ELO Hansard Review

21-23 May

Autumn Session 2013

A weekly overview of environment related proceedings in the NSW Parliament

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Contents

Legislative Assembly Tuesday 28 May 2013

ASSENT TO BILLS

Assent to the following bills was reported:

Bail Bill 2013
Baptist Churches of New South Wales Property Trust Amendment Bill 2013
Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2013
Statutory and Other Offices Remuneration Amendment (Judicial and Other Office Holders) Bill 2013

LOCAL LAND SERVICES

Mr JOHN BARILARO: My question is addressed to the Minister for Primary Industries. What action is the Government taking to ensure the development of Local Land Services in time for its January 2014 start date?

Ms KATRINA HODGKINSON: I thank the hardworking member for member for Monaro for his excellent question and his real interest in all things rural, particularly the development of Local Land Services, which has been underway for a number of months now.

(…)

Ms KATRINA HODGKINSON: The Government will be streamlining three existing regional service delivery organisations—catchment management authorities, livestock health and pest authorities, and Department of Primary Industries agricultural extension—into one organisation. Currently there are 25 separate boards in this space. Between them they have 202 separate directors. Under the new arrangements with the amalgamation of this regional service delivery organisation—Local Land Services—those 202 directors will be reduced to 80 and there will be 11 Local Land Services boards. They will be posted on the Internet very soon. I have produced a new map, which is publicly available as of today, and I will introduce legislation into this place today as well.

This is a very positive way forward for the future of farming. New South Wales has approximately 42,000 farmers, and many people working in the landscape and environmental area. By streamlining these organisations and by having common boundaries and common boards with a common mission, that is to deliver landscaping services, environment services and farming delivery services to their local services—that is the forefront of their responsibility—we are also saving approximately $5 million a year upfront in board fees. The amount saved will be redirected straight into front-line services for the Local Land Services regions.

I thank some very special people. I appointed a stakeholder panel approximately eight months ago to help with community consultation. The panel held 22 meetings right across New South Wales consisting of the organisations very much involved in this space including Greening Australia, Landcare, the NSW Farmers Association, the catchment management authorities,

the Department of Primary Industries, the Local Government and Shires Associations and others because we wanted to make sure we covered every spectrum and that everyone was considered in the consultation. Many thousands of people from across New South Wales turned up to those meetings. We also received more than 2,000 submissions on the Have Your Say website. The development of the boundaries caused some controversy as we went forward, but I am confident that the map I have released publicly today will be universally accepted across the board by everybody in this regional service delivery space.

The SPEAKER: Order! There is too much audible conversation in the Chamber.

Ms KATRINA HODGKINSON: Moving forward over the next four years we will have more than $500 million budgeted for Local Land Services and we anticipate that when the new Local Land Services commence on 1 January next year more than 750 employees will be directly involved as part of Local Land Services. In addition, today's announcement that we are actually delivering a massive dividend for the State's primary industries sector with the creation of a $35 million Future Fund and also the reinvestment of $5 million per year for agricultural advisory services is very exciting. That is in addition to the existing fund for livestock health and pest authorities. Rates funding will continue to be quarantined for livestock health and pest authority biosecurity services. Catchment management authority funding will continue to be used for catchment management authority services and will be quarantined for that purpose. Department of Agriculture funding for extension services will continue to be quarantined for that purpose as we move forward. In addition, there will be a $35 million Future Fund— [*Extension of time granted*.]

I have really said all I wanted to say. We will be looking forward to debating the legislation in due course.

LOCAL LAND SERVICES BILL 2013

Bill introduced on motion by Ms Katrina Hodgkinson, read a first time and printed.

Second Reading

Ms KATRINA HODGKINSON (Burrinjuck—Minister for Primary Industries, and Minister for Small Business) [4.06 p.m.]: I move:

That this bill be now read a second time.

I am delighted to introduce the Local Land Services Bill 2013 on behalf of the Government. Some 18 months ago this Government set out on one of the largest reforms of agricultural services since the 1940s. There was extensive consultation in relation to this legislation. It was overseen by the Local Land Services stakeholder reference panel chaired by the Natural Resources Commissioner John Keniry, AM. Mick Keogh, Executive Director, Australian Farm Institute, did an outstanding job with the stakeholder reference panel, which also consisted of the Department of Primary Industries, the Catchment Management Authority, the Livestock Health and Pest Authority, the New South Wales Farmers Association, Landcare NSW, Greening Australia and the Local Government and Shires Association.

It is important to remember that this consultation followed on from the Government's pre-election commitment to a review of the livestock health and pest authorities, which resulted

in the report by Terry Ryan. That review was done following widespread concern about the Livestock Health and Pest Authority model expressed by many ratepayers across New South Wales. This process is a clear sign of the Government's commitment to the State's 42,000 farmers and many landscape managers, including those land care, bush care, coast care and rural communities across the State. The Government is one critical step closer to reform. Local Land Services will bring together a wealth of technical and advisory knowledge from parts of the Department of Primary Industries, the livestock health and pest authorities and the catchment management authorities into a modern, efficient and flexible model for service delivery. Local Land Services has been designed by farmers and landscape managers for future service delivery in this critical area.

From 2014 farmers and land managers will be able to access services and advice from the Local Land Services or the Department of Primary Industries in 139 towns across New South Wales. Local Land Services will make it easier for farmers and land managers to access advice, to improve agricultural productivity, to manage plant and animal pests and diseases, to prepare for and respond to emergencies and natural disasters and to deliver local natural resource management programs. Local Land Services will comprise 11 regions, each with a local board of seven members. The seven members will consist of four government appointments and three ratepayer-elected positions, except for the Western region which due to its size will have four elected and five appointed board members. There will be a board of chairs with an independent overall chair. The number of boundaries is being reduced across the State from the existing 25, which basically consists of the 14 livestock health and pest authority boards and the 11 catchment management authority boards, to 11 on a new boundary area. I seek leave to table the map of the new boundaries for local land services.

Leave granted.

I will outline the most contentious areas of the map. In some areas the stakeholder panel was divided as to which local areas should go into a Local Land Services region. I have retained Murray, which was from the majority shareholder map. However, it ends at the Western Division boundary. The Western Division boundary is maintained in its existing form up to the commencement of Walgett shire. Finch county has been moved into Walgett shire. Gwydir has been moved into the north-west and Lockhart has been moved into the Riverina. I have created a new Central Tablelands, which includes mid-western regional, Cabonne, Orange, Bathurst regional, Lithgow, Oberon, Blayney and Cowra. Boorowa, Upper Lachlan shire, Yass Valley, Wingecarribee and Goulburn have moved into the south-east and Greater Taree has moved into the Hunter.

The number of directors and shares will be more than halved from 202 under livestock health and pest authorities, and catchment management authorities to 80 under Local Land Services. Through reducing duplication of governance, managerial and back-office functions we found savings in the order of $5 million, which will be directed back into front-line extension and advisory services, whether through contracting private agronomists, partnering with farming systems groups or hiring additional staff. Local Land Services will be managed by local people on local boards working closely with landholders and communities to deliver services that are relevant to their needs. These local people are best placed to represent local landholders, not someone sitting behind a desk in Sydney.

Local boards will have real powers and will be able to make decisions about budgets, services, staff and partnerships with other organisations. Local boards will be a mix of

government and ratepayer-elected positions, striking the right balance between accountability and ownership by local farmers. These reforms are about putting farmers back at the centre of the decision-making process. It is about getting behind our farmers, helping them to grow their business and preparing for future challenges. It is about creating a more robust, modern and efficient model, reducing duplication and delivering more money for front-line services.

