lines.

This amendment relates to harming animals. Part 2, division 1, proposed section 2.1 refers to offences regarding harming animals, including harming or attempting to harm an animal that is of a threatened species, an animal that is part of a threatened ecological community, or a protected animal. This amendment seeks to remove the defence in proposed section 2.1, which is a get-out-of-jail card for harming wildlife. We know that the Government does not want any compliance on or monitoring of category 1 land. Why should anyone who harms threatened species, a threatened ecological community, or a protected animal have a defence just because they did not know that it would harm the animal? If the Government wants people on category 1 land not to be monitored, we must have strong environmental legislation for when they do break the law. I commend the amendment to the Committee.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:06): The Government does not support this amendment. Removing this provision will create a new defence and require landholders to obtain a separate licence from the Office of Environment and Heritage if the clearing of native vegetation will harm native animals. This is not consistent with the policy intent of the reforms. The bill ensures that a landholder who clears native vegetation on category 1 exempt land and knowingly harms a protected animal, an animal that is of a threatened species, or is part of a threatened ecological community will commit an offence. As I said, the Government does not support the amendment.

The Hon. MARK PEARSON (22:07): Harming an animal, being cruel to an animal, or causing aggravated cruelty to an animal is a breach of the Prevention of Cruelty to Animals Act, which is criminal law. It has been established in the statutes and in the Supreme Court that if an animal is on someone's land and the landholder does a thing or does not do something and that causes the animal to suffer, to be harmed, to die, or to

require euthanasing because it would be cruel to keep it alive, the person in charge of that has a strict liability. Saying they did not know is not an excuse; it is their business to find out. If animals are living in the trees, if they have nests in trees, or if they are burrowing into the land that the landholder wants to dig up or to remove, he or she has a direct responsibility to ensure that no unnecessary, unjustified or unreasonable suffering occurs simply because he or she wants to extend that productive land to achieve greater profits. Economic gain would never be an argument to justify harming, maiming and killing an animal, so I thoroughly support—and the Animal Justice Party has put up the same amendment—that that be removed.

The Hon. PENNY SHARPE (22:09): Labor supports this amendment for many of the same reasons. What is currently proposed is:

If the act that harms an animal is the clearing of native vegetation by or on behalf of a landholder on category 1-exempt land under Part 5A of the *Local Land Services Act 2013*, the person does not commit an offence under this section unless it is established that the person knew that the act would be likely to harm the animal.

This is a watering down of the current arrangements. In the current provisions, which are generally strict liability offences—and I accept and understand that there are certainly exemptions under the current arrangements such as clearing in accordance with a property vegetation plan under the Native Vegetation Act—lack of knowledge is currently not a defence. Labor believes that this position should remain unchanged lest it is seized upon as a standard defence to clearing that recklessly leads to the harm of native animals. One of the biggest reactions we have had in the public debate around these bills has been the concern over the protections and the support for looking after native animals across this State. We already know that these bills are going to lead to more land clearing, which is going to harm them anyway. What this amendment seeks to do is to make it very clear that, as the Hon. Mark Pearson said, people have to know. The defence of, "I did not know. Oh, dear, all of that land is now cleared, therefore there is no consequence," is simply not acceptable.

Mr DAVID SHOEBRIDGE (22:11): I support the amendment moved by my colleague Dr Mehreen Faruqi. Proposed subsection (2) of section 2.1 is designed to make it almost impossible to get a prosecution to stick. Not only does the prosecution have to prove that the harm happened—and it is going to be in an unregulated environment where nobody is checking—but also the prosecution has to actively prove that the person knew that the act would be likely to harm the animal. Not only is it next to impossible to prove what is in the mind of the person at the time; this also needs to be seen in the context of schedule 11 to the bill which completely removes part 7 of the National Parks and Wildlife Act, which is a series of detailed protections for native animals—tried and true protections for native animals that have protected native animals in the State, particularly protected fauna as well as threatened fauna, from being killed and harmed.

Simply removing all of part 7 and replacing it with the utterly toothless provisions in proposed section 2.1 is a recipe for serious future and direct harm of native animals. That is what we will see as a result of the passage of this bill. Kangaroos and wombats will be shot. Wombats will be buried, as is already happening in places like the Snowy Mountains where they are being buried in the course of forestry activities. Members probably remember that there was a spate of wanton shootings of wombats in Kangaroo Valley—just being killed for fun. Our laws are already inadequate to protect our native animals.

Rather than stand up and protect these extraordinary, iconic animals that people travel from around the world to see because they are so precious, this bill is just like a green light for people to go and shoot them, harm them, kill them and bury them in the course of land clearing without any threat of prosecution. Proposed section 2.1 is basically saying that landowners can know that a bunch of wombats are in a burrow—or they can be wilfully blind to the fact that a bunch of wombats are in a burrow—and they can just go in with their bulldozers and bury them alive because that is what is going to happen. Burrowing animals like wombats will be buried alive, suffocated to death or will die in their burrows because this Government does not care. The rest of New South Wales cares and thinks that this kind of green light for animal cruelty is grossly offensive. I stand with the majority of New South Wales against these kinds of provisions.

The Hon. RICK COLLESS (22:14): The fear campaign that has just been promulgated by Mr David Shoebridge is totally incorrect. What we are talking about is category 1 unregulated land.

Mr David Shoebridge: Correct.

The Hon. RICK COLLESS: Category 1 unregulated land essentially is land that has been—

The CHAIR (The Hon. Trevor Khan): Order! This is not going to end up in a discussion between two members in the Chamber. I invite the Hon. Rick Colless to address his remarks through the Chair, as I have required other members to do.

The Hon. RICK COLLESS: Thank you, Mr Chair. I certainly will. The point I was making was that category 1 land is exempt land which indicates it is land that has been used in a relatively intensive process for

agricultural production. The member who made those comments may not realise this but I have been around a lot of farms over the past 30 or 40 years and I have yet to see an area that would be classified as category 1 land that is covered in wombats, for example. It does not indicate that wombats are going to be bulldozed and buried because the other provisions in this bill and the Prevention of Cruelty to Animals Act would apply to that. What we are talking about here is agricultural land; we are not talking about category 2 land. That is completely different. This proposed subsection applies only to category 1 exempt land.

The Hon. PENNY SHARPE (22:15): I thought the Hon. Rick Colless might provide some comfort but he made me far more concerned as a result of his comments. Making it easier to kill native animals and excusing the harming of native animals, whether it is on category 1, category 2 or category 3 land, is not right and we do not support that. We are talking about category 1 land. Similarly, and this is why we support this amendment, people want to see our native animals protected. This is not just about wombats; it is about birds, reptiles, moths, worms and all our biodiversity. The excuse of saying "I did not know" should not stand.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:16): I provide some clarification as well. The Prevention of Cruelty to Animals Act continues to apply. Currently clearing authorised by the Native Vegetation Act by a property vegetation plan [PVP] is a defence to harming threatened species under the National Parks and Wildlife Act. The proposed amendment is about category 1 land—that is, land that has already been cleared. The amendment is an overreaction.

Mr JEREMY BUCKINGHAM (22:17): The Hon. Rick Colless indicated in his contribution that this applied to category 1 land. He stated, much to my concern, that this is land where one is unlikely to see these types of animals. How will the animals make the distinction between category 1 and category 2 land? How will the wombats determine whether this is unregulated land or regulated land and decide to build their burrows in the land that has been set aside for them?

The Hon. Rick Colless: Because it probably gets ploughed every year.

Mr JEREMY BUCKINGHAM: Because it probably gets ploughed every year—exactly right.

Mr DAVID SHOEBRIDGE (22:18): Mr Chair—

The CHAIR (The Hon. Trevor Khan): Order! I remind Mr David Shoebridge that he is on a call. He is entitled to seek the call, but not while another member is speaking. It is certainly even less courteous if it is one of his own party members.

Mr DAVID SHOEBRIDGE (22:18): Mr Chair, you can try to incite division between us, but we are united on this. It is unseemly in the chair.

The CHAIR (The Hon. Trevor Khan): Order! I call Mr David Shoebridge to order for the second time.

Mr DAVID SHOEBRIDGE: The contribution from the Hon. Rick Colless suggesting that one will not find wombats and native animals on farmland that has been cleared at some point since 1990 is contrary to ordinary people's experience when they are out and about in rural and regional New South Wales. Any one of the members of this Chamber will have seen large numbers of native animals on farms and on farmland whether it is cleared for pasture or even set aside for growing grain or other crops. Our native animals do not distinguish between land that was cleared before or after 1990. The wombats that were being routinely shot in Kangaroo Valley were being shot on farmland—

The Hon. Niall Blair: No, they were not.

Mr DAVID SHOEBRIDGE: I was there. I saw where the wombats had been running around on all of the farms in Kangaroo Valley. Members only have to go down there to see wombats running across pasture in Kangaroo Valley as we can see them around the rest of the State. They are regularly found on pasture that has been cleared after 1990 and on pasture that is still cleared. The Hon. Rick Colless suggested that he did not find native animals on category one land in his travels around New South Wales. He must have travelled with dark sunglasses on, with his head down looking only at his boots and ignoring the reality. We know that this law will allow for large-scale killing of our native animals and those who do kill our native animals will be able to say, "You cannot prosecute me because I did not look. I did not check. I do not care and Mike Baird and his mates said it was okay."

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 5 on sheet C2016-118B. The question is that the amendment be agreed to.

The Committee divided.

Ayes16
 Noes21
 Majority.....5

AYES

Barham, Ms J
 Faruqi, Dr M
 Mookhey, Mr D

Primrose, Mr P
 Shoebridge, Mr D
 Wong, Mr E

Buckingham, Mr J
 Field, Mr J
 Moselmane, Mr S
 (teller)
 Searle, Mr A
 Veitch, Mr M

Donnelly, Mr G (teller)
 Graham, Mr J
 Pearson, Mr M

Sharpe, Ms P
 Voltz, Ms L

NOES

Ajaka, Mr J
 Borsak, Mr R
 Colless, Mr R
 Franklin, Mr B (teller)
 Green, Mr P
 Mason-Cox, Mr M
 Pearce, Mr G

Amato, Mr L
 Brown, Mr R
 Cusack, Ms C
 Gallacher, Mr M
 Maclaren-Jones, Ms N
 Mitchell, Ms S
 Phelps, Dr P

Blair, Mr N
 Clarke, Mr D
 Farlow, Mr S
 Gay, Mr D
 Mallard, Mr S
 Nile, Reverend F
 Taylor, Ms B

PAIRS

Houssos, Ms C
 Secord, Mr W

Harwin, Mr D
 MacDonald, Mr S

Amendment negatived.

The Hon. MARK PEARSON (22:28): I move Animal Justice Party amendment No. 2 on C2016-127:

No. 2 Harming Animals

Page 7, clause 2.1 (2). Insert after line 18:

(2) This section does not affect the operation of the *Prevention of Cruelty to Animals Act 1979*. The amendment has already been referred to by the Government. It is calling for a clarification to be put into this legislation that the Prevention of Cruelty to Animals Act is in no way subservient to this legislation and that any act of cruelty that could be proven under the Prevention of Cruelty to Animals Act is alive and possible to be prosecuted by the relevant authorities. It gives a guarantee—and a shield and a sword—for those animals that have been affected by any activity that has been permitted by the provisions of this bill.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:29): The Government does not support this amendment. This amendment is not necessary, since clause 2.12 only applies in respect of an offence against clause 2.11 in the Biodiversity Conservation Bill. Therefore the Government opposes the amendment.

Dr MEHREEN FARUQI (22:29): The Greens do support this amendment, especially given the fact that the previous amendment did not pass this Committee, and it does allow people to harm or kill animals and then say, "I am sorry; I did not know." This is an important safeguard, and The Greens support this amendment.

The Hon. PENNY SHARPE (22:30): I would like to seek clarification from the Minister. I appreciate the intent of what the member is trying to move. It is my understanding that the Prevention of Cruelty to Animals Act applies to all of this, and that there is nothing in this bill that undermines that Act. I seek clarification from the Minister that that is the case, and how the Acts will operate together. I understand the concern that the member has, but I am not sure that it is right.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:30): As I said in my contribution to the last amendment, the Prevention of Cruelty to Animals Act continues to apply. The Hon. Penny Sharpe is right. For that reason, and because of the points that I made earlier, this amendment is unnecessary.

The CHAIR (The Hon. Trevor Khan): The Hon. Mark Pearson has moved Animal Justice Party amendment No. 2 appearing on sheet C2016-127. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. MARK PEARSON (22:32): By leave: I move Animal Justice Party amendment Nos 3 and 4, appearing on sheet C2016-127 in relation to clause 2.54, in globo:

No. 3 **Dealing in animals or plants**

Page 8, clause 2.5 (4), lines 32 and 33. Omit all words on those lines.

No. 4 **Protection of marine mammals**

Page 9, clause 2.7 (5), lines 21–25. Omit all words on those lines.

These amendments go pretty much to the same argument that I made in relation to section 2.12, where, in the course of carrying out any unlawful activity, it is taken to be habitat of that kind unless it can be established that the person did not know that it was habitat of that kind. The amendment seeks to withdraw that because it is the same principle—not knowing is not an excuse for causing this harm or causing this damage. Someone who does this not knowing or not ensuring that they did know before they acted does have an excuse for having caused that harm.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:33): I might seek some clarification in a moment from the mover. I thought that amendments 3 and 4 were in relation to dealing in animals and plants, and also protection of marine animals. So we may seek some clarification in relation to the "not knowing" provisions. The Government does not support amendments 3 and 4 from the Animal Justice Party. In relation to amendment 3, some bird species are currently exempt from the need to obtain a licence to buy, sell or possess. For example, the zebra finch, the cockatiel and the budgerigar. When I had hair—when I was a young boy—I had a budgerigar called Chippy, and it was nice.

The Hon. Greg Donnelly: What colour was it?

The Hon. Dr Peter Phelps: It's not dead, it's just resting.

The Hon. NIALL BLAIR: Let us maintain the focus. Budgerigars are commonly kept as pets and are easily bred in captivity. Clause 2.54 in the Biodiversity Conservation Bill is necessary to maintain these exemptions. In relation to amendment No. 4, clause 2.75 in the Biodiversity Conservation Bill contains an important safeguard on the issuing of a licence, by ensuring that the environment agency head can only issue a biodiversity conservation licence to harm or obtain a marine mammal for exhibition or other purposes if she or he is satisfied that it is necessary for genuine scientific or educational purposes, or any other purpose connected with the conservation or protection of marine mammals. The Government opposes both amendments.

Dr MEHREEN FARUQI (22:35): I seek some clarification from the Hon. Mark Pearson because, as I see it, these amendments remove the ability to issue a regulation authorising trade or possession in endangered animals. I am concerned where rescue groups fit in here so I would like the honourable member to clarify that. The other point I make is that we can disallow any regulations that might be bad, later on.

The Hon. MARK PEARSON (22:36): For clarification, the amendments particularly apply to people who are seeking to get a permit to keep or trade or move animals around under this legislation, which is section 4.

The CHAIR (The Hon. Trevor Khan): The Hon. Mark Pearson has moved Animal Justice Party amendments Nos 3 and 4 appearing on sheet C2016-127. The question is that the amendments be agreed to.

Amendments negatived.

Dr MEHREEN FARUQI (22:37): I move The Greens amendment No. 6 on sheet C2016-118B:

No. 6 **Biodiversity Conservation Program**

Page 26, clause 4.35, line 12. Insert at the end of the line:

, and

(c) to prevent the extinction of species and to reduce the number of species that are endangered or otherwise threatened in New South Wales, and

(d) to reverse biodiversity decline by promoting and achieving biodiversity recovery.

This amendment is related to the Biodiversity Conservation Program, and it refers to the objectives and the content of the Biodiversity Conservation Program for threatened species and threatened ecological communities. These are quite commonsense amendments that orient the program to focus not just on maximising the long-term security

of threatened species and threatened ecological communities, or minimising the impact of key threatening processes on biodiversity and ecological integrity, but actually to reducing the number of species that are threatened or endangered in New South Wales. If that is the purpose of these bills—the Minister has said many times that these laws have been developed in response to the rising number of threatened species—let us see the Minister put his money where his mouth is. Amendment No. 6 seeks to add additional objectives to the program:

- (c) to prevent the extinction of species and to reduce the number of species that are endangered or otherwise threatened in New South Wales, and
- (d) to reverse biodiversity decline by promoting and achieving biodiversity recovery.

It is important that we make quite specific reference to preventing extinction and reversing biodiversity declines, because that is what we really need to do, especially in a climate constrained world. I note the typographical error in the spelling of "New South Whales", but I think that this is charming given that this is a biodiversity bill. I commend the amendment to the Committee.

The CHAIR (The Hon. Trevor Khan): I will invite the Hon. Penny Sharpe to move her amendment and the position will be, particularly with regard to subclause (c) which is a shortened form of The Greens motion, that The Greens motion will be put. If that fails, the Opposition's amendment will be moved.

The Hon. PENNY SHARPE (22:39): I move Opposition amendment No. 6 on sheet C2016-120:

No. 6 **Biodiversity Conservation Program**

Page 26, clause 4.35, line 12. Insert at the end of the line:

, and

- (c) to prevent the extinction of species, and
- (d) to reverse biodiversity decline by promoting and achieving biodiversity recovery.

This amendment will insert additional considerations for the biodiversity conservation plan. There has been a long debate about what is best. From the Government, there has been a lot of, "Trust us. This is all going to work. We promise that there will not be biodiversity loss." Labor is seeking to add to the objectives in the Biodiversity Conservation Program. In addition to what is already there, and we support, we are seeking to add:

- (c) to prevent the extinction of species, and—

One would have thought that should be quite an obvious purpose and aim of the Biodiversity Conservation Program—

- (d) to reverse biodiversity decline by promoting and achieving biodiversity recovery.

It is one thing to conserve what is there. We have not had a long discussion about this but the idea of extension debt and the desperate need for recovery should be included. We do not believe that putting these objectives within the program for biodiversity conservation will detract from what the Government is trying to do. This amendment adds to what the Government is trying to do and provides a strengthening of what the Government says it is trying to do.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:41): I will address both amendments at the same time. The Government opposes both amendments. The amendments will reinsert overly prescriptive requirements. The provisions for the Biodiversity Conservation Program are based on the innovative Saving Our Species program, as recommended by the Independent Biodiversity Legislation Review Panel. The bill focuses on delivering real on-ground action that allows the Government to prioritise actions that can achieve the best outcomes most effectively.

The Hon. PENNY SHARPE (22:41): I could not let that one go past. There has been a lot of discussion about the Saving Our Species program. All members support extra investment in the program but, let us be honest, one of the iconic species of the program is the koala. We have very clear evidence from many people that these bills will deliver very poor outcomes for koalas. We also know that under the Saving Our Species program there is still not a koala action plan. The Government says that it cares about biodiversity but it has failed to deliver on even the most basic protection—a plan for how we will deal with koala extinction. On that issue, the Government completely fails. That is exactly why these amendments should be included in the legislation.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 6 on C2016-118B. The question is that the amendment be agreed to.

The Committee divided.

Ayes 16
Noes 20

Majority.....4

AYES

Barham, Ms J
Faruqi, Dr M
Mookhey, Mr D

Primrose, Mr P
Shoebridge, Mr D
Wong, Mr E

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A
Veitch, Mr M

Donnelly, Mr G (teller)
Graham, Mr J
Pearson, Mr M

Sharpe, Ms P
Voltz, Ms L

NOES

Ajaka, Mr J
Borsak, Mr R
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P

Mallard, Mr S
Phelps, Dr P

Amato, Mr L
Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
MacDonald, Mr S

Mason-Cox, Mr M
Taylor, Ms B

Blair, Mr N
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
Maclaren-Jones, Ms N
(teller)
Pearce, Mr G

PAIRS

Houssos, Ms C
Secord, Mr W

Harwin, Mr D
Mitchell, Ms S

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): The Hon. Penny Sharpe has moved Opposition amendment No. 6 on sheet C2106-120. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. PENNY SHARPE (22:50): I move Opposition amendment No. 7 on sheet C2016-120:

No. 7 **Biodiversity Conservation Program**

Page 26, clause 4.36 (2), lines 20 and 21. Omit "may but are not required to be". Insert instead "must be".

This is fairly simple amendment. When it comes to the content of the program, proposed section 4.36 (2) states:

Strategies to minimise the impacts of key threatening processes may but are not required to be included in the Program.

This amendment seeks to ensure that key threatening processes in the design of the program must be included in the program. This amendment is fairly straightforward. As I have said, one of our big concerns with this bill is that there are many loopholes. The Minister has a lot of discretion. We genuinely believe that the bill does not contain the safeguards that show we are serious about addressing biodiversity loss. We think the key threatening processes must be included in the program.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:51): The Government does not support this amendment. The bill enables the Government to prioritise actions that can achieve the best outcomes most effectively. Not all key threatening processes can be managed directly through positive conservation action. Therefore the bill allows for strategies to develop key threatening processes where they will be an effective tool for delivering outcomes.

Dr MEHREEN FARUQI (22:52): The Greens strongly support Opposition amendment No. 7. As the Hon. Penny Sharpe said, it is a simple amendment. What is the point of a biodiversity conservation program if strategies to minimise the impacts of key threatening processes are not required to be included in the program? That would make a complete mockery of the program.

The CHAIR (The Hon. Trevor Khan): The Hon. Penny Sharpe has moved Opposition amendment No. 7 on sheet C2016-120. The question is that the amendment be agreed to.

Amendment negatived.

Dr MEHREEN FARUQI (22:53): I move The Greens amendment No. 7 on sheet C2016-118B:

No. 7 **Content of Biodiversity Conservation Investment Strategy**

Page 30, clause 5.3 (5), line 5. Insert at the end of the line:

, and

(e) areas of known habitat of endangered or otherwise threatened species.

This amendment adds the conservation of habitat to the aims and content of the Biodiversity Conservation Investment Strategy. The current priority areas are listed as core areas, being large remnant native vegetation areas whose management will contribute the greatest benefit to the conservation of biodiversity within a bioregion. State and regional biodiversity corridors are linear areas that link core areas and play a crucial role in maintaining connections between animal and plant populations that would otherwise be isolated and be at greater risk of extinction, and areas containing the least protected ecosystems of public and private land, and areas required to increase the comprehensiveness, adequacy and representativeness of biodiversity in protected areas of public or private land. These are important and good areas of investment, but within the area there is no recognition of the role of conserving habitat in its own right. This amendment would add non-habitats of threatened and endangered species within this clause. This would assist in guiding the Minister to ensure that the investment strategy actually accounts for habitat conservation.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:54): The current legislative provisions enable priority investment in areas under the Biodiversity Conservation Investment Strategy to include the areas proposed in the amendment, which is known habitat of endangered or otherwise threatened species. Therefore the amendment is considered unnecessary and it is not supported by the Government.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 7 on sheet C2016-118B. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): We will now move on to The Greens amendments Nos 8 and 11, which are the same as Opposition amendments Nos 8 and 11.

Dr MEHREEN FARUQI (22:55): By leave: I move The Greens amendments Nos 8 and 11 on sheet C2016-118B in globo:

No. 8 **Retirement of biodiversity credits only-no other biodiversity conservation measures**

Page 49, clause 6.2 (d), lines 2-4. Omit all words on those lines. Insert instead "impacts on those values of the proposed development or clearing, and of the retirement of biodiversity credits proposed to offset".

No. 11 **Retirement of biodiversity credits only-no other biodiversity conservation measures**

Pages 49 and 50, clause 6.4, line 45 on page 49 to line 19 on page 50. Omit all words on those lines. Insert instead:

- (1) For the purposes of the biodiversity offsets scheme, the retirement of biodiversity credits is the only measure to offset or compensate for impacts on biodiversity values after any steps taken to avoid or minimise those impacts.
- (2) The regulations may make provision with respect to the class of biodiversity offsets to be retired and the circumstances in which the ordinary rules for the determination of the number and class of biodiversity credits required as biodiversity offsets may be varied.

These amendments relate to removing other biodiversity conservation measures from the legislation. The inclusion of other biodiversity conservation measures is completely inappropriate. It is another loophole in the biodiversity offset system, which is flawed as it is. If we are going to rip up an endangered ecological community, we at least need to try to offset it. Measures such as paying for community education and best control will not bring back these species or their habitat. It is just another means of developers and big landholders discounting or avoiding their responsibilities. These amendments establish that the retirement of biodiversity credits is the only measure to offset or compensate for impacts on biodiversity value, and the provision of offsets is the very basic minimum standard that we should require in this legislation.

The Hon. PENNY SHARPE (22:57): The Opposition's amendments Nos 8 and 11 cover exactly the same issue outlined by Dr Mehreen Faruqi. These amendments form part of the intention to remove supplementary biodiversity conservation measures in the bill. We have to get serious if we believe that offsetting can work—and the Opposition does believe that there is a role for offsetting—and we have to ensure that it is rigorous and that the system that is set up does not allow other loopholes for those who seek to clear land to pay to undertake other

activities. The bill uses the so-called biodiversity conservation measures or actions to replace genuine biodiversity offsets, and this is what our amendments seek to stop. These biodiversity conservation measures represent a watering down of the offset scheme and could allow other activities, but they will not provide the same ecological value as genuine offset land that has been set aside.

Supplementary measures have been resisted by scientific bodies—for example, the Australian Network of Environmental Defenders Officers [ANEDO] strongly opposes the use of supplementary measures in lieu of offsets. ANEDO notes that supplementary measures were particularly detrimental for areas where there is no offset available because of the scarcity of the impacted species or ecological community. It constitutes a breach of the like-for-like principle and refuses to recognise the red-flag principle that protects critically endangered species. The NSW Scientific Committee has also raised particular concerns about the introduction of supplementary measures, advising in its previous submission on the draft New South Wales biodiversity offsets policy for major projects that:

The proposal that a proponent can provide funds for supplementary measures that do not involve protecting and managing a site by paying into the fund is clearly a case of developers being able to buy themselves out of any obligation to protect biodiversity in any meaningful way. This proposal should be rejected. What our amendments seek to do is to say yes, biodiversity credits can be done but not other measures that are simply a bandaid for clearing that will be harmful to important ecological communities and threatened species.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (22:59): This series of amendments would mean that offsets would be restricted to the retiring of biodiversity credits and that other biodiversity conservation measures could not be used to meet an offset obligation. Clause 6.7 requires the Minister to set a standard in a biodiversity assessment method that will result, in the Minister's opinion, in no net loss of biodiversity. There may be situations where non-land based offsets, such as research, education or actions identified through the Saving our Species program could have better biodiversity outcomes than credits created by protecting and managing land as an offset site.

It is appropriate for the legislation to allow these conservation measures to be used to offset biodiversity impacts. The offset scheme can be designed to be pragmatic: to deliver clear biodiversity conservation outcomes whilst providing flexibility to support economic and social outcomes. It is important that the Biodiversity Conservation Bill continues to provide the option to use biodiversity conservation measures to support this flexibility. Clear offset rules will be set out in the supporting regulation to ensure biodiversity conservation outcomes. Stakeholders and the community will have the opportunity to comment on these rules during public exhibition of the regulation early next year. For those reasons, the Government does not support the amendments.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 8 and 11 on sheet C2016-118B. The question is that the amendments be agreed to.

Amendments negatived.

Dr MEHREEN FARUQI (23:01): By leave: I move The Greens amendments Nos 9, 18, 19, 28 and 29 on sheet C2016-118B in globo:

No. 9 Payment into Fund as alternative to retirement of biodiversity credits

Page 49, clause 6.2 (g), lines 22–27. Omit all words on those lines.

No. 18 Payment into Fund as alternative to retirement of biodiversity credits

Pages 62 and 63, Division 6 of Part 6, line 4 on page 62 to line 3 on page 63. Omit all words on those lines.

No. 19 Payment into Fund as alternative to retirement of biodiversity credits

Page 63, clause 6.34, lines 11 and 12. Omit "(other than amounts paid under Division 6 as an alternative to the retirement of biodiversity credits)".

No. 28 Payment into Fund as alternative to retirement of biodiversity credits

Page 95, clause 10.16 (2) (b), lines 6 and 7. Omit all words on those lines.

No. 29 Payment into Fund as alternative to retirement of biodiversity credits

Page 95, clause 10.16 (3) (b), lines 17–19. Omit all words on those lines.

All these amendments are related to paying into a biodiversity fund. I believe one of the biggest flaws in this bill is the ability for the proponent to completely sidestep the very low level of obligations that biodiversity offsets in this bill require them to meet. Surely we must be able to know if something can be offset and not just have proponents signing cheques to abrogate their obligations. Even worse, the onus is placed on a public institution, the new Biodiversity Conservation Trust, to do the work for the proponent. This whole section should be removed to ensure that, at the very minimum, proponents have to identify and secure offsets for any environmental destruction that they are causing. These laws should not allow an open slather, free-for-all approach to the

commodification of wildlife and biodiversity. I acknowledge, though, that for this Government everything has a price, but it values nothing. In the world today, when climate change is really taking hold, we must start to ecologise the economy and not economise ecology. I commend the amendments to the Committee.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (23:03): With these amendments we see a similar intent to what we spoke about earlier in relation to The Greens amendment No. 9. The amendments will remove the option for a proponent to make a payment into the Biodiversity Conservation Fund as an alternative to retiring biodiversity credits. As I said in response to The Greens amendment No. 9, the fund will promote environmental outcomes by facilitating a more strategic approach to establishing offset sites. The option to pay money into the fund will also make it easier for developers to comply with their obligations under the offset scheme. The option to pay into the fund is a key element of the Government's reforms. The fund will improve environmental outcomes by facilitating a more strategic approach to establishing offset sites. For those reasons, the Government opposes the amendments.

The CHAIR (The Hon. Trevor Khan): The Hon. Penny Sharpe will be aware that these amendments are similar to Labor amendments.

The Hon. PENNY SHARPE (23:04): Yes, and I am going to suggest a way forward. There is one small conflict in relation to The Greens and Labor amendments. I propose not to move the Labor amendments and instead speak to the amendments that Dr Mehreen Faruqi has moved so that we can deal with them together, if members are happy to do that. They are about the same thing. As I said, we have had some discussion about this. It is about being able to pay instead of offsetting. The amendments that The Greens have moved and those that Labor was intending to put forward remove the ability to pay an amount to the Biodiversity Conservation Fund instead of genuinely retiring biodiversity credits. The result of this bill would be that the Biodiversity Conservation Trust would use this funding to fund biodiversity offsets at a later date. It is important to know this. It is like saying, "We're going to put money into the fund and it becomes someone else's problem. We're just going to clear or develop land as we see fit." That is essentially what Parliament is agreeing to and what we are seeking to remove tonight.

This position puts us on an incredibly slippery slope and provides no guarantee that suitable offsets will ever be found or that they will be anything close to like for like. The like-for-like principle is incredibly important, and it is being abandoned by these laws. There are simply some parcels of land, some habitats and some waterways that just cannot be offset. We cannot allow any diminution in terms of the like-for-like principle—although I accept that that will have already happened with the passing of this bill. The amendments seek to stop that. The bill opens the door to allow those who can afford it to pay to clear—"Pay enough money, clear what you like and we'll find an offset for it later." It lacks scientific integrity and it should be rejected. I was concerned by the Minister's comment that, "This is about making it more flexible for developers." That says everything we need to know about where we are in relation to this bill and why the amendments should be supported.

Mr JEREMY BUCKINGHAM (23:06): I make a contribution in support of the Hon. Penny Sharpe and Dr Mehreen Faruqi. I have a philosophical objection to the idea of biodiversity offsets. The net effect of offsetting is a loss of biodiversity. I give the example of Warkworth Sands in the Hunter. That area is going to be offset, yet the area and that ecological community, which will be destroyed almost entirely, is the last remnant of that particular ecological community on planet earth. It is going to be offset with some land bought by Rio Tinto—

The CHAIR (The Hon. Trevor Khan): Order! I point out that the amendments relate to payment into a fund, not to offsets.

The Hon. Penny Sharpe: They are about offsets.

Mr JEREMY BUCKINGHAM: Yes. They do relate—

The CHAIR (The Hon. Trevor Khan): The member's remarks are not consistent with the amendments that have been moved.

Mr JEREMY BUCKINGHAM: That is right, but this goes further beyond that. Not only are we not finding a like for like—as we see with major projects—but we are just finding a piggy bank to put some money in in the hope that at some later stage someone might recreate life. That is really what we are talking about here. Can we reconstruct an ecosystem? Can humanity reconstruct Warkworth Sands once it is turned into a coalmine? No, we cannot. The biodiversity offsets are a scam, and having a bank to offset your offsets is a further scam. It is a doubling down—especially in areas where there is a tiny remnant of vegetation left and the last of certain species is hanging on by a thread—to have some money sitting in a bank somewhere for a trust off in the never-never and the extinction of local species. I fully, wholeheartedly support the amendments and urge the Committee to do so also.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 9, 18, 19, 28 and 29 on sheet C2016-118B. The question is that the amendments be agreed to.

The Committee divided.

Ayes16

Noes20

Majority.....4

AYES

Barham, Ms J
Faruqi, Dr M
Mookhey, Mr D

Primrose, Mr P
Shoebridge, Mr D
Wong, Mr E

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
(teller)

Searle, Mr A
Veitch, Mr M

Donnelly, Mr G (teller)
Graham, Mr J
Pearson, Mr M

Sharpe, Ms P
Voltz, Ms L

NOES

Ajaka, Mr J
Borsak, Mr R
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P

Mason-Cox, Mr M
Phelps, Dr P

Amato, Mr L
Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
MacDonald, Mr S

Mitchell, Ms S
Taylor, Ms B

Blair, Mr N
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
Maclaren-Jones, Ms N
(teller)
Nile, Reverend F

PAIRS

Houssos, Ms C
Secord, Mr W

Harwin, Mr D
Mallard, Mr S

Amendments negatived.

Dr MEHREEN FARUQI (23:16): By leave: I move amendments Nos 10, 12, 13 and 22 to 25 appearing on sheet C2016-118B in globo:

No. 10 Serious or irreversible impacts on biodiversity values

Page 49, clauses 6.2 (i), lines 33-37. Omit all words on those lines. Insert instead "the grant of planning approval for proposed development or activities or the biodiversity certification of land".

No. 12 Serious or irreversible impacts on biodiversity values

Pages 49, 50, 74 and 80, clauses 6.2 (i), 6.5, 7.16 and 8.8. Omit "serious and irreversible", "Serious and irreversible" and "*serious and irreversible*" wherever occurring. Insert instead "serious or irreversible", "Serious or irreversible" and "*serious or irreversible*", respectively.

No. 13 Serious or irreversible impacts on biodiversity values

Page 50, clause 6.5, lines 21-30. Omit all words on those lines. Insert instead:

For the purposes of the biodiversity offsets scheme, *serious or irreversible impacts on biodiversity* values are any of the following:

- (a) any adverse effect on critically endangered species or critically endangered ecological communities,
- (b) any adverse effect on a declared area of outstanding biodiversity value,
- (c) any adverse effect on an internationally or nationally important wetland, being a Ramsar wetland or a wetland listed on the Commonwealth directory of important wetlands,
- (d) any significant adverse effect on an endangered or vulnerable species or an endangered or vulnerable ecological community, and

- (e) anything prescribed by the regulations for the purposes of this definition (in recommending the making of such a regulation the Minister must have regard to the principles of ecologically sustainable development contained in 6 (2) of the *Protection of the Environment Administration Act 1991*, and in particular the precautionary principle).
- No. 22 **Proposed development or activity that has serious or irreversible impacts on biodiversity values**
Page 74, clause 7.16 (2), lines 13 and 14. Omit "(other than for State significant development), if it is of the opinion that". Insert instead "if".
- No. 23 **Proposed development or activity that has serious or irreversible impacts on biodiversity values**
Page 74, clause 7.16 (3), lines 16–23. Omit all words on those lines.
- No. 24 **Proposed development or activity that has serious or irreversible impacts on biodiversity values**
Page 74, clause 7.16 (4), lines 24–30. Omit all words on those lines. Insert instead:
 - (4) The determining authority must refuse to approve under Part 5 of the *Environmental Planning and Assessment Act 1979*, or if also the proponent must not carry out, a proposed activity to which this Division applies if the proposed activity is likely to have serious or irreversible impacts on biodiversity values.
- No. 25 **Proposed biodiversity certification that has serious or irreversible impacts on biodiversity values**
Page 81, clause 8.8 (2), lines 1–4. Omit all words on those lines. Insert instead "is to refuse to confer biodiversity certification".

Much in this bill hinges on the interpretation of "serious and irreversible impacts", and what can and cannot be done if it is determined to be so. Amendment No. 10 seeks to ensure that when a determination is made of serious and irreversible impact, planning approval for a development cannot go ahead. This amendment and amendment No. 25 extend this to the biodiversity certification process. Amendment No. 12 makes a crucial change to ensure that we are talking about serious or irreversible impacts and not only serious and irreversible impacts. If an effect is serious, it is important in its own right. If an impact is irreversible, it is also important in its own right. Impacts should not have to meet both of these tests. This is the difference between strong and very weak sustainability. In this State we want strong sustainability for our future generations and to protect biodiversity for its inherent value.