Local Land Services will be a financially secure organisation with revenues in excess of $500 million in the first full four years and net assets in excess of $130 million. There will be no cost shifting to ratepayers unless the local boards and ratepayers see value and wish to pay for additional and new services by their Local Land Services. Importantly creating Local Land Services has also enabled us to create a Local Land Services Future Fund in the order of $35 million through consolidating the accumulated cash assets of the livestock health and pest authorities and the catchment management authorities. This is the first time that such a fund has been created to support the future sustainability of primary industries and natural resource management advice in New South Wales.

The decision on how to spend these funds will rest with local boards. I place on the record my sincere thanks to all those who have taken part in the consultation process and to members of the stakeholder reference panel for giving their valuable time and expertise to the process. During the course of the stakeholder consultation 22 meetings were conducted right across New South Wales and more than 2,000 submissions were received from various organisations and individuals from right across New South Wales. Many of these submissions made a valuable contribution to the development of this bill. I thank everybody who made a contribution and those who have taken the process so genuinely and so sincerely. It is with very great pride that I commend this bill to the House.

Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a future day.

PETROLEUM (ONSHORE) AMENDMENT BILL 2013

Second Reading

Debate resumed from 22 May 2013.

Mr PAUL LYNCH (Liverpool) [5.47 p.m.]: I lead for the Opposition in debate in this place on the Petroleum (Onshore) Amendment Bill 2013. Shadow Minister the Hon. Steve Whan has carriage of the matter in the other place. The Opposition will not oppose the bill in this place, although we reserve our position to give further consideration to the bill in the other place. The object of the bill is to amend the Petroleum (Onshore) Act, the Mining Act and some related Acts.

The amendments include: to increase penalties for offences relating to mining for petroleum without authority and certain other offences and to revise other offences so that corresponding offences relating to petroleum mining and other mining are in similar terms, to enable directions relating to compliance with conditions of petroleum titles and addressing adverse environmental impacts of mining for petroleum to be given and to provide for enforcement of such conditions and appeals against directions, to provide for audits of prospecting or mining for petroleum, to extend the legal costs that the holders of mining

authorities or petroleum titles must pay for landholders relating to arrangements for access to land and to make other provision with respect to access to land by holders of petroleum titles, and to make other provisions with respect to arrangements for access to land.

The bill also will make it an offence for the holder of a petroleum title to fail to pay royalty, enable the publication of certain environmental information, provide for the appointment of, and to confer inspection and other investigation powers equivalent to those conferred under the Mining Act on, inspectors under the Petroleum Act and to provide for permits for entry onto land the subject of a petroleum title in other circumstances. The bill also will insert various offences relating to enforcement of the Petroleum Act and the enforcement of rights under and conditions of petroleum titles, and will make existing and new offences relating to the provision of false or misleading information under the Petroleum Act and the Mining Act offences of strict liability.

This amending bill also will insert other provisions relating to offences under the Petroleum Act consistent with the Mining Act, including provisions about continuing offences, proceedings for offences, enabling orders that are made to require offenders to make monetary payments and enabling restraining orders to be made against the property of offenders against whom payment orders are sought. The bill will provide for the ongoing effect of notices given under the Petroleum Act and the Mining Act and the effect of conditions of petroleum titles, authorisations and permits, to make other amendments to the Mining Act consistent with amendments to the Petroleum Act, including the removal of the power to suspend a mining authorisation for contravention of an access arrangement. I have outlined the principal amendments that will be effected by this legislation.

The bill includes power to ensure immediate compliance with requirements of the Act by expanding the range of issues for which directions may be given, including adverse impact or risk of adverse impact on the environment, and requirements to mitigate impacts that include the rehabilitation of land. The bill will introduce audit powers to enable the Government to meet its commitment to auditable licences. Inspectors also will have greater powers to obtain information and to gather a wider range of material for investigation. Inspectors will be able to enter premises where there is proposed or suspected exploration, or production activities, or where documentation about those activities may be kept. The legislation will amend the Petroleum Onshore Act and the Mining Act. It will increase the powers and penalties of those Acts, thereby allowing greater compliance activity over exploration and extraction activities.

The legislation also deals with some issues relating to access to land for exploration. It will give a landowner a right to deny access to a mining company, but only if the company has breached the conditions of its access agreements. The bill also will provide increased ability for landowners to recoup legal costs from the proponents of the project. The legislation also will confer power to make codes for access agreements, which means either a standard access agreement or a set of standard clauses. Standard and public access agreements or at least frameworks would be worthwhile and clearly should be supported. The legislation purports to seek to cut red tape by removing the requirement for an explorer to notify adjacent landholders if it is undertaking seismic testing on a public road and has permission to do so. As I indicated, the Opposition does not oppose the bill in this House but reserves its position in the other place.

Mr CHRIS SPENCE (The Entrance) [5.52 p.m.]: I support the Petroleum (Onshore) Amendment Bill 2013, which underscores the New South Wales Government's determination

to have the toughest regulatory framework in Australia for our petroleum industry. Since March 2011, the New South Wales Government has introduced a wide range of important changes to how the petroleum industry must perform. I will outline the changes during the course of my speech. The first change made by this Government was the development and implementation of the Strategic Regional Land Use Policy, which has been one of the most significant policy developments in New South Wales recent planning history. The policy identifies and provides a higher level of protection for more than two million hectares of strategic agricultural land and valuable water resources.

Under the policy, an agricultural impact statement is required for all mining and coal seam gas exploration and production proposals that may impact agricultural resources. The purpose of the statement is to provide an assessment of the potential impacts of those activities on agricultural, businesses and water resources. Where a petroleum exploration or production proposal is located on strategic agricultural land, it is also required to go through a gateway process. The gateway process is an independent, scientific and up-front assessment of impacts on agricultural land and water of a proposal before a development application can be submitted. The gateway assessment ensures that the potential impacts of exploration and mining activities on agricultural resources or industries are identified and assessed.

Further extensive requirements for assessing agriculture and water impacts exist under the Strategic Regional Land Use Policy. The Government developed the aquifer interference policy to safeguard water and the policy is now part of the regulatory framework under the Water Management Act. It sets out the requirements for obtaining water licences for aquifer interference activities. It also sets out what must be considered when assessing impacts on an existing water-dependent asset. Extensive water studies must be undertaken and submitted as part of the material to be assessed for project proposals that will interfere with an aquifer. The Government's actions under the Strategic Regional Land Use Policy have not stopped there. The Government understands that difficulties can arise between farmers and miners with interests over the same land. It has therefore created the important position of Land and Water Commissioner. The commissioner provides guidance to landholders and the community in relation to those competing interests.

The commissioner already has been instrumental in the development of a code of practice for land access. The code will ensure that access arrangements between landholders and titleholders are fair and reasonable. As part of the bill's amendments, the code of practice for land access will be a regulation under the Petroleum (Onshore) Act. The regulatory framework also has been strengthened through the implementation of further codes of practice that address important subjects relating to hydraulic fracturing, or fracking, and the integrity of wells, and they are enforceable as conditions of title. The Government is introducing a number of measures that recognise the community. New community consultation guidelines have been developed to ensure communities are aware of, and are consulted in relation to, new title applications.

Furthermore, to ensure the health and wellbeing of the community, an exclusion zone has been declared over residential and future residential areas as well as critical industry clusters. An additional two-kilometre buffer zone will apply around residential areas. In addition, all petroleum exploration, assessment and production titles and activities will be required to hold an environment protection licence that will be issued by the Environment Protection Authority [EPA]. The Government has strengthened how coal seam gas activities will be regulated by establishing the dedicated Office of Coal Seam Gas. The office is responsible

for regulating the coal seam gas industry under the Petroleum (Onshore) Act, and the Work Health and Safety Act 2011 as it applies to petroleum work places.

The Government also has made the Environment Protection Authority the lead regulator of environmental and health impacts of coal seam gas activities, which means that the Environment Protection Authority will be able to regulate the local, cumulative or acute impacts of any pollution from coal seam gas activities and take any necessary compliance and enforcement action. The Government sought independent, scientific appraisal of aspects of coal seam gas exploration activities. It called on the Chief Scientist to provide an appraisal on the process of fracking and the design of wells before it lifted a moratorium on fracking. The Government again has called on the Chief Scientist.

This time the Chief Scientist will undertake a full and independent compliance audit of all coal seam gas related activities since 2011. The impact of those activities on health, safety, the environment and the community will be part of the audit. The outcome of this important work will be a set of evidence-based recommendations to the Government. This State is not in the business of closing down the petroleum industry. This State is in the business of ensuring that industry develops with appropriate community and environmental safeguards as well as consideration of other important sectors of our economy. The amendments effected by this bill to the Petroleum (Onshore) Act will further strengthen those two important aspects of this developing industry. I commend the bill to the House.

Mr JAMIE PARKER (Balmain) [5.57 p.m.]: I join in debate on the Petroleum (Onshore) Amendment Bill 2013. The Greens welcome the Government's legislation, based on its objectives to strengthen and clarify the compliance and enforcement framework of the Petroleum Onshore Act 1991. Many members of this House will recall the Legislative Council's inquiry into coal seam gas. In its May 2012 report, General Purpose Standing Committee No. 5 gave considerable treatment to the Government's lack of compliance monitoring and enforcement. More than a year has passed since the committee made its recommendations based on the inquiry.

The Government has introduced this legislation to address the critical areas of compliance and enforcement in coal seal gas operations. This Government has had to traverse a long distance owing to the role played by the former Government, which involved handing out licences, problems with royalties, and a distinct lack of process that ensured the protection of aquifers, local farming and residential communities, including Alexandria and Petersham, which are very close to my electorate and which were the subject of coal seam gas drilling proposals by Dart Energy. While The Greens do not oppose the bill, I will deal in detail with several elements of it to highlight some positive issues and some negative ones.

I foreshadow that I will be moving some amendments—our right to refuse access amendments—which will allow farming people and others to refuse access for coal seam gas exploration and mining on their properties. I will leave discussion of that to a later time. I draw members' attention to quite a few elements in the bill that are positive. It is worthwhile saying positive things in this situation. We welcome the improved provisions in the bill relating to directions. Such powers are certainly necessary in order to have companies comply with environmental and regulatory obligations. Therefore, we support the fact that directions can be issued for any adverse impact or risk that a company's activities may have on an aspect of the environment.

The fact that directions can be used to rehabilitate, conserve, prevent, control or mitigate any harm to the environment is a positive step, and that should be welcomed. The Act was clearly deficient in this regard, and the bill highlights the inadequacies of the current regulatory regime. With this power the right of the titleholder to challenge the merits of a direction order in the Land and Environment Court is in accordance with the principles of procedural fairness and natural justice. Likewise, we support retaining the power of the Minister to suspend operations for certain contraventions without allowing a merit challenge, as the necessary checks and balances are in place under the Act. This should send a strong message to the industry that it must act in accordance with licence conditions or risk being forced out of business.

Other elements that are useful in the bill and that I would like to spend time discussing include, for example, environmental information aspects. The provisions that allow for environmental information to be published are welcomed by The Greens and those communities who have been fighting for years to access such information. Of course, this should have done already as a proactive release under the Government Information (Public Access) Act. If this Act were being followed precisely, community groups would already have access to the information they need to regulate an industry; something the Government has failed to do for many years. It is also important to make these provisions effective. We must have a mandatory requirement for the director general to publish such information; if we do not we will continue to have the problems that plague the current system whereby some information is published and some is not, which that can cause significant concern in the community.

The reimbursement of legal costs in arbitration is something The Greens will raise in the Legislative Council. The provision in the bill for the titleholder to cover landholders' reasonable legal costs is a welcome addition. That is something positive that we should acknowledge. However, it falls short because the provision stops when arbitration starts. Many members representing rural and regional areas are aware of this. For example, at this very moment landholders in the Bylong Valley in the Southern Highlands are racking up astronomical legal bills on legal advice for compulsory arbitration. The problem with new section 69DA and its section 141A Mining Act equivalent is that they exclude legal costs when it comes to arbitration.

This arbitration is compulsory for the landholder. If the Government were to ensure that landholders were able to receive positive legal advice on access arrangements, there would be no rational reason for this provision to stop at arbitration. As I said, during this compulsory acquisition period a lot of landholders are clocking up very significant legal fees, which only provides an incentive for mining companies to play out the clock, quite frankly. If you are a legal adviser for a mining company, you play out the clock and you force the landholder into compulsory arbitration where it is clear that the power of the mining company against the landholder—who has no legal advice or support, only his or her own capacity to pay for legal advice—would lead to a very significant power imbalance, because the ability to receive legal advice or support is precluded. In the Legislative Council my Greens colleagues will move amendments to extend the provision to provide legal costs to encompass the arbitration process.

We also believe the financial cap should be addressed. Rather than the cap there should be reasonable costs. We believe that is a common-sense approach. Let us not forget that the landholder receives no compensation for any stress caused, the loss of income by virtue of

time spent in these access negotiations—which we know are often complex and difficult—and the huge costs that inevitably accrue in engaging the services of experts, consultants and other non-legal experts to assist in these land access negotiations. For these landholders it is not just the legal costs; it is often getting other access reports, other reports on the quality of the farming land and the cost to their business, and that is not something the Government is proposing to proceed with in this legislation.

It is important to recognise that while there have been some positive developments, there are some concerns. Another positive development is inspectors. The increased powers of inspectors to obtain information and gather a wide range of material for investigation is definitely welcomed. Likewise, we support the strong powers for inspectors being backed up by provisions for offences for failing to comply with requirements either by wilful delay or obstruction. Of course, it is now up to regulatory agencies to make use of them and have staff on the ground to see this enhanced role for inspectors implemented.

Finally I will address the issue of royalties. The position of royalties under the former Labor Government was, to say the least, inadequate. The Government must now recognise its lax royalty regime in regard to coal royalties—it is attempting to tighten up the equivalent provisions in the Petroleum Act. It is clear we should be doing the same for the Mining Act, especially in light of the report by the Auditor-General in November 2010, which the Government is yet to act upon significantly. Therefore, it is important that this issue of royalties be addressed in detail. Elements in the bill are positive and welcomed. The right to refuse access is an important area, which we know has been supported by the Federal leadership of the Coalition. I will take some time to address a point that came up during the second reading about gas supply crisis.

In his second reading speech the Minister for Resources and Energy said that there will be gas supply issues for New South Wales—and there most certainly will be—but this is not related to the amount of gas in Australia. Australia already has an abundant supply of conventional gas, of which we export more than 50 per cent. The crisis is not caused by the lack of the resource in the short term at least; it is caused by the Government and industry, which, instead of preserving any supplies for Australian industries or Australian households, would prefer to export the product, therefore leading to supply and demand price increases in the domestic market.

Members know there has been a great deal of discussion in the United States and in other countries about implementing the gas reservation policy, not for all the gas but for a proportion of it, to make sure that, while we export almost 50 per cent of our conventional gas, we retain gas to make sure we can provide for Australian businesses, retailers, residential users and others. It is important that the Government address this issue. The export market is driving this issue, not the lack of resources in the short term. I will move my amendments in globo to make sure we do not spend a great deal of time on this, but these are important issues that should be raised. I commend the Governments for its positive efforts, but a lot more must be done. I trust my amendments will be examined by the House and looked upon as a positive way to help address these matters in our community.