We must remember when we are talking about the most serious impacts that it is entirely consistent with the precautionary principle as outlined in the definition of ecologically sustainable development in section 6.2 of the *Protection of the Environment Administration Act 1991*. Part 6, division 1, proposed section 6.5 states that the definition of "serious and irreversible impacts" will be determined by regulations. This is quite unacceptable. Serious or irreversible is the most destructive form of clearing that will take place, which means that must be pretty watertight. We are to be quite clear that impacts on some areas will be serious or irreversible. Impact on what areas? The Greens amendment No. 13 seeks to introduce a commonsense definition to guide this Act. It states:

- (a) an adverse effect on the following:
 - (i) critically endangered species and critically endangered ecological communities;
 - (ii) areas of outstanding biodiversity value; and
 - (iii) nationally and internationally important wetlands and wetlands and/or those listed in the Commonwealth Directory of Important Wetlands.
- (b) any significant effect on the following:
 - (i) endangered species and ecological communities including vulnerable species and ecological communities; and
- (c) any other definition set by the regulation which must have regard to the principles of ecologically sustainable development described in section 62 of the *Protection of the Environment Administration Act 1991* and in particular the precautionary principle.

I note that this definition still retains the ability for the Minister to set additional criteria for the definition to ensure flexibility but within the underpinning principles of ecologically sustainable development, of course. The Greens amendments Nos 22 to 25 relate to the planning system and State significant development or infrastructure. With this bill we are seeing the usual exemptions for State significant development that essentially allow them to continue to turn off environmental obligations when they want. I acknowledge this is an ongoing issue, but it will be a missed opportunity if we do not use this bill to fix the problem.

The Greens amendment No. 22 amends clause 7.16 (3) to remove the special exemption granted to State significant infrastructure. Quite simply, if something is going to have a serious or irreversible impact, it should not matter if it is a State significant project or not; it should go through the same process and be refused. This should be a red flag. I remind members that serious or irreversible impact is actually the highest, most serious

category of damage in this bill. Clause 7.16 (2) is consequential to clause 7.16 (3). The Greens amendment No. 24 is about activities that have serious or irreversible damage that should no longer be able to be approved under part 5. I commend the amendments to the Committee.

The Hon. PENNY SHARPE (23:21): I will do what I did with the previous round of amendments. Labor has a whole range of amendments that are very similar. The conflict is very minor so I will not move the Labor amendments so that we can deal with these in one lot and expedite proceedings tonight. However, this does not mean that I am in any way happy with the way that this is proceeding or that we think these amendments are not important. These amendments are incredibly important. What we have seen tonight is a removal of three key principles under the current system, which we have said at length during discussion have delivered in stopping land clearing in this State. We have got rid of the idea of maintaining and improving; we have got rid of the idea of like-for-like offsetting. These amendments suggest that there should be some red flags and some places where one simply cannot offset and cannot clear. Where those places are, rests in the new biodiversity assessment method [BAM] on the basis of serious and irreversible impacts.

These amendments seek to change that from "serious and irreversible" to "serious or irreversible". It is an important test upon which so much of the decision-making rests in relation to this entire system being established by the Government. The Government says that it supports ecologically sustainable development. I do not know how many times we have had to sit through lectures from the Minister for Planning about his support for ecologically sustainable development. It is time for him to put his money where his mouth is. These amendments try to say that serious or irreversible impacts are serious and should be considered within the definition of ecologically sustainable development within the Protection of the Environment Operations Act, and that means including the precautionary principle. Nothing could be more precautionary than actually resting on these amendments so that it is not serious and irreversible; it is serious or irreversible. Both of them, either of them, should be enough to put the brakes on the clearing that could be undertaken under this new regime.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (23:24): I will go through in order and present the Government's position on The Greens amendments which, as the member indicated, are similar to the Opposition amendments. The Greens amendment No. 10 would constrain the ability of relevant Ministers and determining authorities to consider environmental, social and economic impacts and benefits when determining a project. The biodiversity offset scheme does not allow approval to be granted for part 4 non-State significant developments that have a serious and irreversible impact.

However, for State significant development or infrastructure, environmental impact assessment of certain proposed activities and proposals for the biodiversity certification, the relevant Minister or determining authority will have the discretion to consider environmental, social and economic impacts and benefits of a project, including potential serious and irreversible impacts, before deciding whether it can proceed. The Greens amendment No. 12 seeks to change "serious and irreversible impacts" for the purposes of the biodiversity offset scheme established under the bill to "serious or irreversible impacts".

It should be noted that the precautionary principle, as part of ecologically sustainable development, states that decisions should be guided by careful evaluation to avoid where practicable serious or irreversible damage to the environment and an assessment of risk-weighted consequences of various options. The precautionary principle does not suggest that serious or irreversible impacts to the environment should, in and of themselves, prevent development from being approved. Drawing on the precautionary principle the bill encourages consent authorities to weigh up such impacts in considering the risks of various options. Importantly, the decision rests with the consent authority. The requirement for impacts to be both serious and irreversible strikes an appropriate balance between protecting our most important diversity at a bioregional and State scale and ensuring the role of consent authorities in exercising discretion in relation to environmental, economic and social considerations is not unduly constrained.

Amendment No. 13 would define "serious and irreversible" in the bill and remove the opportunity for further consultation. Serious and irreversible impacts will be determined according to guiding principles set out in the biodiversity conservation regulation and statutory guidelines published by the Chief Executive of the Office of Environment and Heritage. There will be further consultation before the definition of "serious and irreversible impacts" is finalised. In relation to The Greens amendments Nos 22 and 23, the position in the bill is a continuation of current government policy. The proposed amendment would constrain the ability of the Minister for Planning to consider environmental, social and economic impacts when determining a project. If State significant development or State significant infrastructure provides, for example, significant economic and social benefits for the State it is appropriate that the Minister be able to weigh those factors along with potential serious and irreversible environmental impacts in making a determination.

The draft bill allows the Minister to apply additional consideration and offset requirements to minimise those environmental impacts if consent or approval is to be granted. The Greens amendment No. 24 would

constrain the ability of determining authorities' part 5 activities to consider environmental, social and economic impacts and benefits when determining whether to carry out or approve an activity. The biodiversity offset scheme is optional for part 5 authorities. Creating conditions more onerous than other approval pathways will remove the incentive to opt into the new biodiversity scheme. The Greens amendment No. 25 would constrain the ability of the Minister for the Environment to consider environmental, social and economic impacts and benefits when determining an application for biodiversity certification. The Minister for the Environment will consider any potential serious and irreversible impacts alongside possible economic or social benefits before determining whether to approve the biodiversity certification. For those reasons the Government opposes all of those amendments.

Mr DAVID SHOEBRIDGE (23:29): I join with my colleague Dr Mehreen Faruqi in supporting The Greens amendments. The Government is telling all those people who are concerned about serious and irreversible harm to the environment not to worry, because if harm is serious and irreversible then consent cannot be given to mum and dad for a development application in their backyard. What is a serious and irreversible impact on biodiversity? Let us go to the bill. Serious and irreversible impact on biodiversity is whatever the Minister says it will be in some future regulation. That is the kind of protection this bill has. Serious and irreversible damage to biodiversity will be protected, and that damage will be whatever it says it is in the future, once we get this bill through the upper House. That is almost the definition of not protected.

It gets worse than that. Whilst this bill says that a mum-and-dad extension under part 4 of the Environmental Planning and Assessment Act cannot be approved if it is going to cause serious and irreversible impact on biodiversity, a coalmine, a new rail line, a massive industrial development, or an airport, which are likely to cause vastly greater environmental damage and vastly greater damage to our endangered ecological communities and the environment, generally can sail through the approval process even if they cause serious and irreversible harm. Again, we have this perverse development in the planning laws and in our environmental protection laws. It started under Labor, with part 3A. It has now been put on steroids under the Coalition. The bigger, the uglier, the greater the impact of the development, the fewer environmental constraints it will have.

If somebody in Taree wants to put an extension on the back of a family cottage on their quarter acre block, and if that extension is likely to cause some serious and irreversible damage as defined in the regulations—whatever that means—that cannot go ahead. But if somebody wants to build a bloody big coalmine in the middle of the Hunter Valley that wipes out an entire ecological community, that can go ahead and it will be approved by the Minister for Planning. It is utterly perverse that the bigger and more damaging the development, the less rigour there is concerning environmental control. At some point the parties in this Parliament must obtain a consensus position that states that our planning laws and our environmental protection laws need to seriously engage with the damage that major projects create. If a major project is causing major damage to the environment, it should not go ahead, and there should not be get-out-of-jail-free cards because of the scale and sheer impact of a development. For those reasons I support the amendments of Dr Mehreen Faruqi.

The Hon. PENNY SHARPE (23:32): I have listened carefully to the Minister's response when he spoke to this set of amendments. There is one in particular that I am concerned about, which is the serious and irreversible impacts on biodiversity values. Currently the bill states:

- (1) The determination of serious and irreversible impacts on biodiversity values for the purposes of the biodiversity offsets scheme is to be made in accordance with principles prescribed by the regulations.

We must remember we do not have the regulations so we do not know what they are going to be. The bill further states:

- (2) The Environment Agency Head may provide guidance on the determination of any such serious and irreversible impacts, and for that purpose may publish, from time to time, criteria to assist in the application of those principles and lists of potential serious and irreversible impacts. I have listened carefully to the Minister and he indicated that he believes that this particular amendment will limit the ability to make further regulations and that it is constricted. On that basis I suggest a way forward, which is to make a minor amendment to No. 13: Rather than say we omit lines 21 to 30, that we add words after line 30. We seek to add criteria indicating what we think are serious or irreversible impacts on biodiversity. I propose to delete "omit" and add after line 30—

The CHAIR (The Hon. Trevor Khan): Is the Hon. Penny Sharpe seeking to amend The Greens amendment No. 13 moved by Dr Mehreen Faruqi?

The Hon. PENNY SHARPE: I am. The amendment moved by Dr Mehreen Faruqi seeks to delete lines 21 to 30 on page 50. I do not want to delete them. I want to add text after line 30.

The CHAIR (The Hon. Trevor Khan): Continue.

The Hon. PENNY SHARPE: The Greens amendment says:

For the purposes of the biodiversity offsets scheme, *serious or irreversible impacts on biodiversity* values are any of the following ...

I move:

That amendment No. 13 of Dr Faruqi on sheet C2016-118B be amended as follows:

- (1) Omit "lines 21 to 30. Omit all words on those lines. Insert instead" and inserting instead "insert after line 30", and
- (2) Omit "are any of" and inserting instead "include, but are not limited to"

I can explain why.

The CHAIR (The Hon. Trevor Khan): I think that is clear.

The Hon. PENNY SHARPE: I am trying to respond to what the Minister said in response to The Greens amendment No. 13. He said that it was limiting and would not provide the ability to do what The Greens are seeking to do. The amendment is trying to define serious or irreversible impacts on biodiversity. These are important definitions that I believe the Government should be able to agree to. The amendment says:

- (a) any adverse effect on critically endangered species or critically endangered ecological communities,
- (b) any adverse effect on a declared area of outstanding biodiversity value,
- (c) any adverse effect on an internationally or nationally important wetland, being a Ramsar wetland or a wetland listed on the Commonwealth directory of important wetlands,
- (d) any significant adverse effect on an endangered or vulnerable species or an endangered or vulnerable ecological community, and
- (e) anything prescribed by the regulations for the purposes of this definition ...

The amendment is trying to provide guidance on what should be red flags in biodiversity offsetting. As Mr David Shoebridge stated, one could drive a truck through the Government's legislation as it stands.

The Hon. Matthew Mason-Cox: It is in the regulations.

The Hon. PENNY SHARPE: I note the interjection. It is in the regulations that we have not seen.

The Hon. Matthew Mason-Cox: Trust us.

The Hon. PENNY SHARPE: The member says, "Trust us and this will all be fine." This amendment is extremely important. I am genuinely trying to compromise and listen to what the Minister has said. I am trying to achieve codification of what we believe to be serious or irreversible impacts. The changes that I am making are a significant compromise and should be included. If the Minister can find a way to support them, he should do so.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (23:37): The Government believes that the amendment to the amendment does not move the legislation any closer to where it needs to be. The Government believes that the provisions in the bill are adequate. The reasons that I gave in my earlier contribution not to support The Greens amendment No. 13 still apply.

Dr MEHREEN FARUQI (23:37): I support the amendment of the Hon. Penny Sharpe. The bill still allows the Minister to have flexibility, but that explicit statement does no harm. We can all agree on this because it addresses the Minister's concern. As the concern has been addressed, the Minister no longer has a fallback position. I ask the Minister to rethink his position so that the Committee can move forward on one good amendment.

The CHAIR (The Hon. Trevor Khan): I intend to put the question on The Greens amendments Nos 10 and 22 to 25 in globo. I will then put the question on the amendment to amendment No. 13. Subject to the result of that vote, I will put the question on The Greens amendment No. 13, as amended, if that is what happens. Then I will deal with amendment No. 12. Hopefully, that will deal with this in a coherent way. Dr Mehreen Faruqi has moved amendments Nos 10, 22, 23, 24 and 25 on sheet C2106-118B. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 13 on sheet C2016-118B, to which the Hon. Penny Sharpe has moved an amendment. The question is that the Hon. Penny Sharpe's amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 13 on sheet C2016-118B, which has been amended by the Hon. Penny Sharpe. The question is that the amendment of Dr Mehreen Faruqi as amended be agreed to.

The Committee divided.

Ayes16
 Noes20
 Majority.....4

AYES

Barham, Ms J
 Faruqi, Dr M
 Mookhey, Mr D

Primrose, Mr P
 Shoebridge, Mr D
 Wong, Mr E

Buckingham, Mr J
 Field, Mr J
 Moselmane, Mr S
 (teller)
 Searle, Mr A
 Veitch, Mr M

Donnelly, Mr G (teller)
 Graham, Mr J
 Pearson, Mr M

Sharpe, Ms P
 Voltz, Ms L

NOES

Ajaka, Mr J
 Borsak, Mr R
 Colless, Mr R
 Franklin, Mr B (teller)
 Green, Mr P

Mallard, Mr S
 Phelps, Dr P

Amato, Mr L
 Brown, Mr R
 Cusack, Ms C
 Gallacher, Mr M
 MacDonald, Mr S

Mitchell, Ms S
 Taylor, Ms B

Blair, Mr N
 Clarke, Mr D
 Farlow, Mr S
 Gay, Mr D
 Maclaren-Jones, Ms N
 (teller)
 Pearce, Mr G

PAIRS

Houssos, Ms C
 Secord, Mr W

Mason-Cox, Mr M
 Harwin, Mr D

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 12 on C2016-118B. The question is that the amendment be agreed to.

Amendment negatived.

Dr MEHREEN FARUQI (23:50): I move The Greens amendment No. 14 on C2016-118B:

No. 14 **Status of rehabilitated mining sites under biodiversity assessment method**

Page 51, clause 6.7. Insert after line 16:

- (3) The biodiversity method must provide that a rehabilitated mining site cannot be used as a biodiversity offset or to generate biodiversity credits.

In 2014, the Government commenced a new biodiversity offset policy that made it much easier for big mining and other interests to trash our environment. Despite much concern being expressed by environmental groups about the negative impacts of the policy, the Government pushed ahead with it. This was the New South Wales biodiversity offsets policy for major projects. It states that the policy allows the ecological rehabilitation of a mine site to be considered as an offset where there are good prospects of restoring biodiversity on that land. Even if we accept the flawed concept of ecological damage being offset, the Government has massively lowered the bar for mining companies and big developers. Rehabilitation of mining sites should be done as part of a mining agreement and approval, and not be allowed as biodiversity credits, which is essentially double dipping.

Instead of finding offset sites that match the ones that mining companies destroy—the so-called like-for-like principle—mining companies are allowed to merely find broadly similar areas or even pay into a fund. This policy was a huge threat, and is still a huge threat, to biodiversity. There are big question marks about the effectiveness of the current offset policy evidenced in places such as the Leard Forest, and in 2014 the

Government further weakened it. The Greens amendment No. 14 introduces a prohibition on using the rehabilitation of mining sites as a biodiversity offset or to generate biodiversity offsets. I commend the amendment to the Committee.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (23:52): The Government does not support the amendment. The proposed amendment would prevent using a rehabilitated mine site to meet an offset obligation. The offset scheme has been designed to be pragmatic to deliver clear biodiversity conservation outcomes while providing flexibility to support economic and social outcomes. While not explicitly providing that rehabilitated mine sites can be used as offsets, the bill does not prevent that from happening. Clear offset rules will be set out in the supporting regulation to promote biodiversity conservation outcomes. Stakeholders in the community will have the opportunity to comment on those rules during public exhibition of the regulation early next year.

The CHAIR (The Hon. Trevor Khan): Before I call the Hon. Penny Sharpe, I inform the Committee that the Opposition has moved a similar amendment.

The Hon. PENNY SHARPE (23:53): It is exactly the same as the Opposition's, so of course I support The Greens amendment No. 14, but I also support it for the very good reason that some of the concepts that have been embedded in the bill have stretched credibility in relation to so many aspects of protecting and conserving recovering biodiversity. This amendment is very clear. It prohibits mine site rehabilitation from being used as a biodiversity offset or to generate biodiversity credits. That is not because the Opposition does not think that mine rehabilitation is important; in fact, it is exactly because Labor thinks that mine rehabilitation is important that it should be not included in this bill or considered to be included in relation to offsetting.

Mined areas should be rehabilitated and their landscape restored as close as possible to the condition it was in prior to mining being carried out as a condition of consent for the mine. As a starting point mining companies should be required to restore damaged landscapes when the mine has ceased operating. No points should be awarded for that. No biodiversity credits should be claimed as a result of something that is not in fact additional conservation but simply the restoration of previously ecologically valuable land, which miners are supposed to do. They should not get bonus points for it. This should not be part of any system that we are contemplating

Mr JEREMY BUCKINGHAM (23:54): I seek guidance and clarification from the Minister. Can the Minister give the House an example of a mine rehabilitation that would meet the proposition he is putting to the House? Can he give an example of a mine in the Hunter Valley or anywhere else in the State that would meet the criteria for offsets?

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 14 on sheet C2016-118B. The question is that the amendment be agreed to.

The Committee divided.

[In division]

The Hon. Duncan Gay: Point of order: The doors were locked when Mr David Shoebridge, a member of The Greens, breached the rules by entering the Chamber across the locked door.

The Hon. Shaoquett Moselmane: To the point of order: The doors were not locked and that is why Mr David Shoebridge was able to get into the Chamber.

Mr David Shoebridge: To the point of order: Mr Chair, you said, "Lock the doors", but the doors had not been locked, which is how I managed to get through. I did not jump over any barrier and I sat down. For the Leader of the Government to suggest otherwise is an error and I accept that he did not see it.

The CHAIR (The Hon. Trevor Khan): Order! I draw the attention of members to Standing Order 114 (3) which states, "When the bells stop ringing, the Chair will direct the doors to be locked. A member must not then enter or leave the Chamber until the division is concluded." If I take the words literally, I take the standing order to mean that once I give the direction for the doors to be locked then a member must not enter. I therefore direct Mr David Shoebridge to leave the Chamber.

Ayes15

Noes20

Majority.....5

AYES

Barham, Ms J

Buckingham, Mr J

Donnelly, Mr G (teller)

AYES

Faruqi, Dr M
Mookhey, Mr D

Primrose, Mr P
Veitch, Mr M

Field, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A
Voltz, Ms L

Graham, Mr J
Pearson, Mr M

Sharpe, Ms P
Wong, Mr E

NOES

Ajaka, Mr J
Borsak, Mr R
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P

Mason-Cox, Mr M
Phelps, Dr P

Amato, Mr L
Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Taylor, Ms B

Blair, Mr N
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
Mallard, Mr S

Pearce, Mr G

PAIRS

Houssos, Ms C
Secord, Mr W

Harwin, Mr D
MacDonald, Mr S

Amendment negatived.

Dr MEHREEN FARUQI (00:05): By leave: I move The Greens amendments Nos 15 to 17 on sheet 2016-118B in globo:

No. 15 **Objective criteria for biodiversity assessment method**

Page 51, clause 6.7 (3) (b), line 19. Omit ", in the opinion of the Minister".

No. 16 **Validity of biodiversity assessment method**

Page 51, clause 6.7 (3) (b), lines 21 and 22. Omit all words on those lines.

No. 17 **Review of biodiversity assessment method**

Page 52, clause 6.9 (1), lines 9 and 11. Omit "5 years" wherever occurring. Insert instead "2 years".

These amendments relate to the biodiversity assessment method [BAM]. As I mentioned before in my contribution to the second reading debate, we are being asked to sign off on a biodiversity assessment method—

Mr Jeremy Buckingham: Point of order: I am finding it very difficult to hear the contribution of Dr Mehreen Faruqi.

The CHAIR (The Hon. Trevor Khan): Order! Members will come to order.

Dr MEHREEN FARUQI: As mentioned before in my contribution to the second reading debate, we are being asked to sign off on a biodiversity assessment method that none of us has seen. It is important that there are some objective safeguards included to ensure that this method at least achieves what it is intended to.

The CHAIR (The Hon. Trevor Khan): Order! I understand that Mr David Shoebridge has an issue—

Mr David Shoebridge: It is because your ruling on the Chamber was wrong.

The CHAIR (The Hon. Trevor Khan): I remind Mr David Shoebridge that he is on two calls. If he continues to interject he will be placed on three calls to order and will be removed from the Chamber. I ask that members show Dr Mehreen Faruqi the courtesy of not having discussions while she is making her contribution.

Dr MEHREEN FARUQI: Amendment No. 15 removes the ministerial discretion in clause 6.7 (3) to establish a no net loss scheme. Either it is a no net loss scheme or it is not. Members are aware of my view on these so-called no net loss schemes, but let us at least ensure that a no net loss scheme means a no net loss scheme on some scientific basis, not on the opinion of the environment Minister—who, by the way, has been a no-show on this matter so far. Amendment No. 16 removes lines 21 and 22 of clause 6.7 (3). These lines establish that even if the Minister does not follow subclauses (3) (a) and (3) (b), it would not invalidate the assessment method. What

exactly is the point of having criteria for developing an assessment method if the Minister, in effect, does not have to follow them?

Any biodiversity assessment method that does not meet the purpose of the Act and does not have a genuine no net loss standard should be invalid. Amendment No. 17 will change the review period of the biodiversity assessment method from five years to two years. I have no doubt that the biodiversity assessment method will lead to loss of biodiversity, but we need to at least minimise any perverse impacts of the method. We cannot afford to wait for five years without correcting any faults that may emerge, so a two-year review makes quite good sense.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:09): The Government opposes The Greens amendments Nos 15, 16 and 17. In relation to amendment No. 15, the biodiversity assessment method [BAM] is a scientific, peer-reviewed method. The amendment is unnecessary, as this section of the bill currently achieves the intention of providing for a no net loss standard in the biodiversity assessment method. In relation to amendment No. 16, again, the biodiversity assessment method is a scientific, peer-reviewed method. The provision in the bill provides certainty to the regulator community. In relation to amendment No. 17, a review two years after establishment would be insufficient to adequately test the biodiversity assessment method. The bill provides enough flexibility to review the BAM more frequently than once every five years. The Minister can direct a review whenever he or she considers appropriate. For those reasons the Government does not support the amendments.

The Hon. PENNY SHARPE (00:10): Labor supports The Greens amendments Nos 15 and 16. Again, they are exactly the same as Labor amendments Nos 15 and 16. To facilitate the operation of the House, I am happy not to press our amendments Nos 15 and 16 so that we can deal with The Greens amendments Nos 15, 16 and 17 in globo. We support The Greens amendments, which are about the objective criteria for a biodiversity assessment method. I welcome the no net loss addition to the bill from where it was in the draft legislation but, as we have continued to say tonight and through the amendments we have unsuccessfully tried to pass in Committee, we are trying to put floors on some of the discretion and on some of the tests, moving them from subjective to objective. This is what these amendments seek to do. They are about closing loopholes and being committed to no net loss. If the Government is committed to no net loss, it will support the amendments.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 15 to 17 on sheet C2016-118B. The question is that the amendments be agreed to.

Amendments negated.

Dr MEHREEN FARUQI (00:12): I move The Greens amendment No. 20 on sheet C2016-118B:

No. 20 **Reporting and other obligations of Fund Manager**

Page 64, clause 6.37. Insert after line 38:

- (4) The report must include a list of all payments received under Division 6, the corresponding biodiversity credits that were purchased and retired and any biodiversity offsets that were secured as a result of an obligation under that Division.

This amendment relates to reporting on the biodiversity fund. One of the major issues with division 6 of the bill is that, after signing the cheque to release itself from any biodiversity offset requirements, the onus of locating these biodiversity offsets shifts to the Biodiversity Conservation Trust. But what happens if, after some time, there is no way to offset that damage? We need to know whether there are offset requirements that have been acquired. Amendment No. 20 ensures that in the reporting the Parliament is fully aware of how division 6 operates and whether credible offsets are being secured or whether it is being used as a get-out-of-jail-free card.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:13): The Biodiversity Stewardship Payments Fund does not receive any payments from division 6. Payments into the Biodiversity Conservation Fund are as an alternative to retirement of biodiversity credits. Such payments are made into the Biodiversity Conservation Fund. The amendment, therefore, is inappropriate. In any event, the Biodiversity Conservation Trust, which will be the manager of the Biodiversity Stewardship Payments Fund, will be required to prepare annual reports under the Annual Reports (Statutory Bodies) Act 1984. These annual reports must include a report on the trust's operations. Clause 10.12 of the Biodiversity Conservation Bill 2016 provides for the regulations to "prescribe additional matters relating to the exercise of its functions that the Trust is required to include in its annual report". There is therefore no need to prescribe additional reporting requirements for the trust in the Biodiversity Conservation Act and therefore the Government cannot support this amendment.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 20 on sheet C2016-118B. The question is that the amendment be agreed to.

Amendment negatived.

Dr MEHREEN FARUQI (00:15): I move The Greens amendment No. 21 on sheet C2016-118B:

No. 21 **Development other than State significant development or infrastructure**

Page 72, clause 7.13 (4), lines 21 and 22. Omit "environmental, social and economic impacts of the proposed development". Insert instead "principles of ecological sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*".

This amendment relates to the consent authority varying biodiversity offsets. This is the part of the bill that has caused a significant amount of concern with many people. It states that a consent authority can increase or decrease the amount of biodiversity credits required on account of economic or social impact. No matter what the economic or social impact, the environmental impact will remain the same. It makes no sense to give this ability to consent authorities. We think a better test would be to use the principles of ecologically sustainable development that already exist in section 6 (2) of the *Protection of the Environment Administration Act 1991* because this allows for a much better and more systematic approach than just the subjective opinion of the consent authority.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:16): The Greens amendment No. 21 relates to a consent authority's discretion to vary the number of biodiversity credits required for local and regional development. Under the provisions of the bill, the consent authority must have regard to the environmental, social and economic impact of the proposed development when deciding whether or not to vary the biodiversity credits. The amendment would replace this with a requirement to consider the principles of ecologically sustainable development [ESD] established under the environmental protection legislation. This is far too narrow a lens through which to consider whether or not to increase or decrease the required number of biodiversity credits.

Under the environmental protection legislation, the principles are a means of achieving ESD, which is defined as "the effective integration of environmental, social and economic considerations in decision-making". The principles of ESD cannot therefore be viewed in isolation. They are the means and not the end. I note that they are reflected in the overall purpose of the bill. It is more appropriate to require the environmental, social and economic impacts of the development to be considered. The bill allows the consent authority to exercise a discretion that reflects its obligations under the planning legislation to weigh up competing factors and come to a decision. It retains and supports the important role of the consent authority in the planning system and ensures robust decision-making, having regard to scientific and transparent processes. For that reason, the Government does not support the amendment.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 21 on sheet C2016-118B. The question is that the amendment be agreed to.

Amendment negatived.

Dr MEHREEN FARUQI (00:18): By leave: I move The Greens amendments Nos 26 and 27 on sheet C2016-118B in globo:

No. 26 **Minimum public exhibition period for proposed public consultation documents**

Page 88, clause 9.2 (1), line 20. Omit "4 weeks" insert instead "2 weeks".

No. 27 **Validity of public consultation documents**

Page 89, clause 9.5, lines 4–8. Omit all words on those lines. These amendments relate to the public exhibition of certain documents. Minister Blair has said that the process to date for preparing this legislation has not been a tick-the-box exercise but this bill contains provisions that basically say that, even if the Minister does not follow public consultation obligations, it does not really matter. Amendment No. 26 changes proposed section 9.2 (1) to ensure that public consultation on a whole range of important documents—that we have not seen but that are promised—will be developed and that this exhibition period and consultation period is eight weeks, rather than four weeks. These are important documents.

The Hon. Penny Sharpe: The amendment says "2 weeks".

The Hon. Niall Blair: You are halving it, not doubling it.

Dr MEHREEN FARUQI: It is a typographical error. I seek leave to move an amendment to amendment No. 26.

The CHAIR (The Hon. Trevor Khan): What is the amendment?

Dr MEHREEN FARUQI: I seek leave to amend amendment No. 26 by deleting "2 weeks" and inserting instead "8 weeks".

Leave granted.

Dr MEHREEN FARUQI (00:20): By leave: I move The Greens amendment No. 26 on sheet C2016-118B as amended:

No. 26 Minimum public exhibition period for proposed public consultation documents

Page 88, clause 9.2 (1), line 20. Omit "4 weeks" insert instead "8 weeks".

The consultation about documents that affect this change include the proposed declaration of an area as an area of outstanding biodiversity value; a proposed code of practice that is to be made by the Minister under proposed section 2.9; a strategy included in the biodiversity conservation program in relation to threatened species or an ecological community; the biodiversity conservation investment strategy; the Biodiversity Assessment Method; the scheme for the accreditation of persons to prepare biodiversity assessment reports, and so on. Four weeks is not enough time to read, to understand, and to consult on these crucial linchpins in the legislation. I urge that the consultation period be doubled.

Amendment No. 27 proposes to remove a particularly odious part of the bill. Proposed section 9.5 provides that a failure to comply with a requirement under this division in relation to a proposed public consultation document or proposed amendment does not prevent the document from being made or amended, or being invalidated once it is made or amended. People can talk about public consultation, submission processes and so on, but none of it must be complied with. Failing to remove this provision jeopardises any future consultations on the effects of this bill.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:22): I am a little disappointed because I was looking forward to supporting an amendment, or at least having some fun with the concept of The Greens wanting to halve the consultation period. However, that will not now happen because Dr Faruqi has amended the amendment. The Government believes that the drafting of the bill is consistent with government best practice, which recommends exhibiting documents for a minimum period of 28 days. The Government firmly stands by that position and will not support amendment No. 26, as amended. Amendment No. 27 would remove important certainty afforded to all stakeholders in processes that rely upon consultation documents. For those reasons, the Government does not support the amendments.

Ms JAN BARHAM (00:23): I support my colleague's amendments. I have listened to this debate and I am finding it difficult to understand who will do what, and how it will be done. I am also having trouble with some of the terms and the language. I support the idea of a two-year review, but we will not get that. This is a new piece of legislation that contains important concepts. With all due respect to the Minister, despite his being able to read a response I find it difficult to understand what it means. We do not have the details or regulations. People in the community are the ones who have to live with the impacts of some of these things. They look at applications; they want to understand and have the right to comment on what is going to be their future.

They will need a bit more than four weeks to understand all of this because there is not much detail. We do not have accreditation for environmental assessment. People are going to write stuff about no net loss, no net impact, biodiversity or things being irretrievable. This will be a field day for consultants. They will have so much fun playing with this new piece of legislation but the community, the people who have a right to comment on applications, will struggle with trying to make sense of what is put forward and whether the legislation works. I have yet to see a piece of new legislation that pays respect to the community and delivers enough information about what it means and how it works. A lot of work is done to inform consultants and departments, usually the Department of Planning.

They will hold meetings with consultants to inform them about the operation of a new Act but the community, the people who are often disempowered and are usually the ones who care the most about the environment, will not have enough time. Eight weeks is a reasonable time frame to be able to try to understand new legislation that has new concepts with very little direction and a change from the way it was before. I give the example of the standard instrument local environmental plan. No-one still knows how it really works because people need to be given more time to understand any changes. It would be very fair to give people enough time to understand such a change in the way we are seeking to protect or preserve threatened species.

The Hon. PENNY SHARPE (00:26): I am not that fussed about the four weeks to eight weeks issue but Labor will not oppose it. I hear the comments of the Hon. Jan Barham but I am exercised about The Greens amendment No. 27, which is about the validity of public consultation documents. Part 9.5 of the bill states:

A failure to comply with a requirement under this Division in relation to a proposed public consultation document or proposed amendment does not prevent the document from being made or amended, or invalidate the document once it is made or amended.

That is a giant green light to dispense with proper consultation. Those who have good intentions around consultation will take it seriously and will do it but those who seek not to do that, will not do it and this basically gives them a get-out-of-jail-free card that says that public consultation does not matter. Given the importance of

this bill it is essential that this amendment be supported. It is also in the bill to stop legal challenges in the future. When people are so aggrieved about a particular decision, this is about saying, "You can't go to court and you can't make it invalid because you haven't had a proper consultation." That is not best practice; that is poor practice and this amendment should be supported.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 26, as amended, and 27 appearing on sheet C2016-118B. The question is that the amendments be agreed to.

The Committee divided.

Ayes16
Noes20
Majority.....4

AYES

Barham, Ms J
Faruqi, Dr M
Mookhey, Mr D

Primrose, Mr P
Shoebridge, Mr D
Wong, Mr E

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A
Veitch, Mr M

Donnelly, Mr G (teller)
Graham, Mr J
Pearson, Mr M

Sharpe, Ms P
Voltz, Ms L

NOES

Ajaka, Mr J
Borsak, Mr R
Colless, Mr R
Franklin, Mr B
Green, Mr P

Mallard, Mr S
Pearce, Mr G

Amato, Mr L
Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
MacDonald, Mr S

Mason-Cox, Mr M
Phelps, Dr P

Blair, Mr N
Clarke, Mr D
Farlow, Mr S (teller)
Gay, Mr D
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S

PAIRS

Houssos, Ms C
Secord, Mr W

Taylor, Ms B
Harwin, Mr D

Amendments negatived.

Dr MEHREEN FARUQI (00:36): By leave: I move The Greens amendments Nos 30 and 31 on sheet C2016-118B in globo:

No. 30 Review of Act

Page 132, clause 14.11 (3) and (4), lines 11 and 14. Omit "5 years" wherever occurring. Insert instead "2 years".

No. 31 Review of Act

Page 132, clause 14.11 (4), line 14. Omit "12 months". Insert instead "6 months".

These amendments propose bringing forward the review period of the Act, which I note is to be undertaken concurrently with similar changes in the Local Land Services Amendment Bill. I will also move amendments when we discuss that bill. Five years is too long for a review. If something goes seriously wrong, which I suspect it will, we must know about it before five years' time. Five years is long enough for us to lose a huge part of the State's threatened species. Amendment No. 31 shortens the period of time required to table the report after the review is completed. There is no reason to have 12 months to table the report, which effectively keeps us in the dark for six years. The Government should be required to table the report within six months of the review being concluded.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:37): The Greens amendment No. 30 proposes changing the five-year review of legislation, which is a standard convention. A shorter time frame will not allow for legislation to be fully implemented, for the Government to

make an informed decision as to whether the policy objectives remain valid, and whether the terms of the Act remain appropriate. In relation to The Greens amendment No. 31, the time frame specified is a standard convention. The bill does not prohibit the Government from tabling a report earlier than 12 months. For the reasons outlined in my well-defined argument, the Government will oppose those two amendments.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 31 and 32 on sheet C2016-118B. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): We now move to Opposition amendment No. 1 on sheet C2016-126, which came in very late.

The Hon. PENNY SHARPE (00:39): I will have something to say about that. I move Opposition amendment No. 1 on sheet C2016-126:

No. 1 **Occupier's licence**

Page 217, Schedule 11.5 [15], line 28. Insert "except section 121 (Occupier's licence)" after "Part".

I will respond to the comment made by the Chair. The lateness of the amendment is not the Opposition's fault. It is due to the fact that Parliamentary Counsel has been swamped with amendments. This bill is extremely complex. As I said in my speech in the second reading debate, it is outrageous that we have been unable to move all the amendments to this bill that we wanted to move because Parliamentary Counsel has not had time to look at them.

The Hon. Niall Blair: Point of order: We are here to debate the amendment, not the timing of the amendment and how late it was submitted.

The CHAIR (The Hon. Trevor Khan): It is my fault. I am sure the Hon. Penny Sharpe is getting to the point about her amendment.

The Hon. PENNY SHARPE: This amendment is about keeping the licensing provision in the National Parks and Wildlife Act 1974, to avoid harm to native animals. As I have said throughout the debate, one of the biggest issues that concerns people—the issue most people have contacted my office about—is the proposed repeal of the provision under which licences are granted to people who wish to harm native animals on private property. I will be very clear: This is not about issues associated with pet ownership. There has been a lot of discussion about people's pet skinks and budgies. My budgie was called Banjo, for the record.

This amendment retains the current provision in the National Parks and Wildlife Act 1974 under which a person may obtain an occupier's licence. The licence gives specific authorisation to an owner or occupier of specified land who has applied to harm a specified number of fauna of a specified class found on that land. A licence may not be issued to harm threatened species, populations or ecological communities. The section also contains other protections. Last year 47,000 native animals and birds were killed in New South Wales by property owners using what is currently known as an S121 licence. The Office of Environment and Heritage issued permits for 34 species, or a total of 145,550 animals and birds, to be killed in 2015-16. This included kangaroos, corellas, sulphur-crested cockatoos, galahs, emus, swamp wallabies, wombats and magpies.

Each licence that is granted contains controls on the number of animals permitted to be killed and requires data to be lodged with the Office of Environment and Heritage. That is the only reason that we know 47,000 native animals and birds were killed last year. Without this amendment the limitations on those killings could be lost. I will come to that in a minute. The data and monitoring could also be lost. We may fail to identify when species are moving closer to becoming threatened. The Government claims that it will fix this in the regulations and that there is no diminution in the protections for native wildlife and the penalties for harming it.