Mr ANDREW ROHAN (Smithfield) [6.07 p.m.]: I support the Petroleum (Onshore) Amendment Bill 2013 and congratulate the Minister for Energy and Resources on introducing this much-needed legislation. The Petroleum (Onshore) Amendment bill 2013 strengthens and clarifies the compliance and enforcement framework of the Petroleum

(Onshore) Act 1991. In New South Wales, exploration and production of hydrocarbon products are regulated by the Act, which provides for a system of titles for exploration, assessment and production activities called licences. Currently New South Wales produces just 5 per cent of its gas needs and thus remains dependant on importing the rest from neighbouring States. It is worth mentioning that New South Wales gas supply contracts will expire in 2014. It is unlikely that such contracts will be renewed as many of the gas producers have contracted their gas to the export markets. A number of companies are based in my electorate and will face this problem next year.

Security of gas supplies is vital for this State as thousands of local businesses who rely on gas as an energy source will have to pay even higher prices if such contracts were to be renewed. With gas supplies from other States heading overseas, it is vital for New South Wales to develop its own domestic gas resources. Currently, exploration in New South Wales has identified more than 500 billion cubic metres of gas reserves associated with coal seams in a number of geological basins across the State. This is enough to provide more than one million homes with energy for more than a century. Exploration for petroleum oil and gas is an extremely complex process and certain controls, requirements and measures are needed to ensure that the health and safety of the community as well as the protection of the environment are not compromised.

At exploration stage a wide range of heavy machinery is used, such as special trucks, in conducting geophysical exploration to map subsurface structures and rock strata. Big trucks are used to carry drilling rigs; other trucks to carry pipes and ancillary equipment used in drilling exploratory and production wells. The vehicles and equipment have to access lands under different jurisdictions and therefore the current provisions for land access need to be updated to ensure that landholders are not disadvantaged. This bill will make sure that petroleum activities are conducted in a normal manner, and the industry will be held accountable if it does not meet its obligations, particularly its environmental obligations. The bill is designed to build community confidence and provide certainty for the industry at the same time. I commend the bill to the House.

Ms GABRIELLE UPTON (Vaucluse—Parliamentary Secretary) [6.10 p.m.]: I speak in support of the bill. The petroleum industry in Australia is a very important part of our economy, and indeed in New South Wales, and I think we should make no mistake when we have this debate today that the products that come from that industry—the jobs that it provides, the energy that powers most of the activities that we undertake every day—is the result of an industry that survives and invests in our community. It is also vital that exploration and production of all petroleum products in New South Wales is carried out in a way that ensures the health and safety of our community as well as the protection of our very precious environment. We rightly expect the industry to operate in accordance with best practice. We should also expect the industry to be regulated in accordance with best practice. It is that that is behind the bill that we are discussing today in this Chamber.

This bill is only one aspect of the work being carried out by the Government to build community confidence and to provide certainty to the industry in our State. Both objectives are really important. It is very important for the Government to make sure that there is certainty for the business community—certainty of investment and returns on investment. At the same time, balanced off, the community is seeking a better understanding of the significance of any particular proposed or ongoing activity in the petroleum industry. To ensure that community concerns are addressed the Government has developed the most

rigorous requirements in Australia for the petroleum industry. This bill strengthens and clarifies the compliance and enforcement framework of the 1991 Act. It provides a regulatory framework for the responsible exploration and production of petroleum products in our State. It will bring the 1991 Act in line with existing stronger provisions in the Mining Act. It will also strengthen landholder rights.

The Petroleum (Onshore) Act currently provides for a system of titles for exploration, assessment and production activities. A key power for ensuring immediate compliance with the requirements of the Act is the ability to issue a direction. The Act currently has very limited powers for directions to be given which are not nearly sufficiently adequate and robust. Our community expects a regulatory enforcement regime to be robust, particularly where it impacts on the environment and safety. The bill extends and considerably strengthens these direction powers in keeping with the powers in the Mining Act and will extend the range of matters for which directions can be issued. The bill proposes that directions can be issued for any adverse impact or risk of one that petroleum industries may have on any aspect of the environment.

Directions can also be issued to conserve the environment or to prevent, control or mitigate any harm to it. They can also be used to rehabilitate land that is, or could be, affected by activities under the title of the land. The amendments in this bill on directions are a robust means of ensuring prompt industry compliance and protection of the environment while balancing off the other important protection of giving titleholders a fair process to seek review of decisions. The bill includes provisions for audits by incorporating the voluntary and mandatory audit provisions of the existing Mining Act. The audits will provide information on compliance with title obligations such as conditions or legislation or codes of practice. The audits will also enable assessment of how activities on the title can be improved to protect our environment.

The bill also strengthens inspector powers which are manifest through entry to premises where there is proposed or suspected exploration or production activity, or where documentation about that activity may be held; to obtain information and gather a wider range of material for investigation; and to require answers from a person whom they reasonably suspect of knowing about an offence that has been committed. The inspection provisions in the Petroleum (Onshore) Act are currently limited and not considered by this Government to be robust enough to provide inspectors with sufficient powers to carry out their work effectively and to ensure the compliance we expect. The amendments before the House today will provide a sound basis for that to happen. The existing inspector provisions will be replaced with the far more extensive provisions in the Mining Act.

Turning briefly to the issue of compliance, the Industry must know and understand that compliance is not a choice. However, currently the Petroleum (Onshore) Act does not provide for offences for all acts of non-compliance and penalty amounts are not generally sufficient in all cases to act as a deterrent to non-compliance. This will be addressed through proposed amendments that bring the offence provisions in line with those of the Mining Act. The bill supports the strong new powers of inspectors with offences for failing to comply with requirements without lawful excuse or wilful delay or obstruction. The strongest possible penalties will now be imposed in these circumstances—a penalty of $1.1 million for corporations and $220,000 for individuals.

New offences will include failure to comply with requirements for royalties and failure to

make royalty payments, and failure to comply with the audit provisions I mentioned previously. For the first time strict liability offences will be introduced for providing false or misleading information. However, a person will have available to them the defence of honest and reasonable mistake. As well as increasing penalties for offences, the bill will amend provisions for proceedings for an offence by extending the time within which proceedings must commence from 12 months to three years from the date of the offence, with no time limit for indictable offences. The Mining Act in this case will also be amended to provide for the same time limits.

The bill proposes new provisions to ensure a consistent approach to the Council of Australian Governments [COAG] agreed principles for the assessment of directors' liabilities. I must comment on that provision because I know that our Government has taken a lot of time and effort to go through a number of these Acts on the law books and to make consistent our director liability provisions. They are contained in new section 125F. It provides, consistent with the Council of Australian Governments principles that have been agreed between States and Territories and the Commonwealth Government, that there will be no automatic liability of directors. There will be no reverse of onus of proof. Both are really important protections for directors who in good faith go about the business of providing the strategic oversight and direction for the companies that this Act will touch upon. That Council of Australian Governments harmonisation process is one on which this Government is leading the way in adopting those provisions into pieces of legislation as they come before the House.

Further amendments in the bill will help balance the interests of landholders and titleholders. There are other amendments, and I touch on one or two of them. There will be a code of practice for land access made by way of regulation, and a separate regimen for environmental information and an extension of a titleholder's obligation to pay reasonable legal costs of a landholder for access arrangements. This bill is important. It strengthens the Petroleum (Onshore) Act and makes many provisions consistent with those in the Mining Act, which are stronger than they are currently in the Petroleum (Onshore) Act. The bill requires compliance from industry, an industry that is very important for this State, for our community, for jobs, for products, for the energy that allows us to get about our day-to-day activities, but it is particularly strong on environmental matters and it will provide a deterrent to industry non-compliance, which under this Act has very serious consequences—offences are extended and penalty amounts are increased. On that basis I support the bill and I commend it to the House.