Labor wants to draw a line on this issue. So much of the legislation that we have seen in the past weeks and, frankly, in the past couple of years, is designed to remove provisions that are currently set in stone and clearly demonstrate the will of this Parliament. The Government wants to move provisions from Acts and put them into regulations—regulations are made by the Government—which would make them harder to change and which would water down the protections. This amendment is simple. We want to retain the provision that requires the issuing of licences to people who want to harm native animals. Native animals deserve that protection.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:43): As the Hon. Penny Sharpe outlined, Opposition amendment No. 1 proposes to retain the power to issue a section 121 occupier's licence under the National Parks and Wildlife Act 1974. The amendment is unnecessary and would undermine the tiered and risk-based approach to regulating wildlife management contained in the Biodiversity Conservation Bill 2016. The Biodiversity Conservation Bill 2016 contains a new, streamlined

licensing system that would continue to regulate interactions with wildlife, including the harming of protected animals for damage mitigation purposes. The Government does not support the amendment.

The Hon. ROBERT BROWN (00:44): The Shooters, Fishers and Farmers Party will not support the amendment. Under Section 121 of the National Parks and Wildlife Act we have seen a very successful transition of the application of the spirit of that licensing across to the Department of Primary Industries [DPI] in the amendments that were moved in my bill. Amendments to the Game and Feral Animal Control Act 2002 put the licensing of game birds in the hands of the Game Licensing Unit. Any objective analysis of the efficiency and efficacy of that change would demonstrate that if a similar line is taken by the DPI with this change in this bill it should prove to be advantageous.

Dr MEHREEN FARUQI (00:45): The Greens support the Opposition's amendment on licensing. We believe that the current system of licensing should be retained because it is much stronger than any regulation that I suspect will come later on. The licence specifies conditions for each individual case and the regulation could just be a broad checklist. That really does not work for the protection of native animals, so we support the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Penny Sharpe has moved Opposition amendment No. 1 on sheet C2016-126. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. PAUL GREEN (00:46): I move Christian Democratic Party amendment No. 1 on sheet C2016-123A:

No. 1 **NSW Rural Fire Service**

Page 218, Schedule 11.9 (Amendment to Rural Fires Act 1997). Insert after line 13:

[1] **Section 124D**

Insert after section 124C:

124D Application of Biodiversity Conservation Act 2016 and Part 5A of Local Land Services Act 2013

- (1) Division 1 (Offences) of Part 2 of the *Biodiversity Conservation Act 2016* and section 60N (Unauthorised clearing of native vegetation in regulated rural areas-offence) of the *Local Land Services Act 2013* do not apply to any emergency fire fighting act or bush fire hazard reduction work (including emergency bush fire hazard reduction work) that is done or carried out by a fire fighting authority under this Act.
- (2) In this section, **fire fighting authority** includes the staff of a fire fighting authority and volunteer rural fire fighters acting in that capacity.

The Christian Democratic Party proposes a consequential amendment to the Rural Fires Act 1997 to make it clear that a firefighting authority, including personnel such as Rural Fire Service volunteers, is not subject to the offence provisions proposed in division 1 of part 2 of the Biodiversity Conservation Act or the clearing offence provision proposed in section 60N of the Local Land Services Act 2013 when carrying out emergency firefighting acts or bushfire hazard reduction works, including emergency works, under the Rural Fires Act.

In practice, this will have little impact on the intent of the current provision in this bill. However, the amendment will address a very real perception amongst volunteers that the bills represent a reduction in the legal protections being offered to them. Basically, if these people are put at risk and they are doing the right thing by the community in protecting the community from bushfires by doing hazard reduction or fighting fires, they should not lose their houses or assets if something goes terribly wrong. This amendment covers that.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:48): All sides of the Chamber would acknowledge the important role that our volunteer and paid firefighters provide. We only have to look at what has happened in the last few days in Western Sydney to be aware of their amazing efforts. Firefighters could be up for a very challenging summer this year. This amendment will provide an important assurance to those staff of firefighting authorities and volunteer rural firefighters when acting in those capacities, carrying out emergency firefighting acts or bushfire hazard reduction work. It will put their minds at ease. For that reason, the Government supports the amendment.

The Hon. ROBERT BROWN (00:48): The Shooters, Fishers and Farmers Party supports the amendment moved by the Christian Democratic Party, which has some collateral benefit. One and a half years ago the Wambelong fire inquiry was concluded and it showed in some part a lack of a definitive hierarchy of control in relation to the control of the fires, which the Government fixed prior to the finalisation of the inquiry. In addition to legally protecting the people on the ground, this amendment should allow a more rapid

decision-making process by the Rural Fire Service. For example, if the service has to put lines through with a dozer, there will be no hesitation as they will know they are covered and protected. Therefore, there will not be an argument that the National Parks and Wildlife Service or the Environment Protection Authority will sue them. This amendment will provide a lot more surety to the critical phases of a major fire and the decisions that are taken therein so that the Rural Fire Service has comfort that its actions will not be pinged under a new Act. The Shooters, Fishers and Farmers Party supports the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Paul Green has moved Christian Democratic Party amendment No. 1 on sheet C2016-123A. 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 CHAIR (The Hon. Trevor Khan): We will now deal with the Local Land Services Amendment Bill 2016. There being no objection, the bill will be taken as a whole. I have The Greens amendments on sheet C2016-117B, Opposition amendments on sheet C2016-119 and C2016-129A, and an Animal Justice Party amendment on sheet C2016-128.

Dr MEHREEN FARUQI (00:52): By leave: I move The Greens amendments Nos 1 and 6 on sheet C2016-117B in globo:

No. 1 **Commencement**

Page 2, clause 2. Insert after line 5:

- (2) Clause 3 (Repeal of Native Vegetation Act 2003 No 103 and regulation) and Schedule 1 [3], to the extent that it inserts proposed section 60N into the Local Land Services Act 2013, cannot be commenced until the Environment Agency Head has published native vegetation regulatory maps under Part 5A of the Local Land Services Act 2013 for all areas of the State to which that Part applies.

No. 6 **Transitional arrangement until preparation of maps**

Pages 5 and 6, Schedule 1 [3], line 35 on page 5 to line 28 on page 6. Omit all words on those lines.

These amendments relate to the transitional period and the mapping for the biodiversity legislation. Recommendation 5 of the final report of the Independent Biodiversity Legislation Review Panel states:

Provide OEHL with adequate resources to ensure the maps are developed and ready to use before the new arrangements for agricultural development commence, to ensure that maps will be updated annually and for reviews requested by landholders to be processed efficiently.

Where are the maps? Surely, given the fact that this whole bill hinges on the Native Vegetation Regulatory map it makes sense for this bill not to take effect until the maps are developed. The transitional arrangements create an unacceptably high risk of illegal clearing in the interim and increase the risk of illegal clearing in the absence of any published maps. That is why amendment No. 1 states that this bill does not come into effect until the maps are in place. The amendment seeks to remove the section dealing with transitional arrangements.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:53): The Government does not support the amendments. The maps will not take effect until both Ministers are satisfied the stakeholders have confidence in the accuracy of the maps. It is important that the necessary time be taken to ensure the maps are accurate and comprehensive. Delaying the commencement of the reforms until the maps are ready will mean a considerable delay in implementing the reforms. It is important for the Government to restore landholders' faith by commencing the reforms as soon as possible. The bill contains transitional provisions that will allow the new framework to commence. Those transitional provisions mirror the rules that apply when the maps take effect.

The Hon. MICK VEITCH (00:54): To assist the Committee, I will not move Opposition amendments Nos 1 and 6 on C2016-119 because that they are the same as The Greens amendments. It has been quite a while since I made my contribution to the second reading debate on these cognate bills. All the Opposition's amendments and the compelling arguments supporting those amendments were clearly articulated in my second reading debate contribution. Therefore, I will be brief with each of my contributions during the Committee stage to assist the Committee. The Opposition supports The Greens amendments.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 1 and 6 on sheet C2016-117B. The question is that the amendments be agreed to.

The Committee divided.

Ayes16
 Noes20
 Majority.....4

AYES

Barham, Ms J	Buckingham, Mr J	Donnelly, Mr G (teller)
Faruqi, Dr M	Field, Mr J	Graham, Mr J
Mookhey, Mr D	Moselmane, Mr S	Pearson, Mr M
	(teller)	
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	Farlow, Mr S	Franklin, Mr B (teller)
Gallacher, Mr M	Gay, Mr D	Green, Mr P
MacDonald, Mr S	Maclaren-Jones, Ms N	Mallard, Mr S
	(teller)	
Mason-Cox, Mr M	Mitchell, Ms S	Pearce, Mr G
Phelps, Dr P	Taylor, Ms B	

PAIRS

Houssos, Ms C	Cusack, Ms C
Secord, Mr W	Harwin, Mr D

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): With the concurrence of the Committee I suggest that The Greens and Opposition amendment No. 2, dealing with the objects, be left to the end because whether amendments are successful or not may have an impact upon the objects. That moves us on to The Greens amendment Nos 3 to 5, 8 to 10, 13 and 16, if Dr Faruqi wishes to seek leave to move them in globo.

Dr MEHREEN FARUQI (1:04): By leave: I move The Greens amendments Nos 3 to 5, 8 to 10, 13 and 16 on sheet C2016-117B in globo:

No. 3 Category 3-protected land

Page 4, Schedule 1 [3]. Insert after line 43:

category 3-protected land means an area of the State to which this Part applies designated as category 3-protected land on the native vegetation regulatory map.

No. 4 Category 3-protected land

Page 5, Schedule 1 [3], line 22. Insert "or is category 3-protected land" after "category 2-regulated land".

No. 5 Category 3-protected land

Page 5, Schedule 1 [3]. Insert after line 34:

, and

(d) where the clearing of native vegetation is prohibited under this Part (*category 3-protected land*).

No. 8 Category 3-protected land

Page 6, Schedule 1 [3]. Insert after line 37:

, and

(c) category 3-protected land, and

No. 9 Category 3-protected land

Page 7, Schedule 1 [3], lines 39–45. Omit all words on those lines.

No. 10 **Category 3-protected land**

Page 8, Schedule 1 [3], lines 3–9 and 12–23. Omit all words on those lines.

No. 13 **Category 3-protected land**

Page 8, Schedule 1 [3]. Insert after line 28:

60J Category 3-protected land mapping

Land is to be designated as category 3-protected land if the Environment Agency Head reasonably believes that:

- (a) the land is subject to a private land conservation agreement under the *Biodiversity Conservation Act 2016*, or
- (b) the land is subject to be set aside under a requirement made in accordance with a land management (native vegetation) code under this Part, or
- (c) the land contains grasslands that are not low conservation value grasslands, or
- (d) the land is subject to an approved conservation measure that was the basis for other land being biodiversity certified under Part 8 of the *Biodiversity Conservation Act 2016* or under any Act repealed by that Act, or
- (e) the land is an offset under a property vegetation plan under the *Native Vegetation Act 2003* or is a set aside under a Ministerial order under Division 3 of Part 6 of the *Native Vegetation Regulation 2013*, or
- (f) the land is identified as koala habitat (of a kind prescribed by the regulations) in a plan of management made under *State Environmental Planning Policy No 44—Koala Habitat Protection*, or
- (g) the land is a declared Ramsar wetland within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, or
- (h) the land has (subject to the regulations) been mapped by the Environment Agency Head as land containing critically endangered species of plants under the *Biodiversity Conservation Act 2016*, or
- (i) the land has been mapped by the Environment Agency Head as land containing a critically endangered ecological community under the *Biodiversity Conservation Act 2016*, or
- (j) the land has been declared as an area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*.

No. 16 **Category 3-protected land**

Page 15, Schedule 1 [3], lines 1-3. Omit all words on those lines. Insert instead:

- (2) The clearing of native vegetation is not authorised by a land management (native vegetation) code in any part of the regulated rural area that is category 3-protected land or that is excluded by the regulations or by the code concerned.

The Local Land Services Amendment Bill 2016 is predicated on the determination of two types of land: category 1, exempt land, where there will be no regulation; and category 2, regulated land and vulnerable regulated land, where regulation exists but which still provides a pathway to clearing just about anything. There is clearly a category missing, category 3, protected land, which should be established to ensure no code-based clearing can occur. Self-assessable code-based clearing would be a key risk in such environmentally sensitive land. I was thinking about amending this amendment to say that no clearing be allowed in category 3 land under self-assessable codes, but because now we have no protection left in the bill, including the protection of enhancing and maintaining environmental outcomes, I think, a much better safeguard would be just to not allow clearing of sensitive areas. The principal amendment reads that:

Land is to be designated as category 3-protected land if the Environment Agency Head reasonably believes that:

- (a) the land is subject to a private land conservation agreement under the *Biodiversity Conservation Act 2016*, or
- (b) the land is subject to be set aside under a requirement made in accordance with a land management (native vegetation) code under this Part, or
- (c) the land contains grasslands that are not low conservation value grasslands, or
- (d) the land is subject to an approved conservation measure that was the basis for other land being biodiversity certified under Part 8 of the *Biodiversity Conservation Act 2016* or under any Act repealed by that Act, or
- (e) the land is an offset under a property vegetation plan under the *Native Vegetation Act 2003* or is a set aside under a Ministerial order under Division 3 of Part 6 of the *Native Vegetation Regulation 2013*, or

- (f) the land is identified as koala habitat (of a kind prescribed by the regulations) in a plan of management made under State Environmental Planning Policy No 44—Koala Habitat Protection, or
- (g) the land is a declared Ramsar wetland within the meaning of the Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth, or
- (h) the land has (subject to the regulations) been mapped by the Environment Agency Head as land containing critically endangered species of plants under the Biodiversity Conservation Act 2016, or
- (i) the land has been mapped by the Environment Agency Head as land containing a critically endangered ecological community under the Biodiversity Conservation Act 2016, or
- (j) the land has been declared as an area of outstanding biodiversity value under the Biodiversity Conservation Act 2016.

These are all areas of land where we can no longer allow clearing, because they are too environmentally sensitive.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:07): I seek clarification from The Greens about their amendment No. 3, which reads, "Insert after line 43". That would mean the bill would have category 1 followed by category 3 and then category 2. Should it not read, "Insert after line 46"?

Dr Mehreen Faruqi: Sure.

The Hon. NIALL BLAIR: The Government believes the amendments in relation to category 3 land moved by The Greens are not necessary. In most cases the land will be subject to additional legal restrictions—for example, a set-aside area cannot be cleared except in very limited circumstances. Clearing land subject to a private land conservation agreement would generally be a breach of the agreement. Any clearing may also breach a biocertification agreement or the terms of a property vegetation plan. In addition, almost all the land proposed to be included in category 3 is intended to be excluded from code-based clearing under the regulations. Furthermore, land that comprises an area of outstanding biodiversity value will be excluded from part 5A. It will therefore not appear on the maps, and code-based clearing will not be permitted on such land. The current provisions of the bill, along with the intended regulations, provide sufficient and appropriate protection for environmentally sensitive areas. There is no need to add a further layer of complexity by creating a new category to be added to the maps.

The Hon. MICK VEITCH (01:09): The Opposition will not move Opposition amendments Nos 3 to 5, 7 to 10 and 14 on sheet C2016-119. Rather than rehashing all the statements that have been made in this debate, the Opposition considers that The Greens amendments are compelling and constitute a constructive approach to fixing this legislation. We support The Greens amendment.

Mr DAVID SHOEBRIDGE (01:10): Dr Mehreen Faruqi's amendments, which I support, are basically inserting a red line. There are some protected parts of the State that are so precious they should never be cleared. I listened carefully to the Minister's contribution, but he seemed to be simply saying, "Do you know what? We always want a get-out-of-jail-free card." It does not matter if it is remnant littoral rainforest or the highest conservation vegetation in the State, the Government always wants to be able to clear it. I ask the Minister: Is there any part of the State that is precious enough for the Baird Government to say it will not put the bulldozers in at some point?

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 3 to 5, 8 to 10, 13 and 16 on sheet C2016-117B. The question is that the amendments be agreed to.

Amendments negated.

The CHAIR (The Hon. Trevor Khan): We will now move on to The Greens amendments Nos 7, 11 and 12.

Dr MEHREEN FARUQI (01:11): By leave: I move The Greens amendments Nos 7, 11 and 12 on sheet C2016-117B in globo:

No. 7 Category 2-regulated land mapping

Page 7, Schedule 1 [3], line 36. Insert ", including by any works carried out by Landcare," after "public funds".

No. 11 Category 2-regulated land mapping

Page 8, Schedule 1 [3], line 11. Insert "or is land to which *State Environmental Planning Policy No 26—Littoral Rainforests* or *State Environmental Planning Policy No 14—Coastal Wetlands applies*" after "*Coastal Management Act 2016*".

No. 12 Category 2-regulated land mapping

Page 8, Schedule 1 [3]. Insert after line 23:

(n) the land is a travelling stock reserve,

The amendments change some definitions within category 2, regulated land. Amendment No. 7 ensures that any works undertaken by Landcare are at least noted as category 2 land and is not allowed to be cleared willy-nilly as is category 1 land. Amendments Nos 11 and 12 add reference to the State environmental planning policies for littoral rainforests and coastal wetlands to make doubly sure that they are also included within the definition.

The Hon. MICK VEITCH (01:12): The Opposition supports The Greens amendments. Again, they are very similar to the views the Opposition has put forward. My contribution to the second reading debate covered most of what is contained in the amendments, and I will not repeat it.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:12): In relation to The Greens amendment No. 7, the bill already requires land to be mapped as category 2 land if it contains native vegetation that was grown or preserved with the assistance of public funds other than funds for forestry purposes. Any relevant revegetation works carried out by Landcare would have been carried out with the assistance of public funds. In relation to The Greens amendment No. 11, that is a transitional provision and will be dealt with in the regulation. The Greens amendment No. 12 is unnecessary and does not add any additional protection for travelling stock reserves [TSRs].

Travelling stock reserves are principally reserved for travelling stock; however, they are used and valued for multiple purposes, including for recreation, environmental and economic reasons. Importantly, they are also very important to Aboriginal communities. The use and management of the TSRs are governed under the Crown Lands Act and the Local Land Services Act. The Crown is ultimately the owner of the land and under the bill will be required to comply with requirements under this package of reforms. Local Land Services manages the majority of TSRs in the central and eastern divisions. Local Land Services will be setting up a framework to ensure that TSRs are managed for the multiple values for which they are important. To expand on my contribution on amendment No. 11, as I mentioned, this is a transitional issue which will only apply until the Coastal Management Act 2016 commences. It is intended to deal with this issue through savings and transitional provisions which are yet to be drafted at a more appropriate place to locate those matters. For those reasons, the Government does not support the amendments.

Mr DAVID SHOEBRIDGE (01:14): As members know, Landcare gets its funding from a variety of sources, including bequests, which are not public funding. To the extent that Landcare projects have been funded by bequest they are not protected, as the Minister says. The Minister knows this. There is also a vast amount of voluntary work done in Landcare. To the extent that replanting or revegetation is done on a voluntary basis, it is not protected. Again, the Minister knows this. It is unfortunate he did not pick this up in his contribution to the amendment.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 7, 11 and 12 on sheet C2016-117B. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. MICK VEITCH (01:15): I move Opposition amendment No. 11 on sheet C2016-119:

No. 11 **Determination of unlawful clearing**

Page 8, Schedule 1 [3], lines 37-39. Omit all words on those lines.

This is pretty self-explanatory. I articulated some debating points around this in my speech in the second reading debate. We have some concerns about the new section regarding the unlawful clearing of:

... native vegetation only if compliance or enforcement action of a kind prescribed by regulations was taken in relation to the clearing.

That does not make sense because we are waiting for a regulation that we have not seen. We are suggesting that should be taken out.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:16): The Government does not support this amendment. Removing this would make subjective the test of determining whether something has occurred unlawfully. Unlawfulness is a key criterion for determining whether native vegetation on rural land is regulated and is key to whether a landholder needs to find a regulatory pathway to clear. The provision in the Local Land Services Amendment Bill 2016 will provide an objective means of determining whether there has been unlawful clearing. What constitutes appropriate action for this purpose will be set out in the regulations. It is important that the Environment Protection Authority head has formed a view that an unlawful event has occurred and taken steps to assert unlawfulness before he or she categorises land as regulated because of alleged unlawful clearing.

Dr MEHREEN FARUQI (01:17): I support Opposition amendment No. 11. We were concerned about this provision, especially that it might grant a de facto immunity for unlawful clearing if the head of the Environment Protection Authority determines that land should be made category 2 because it has been unlawfully cleared. If land is determined to have been cleared illegally, it should be categorised as category 2 land. As well, the person who has illegally cleared the land should feel the full force of the law. Parliamentary Counsel did advise us that provisions in other bills may mean that this amendment is not required. Nonetheless, we support the amendment as it is a good way of making sure that immunity is not inadvertently provided.

The CHAIR (The Hon. Trevor Khan): The Hon. Mick Veitch has moved Opposition amendment No. 11 on sheet C2016-119. The question is that the amendment be agreed to.

Amendment negated.

Dr MEHREEN FARUQI (01:18): By leave: I move The Greens amendments Nos 14 and 15 on sheet C2016-117B in globo:

No. 14 **Review and appeal of categorisation decisions**

Page 10, Schedule 1 [3], line 38. Omit "The relevant landholder". Insert instead "Any person".

No. 15 **Review and appeal of categorisation decisions**

Page 11, Schedule 1 [3], line 10. Omit "The relevant landholder". Insert instead "Any person". These amendments relate to appeal rights on the mapping. Of course we know that the accuracy of the native vegetation map is of utmost importance and it serves the interests of everybody that it be so. These amendments introduce the ability of a third party to initiate a request for a review of the categorisation of land or to initiate an appeal if they have information that land has been incorrectly categorised or is no longer correctly categorised. The amendments omit the words "the relevant stakeholder" and instead insert "any person". Nos 14 and 15, to make sure that if land has been incorrectly categorised there is a mechanism other than the landholder to initiate a review.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:19): The Government believes that landholders have the best knowledge of the history of the land use of their land and would be best placed to decide whether a review or appeal is appropriate. The Office of Environment and Heritage [OEH] will also be able to update the map at any time to correct errors, apply new information and to recognise lawful clearing that requires recategorisation. Other parties, such as local government and non-government organisations, can provide OEH with new information at any time and if a review is necessary to ensure the accuracy of the map, OEH can take corrective action in consultation with any relevant landholders.

In addition, opening the review and appeal process to any member of the community has the potential to substantially increase the number of review applications and appeals. This would create uncertainty for landholders who would have to await the outcome of those processes before knowing how their land is to be mapped. A landholder may also feel the need to join the appeal proceedings to ensure that their interests are represented, which would likely involve incurring significant legal costs to the landholder. The Government does not support these amendments.

The Hon. MICK VEITCH (01:20): I withdraw Opposition amendments 12 and 13 on sheet C2016-119. We will be supporting The Greens amendments. It is a principle supported by the Opposition that third parties have the right to appeal to the Land and Environment Court against a decision relating to the categorisation and recategorisation of land on a native vegetation regulatory map. It is a simple amendment to add transparency and broader rights for the public on the future health of our environment and that of future generations.

The Hon. ROBERT BROWN (01:21): I knew if we stayed in this Chamber long enough tonight we would get The Greens third party drop-in clause. It happens every time. It is called the backdoor clause. In fact, all legislation of this type should be reviewed by all governments, State and Federal, to start cleaning out the third party backdoor clauses. They have caused immeasurable damage to the economies of the States, the Federation and to the livelihoods of countless Australians. They are an abomination.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 14 and 15 appearing on sheet C2016-117B. The question is that the amendments be agreed to.

Amendments negated.

The CHAIR (The Hon. Trevor Khan): I invite Dr Faruqi, subject to leave, to consider moving amendments Nos 17 to 22. I also invite the Hon. Mick Veitch to move Opposition amendment No. 15, which is a variation on The Greens amendment. However, it seeks to omit more than The Greens amendment on this occasion. We will put Opposition amendment No. 15 and The Greens amendment No. 21 separate to the others, if everyone is happy with that.

Dr MEHREEN FARUQI (01:22): By leave: I move The Greens amendments Nos 17 to 22 on sheet C2016-117B in globo.

No. 17 Land management (native vegetation) codes

Page 15, Schedule 1 [3]. Insert after line 17:

- (2) The Minister may not make a land management (native vegetation) code unless satisfied that the clearing authorised by the code will be a low risk or a low impact on to the environment.

No. 18 Land management (native vegetation) codes

Page 15, Schedule 1 [3]. Insert after line 29:

- (5) Sections 40 and 41 of the *Interpretation Act 1987* apply to land management (native vegetation) codes in the same way as they apply to statutory rules within the meaning of that Act.

No. 19 Land management (native vegetation) codes

Page 15, Schedule 1 [3], line 32. Omit "4 weeks". Insert instead "8 weeks".

No. 20 Land management (native vegetation) codes

Page 15, Schedule 1 [3], lines 34 and 35. Omit the words "may (but need not)". Insert instead "must".

No. 21 Land management (native vegetation) codes

Page 15, Schedule 1 [3], lines 42–44. Omit all words on those lines.

No. 22 Land management (native vegetation) codes

Page 17, Schedule 1 [3], lines 5 and 6. Omit "unless the code exempts the landholder from giving notice of clearing of that kind". Amendment No. 17 ensures that code-based activities can be created only if the Minister is satisfied that there will be a low risk or a low impact on the environment. Amendment No. 18 ensures that the codes are disallowable. Someone, I cannot remember who, said that all codes made under this legislation would be disallowable, but I would like the Minister to confirm that. Amendments Nos 19, 20 and 21 are about the public exhibition of codes. Amendment No. 19 increases the amount of public consultation required for codes. Again, four weeks is simply not enough, especially if modelling is required to determine the impact of the codes. Eight weeks seems to be a much more reasonable period.

Amendment No. 20 removes the discretionary power of the Minister to publish or not to publish submissions. The Greens believe that with something as important as this the community and parliamentarians must receive comprehensive advice on any proposed code. That is why all submissions should be published. Amendment No. 21 removes the clause that guarantees the validity of the code even if the Minister does not comply with the already basic public consultation requirements. Either we have public consultation requirements or we do not. The Government should not pretend that it is consulting the public while incorporating a clause in the legislation allowing the Minister to do what he wants. Amendment No. 22 changes section 60X (1) to remove the ability of the Minister to set a code with no notification requirements. Members should remember that we are talking about the basic level of compliance; that is, notification. It is not prudent of the Minister to issue a code with an associated set-aside requirement with no notification required to be provided to Local Land Services to ensure that it complies.

The Hon. MICK VEITCH (01:25): To assist the Committee, I will not move Opposition amendment No. 18 appearing on sheet C2016-119. I move Opposition amendment No. 15 appearing on sheet C2016-119:

No. 15 Land management (native vegetation) codes

Page 15, Schedule 1 [3], lines 42–46. Omit all words on those lines.

This is a get-out-of-jail-free clause, which is a typical trick of this Government. Despite what has been said about public consultation, this clause ensures that failure to consult and to provide adequate time for consultation does not prevent a code from being made, nor does it invalidate the code once it is made. Clause 6 also allows the Government to make changes to public consultation requirements through regulation. Both undermine the legislation and parliamentary oversight and should be struck out.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:26): In relation to The Greens amendment No. 17, the draft codes will address environmental impacts by using the set-aside requirements. A landholder will have ongoing obligations to actively manage set-aside areas and to show improvements in biodiversity on the land. There is therefore no need for this test. Amendment No. 18 is unnecessary. It will delay the making of codes and create uncertainty as to whether they would in fact come into effect. The bill already requires public consultation on the draft codes. The inclusion of parliamentary scrutiny will add a layer of unnecessary complexity to the code-making process.

In relation to amendment No. 19, the period of four weeks is a minimum. The Government may choose to exhibit for a longer period. In any case, four weeks is sufficient to allow stakeholders and the community to

review the draft codes and to make submissions. In relation to amendment No. 20, the Minister should retain a discretion about whether or not to make submissions publicly available. For privacy reasons, the Minister may wish to make only some submissions available or not to make anything available. Making all submissions publicly available may deter some people from providing a submission. In relation to amendment No. 21, removing this provision would expose the codes to a legal challenge merely on the basis that a procedural requirement was not followed. This provision gives added certainty to landholders and to the community about the legality of the codes. The Government is committed to consultation on the draft codes and taking the community's views into account.

In relation to amendment No. 22, the provisions ensure flexibility under the code as to whether or not notice should be given. In some circumstances, notice may not be necessary. It does not make sense to have a blanket requirement to give notice, which is an added step for landholders. Any exemptions from giving notice will be set out in the codes, which will be placed on public exhibition. In relation to Opposition amendment No. 15, removing the provision relating to the failure to comply with procedural requirements would, as I said, expose codes to legal challenge merely on the basis that a procedural requirement was not followed. The regulation-making power provides flexibility to allow for more detailed processes to be outlined. As with all regulations, it will be subject to oversight by Parliament. Therefore, the Government opposes the amendments.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 17 to 20 and No. 22 on sheet C2016-117B. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): The Hon. Mick Veitch has moved Opposition amendment No. 15 on sheet C2016-119. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 21 on sheet C2016-117B. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. MICK VEITCH (01:31): By leave: I move Opposition amendments Nos 16, 17, 19, 20 and 24 on sheet C2016-119 in globo:

No. 16 **Public consultation and concurrence for amendments of codes**

Page 16, Schedule 1 [3], lines 6-13. Omit all words on those lines.

No. 17 **Land management (native vegetation) codes-set aside areas**

Page 16, Schedule 1 [3]. Insert after line 26:

(3) Land management (native vegetation) codes are to ensure that set aside and related clearing provisions do not result in a net loss of biodiversity.

No. 19 **Removal of code variation certificates**

Page 17, Schedule 1 [3], lines 24-27. Omit all words on those lines.

No. 20 **Removal of code variation certificates**

Page 19, Schedule 1 [3], lines 9-24. Omit all words on those lines.

No. 24 **Appeal against approval decisions**

Page 24, Schedule 1 [3], line 22. Omit "A landholder". Insert instead "Any person".

This is a particularly pernicious section of the bill, which allows the Minister administering the Act to dispense with public consultation over any amendment of a code or dispense with the concurrence of the Minister administering the Biodiversity Conservation Act 2016 because the Minister decides the matter to be urgent or of a minor nature—no definition, no oversight; merely the whim of the Minister. This House needs to unite to ensure such a reckless part of the legislation, open to abuse, is struck out and not passed by this House of review.

Opposition amendment No. 24 mirrors an earlier amendment allowing any person to appeal against approvals or modification of approvals. The Opposition has the weight of public opinion behind it in this regard and, given the significance of the matters we are debating and the weakening of protections and oversight granted by this bill, we need to ensure that the public can appeal against excesses, even if the Government waves it through. I commend the amendments to the Chamber.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:32): The provisions in Opposition amendment No. 16 provide flexibility to the Minister to dispense with procedural requirements in certain narrowly defined situations. In the case of minor amendments, public

consultation and concurrence are unnecessary and time consuming. Dispensing with these requirements will streamline the code amendment process without compromising the integrity of the code-making process. In the case of urgently required amendments the Minister will have the flexibility to make the amendments quickly, for example, to prevent unforeseen clearing under a code.

Opposition amendment No. 17 will significantly restrict the capacity of a code to require a set-aside area and confuses the matter of ecologically sustainable development [ESD]. It is not clear how it will be determined that the set-aside area and related clearing provisions would or would not result in a net loss of biodiversity as they do not use an offset calculator. The codes are designed to contain the principles of ESD. The codes will contain set-aside requirements that protect biodiversity on land where code-based clearing occurs. In relation to Opposition amendments Nos 19 and 20, these certificates provide an important capacity for Local Land Services [LLS] to tailor to particular landholdings. Not all code requirements will be applicable to every property.

There are safeguards built into the power to issue certificates. Local Land Services must be satisfied that the variation is for a legitimate purpose, that it is reasonable in the circumstances and that the environmental impact will be minor. Opposition amendment No. 24 would create an extremely broad third party appeal right. There is no equivalent provision in the Environmental Planning and Assessment Act 1979. That Act provides third party appeal rights in respect of applications for development consent only in limited circumstances. Allowing third party appeals would have the potential for any decision on approval to be appealed. This would cause uncertainty to landholders and delays in landholders being able to carry out the works permitted by the approval. Landholders may be in the position of having to join in any appeal proceedings to protect their interests. That would likely involve considerable expense and inconvenience. It is the same argument as put earlier by the Government and we oppose the amendments.

Dr MEHREEN FARUQI (01:35): The Greens support the Opposition amendments. I have made The Greens position clear on third party appeals and the importance of having public consultation on such an important piece of legislation.

The CHAIR (The Hon. Trevor Khan): The Opposition has moved amendment Nos 16, 17, 19, 20 and 24 on sheet C2016-119. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): We will now move onto The Greens amendments.

Dr MEHREEN FARUQI (01:36): By leave: I move The Greens amendments Nos 23 and 24 on sheet C2016-117B in globo:

No. 23 **Notice to Local Land Services of clearing**

Page 17, schedule 1 [3], line 8. Omit "\$110,000". Insert instead "\$220,000".

No. 24 **Notice to Local Land Services of clearing**

Page 17, schedule 1 [3], line 9. Omit "\$22,000". Insert instead "\$44,000".

These amendments refer to fines in section 60X of the Act. These are fines for not notifying Local Land Services when clearing under a code. If someone cannot be bothered to notify Local Land Services that they are undertaking clearing it is a serious issue. If self assessable codes are outsourced there needs to be a strong compliance mechanism when people take advantage of the lack of regulation. Amendments Nos 23 and 24 will increase the fines for failing to notify from \$110,000 to \$220,000 for a corporation and from \$22,000 to \$44,000 for an individual.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:37): The proposed maximum penalties that The Greens are putting forward are excessive. The seriousness of this offence needs to be seen in context. In many cases the clearing will otherwise be quite lawful and a landholder has simply failed to notify Local Land Services. The maximum penalties are appropriate and proportionate to the seriousness of the offence. The Government believes the current provisions in the bill should remain and we oppose the amendments.

The Hon. MICK VEITCH (01:37): The Opposition supports The Greens amendments.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 23 and 24 on sheet C2016-117B. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. MARK PEARSON (01:38): The Animal Justice Party withdraws amendment No. 2 on sheet C2016-128.

The CHAIR (The Hon. Trevor Khan): As you have not moved the amendment, it will lapse. That leaves amendment No. 1 on sheet C2016-128.

The Hon. MARK PEARSON (01:39): I move Animal Justice Party amendment No. 1 on sheet C2016-128:

No. 1 Notice to Local Land Services of clearing

Page 17, Schedule 1 [3], line 10. "(whether before or after the clearing)". Insert instead "(before the clearing)".

This is a commonsense amendment. It makes no sense for notification to be made about the clearing of land after the event because the damage has been done. This amendment clearly puts in place that the notification must be given to the relevant authority before, not after, the clearing and in the manner specified in the native vegetation code. It makes sense that the authority is aware of what is about to happen so that it can intervene, if necessary.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:40): The current provisions provide flexibility under the code as to whether or not notice should be given and whether this needs to occur before or after the clearing has been undertaken. In some circumstances notice may not be necessary. Any exemption or variation to these requirements will be set out in the codes, which will be placed on public exhibition. The Government does not support this amendment.

Dr MEHREEN FARUQI (01:41): This amendment applies to category 2 land, which has to be cleared under a code. If it has to be cleared under a code, then notice should be given before the clearing. There is no point giving notice once the clearing has happened. This is a commonsense amendment put forward by the Hon. Mark Pearson and The Greens support it.

The Hon. MICK VEITCH (01:41): The Opposition supports the Animal Justice Party amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Mark Pearson has moved Animal Justice Party amendment No. 1 on C2016-128. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): We will now move on to The Greens amendment No. 25 on sheet C2016-117B.

Dr MEHREEN FARUQI (01:42): I move The Greens amendment No. 25 on sheet C2016-117B:

No. 25 Certification by Local Land Services after clearing

Page 18, Schedule 1 [3]. Insert after line 20:

- (13) Local Land Services is to certify whether or not clearing was carried out in accordance with the conditions of a certificate under this section within four weeks of Local Land Services becoming aware that clearing was undertaken.

Proposed sections 60Y, 60Z, 60ZA and 60ZB refer to the way that compliance certificates are managed and issued. There is provision to close the loop on those certificates. The Local Land Services must be actively investigating whether the obligations imposed by those certificates are being complied with. This amendment inserts a new provision that requires Local Land Services to certify whether the clearing was or was not undertaken in the prescribed manner. Again, this is a basic requirement to ensure that the conditions are being met.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:43): This amendment would impose an onerous burden on the Local Land Services. After every instance of clearing it would have to send an officer to inspect the clearing. In addition, the compliance role rests with the Office of Environment and Heritage, not Local Land Services. This amendment would in effect force Local Land Services to audit every instance of code-based clearing. It will be the role of the Office of Environment and Heritage to audit the clearing and determine what should be investigated and what action should be taken. The Government opposes the amendment.

The Hon. MICK VEITCH (01:44): The Opposition supports the amendment moved by The Greens.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 25 on sheet C2016-117B. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): I invite the Hon. Mick Veitch to consider moving the Opposition's amendments on sheet C2016-129A.

The Hon. MICK VEITCH (01:44): By leave: I move Opposition amendments Nos 1 to 5 on sheet C2016-129A in globo:

No. 1 Membership of Native Vegetation Panel

Page 21, Schedule 1 [3], line 11. Omit "Minister". Insert instead "Governor".