Mr GEOFF PROVEST (Tweed—Parliamentary Secretary) [6.18 p.m.], on behalf of Mr Chris Hartcher, in reply: I thank all the members for their contribution to the debate: the members for Liverpool, The Entrance, Balmain, Smithfield and Vaucluse. The Petroleum (Onshore) Amendment Bill amends the Petroleum (Onshore) Act of 1991. One of the key purposes of the bill is to bring the Act into line with modern standards for the sound protection of the environment. To ensure this the bill strengthens the enforcement and compliance powers in the Act. Further, it extends offences for non-compliance and increases the amounts of associated penalties. A second key purpose of the bill is to address the interests of landowners by strengthening their rights. The bill provides a statutory basis for a code of practice for coal seam gas exploration. It will extend the obligation of a title holder to pay a landowner reasonable legal fees in negotiating access to land agreements and it provides for the community to have access to the industry environmental information much earlier than at present.

Making these amendments will ensure that the petroleum industry in New South Wales must

maintain a high standard of good environmental management. It will be held accountable if it fails to maintain these standards. Landowners and communities will have greater access to information, which will address concerns raised over how access arrangements are made, and improve understanding of the impact of the industry. This is sound legislation that addresses the importance of protecting the environment. It recognises landowners' need for equal power in negotiations with petroleum title holders and the community's need for more information so it can access the impact on the land from the petroleum industry's activities. I commend the Petroleum (Onshore) Amendment Bill 2013 to the House.

Bill read a second time.

Consideration in detail requested by Mr Jamie Parker.

Consideration in Detail

Clauses 1 and 2 agreed to.

Mr JAMIE PARKER (Balmain) [6.21 p.m.], by leave: I move The Greens amendments Nos 1 to 18 [C2013-053D] in globo:

No. 1 Page 4, Schedule 1. Insert after line 11:

[5] Section 45F Access arrangement required for prospecting operations under low-impact prospecting titles

Omit ", or that is determined for them by an arbitrator in accordance with that Part" from section 45F (2) (a).

[6] Sections 69B, 69D (2), 69E (4) and 69F–69S

Omit the sections and subsections.

[7] Section 69C Prospecting to be carried out with consent and in accordance with access arrangement

Omit section 69C (1). Insert instead:

(1) The holder of a prospecting title must not carry out prospecting operations on any particular area of land without the consent of each landholder of that area of land.

(1A) The holder of a prospecting title must not carry out prospecting operations on any particular area of land except in accordance with an access arrangement or arrangements applying to that area of land agreed (in writing) between the holder of the prospecting title and each landholder of that area of land.

[8] Section 69C (2)

Omit "or determined".

No. 2• Page 4, Schedule 1. Insert after line 13:

[6] Section 69D (4)

Omit the subsection. Insert instead:

(4) If the holder of a prospecting title contravenes an access arrangement, a landholder of the land concerned may deny the holder access to the land until the holder ceases the contravention or the contravention is remedied to the reasonable satisfaction of the landholder.

No. 3. Page 4, Schedule 1 [6], lines 24–26. Omit "The amount is not to cover costs for any legal services in connection with arbitration relating to the access arrangement."

No. 4 Page 4, Schedule 1 [6], lines 27–33. Omit all words on those lines.

No. 5 Page 5, Schedule 1. Insert after line 19:

[7] Section 69T Variation of access arrangements

Omit section 69T (2). Insert instead:

(2) An access arrangement may also be varied by the agreement of the parties to the arrangement.

[8] Section 69U Change in landholders

Omit "or determined" wherever occurring in section 69U (2), (3), (4) and (6).

[9] Section 69U (5)

Omit the subsection. Insert instead:

(5) If the new landholder objects to the access arrangement within 28 days after being given a copy of the arrangement, the access arrangement ceases to apply to the new landholder unless the new landholder agrees to an access arrangement with the holder of the prospecting title concerned in accordance with this Part.

No. 6 Page 51, Schedule 1. Insert after line 13:

[19] Section 136 Other offences

Insert after section 136 (3):

(4) Subsection (3) (a) does not apply in respect of anything done by a landholder or any other person in relation to a person prospecting on the landholder’s land if there is no access arrangement in force for the carrying out of the prospecting operations on the land.

No. 7 Page 51, Schedule 1. Insert before line 14:

[19] Section 138 Regulations

Omit section 138 (1) (q).

No. 8 Page 51, Schedule 1 [19]. Insert after line 28:

Application of amendments to existing access arrangements determined by arbitrator

The amendments made by the *Petroleum (Onshore) Amendment Act 2013* to the provisions of this Act about access arrangements do not apply to prospecting operations in relation to which an access arrangement determined by an arbitrator was in force immediately before the commencement of that amending Act.

No. 9 Page 53, Schedule 2.3. Insert after line 33:

[2] Section 32F Access arrangement required for prospecting operations under low-impact licences

Omit ", or that is determined for them by an arbitrator in accordance with that Division" from section 32F (2) (a).

No. 10 Page 54, Schedule 2.3. Insert after line 4:

[3] Sections 139, 141 (2), 142 (4), 143–156, 263 (4), 264 (4) and 276 (3)

Omit the sections and subsections.

[4] Section 140 Prospecting to be carried out with consent and in accordance with access arrangement

Omit section 140 (1). Insert instead:

(1) The holder of a prospecting title must not carry out prospecting operations on any particular area of land without the consent of each landholder of that area of land.

(1A) The holder of a prospecting title must not carry out prospecting operations on any particular area of land except in accordance with an access arrangement or arrangements applying to that area of land agreed (in writing) between the holder of the prospecting title and each landholder of that area of land.

[5] Section 140 (2)

Omit "or determined".

No. 11 Page 54, Schedule 2.3. Insert after line 6:

[4] Section 141 (4)

Omit the subsection. Insert instead:

(4) If the holder of a prospecting title contravenes an access arrangement, a landholder of the land concerned may deny the holder access to the land until the holder ceases the contravention or the contravention is remedied to the reasonable satisfaction of the landholder.

No. 12 Page 54, Schedule 2.3 [4], lines 17–19. Omit "The amount is not to cover costs for any legal services in connection with arbitration relating to the access arrangement.".

No. 13 Page 54, Schedule 2.3 [4], lines 20–26. Omit all words on those lines.

No. 14 Page 54, Schedule 2.3. Insert after line 26:

[5] Section 157 Variation of access arrangements

Omit section 157 (2). Insert instead:

(2) An access arrangement may also be varied by the agreement of the parties to the arrangement.

[6] Section 158 Change in landholders

Omit “or determined” wherever occurring in section 158 (2), (3), (4) and (6).

[7] Section 158 (5)

Omit the subsection. Insert instead:

(5) If the new landholder objects to the access arrangement within 28 days after being given a copy of the arrangement, the access arrangement ceases to apply to the new landholder unless the new landholder agrees to an access arrangement with the holder of the prospecting title concerned in accordance with this Division.

No. 15 Page 56, Schedule 2.3. Insert after line 24:

[17] Section 293 Jurisdiction of Land and Environment Court

Omit "an arbitrator's determination under Division 2 of Part 8 or of" from section 293 (1) (u).

No. 16 Page 60, Schedule 2.3. Insert after line 19:

[28] Section 383B Consent of landholders and others

Omit "or determined by an arbitrator as referred to in section 140 (1) (b)" from section 383B (1) (c).

No. 17 Page 61, Schedule 2.3 [29]. Insert after line 11:

Application of amendments to existing access arrangements determined by arbitrator

The amendments made by the *Petroleum (Onshore) Amendment Act 2013* to provisions of this Act about access arrangements do not apply to prospecting operations in relation to which an access arrangement determined by an arbitrator was in force immediately before the commencement of that amending Act.