No. 2 Membership of Native Vegetation Panel

Page 21, Schedule 1 [3], line 13. Omit "3 members appointed by the Minister". Insert instead "5 members appointed by the Governor".

No. 3 Membership of Native Vegetation Panel

Page 21, Schedule 1 [3], line 16. Omit "a person". Insert instead "2 persons".

No. 4 Membership of Native Vegetation Panel

Page 21, Schedule 1 [3], line 18. Omit "a person". Insert instead "2 persons".

No. 5 Decisions of Native Vegetation Panel

Page 21, Schedule 1 [3]. Insert after line 21:

- (4) Any decision of the Panel under this Division has no effect unless it is supported by at least 4 members of the Panel.

The panel is a critical player in the new regulatory regime envisaged by this bill. The Opposition believes that panel members should be appointed by Cabinet and not at the whim of the Minister, who is also able to reward or punish panellists through his or her complete control over their remuneration. That has the potential to undermine the independence of the panel. By Christmas, or maybe even by the end of the week, the Minister at the table may not be the Minister responsible for these activities. To that end, not only should Cabinet appoint the panel but it should allow for more views. The Opposition's amendment increases membership of the panel to five. The panel should have five members. The Opposition would increase the number of ecologists and experts in primary production to two each, with any decision of the panel requiring the support of at least four members. I commend the amendments to the Chamber.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:46): Amending the bill in this way is unnecessary and will make no difference to the way in which the panel exercises its functions. The proposed structure of the panel would be unwieldy. The membership as currently provided for in the draft bill reflects the triple bottom line decision-making framework. Given that the Act will be administered by the Minister for Primary Industries, it is appropriate that the Minister establish and appoint the panel members. The Governor would appoint panel members only on the advice of the Minister. The Department of Premier and Cabinet has a vigorous and transparent appointment process that must be followed for all panel appointments. The Government opposes the amendments.

The Hon. ROBERT BROWN (01:46): The Shooters, Fishers and Farmers Party does not support these amendments. Based on our experience of the Department of Premier and Cabinet sticking its nose into the business of Ministers and screwing up otherwise perfectly valid arrangements that are made between Ministers and other parties in this House, we believe that this proposal is way over the top. The purview of a Minister of the Crown, who is trusted to oversee legislation, should be left as is.

Dr MEHREEN FARUQI (01:47): The Greens support the amendments moved by the Hon. Mick Veitch. They are necessary amendments, especially those that would increase the expertise on the panel. The panel will serve a very important purpose and will make decisions on matters such as whether land clearing would result in serious or irreversible damage. It is much better to have two people with environmental expertise and two people with agricultural expertise on the panel.

The CHAIR (The Hon. Trevor Khan): The Hon. Mick Veitch has moved Opposition amendments Nos 1 to 5 on sheet C2016-129A. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): We will now consider amendments to be moved by Dr Mehreen Faruqi.

Dr MEHREEN FARUQI (01:49): By leave: I move The Greens amendments Nos 26 and 28 on sheet C2016-117B in globo:

No. 26 Serious or irreversible impacts on biodiversity values

Page 22, Schedule 1 [3], lines 24 and 25. Omit "the Panel is of the opinion that".

No. 28 Reduction in biodiversity credits to be retired

Page 23, Schedule 1 [3]. Insert after line 27:

- (5) The Panel cannot reduce the number of biodiversity credits that would otherwise be required to be retired without the concurrence of the Environment Agency Head.

These amendments refer to the ability of the Native Vegetation Panel to make decisions where clearing would result in serious or irreversible impacts on biodiversity values. Amendment No. 26 removes the subjectivity that is currently within section 60ZF (6). The panel must refuse to approve clearing that results in serious and irreversible impacts on biodiversity values, not just if they are "of the opinion". We need to be much more objective and much less subjective in these tests when there are risks of irreversible damage.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:50): In relation to The Greens amendment No. 26, changing "serious and irreversible" to "serious or irreversible" is unnecessary. It should be noted that the precautionary principle as part of ecologically sustainable development states that decisions should be guided by careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and an assessment of the risk-weighted consequences of various options. The precautionary principle does not suggest that serious or irreversible impacts to the environment should in and of themselves prevent development from being approvable. Drawing on the precautionary principle, the bill encourages the Native Vegetation Panel to weigh up such impacts in consideration of the risks of various options.

Importantly, the decision rests with the Native Vegetation Panel. The requirement for impacts to be both serious and irreversible strikes an appropriate balance between protecting our most important biodiversity at a bioregional and State scale and ensuring that the role of consent authorities, in exercising discretion in relation to economic, environmental and social consideration, is not unduly constrained. In relation to amendment No. 28, the Native Vegetation Panel consists of three members with expertise in the areas of social, economic and environmental matters. In particular, one panel member must have expertise in ecology or the protection and conservation of biodiversity. The interests of the environment will be represented on the panel. The Government opposes the amendments.

The Hon. MICK VEITCH (01:52): I indicate that the Opposition will not move amendments Nos 21 to 23 on sheet 2016-119. I indicate to the Chamber that we will be supporting The Greens amendment.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 26 and 28 on sheet C2016-117B. The question is that the amendments be agreed to.

Amendments negatived.

Dr MEHREEN FARUQI (01:52): By leave: I move The Greens amendments Nos 27, 31 and 32 on sheet C2016-117B in globo:

No. 27 Serious or irreversible impacts on biodiversity values

Page 22, Schedule 1 [3], lines 26 and 27. Omit "serious and irreversible" wherever occurring. Insert instead "serious or irreversible".

No. 31 Review of native vegetation provisions of this Act

Page 27, Schedule 1 [7], lines 1 and 4. Omit "5 years" wherever occurring. Insert instead "2 years".

No. 32 Review of native vegetation provisions of this Act

Page 27, Schedule 1 [7], line 4. Omit "12 months". Insert instead "6 months".

Amendment No. 27 is exactly like amendment No. 12 in the previous bill. It makes a crucial change to ensure that we are talking about "serious or irreversible impacts" not just "serious and irreversible impacts". I think the Minister has already given his response to that amendment in his previous speech. It is important that we talk about "serious or irreversible" because each has implications in its own right. We should not have to meet both tests at the same time because that sets the bar very high and irreversible damage could take place under this condition.

Amendments Nos 31 and 32 are the same as amendments Nos 30 and 31 moved in Committee on the Biodiversity Conservation Bill. They seek to bring forward the review period of the Act, which has to be undertaken concurrently in both bills. As I said earlier, five years is too long because a lot of damage can be done in five years. These amendments reduce the period of the review from five years to two years, and reduce the period to table the report after the review has concluded from 12 months to six months. I think that is enough time for the Government to prepare and table the report on the review.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:54): Dr Mehreen Faruqi is correct. I stated my reasons for opposing The Greens amendment No. 27 in my earlier contribution so I will not repeat them. In relation to amendments Nos 31 and 32, the same amendments moved in this bill were moved in the biodiversity bill, which were lost, which means that if this amendment were

to be passed in this bill it would be different to the timeframes in the biodiversity bill. I will use the argument of Dr Mehreen Faruqi that she prosecuted that the bills should be reviewed together. Of course, we would not want to have two different sets of timeframes in the two bills. The Government will maintain the same timeframes in both bills for the reviews, and it opposes these amendments.

The Hon. MICK VEITCH (01:55): The Hon. Penny Sharpe presented a sensational argument on behalf of the Opposition in relation to similar amendments in the biodiversity bill and I do not have to repeat them. I commend it to the Committee.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendments Nos 27, 31 and 32 on sheet C2016-117B. The question is that the amendments be agreed to.

Amendments negated.

Dr MEHREEN FARUQI (01:56): By leave: I move The Greens amendments Nos 29 and 30 on sheet C2016-117B in globo:

No. 29 **Local Land Services report on allowable clearing**

Page 25, Schedule 1 [3], line 25. Omit "its estimate of".

No. 30 **Environment Agency Head report on clearing in unregulated areas**

Page 25, Schedule 1 [3]. Insert after line 32:

60ZO Environment Agency Head to report on rates of clearing in unregulated areas

- (1) The Environment Agency Head is to publicly report on an annual basis on the Agency Head's estimate of the overall rate of clearing of native vegetation in rural areas that are not regulated rural areas.
- (2) The Environment Agency Head may include that report in the annual report of the Office of Environment and Heritage.

Both of these amendments relate to reporting. Amendment No. 29 relates to the reporting obligations as a result of enacting these bills. If the Government is going down the path of environmental destruction and uncertainty, it is essential that we have the best available information, at least. Amendment No. 29 removes the words "its estimate of" from section 60ZN so the Local Land Services is required to report on the actual rate of clearing on regulated land, not just its estimations. This should be reasonably easy to achieve, given the need for notification and certification. We need real data, not just estimates.

In relation to amendment No. 30, by designating large parts of the State as category 1 we will actually have no idea of how much land clearing is taking place. Surely, in order to maintain an eye on the overall environmental situation we should have at least an estimate of what is going on. That is why the environmental agency head should at least be utilising its mapping project to report on the rate of clearing in unregulated land. I understand that for unregulated land in category 1 this will not be an exact science as it could be for category 2, which is regulated land, which is why the use of the word "estimate" is appropriate here.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:58): The Greens amendment No. 29 would be unworkable in practice. Landholders will not notify a clearing for allowable activities. It will be impossible for Local Land Services [LLS] to provide an adequate figure for the clearing in this way. An estimate by LLS based on the best available data will provide a sufficient picture of the clearing rates. In addition, the Office of the Environment and Heritage will continue to report on changes to woody vegetation in New South Wales that would capture this clearing. In relation to The Greens amendment No. 30, the new framework provides protections for biodiversity on category 2 regulated land. Category 1 land is land that is permitted to be cleared without authorisation under the new framework. There is no policy basis for requiring the environmental agency's head to come up with an estimate of clearing rates on such land. The Office of Environment and Heritage will continue to report on woody vegetation in New South Wales. The Government does not support the amendments.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment Nos 29 and 30 on sheet C2016-117B. The question is that the amendments be agreed to.

Amendments negated.

The Hon. MICK VEITCH (01:59): By leave: I move Opposition amendments Nos 6 to 10 on sheet C2016-129A in globo:

No. 6 **Public information registers**

Page 25, Schedule 1 [3], line 37. Omit "aggregate".

No. 7 Public information registers

Page 25, Schedule 1 [3], line 39. Omit "aggregate".

No. 8 Public information registers

Page 25, Schedule 1 [3], line 41. Omit "aggregate".

No. 9 Public information registers

Page 26, Schedule 1 [3], line 3–6. Omit all words on those lines. Insert instead:

- (2) Information is to be included in a public information register as soon as practicable after it is obtained by Local Land Services.
- (3) The information in any public information register is to include details that identify the land to which the information relates (including the identity of the particular landholder concerned).

No. 10 Public information registers

Page 25, Schedule 1 [3], lines 9–12. Omit all words on those lines.

I note there is a typographical error. The true reference should be to page 26, not to page 25, of the bill in amendment No. 10. This Government would love to sweep away public oversight when it comes to activities undertaken as a result of these bills. The public register as conceived in this amending bill is effectively meaningless and provides only aggregate information as to location and there is no detail in terms of time frames. Therefore, I commend the amendments to the Committee.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (02:00): The amendments moved by my friend will infringe on the privacy of landholders who will have specific information about clearing and land management activities on their property placed on a public register. This may act as a disincentive for landholders to engage with the new framework. The inclusion of aggregate information on a regional basis will still provide information on clearing rates in the regions where that clearing is taking place. It is important that Local Land Services [LLS] has the capacity to provide information about notices and certificates to other agencies to allow other agencies to fulfil their responsibilities and ensure the integrity of the new system. The Government does not support the amendments.

Dr MEHREEN FARUQI (02:01): I support the amendments moved by my friend the Hon. Mick Veitch. It is really important that LLS has to report on notices and certificates, and on the public register individually and not in aggregate. The amendments will remove prohibition on reporting and identifying landholders, and will create much more transparency. The Greens support the amendments.

The CHAIR (The Hon. Trevor Khan): The Hon. Mick Veitch has moved Opposition amendments Nos 6 to 10 appearing on C2016-129A. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): The final amendment is The Greens amendment No. 2 dealing with the objects.

Dr MEHREEN FARUQI (02:02): I move The Greens amendment No. 2 on sheet C2016-117B:

No. 2 Objects of Act

Page 3, Schedule 1 [1]. Insert after line 9:

- (e1) to protect native vegetation of high conservation value having regard to its contribution to water quality, biodiversity, the prevention of salinity or land degradation or other relevant matter,
- (e2) to improve the condition of existing native vegetation, particularly where it has high conservation value,
- (e3) to ensure that decisions under the Act have regard to the cumulative contribution of broad-scale clearing to greenhouse gas emissions in NSW as well as the important role played by native vegetation as carbon sinks.

The Greens amendment No. 2 introduces three additional objects to the Local Land Services Act. The proposed paragraphs (e1) and (e2) are taken directly from the Native Vegetation Act 2003, which is being repealed. The amendments are being retained because they should be fundamental to any native vegetation management system, which this bill will regulate. Proposed paragraph (e3) is a new object that is squarely focused on climate change. I think the Minister agreed earlier that climate change is a key part of this bill, so why not add a clearer object in relation to it?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (02:04): The bill already amends the objects of the Local Land Services Act, one of which is to ensure the proper management of natural resources in the social, economic and environmental interests of the State consistent with the principles of ecologically sustainable development. That amendment reflects the focus of the new framework on the triple bottom line in decision-making. The triple bottom line includes environmental factors and as such it is unnecessary to add additional objects relating only to environmental issues as proposed. The Greens amendment is opposed.

The Hon. MICK VEITCH (02:04): I move Opposition amendment No. 2 on sheet C2016-119:

No. 2 **Objects of Act**

Page 3, Schedule 1 [1]. Insert after line 9:

- (e1) to ensure decisions under the Act relating to land management activities appropriately protect biodiversity and ecosystem services;
- (e2) to ensure that decisions under the Act have regard to the cumulative contribution of broad-scale clearing to greenhouse gas emissions in NSW as well as the important role played by native vegetation as carbon sinks.

This amendment takes a constructive approach to strengthening the objects of the Act. In my view it has been done in a commonsense way and is quite well presented. I suggest that our amendment strengthens The Greens' position. The Opposition will be supporting our amendment.

The CHAIR (The Hon. Trevor Khan): Dr Mehreen Faruqi has moved The Greens amendment No. 2 on sheet C2016-117B. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): The Hon. Mick Veitch has moved Opposition amendment No. 2 on sheet C2016-119. The question is that the amendment be agreed to.

Amendment negatived.

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

Motion agreed to.

The Hon. NIALL BLAIR: I move:

That the Chair do now leave the chair and report the Biodiversity Conservation Bill 2016 to the House with an amendment and the Local Land Services Amendment Bill 2016 to the House without amendment.

Motion agreed to.

Adoption of Report

The Hon. NIALL BLAIR: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. NIALL BLAIR: I move:

That these bills be now read a third time.

The House divided.

Ayes20
Noes16
Majority.....4

AYES

Ajaka, Mr J
Borsak, Mr R
Colless, Mr R
Franklin, Mr B (teller)
MacDonald, Mr S

Amato, Mr L
Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
Maclaren-Jones, Ms N
(teller)

Blair, Mr N
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
Mallard, Mr S

AYES

Mason-Cox, Mr M
Phelps, Dr P

Mitchell, Ms S
Taylor, Ms B

Pearce, Mr G

NOES

Barham, Ms J
Faruqi, Dr M
Mookhey, Mr D

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A
Veitch, Mr M

Donnelly, Mr G (teller)
Graham, Mr J
Pearson, Mr M

Primrose, Mr P
Shoebridge, Mr D
Wong, Mr E

Sharpe, Ms P
Voltz, Ms L

PAIRS

Harwin, Mr D
Khan, Mr T

Houssos, Ms C
Secord, Mr W

Motion agreed to.

INDEPENDENT COMMISSION AGAINST CORRUPTION AMENDMENT BILL 2016

ROCK FISHING SAFETY BILL 2016

First Reading

Bills received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (02:17): According to sessional order, I declare the bills to be urgent bills.

The DEPUTY PRESIDENT (The Hon. Paul Green): The question is that the bills be considered urgent bills. Is leave granted to ring the bells for one minute?

Leave not granted.

The House divided.

Ayes20

Noes16

Majority.....4

AYES

Ajaka, Mr J
Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
MacDonald, Mr S

Amato, Mr L
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
Maclaren-Jones, Ms N
(teller)

Borsak, Mr R
Colless, Mr R
Franklin, Mr B (teller)
Khan, Mr T
Mallard, Mr S

Mason-Cox, Mr M
Phelps, Dr P

Mitchell, Ms S
Taylor, Ms B

Pearce, Mr G

NOES

Barham, Ms J
Faruqi, Dr M
Mookhey, Mr D

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A

Donnelly, Mr G (teller)
Graham, Mr J
Pearson, Mr M

Primrose, Mr P

Sharpe, Ms P

NOES

Shoebridge, Mr D
Wong, Mr E

Veitch, Mr M

Voltz, Ms L

PAIRS

Blair, Mr N
Harwin, Mr D

Secord, Mr W
Houssos, Ms C

Declaration of urgency agreed to.

The Hon. DUNCAN GAY: I move:

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

Motion agreed to.

The Hon. Adam Searle: Point of order: It is my understanding that a bill cannot be declared to be an urgent bill unless copies are in the House. I have asked the Minister for a copy of the Independent Commission Against Corruption Amendment Bill and one has not been produced. Where is the bill?

The Hon. Duncan Gay: Keep calm.

The Hon. Adam Searle: This is an abuse of the parliamentary process. The Minister, the Leader of the Government, has asked this House to declare a bill urgent without having a copy of the bill in the Chamber.

The DEPUTY PRESIDENT (The Hon. Paul Green): I will take advice as to whether there is a copy in the House. The copies of the bill are tabled. Please give one to the Leader of the Opposition.

FISHERIES MANAGEMENT AMENDMENT (SHARK MANAGEMENT TRIALS) BILL 2016**Returned**

The DEPUTY PRESIDENT (The Hon. Paul Green): I report receipt of a message from the Legislative Assembly returning the Fisheries Management Amendment (Shark Management Trials) Bill without amendment.

*Adjournment Debate***ADJOURNMENT**

The Hon. DUNCAN GAY: I move:

That this House do now adjourn.

RED TAPE REDUCTION

The Hon. MICK VEITCH (02:27): We hear a lot of jargon and spin coming from the Baird Government these days and tonight I would like to unpack one of the more enigmatic uses of jargon by this Government—the use of the expressions "red tape reduction" and "cutting red tape". Red tape reduction is an admirable aim and the former Government established the Better Regulation Office to intensify efforts to rescue unnecessary costs to community, business and government. My concern now is that any decision of Government is being justified or explained in terms of red tape reduction. Rather than a worthy goal of government and the bureaucracy, it has become an intrinsic part of the language of spin used by the Liberal and National parties. I bring to the attention of the House another damning report by the Auditor-General of August this year regarding the realities of red tape reduction. The report found that, in spite of the Government's hype over red tape reduction, in fact it had increased the overall net burden by more than \$16 million. The report states:

Overall, the New South Wales Government initiatives and processes to prevent and reduce red tape were not effective. Reported red tape savings were inaccurate and the regulatory burden of legislation increased.