No. 18 Page 61, Schedule 2.3. Insert after line 26:

[31] Dictionary

Omit the definitions of ***Arbitration Panel, arbitrator*** and ***party***.

I will start by reading a report in the *Northern Star* newspaper on 3 May 2013 concerning a political leader in this country, Mr Tony Abbott. The report in the newspaper outlines one of the reasons The Greens are moving these amendments. The report states:

> Opposition Leader Tony Abbott has backed farmers fighting mining companies, saying miners should not be allowed to enter land without the permission of landholders.
>
> Mr Abbott told 2GB on Friday he "absolutely" backed the sentiment expressed by Coalition resources spokesman Ian McFarlane at a recent farmers rally in southern Queensland.
>
> At the Basin Sustainability Alliance rally on Cecil Plains a fortnight ago, Mr McFarlane said the Opposition's policy was "that you don't extract coal seam gas, and you certainly don't mine this sort of country, unless the farmer says you can".
>
> In a speech to the rally, Mr McFarlane said if farmers did not want mining or CSG companies entering their land to exploit resources, "that's what everyone should abide by".

That sounds sensible. The report continued:

> Mr Abbott told 2GB host Alan Jones on Friday that "miners should not go onto farms if they're not wanted".

That is a good sentiment. The Greens amendments will ensure that the views of the Federal Leader of the Opposition and Mr Ian McFarlane are expressed through this bill. Mr Abbott is reported to state:

> "It's very wrong and they shouldn't be going on to land where the landowners don't want them."
>
> While he said he absolutely backed Mr McFarlane's comments at the Cecil Plains rally, Mr Abbott would not guarantee the Coalition would bring in such a policy if elected.

That is the purpose of The Greens amendments. I note that in the absence of adequate protections for farmland, water catchments and sensitive environments landholders have resorted to locking the gate. This has resulted in the development of a growing mass social movement under the auspices of the organisation Lock the Gate, which supports farmers locking the gate to invasive coal seam gas exploration. These amendments are only directed to coal seam gas exploration, not for other forms of mineral exploration. The amendments will support landholders in their endeavours by giving them the legal right to lock the gate without threat of compulsory arbitration and the associated huge legal cost, or the courts overriding them. I will refer to these amendments as "lock the gate" amendments in recognition of the consistent call from the community to strengthen landholder rights with regard to coal seam gas exploration. These amendments also seek to implement recommendation 16 in the report of the Legislative Council General Purpose Standing Committee No. 5 inquiry into coal seam gas. It was an excellent inquiry and subsequent report. Recommendation 16 states:

> That the NSW Government review the Petroleum (Onshore) Act 1991 with a view to strengthening landholder rights and achieving a fair balance between the rights of landholders and coal seam gas operators in relation to land access, and considering harmonisation with the Mining Act 1992 if possible.

That is a good recommendation from the upper House committee. What the committee is saying is that the Petroleum (Onshore) Act 1991 should be amended with a view to strengthening landholder rights. The aim of recommendation 16 is to achieve a fair balance between the rights of landholders and the rights of coal seam gas operators. The amendments address the power imbalance between landholders and mining companies by levelling the playing field and putting landholders in a strengthened bargaining position. Without these amendments coal seam gas companies can ride roughshod over communities that have locked their gates. The provisions in the Mining Act 1992 and the Petroleum (Onshore) Act 1991 will be amended to allow landholders to refuse the holders of exploration licences, assessment leases and special prospecting authorities to carry out prospecting operations on their land.

Any prospecting operation to which a landholder agrees will be required to be carried out in accordance with an access agreement negotiated between the holder of prospecting title and each landholder of that land area. The current procedure of an arbitrator determining the access arrangement when the landholder has not agreed to the arrangement will be removed. Removing the arbitration provisions means that companies can no longer force their way on to land where landholders do not want them. It should already form the basis of legal protections. The two-kilometre coal seam gas exclusion zone has protected people in my community and other communities. The amendments seek to protect rural and regional people and give them the option to say no. It is as simple as that. Recommendation 16 is fully consistent with the views of Mr Tony Abbott and Mr Ian McFarlane. I commend the amendments to the Chamber.

Mr RICHARD AMERY (Mount Druitt) [6.26 p.m.]: With respect to the member for Balmain, I advise that the Labor caucus has not been consulted on this matter with sufficient time to take a position on it. Therefore, should a vote be called at this stage of the debate the Opposition will not vote. Labor will refer the amendments to the shadow Minister and reserves any rights in relation to the bill and the position the Opposition will take in the Legislative Council.

Mr GEOFF PROVEST (Tweed—Parliamentary Secretary) [6.26 p.m.]: The Government opposes the amendments put forward by The Greens member for Balmain. This bill is a package of amendments agreed to by key stakeholders—the farmers and gas producers—and facilitated by the New South Wales Land and Water Commissioner. It is a package with a strong regulatory framework. The Greens will either support the Petroleum (Onshore) Amendment Bill 2013 or not.

Mr JAMIE PARKER (Balmain) [6.27 p.m.]: I appreciate the contribution by the member for Tweed. The Greens do support the increased protections in the Petroleum (Onshore) Amendment Bill 2013. I will not take the time of the Chamber going through all of the issues but I emphasise that it is difficult to play both sides of the fence. When Tony Abbott and Ian McFarlane attend farmer's rallies saying that—

Mr Brad Hazzard: Point of order: The member is speaking to the amendment or not speaking to the amendment. This is not an opportunity for broad debate about other issues and members from other places; it is about the precise amendments.

ACTING-SPEAKER (Ms Melanie Gibbons): The member for Balmain has the call.

Mr JAMIE PARKER: I am sure members in this Chamber and member of Federal Parliament would support the amendments. They are in line with the quoted comments from many people in the community, including the Federal Leader of the Opposition. The Chamber has discussed the amendments and I will not go through them in precise detail again, but the Government must acknowledge the concern and anguish in farming communities that want to be able to protect their land. They should have that right. I commend the amendments to the Petroleum (Onshore) Amendment Bill 2013 to the Chamber.

Question—That Greens amendments Nos 1 to 18 [sheet C2013-053D] be agreed to—put.

Division called for and Standing Order 181 applied.

Ayes, 2

Mr Greenwich
Mr Parker

Question resolved in the negative.

The Greens Amendments Nos 1 to 18 negatived.

Schedules 1 and 2 agreed to.

Consideration in detail concluded.

Third Reading

Motion by Mr Geoff Provest, on behalf of Mr Chris Hartcher, agreed to:

That this bill be now read a third time.

Bill read a third time and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

Legislative Council Tuesday 28 May 2013

ASSENT TO BILLS

Assent to the following bills reported:

Bail Bill 2013
Baptist Churches of New South Wales Property Trust Amendment Bill 2013
Crimes (Domestic and Personal Violence) Amendment (Information Sharing) Bill 2013
Statutory and Other Offices Remuneration Amendment (Judicial and Other Office Holders) Bill 2013

GAS EXPORTS

The Hon. JEREMY BUCKINGHAM: I direct my question to the Minister for Roads and Ports, representing the Minister for Resources and Energy. Is the Minister aware of the comment made by Manufacturing Australia on Sunday that the tripling of gas exports by 2017 will lead to price spikes and shortages that could cost 200,000 jobs and wipe $28 billion annually from gross domestic product? In light of this, will the Government advocate for a gas reservation policy or will it send manufacturers packing?

The Hon. DUNCAN GAY: I thank the honourable member for his question. Before we can export it we have to be able to extract it. The Greens are campaigning to prohibit all gas extraction in New South Wales. The only gas we will get from The Greens will come out of the Hon. Jeremy Buckingham.

FOX AND WILD DEER

The Hon. JEREMY BUCKINGHAM: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Primary Industries. Why are fox and wild deer not declared pests under the Rural Lands Protection Act in New South Wales?

The Hon. DUNCAN GAY: I do not know the answer to that question but—

(…)

The Hon. DUNCAN GAY: The Hon. Jeremy Buckingham has a habit of making things up as he goes. This is a probably a worthwhile question—although the member's track record indicates that it will not be—so I will give him the benefit of the doubt. I will obtain a detailed answer to the question from the Minister.

RENEWABLE ENERGY INDUSTRY

Dr JOHN KAYE [10.30 p.m.]: The O'Farrell Government's energy policy is stuck in the past and is destroying the future. Two key documents remain locked up in the Cabinet process, presumably caught in a fight between a minority of sensible individuals who recognise the future is with energy efficiency and renewable energy and a bunch of fossil fuel addicts who cannot see beyond the past. In July 2011 the Renewable Energy Action Plan was developed by the Renewable Energy Task Force and the O'Farrell Government. The plan was released in September 2012 and submissions closed on 26 October 2012. It is now seven months later and no final document has emerged.

The draft was not a good document. It failed to provide a way forward for the renewable energy industry and the 73,800 new jobs it could create in New South Wales. It did not fix the problems with rooftop solar panels and it failed to fully realise the potential of wind energy. It does not give a way forward for the industry and it fails to get serious about energy efficiency. Nonetheless, the absence of this document in the public domain leaves the industry struggling to understand the direction of the O'Farrell Government. The draft wind energy planning guidelines were released on 23 December 2011. That date tells us a lot about the embarrassment of some members of the O'Farrell Government. Public submissions closed on 14 March 2012, yet 14 months later there is still no word on the final wind planning guidelines.

The draft guidelines would have massive negative impacts on the wind energy industry. The effective two kilometre setbacks would trigger a process that would sterilise a lot of New South Wales, as households less than two kilometres from a wind turbine would have the capacity to stymie any development in a long and drawn out consultation process. The noise guidelines, which the Minister says are some of the most stringent in the world, are absurd. The outside noise is less than that recommended for rural residents and less than the noise that would occur inside a library. The requirement to consult with health authorities over wind planning development clearly shows that the guidelines were written by people who have no firm grip on the science. The industry is offering $11 billion of new investment and a 17 million tonne reduction in the State's CO2 production. That would mean a 28 per cent reduction in the greenhouse gas emissions of the electricity industry. Most importantly, by failing to resolve this issue 10,000 jobs in this State are on hold.

The O'Farrell Government's hostility towards renewable energy is apparent. The uncertainty is made worse by the inordinate delays. Electricity privatisation is proceeding behind closed doors, with terrible consequences for renewable energy. The hostility to the carbon price is holding up this Government's capacity to engage with the renewable energy industry. Rather than working with the carbon price, the Minister has insisted that bills contain misleading and, indeed, downright wrong statements about the financial impacts of the carbon price. The Government is working with the Federal Opposition to destroy one of the most important steps forward to reducing this nation's massive contribution to world greenhouse gas

emissions.

The Government continues to allow itself to be distracted on coal seam gas. Developments in this dangerous form of energy should be put in the deep freeze, where they belong. It does not have to be this way. If Australian political leaders had the imagination and courage, we could be writing a different kind of future. We could have a future that captures the innovative spirit of Australians, one that is based on energy efficiency. With the introduction of plans that phase out coal-fired power stations and realistic wind and solar planning guidelines and subsidies, Australia would lead the world. We must stop subsidies to coal and gas which prop up those industries and destroy jobs in renewable energy throughout New South Wales. We must put to bed once and for all the issue of coal seam gas and instead focus on concentrated solar thermal and wind energy. In so doing, Australia will become a global leader in renewable energy and many jobs will be created in this industry. It will mean an end to the sell-off of assets and we will be able to use public ownership of coal-fired power stations to propel New South Wales into a new future that is jobs rich. Our electricity power bills will be less and this nation will have the capacity to provide for itself without destroying the global environment.

Legislative Assembly Wednesday 29 May 2013

ILLEGAL DUMPING

Mr ANDREW ROHAN: My question is directed to the Minister for the Environment, and Minister for Heritage. Will the Minister inform the House how the Government is cracking down on illegal dumpers?

Ms ROBYN PARKER: Hopefully the Opposition will dispose of their how-to-vote cards legally. I thank the member for his question. Recently I visited the Smithfield electorate and saw first-hand an example of illegal dumping: Clearly a truck had driven through a back alley dropping asbestos on the way, and this was left for the council to clean up. Certainly for the neighbouring properties it was quite concerning. This Government has put in place a number of measures in terms of managing waste better with its "waste less and recycle more" initiative. Some recent high profile cases demonstrate that the penalties put in place by the last Government certainly do not deter people from doing the wrong thing.

It is a situation in which those who want to do the wrong thing with waste see a fine as part of their business model and not a disincentive. Some recent high profile cases show that repeated dumping does not attract a jail sentence. Illegal dumping is a criminal activity and it should be dealt with in that way. The Protection of the Environment Operations Amendment (Illegal Waste Disposal) Bill 2013 will implement a range of new penalties and it will protect the health of the community and the environment. The community has a right to expect that the Government will deal with these people effectively, that they will be penalised, that fines are appropriate, that repeat offenders can go to jail for up to two years, that the Government will impound vehicles used in such activity, and that offenders will face the full force of the law.

These are the most stringent penalties in Australia. We introduced a two-year jail term for offenders who commit waste offences within five years of a prior waste conviction. Currently that is only punishable by a fine, which I think the community finds completely unacceptable, as it should. We have also introduced changes that create a maximum 18-month jail term for

people who knowingly supply false or misleading information about waste, an offence that is also currently punishable only by a fine. We have examples of people making dodgy receipts, which makes them complicit in a criminal offence. The Environment Protection Authority will be authorised to seize motor vehicles.

The Government will amend the application point of the waste levy to prevent possible stockpiling and illegal dumping of waste on private property, and in State forests and national parks. The collection point will be different, the weigh station will be different and there will be no incentive to take waste across borders into non-waste paying or levying paying areas. The unfortunate state of affairs that we inherited with existing penalties does not outweigh the profits that can be made from illegal activity. These people are criminals. People can, and many businesses do, dispose of waste and still make a profit doing the right thing and abiding by the law. We want to make sure that rogue waste operators are dealt with. This is part of a stronger Environment Protection Authority under this Government. It is a wake-up call to those repeat illegal dumpers that they could now face two years in jail.

We have seen some despicable examples of those operators. They will be caught, their vehicles can be impounded and they can go to jail. The reason for this has been apparent for some time, but compounded by a recent serial waste dumper who was able to escape with a suspended custodial sentence after being in contempt of court for dumping thousands of tonnes of waste in western Sydney. However, the problem does not end with individual rogue operators. We have known that a number of corporations are involved—it is quite a black market industry. Recently the Environment Protection Authority undertook a large covert intelligence operation and has discovered organised illegal dumping and waste across parts of the industry. The bill we are introducing proposes to apply the waste levy on all operators instead of just to landfills to help break the business model of rogue waste operators further. [*Extension of time granted.*]

The Opposition might not be interested in this, but the community is because it has had enough of people in areas like Smithfield dumping waste and people getting away with it scot-free. That is why we have introduced these new penalties. It is about clamping down on criminals. The only people who will be upset by this are those who are dodgy dumpers and those who want to evade lawful waste disposal.

LOCAL LAND SERVICES BILL 2013

Second Reading

Debate resumed from 28 May 2013.