The Government trumpeted \$750 million in red tape savings, yet key assumptions were not supported by evidence and data; links between reforms and benefits were not explained or quantified; cost transfers were passed off as savings; and full cost savings, claimed up front, were lost in the inevitably botched implementation of the reforms. The Auditor-General recommended a new framework for reducing red tape, one that was robust and clearly defined against realistic targets. This would bring New South Wales into line with the best practice approach of other jurisdictions. Yet somehow I think the Baird Government will be content to continue to use fantastical

figures, rather than accurate ones—much better to use hype and spin rather than to address what is really happening.

The Liberal and National parties are addicted to the expression "cutting red tape" and most reform and most bills we see come through this House have the mandatory expression "red tape reduction". Just look at the recent Crown Lands Management Bill: Remove the term "Trust" from Crown land management—"red tape reduction"; remove the Commons Management Act—"reducing red tape"; remove "statutory notification" from the bill—"red tape reduction". It has become a Government mantra these days, and it is one that I believe has made the community suspicious and cynical. When specifically questioned on savings, the Government refuses to answer, refuses to quantify, and refuses to explain. That is because, in many instances, they simply do not exist.

I witnessed a lot of anger at the polling booths last weekend. Much of it stemmed from a strongly held belief in rural New South Wales that the Baird Government no longer listens to the concerns of ordinary citizens. The Government is not only caught up in its own hype, but its members also talk at people rather than genuinely listen to them. Red tape reduction is an integral part of the Baird Government's lexicon. The Auditor-General's conclusion says it all. I recommend the report to members. It states:

Overall, NSW Government initiatives and processes to prevent and reduce red tape were not effective. Reported red tape savings were inaccurate and the regulatory burden of legislation increased. Without a full stocktake of regulation, the NSW Government does not know the impact of its regulations on businesses and individuals, or how effectively it has reduced this impact.

Red tape reduction targets resulted in some savings. However, estimates of these savings were, in some cases, based on unverified or unsubstantiated assumptions, cost-transfers, or pre-implementation projections that are yet to be achieved. The targets also did not drive new reform or significant rollback of regulation. The scope of the red tape reduction program allowed for time saved from changes to administrative processes to be the primary driver of the total value of red tape reduced.

In New South Wales there is a new approach—evidence based and honest—that goes to the heart of the way in which our governments and public service think and work. It is a change that does not treat the electorate with disdain or seek to hide the truth in spin and meaningless expressions.

ANTIBIOTIC RESISTANCE

The Hon. LOU AMATO (02:31): Prior to 1941 there was a disease far more feared than cancer is today—infection. A simple scratch on the body from a thorn or needle could cause serious infection that was difficult to treat. Many infections would cause lymph nodes to swell and the formation of an abscess, requiring lancing to drain the fluid. An infected limb might even need to be amputated to save a person's life. The risk of infection from surgical procedures was high, often resulting in the death of the patient.

After the First World War, Alexander Fleming was studying bacteria when a tear fell from his eye onto the culture. His teardrop killed the bacteria but he could not explain why. Years later, Fleming was conducting similar experiments when a piece of mould accidentally came into contact with a bacterial culture. He observed the same result that occurred when his teardrop had come into contact with bacteria years earlier. Fleming realised that his tear had also contained mould. He isolated the species as the penicillium mould, and concluded that it was responsible for producing antibiotic properties that had killed the bacteria. Although Fleming had discovered the antibacterial properties of the penicillium mould by accident, he did not know how to extract it for use as a medical treatment for infection.

Howard Walter Florey was born on 24 September 1898 in Adelaide, South Australia. Florey studied pharmacology and pathology and became, in the words of Australia's longest-serving Prime Minister, Sir Robert Menzies, "the most important man ever born in Australia". Fleming discovered the antibacterial properties of the penicillium mould. However, it was Florey who discovered the means to extract the antibacterial properties and to produce what we today know as penicillin. It is estimated that Florey's discoveries, along with Alexander Fleming's and Ernst Chain's, have saved more than 82 million lives.

On 16 November 2015, the World Health Organisation [WHO] released findings from a worldwide survey conducted on the use of antibiotics. The findings coincide with the launch of a new WHO campaign "Antibiotics: Handle with care", which is a global initiative to improve people's understanding of the consequences of over-prescribing antibiotics and subsequent antimicrobial resistance. WHO Director-General Dr Margaret Chan, when discussing the findings of the survey, said:

The rise of antibiotic resistance is a global health crisis, and governments now recognise it as one of the greatest challenges for public health today. It is reaching dangerously high levels in all parts of the world. Antibiotic resistance is compromising our ability to treat infectious diseases and undermining many advances in medicine. The purpose of the survey was to gauge people's perceptions of antibiotic resistance to educate individuals and societies on the need for a reduction in non-essential use of antibiotics. Without a paradigm shift we face a world where once again the risk of death by infectious disease will become a greater concern than cancer. Presently Australia is the twelfth largest prescriber of antibiotics, which has contributed to an accelerated natural selection process resulting in evolving "superbugs" such as methicillin-resistant staphylococcus aureus [MRSA], a difficult-to-treat staph infection resistant to antibiotics such as penicillin.

Many patients are infected with MRSA in our hospitals and face a lifetime living with the disease as antibiotics have lost their efficacy and are no longer of any use. What is of particular concern is that the WHO survey found that 64 per cent of respondents still believe that antibiotics are effective in treating colds and flu. That is despite the fact that antibiotics have no impact on viral diseases, which are a completely different pathogen to bacteria. What is even more alarming than the beliefs of non-medical practitioners is the indiscriminate prescribing of antibiotics by healthcare professionals in an effort to appease their patients.

We live in dangerous times, where the current rate of antibiotic use may take us back to an age where a simple scratch or cut could be a life-threatening event especially for children with underdeveloped immune systems. It was a great Australian that found a way to extract and refine the antibacterial properties of the penicillium mould which has saved innumerable lives. Australians must follow in the footsteps of Howard Walter Florey to ensure that never again will a simple scratch be more dangerous than cancer. It is our task as elected members to actively seek out ways to bring about reform of the medical system in the prescribing of antibiotics. We must ensure that we do not find ourselves in the tragic position of no longer being able to save a child's life from a simple infection.

BAIRD GOVERNMENT POLICIES

Dr MEHREEN FARUQI (02:35): As we come to the end of another parliamentary year the Baird Liberal-Nationals Government's legacy is marked by a betrayal of the people of New South Wales and a complete and utter failure to improve vital public services or to provide protection for the environment. Decisions based on sound evidence and looking towards the future are not the order of the day, every single day. Secrecy, dishonesty and deceit seem to be the rules this Government swears by. Tonight I will talk about the damage that has been done by the Coalition Government in 2016 and the laws and projects that have been a wreck, one after another. The mislabelled Biodiversity Conservation Bill, which is about everything but conservation, is one of the biggest environmental disasters we will ever see in this State. Community consultation is nothing more than a tick-the-box exercise as the legislation has been shoved through Parliament tonight. This Government simply does not care what the environmental impacts will be of its disastrous laws.

It is the same story with the Government's greed for privatisation. The Government is trying to sell land as quickly and as secretly as possible, with disastrous legislation such as the Crown Land Management Bill. The move to privatise health care by selling off hospitals in New South Wales shows just how little the Government actually cares. Premier Baird and his pack of cronies are vandals of the environment, of land and of resources that belong to the people of New South Wales. Council amalgamations are yet another example of this Government bowing to political and business interests rather than acting in the public interest. This State's land, councils and public services are not Mr Baird's to dismantle and sell. Private and powerful interests are driving decision-making, with the Baird Government's pet multibillion-dollar polluting WestConnex, the CBD and South East Light Rail and the Sydney Metro. The Government has cleared critical habitats without securing offsets and it has chopped down irreplaceable trees that are more than 100 years old—something that was completely avoidable. The Government is yet to commission a single piece of public transport infrastructure that will be publicly run and operated.

In 2016 the Government has repeatedly targeted people who do not use cars with jacked up fines for bike riders and scrapping free Opal travel, to fill up its own coffers. Public benefit and expert opinion seem to have slid right down to the bottom of the criteria on how decisions are made and money is spent. The stark truth is that the people of New South Wales are footing the cost of this Government's mind-boggling stupidity. Transport cost blowouts are now at over \$10 billion—\$10 billion that could have gone to health care, education and expanded infrastructure. The Government has drained the public sector of expertise and it has an obsession with secrecy. Premier Baird's political cowardice has led to the reversal of the only good decision the Government made this year—the greyhound racing ban. All the cruelty that he saw when banning greyhound racing spectacularly disappeared in the face of losing some political brownie points.

Another reinforcement of the Government's complete disregard for evidence is the terribly foolish idea that shark nets will prevent shark attacks. Nets will kill thousands of threatened species but it seems no-one cares about that any more. Wildlife is fair game for a government that has set no limits on how far it will bend over to suit the agenda of big agriculture by killing wildlife and bulldozing native vegetation. We have an ethanol mandate that primarily benefits one company—a company that had 20 meetings with New South Wales Ministers and donated more than \$160,000 to the Coalition. Even good news becomes suspicious when one scratches the surface. The container deposit is a good scheme but there is a real risk that it will be handed over to the big beverage companies such as Coca-Cola to operate. The Government does not have the interests of the environment at heart. What the Liberal-National Baird Government did in 2016 is a repeat of what it did in 2015, 2014 and 2013, only much worse. As each day passes the people are waking up to the fact that the Government and its cronies are cheats—clever cheats, I must admit—but for how long can they fool the public?

UNITED STATES ELECTION

The Hon. SCOTT FARLOW (02:40): This time last week the people of the United States started to exercise their right to vote. I will not be revisionist, I never saw Donald J. Trump winning the presidential election.

The Hon. Greg Pearce: I did. I called it in question time.

The Hon. SCOTT FARLOW: I am sure you did. I probably saw it being closer than most. If one looked at every State where the Democrats were ahead, Hilary Clinton would have only been ahead by six electoral college votes. Since the surprise election of Donald J. Trump as president-elect of the United States of America, all sides have been trying to claim the win as emblematic of their own issues. On the Right it is claimed as a victory for freedom of speech, the silent majority rising up against the tyranny of big government telling people what is acceptable to think, say and do. The win is a victory for traditional values and people who are no longer able to express their views because the elites deem their views unacceptable and repugnant. It is the masses giving a big middle finger to the establishment and refusing to accept the left wing doctrine.

Those on the Left believe it is a win for the ideology of Bernie Sanders and a rising up of the 99 per cent against the 1 per cent. Trump was the embodiment of the anti-establishment to them. His anti-global sentiment captured the silent voters who had been left in the cold by a globalised world. It was a vote against free trade and a move to protectionism. From my assessment, it is a little of both. As a conservative who supports free trade and the benefits of trade I see it is a message. This Government must double down on its efforts to expand and communicate the benefits of trade, in particular the benefit of free markets. For too long there has been a view in American and Australian politics, where both sides agreed on the benefits of trade in the long term, that we did not need to argue the benefits of trade.

The Government did not need to sympathise with those who were not the winners out of the benefits of trade. Indeed, when it comes to trade the theory of Adam Smith still reigns supreme—the theory of absolute and comparative advantage, and that countries are best off producing what they are best at. We must be mindful of those that are left behind in transitions of industries and the workforce. For a country such as Australia, with a population of 22 million people, trade will always be vitally important. We have always been a leader in global trade, stretching back to the early twentieth century global trade rounds. Australian agriculture in particular has had a comparative advantage when it comes to the rest of the world. We must redouble our efforts to extol the virtues of trade because it is easy to see the closure of a factory or an industry in this country but it is hard to see the economic advantages opened up elsewhere. It is hard to see those jobs being created because of exports to other parts of the world. More and more we must consider reciprocity in this country.

While I am a believer that all trade is good and that governments should not be involved in the market, we must be respectful of other nations. It is one of the lessons to learn, considering what is happening in the United States. We must also be mindful that we need to treat our trading partners fairly and in a balanced way. We must show them the same considerations they are showing us. At a time when some of us in this country believe in free trade and in the markets, we must show the benefits of those markets. We must also show that those markets are working for the people of Australia and that we are not being taken for granted. The recent election in the United States that will see Donald Trump as President spun the usual orthodoxy relating to trade on its head. We must ensure that those of us who believe in free trade fight for it.

CARDIOVASCULAR DISEASE

The Hon. ERNEST WONG (02:45): I wish everyone in this House a merry Christmas and a happy New Year. My sincere thanks go particularly to the Clerks, the secretariat and Hansard for their tireless work throughout the year in assisting us and ensuring that this House runs smoothly. My long involvement with the Westmead Institute for Medical Research and the Westmead Medical Research Foundation has given me the privilege of meeting with Dr James Chong and gaining a small insight into the brilliant world of cardiovascular research, for which he has been instrumental and progressive over the years. Dr James Chong is an exceptional cardiologist and scientist from the Westmead Institute for Medical Research. He continues to command global attention and recognition from the who's who of the medical profession for his remarkable contribution to cardiovascular research.

From the outset, I was made aware of some alarming facts about heart failure. It is a growing epidemic that affects approximately 300,000-plus Australians a year and is responsible for killing some 20,000 Australians a year. I was more alarmed to learn that heart failure rates are increasing exponentially in Australia as well as worldwide. One in two people with advanced heart failure die within a year of diagnosis. This is almost too confronting to comprehend and, for this reason alone, I felt compelled to draw the attention of this House to some of the most innovative and outstanding researchers in New South Wales who are committed to tackling cardiovascular disease head on, and no-one more so than Dr James Chong.

In a world first, in 2014 Dr Chong collaborated with Professor Charles Murray and his team of scientists at the University of Washington to successfully grow heart muscle cells in sufficient quantity to repair the damaged heart of a primate after a heart attack. For the first time, they were able to grow stem cell-derived heart muscle on a sufficiently large scale to treat large animals. Injecting the cells into the infarcted hearts of the animals resulted in large-scale re-muscularisation and regeneration of the failing organ. At a time when the problem is growing, Dr Chong believes the research is a significant breakthrough in using the new technology of regenerative medicine for human patients with heart disease. Dr Chong said at the time:

While adult stem cells are already being used in clinical trials on heart attack sufferers, that method has so far demonstrated only modest benefits so new treatments are urgently needed.

By using pluripotent stem cells, which have superior plasticity, we were able to grow and graft stem cell-derived heart muscle in significantly larger numbers than previously possible.

We found that the stem cell-derived heart muscle engrafted and survived in the infarcted hearts over a much longer period than has ever been previously demonstrated in a clinically relevant model.

Dr Chong believes this technology is getting closer to growing heart muscle cells on a large enough scale to treat human patients. He further believes it could be a possible future cure for heart failure and that it will replace the need for heart transplantation, which will give hope to patients who may otherwise die due to the inadequate number of donated hearts. Working with Professor Charles Murray and his American team, Dr Chong showed that human stem cell-derived heart muscle grafts could be produced on a clinical scale and then cryo-preserved with good viability in preparation for transplantation.

Animal subjects that had experienced conditions similar to a heart attack were treated with stem cell-derived muscle that was injected into the damaged heart tissue. The subjects were observed for as long as three months—a much longer period than in previous large animal studies—and the finding was that the new heart muscle cells achieved electromechanical coupling with the original host heart. Furthermore, the study showed for the first time that an in-growth of blood vessels from the host heart was responsible for supplying the grafted heart muscle with nutrients.

Professor David Ross, a clinical professor of cardiology at the University of Sydney, believes that the work of Dr Chong and fellow researchers is an important step in identifying possible new treatments for heart failure. I commend Dr Chong for his tireless efforts in combating this insidious epidemic and his outstanding contribution to lifesaving treatment that, once again, puts an Australian medical achievement in the world's spotlight. All these possible treatments can be developed in the future only if the Federal and New South Wales governments are truly committed to nurturing such a lifesaving course.

ORANGE BY-ELECTION

The Hon. ROBERT BORSAK (02:50): I inform honourable members about the Orange by-election. Last week I was absent from the Chamber so that I could visit Orange, Parkes, Forbes, Molong, Peak Hill, Bogan Gate and Manildra to speak to locals. We all know that the result will be close, but with the largest swing in the electoral history of New South Wales the message is clear: rural New South Wales deserves better. People in the bush are tired of being taken for granted. They are tired of empty promises at election time. They are tired of being represented by people who roll over for city-based Liberal Party interests whenever an issue that matters to them comes before Parliament. The Nationals made over \$390 million worth of funding announcements during the election campaign to try to buy back the trust of locals.

At the NSW Farmers candidates debate which was held the Monday before the election, The Nationals candidate, Scott Barrett, declared that every funding announcement would be honoured, no matter who won the seat on 12 November. I fear that that will be another empty promise that was aimed at winning a close election. Many people contributed to our campaign, but I wish to pay tribute to the people who made this monumental election result possible: Robert Brown, party director Filip Despotoski, John Townsend, Robert Despotoski, Stephen Bowler, Stephen Larsson, Senada Bjelic and, of course, Philip Donato. Our strong result in the Orange by-election is Mr Donato's doing. He is a well-known police prosecutor in the area and has the highest prosecution rate in New South Wales. Testament to Mr Donato's reputation is this anecdote from the pre-poll booth last week. One of our volunteers was approached by a voter who said he knew Mr Donato. He said:

Yes, I know that Phil Donato bloke. He prosecuted me for a DUI offence a couple of years ago.

At this point our volunteers became nervous. The voter continued:

Yes, Mr Donato did prosecute me, but he was a very fair man. That's why I'm still voting for him.

At the NSW Farmers candidates debate the first question every candidate was asked was, "What have you done for our local area over the past 10 years?" Mr Donato referred to his record of protecting the community and keeping people safe. That is the stark contrast between our candidate and The Nationals candidate. All parties

must learn that preselecting people whose main quality is loyalty to the central party hierarchy will not serve the party well in the community. People want more, and they deserve better. People want somebody who will stand up for them, fight for their rights and be a voice for them in Parliament.

As their representative they want somebody who is indeed one of them. I am pleased to report that Philip Donato is that person. He is back at work as a police prosecutor this week, pending the result of the by-election. I wish him well. He has done the Shooters, Fishers and Farmers Party proud. I will not refer to the leadership spill in The Nationals other than to say this: we call on other victors to join us in standing up for the interests of rural areas. Work with us, not against us. Like their constituents, we have heard many empty promises from The Nationals, as well as the Liberal Party. We will not stand for a continuation of that.

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

Motion agreed to.

The House adjourned at 02:54 until Wednesday 16 November at 11:00.