Mr RICHARD AMERY (Mount Druitt) [4.25 p.m.]: I lead for the Opposition in debate on the Local Land Services Bill 2013 and indicate at the outset that the Opposition will oppose the bill. For the information of members who organise the business of the House, I indicate that the Opposition will oppose the bill on the voices in this House. The shadow Minister for Resources and Primary Industries, the Hon. Steve Whan, who currently is engaged in negotiations with stakeholders, will address the bill in perhaps greater detail when the bill is debated in the Legislative Council. The overview of the bill is interesting. The bill and the Minister's second reading speech give me a lot to discuss.

(…)

Mr RICHARD AMERY: The overview states:

> The objects of this Bill are as follows:
> (a) to establish a statutory corporation (to be known as ***Local Land Services***) to administer, deliver and fund certain programs and services associated with agricultural production, biosecurity, natural resource management and emergency management and to exercise other land service related functions,
>
> (b) to establish local boards for the purpose of devolving operational management and planning functions to regional levels to facilitate targeted local delivery of programs and services,
>
> (c) to repeal the *Rural Lands Protection Act 1998*, re-enact Parts 8–13 of that Act (and related Schedules) and confer certain functions under those provisions on Local Land Services,
>
> (d) to repeal the *Catchment Management Authorities Act 2003*,
>
> (e) to make consequential amendments to certain other Acts and statutory rules.

Mr Deputy-Speaker, I point out to you, a member of The Nationals, that I am absolutely flabbergasted at the way that rural lands protection and livestock and disease management will be changed so dramatically and virtually without a whimper being uttered by members of The Nationals or their rural constituency who have strongly guarded the process of rural lands and pastures protection for more than a century. Having past experience with those processes and having been involved in some fights by the rural community, I just cannot believe that this process has been finalised without any recognition of it or notice being taken of it by the rural community. Perhaps our rural communities have been ambushed. The bill has 219 pages and was dropped on this House yesterday.

(…)

Mr RICHARD AMERY: (…) The NSW Farmers Association can correct me if I am wrong, but I understand it got the bill about the same time as we did, which was yesterday. I think the association has been ambushed and perhaps not had an opportunity to raise concerns about this legislation. The management of disease outbreaks and the movement of stock—travelling stock routes—have been part of the State's infrastructure for about 160 or 170-odd years. It was in 1902 that the very first Pastures Protection Act was passed by this very House.

This was followed by the Pastures Protection Act 1912, the Pastures Protection Act 1934 and the Rural Lands Protection Act 1989. We have had some changes. The Rural Lands Protection Act 1998, which this bill repeals, is just another Act in the process of legislative reform demonstrating how we managed the rural landscape, livestock issues and disease management. Even though that legislation will be repealed I note, as the overview of the bill says, that certain aspects of the Rural Lands Protection Act will be rolled into the new legislation. Of course, that is accepted. At the start of my comments I seemed to excite a few members of The Nationals. I referred to the fact that the rural community has historically

fought tooth and nail to protect these institutions. Rural lands protection boards were made up of directors and State counsellors, and then they were rolled into the various livestock health and pest authorities.

(…)

Mr RICHARD AMERY: I make the point that I got into trouble when I last directed comments to you, Mr Deputy-Speaker. I was involved with quite dramatic changes to the legislation. In about 1994 a former Minister for Agriculture, the Hon. Ian Causley, a National Party Minister—a good Minister and a good member—set up a review of the rural land protection boards. In 1995, before that review was tabled, discussed or acted upon, the Coalition Government was defeated. I took over the Agriculture portfolio following the election of a Labor Government. When I read the report that the Coalition Government commissioned in 1993 or 1994 I realised the need for change in the way these organisations operated. I visited many of the organisations, as I am sure the Minister with carriage of this bill has visited many of them. The history of those organisations is up on the wall—like an honour board at a bowling club—presidents and past presidents going right back; they were very much a part of the fabric of a community. One could be so unkind as to say that they were very much a part of the history of many families in rural New South Wales as directorships were virtually handed down from one generation to another.

The report commissioned by Minister Causley identified the many problems with the management of these boards. A number of boards lacked financial accountability, and they were under no pressure to comply with the audit requirements of the Auditor-General's Office or even to undergo a decent audit each year. Some boards had their financial accounts literally on the back of an envelope while others had not submitted a financial statement for many years, if not generations. While the politics of the change was quite dramatic, the boards were able to campaign against the change. As Minister I was attacked over those changes; no confidence motions were moved in this House. The NSW Farmers Association at its conferences were very concerned about the changes. The result of the review was a modest amalgamation of something like 56 boards into 48. Some might remember the great battles surrounding the Merriwa Rural Lands Protection Board. The amalgamations were modest compared to what happened subsequently. I am amazed that, with the Government seeking to make such dramatic changes, we have not heard a political whimper from that strong, conservative rural consistency that always fights passionately.

Mr Troy Grant: They know it is better.

Mr RICHARD AMERY: Yes, they want to see fewer positions—which was mentioned in the Minister's speech—fewer directors and fewer jobs. The protection boards to which I referred were put in place in about 1902 following a number of phases of legislation. People did not appreciate their work, and they had many concerns about them. Even members in my party said we should abolish these boards: campaigners in rural seats regarded them, probably correctly, as very much a bastion of the National Party or the Country Party as it then was. A lot of trade union and Labor operatives in rural areas regarded these boards as part of the National Party or Country Party structure. Virtually every director on the boards was a farmer by the very nature of the positions and about 99 per cent of those farmers voted National. There were always calls for their abolition.

Treasury, among others, wanted to abolish the boards or at least to wind them back. They

have been fighting to erode the role of these pastures boards for many decades, and I have viewed their work with much concern. Both the Hon. Steve Whan and I are concerned about this bill. I suggest that the young turks from The Nationals who are interjecting on me get a copy of the Coopers & Lybrand review of the history and role of rural land protection boards in New South Wales. The Parliamentary Library may have a copy of the review. An excellent library may have a copy of the review. Even though it was commissioned by my political opponents, it was a good report that highlighted where we had to stand and what we had to do.

There is no doubt that the situation changed and my predecessor, another Minister for Primary Industries, implemented further amalgamations that involved major changes and reduced the number of boards to approximately13 livestock health and pest authorities. Even with those changes, I have noticed in speeches in this place and in the rural press, strong support for the livestock health and pest authorities, their role and their face-to-face work with primary producers. I am sure former Ministers, the current Minister and I will always say, irrespective of the politics of the elected representatives on these boards, that you cannot in any way devalue the work they did in times of crisis.

The equine influenza outbreak was one such crisis when these officers and officers of the Department of Primary Industries played an outstanding role. I recall the role they played a number of years ago, together with various other agencies such as the State Emergency Service and the Department of Agriculture, during the Newcastle Disease outbreak in the poultry industry. Even in cases of anthrax, who are the people who come out first? It is these livestock officers, the agronomists, the people from the Department of Primary Industries and, before that, people from the Department of Agriculture. They were part of the rural fibre supporting Primary Industries and dealing with any disease outbreaks that afflicted the industry, no matter who was in government.

I am surprised by the benign response from rural areas. Of course, this proposal has been set up for some time. Minister Hodgkinson started referring many agronomists and livestock officers to the catchment management authority process. Some people were unkind enough to say that we were virtually putting them in a departure lounge to be ready to leave. At last count at least 30 agronomists are leaving, concerned about the changes. Biosecurity situations have always been managed by catchment management authorities. Do rural communities know what is happening?

They certainly would not know about this legislation, because the Labor Opposition and the NSW Farmers Association received a copy only yesterday. Members opposite doubt that, but Nationals members are always told "Trust me" by their Ministers, Treasury and Cabinet. The bill outlines the structures to be set up, refers to previous legislation being carried into the new Act, details how boards will be elected, the number of people to be elected and the number to be appointed et cetera. The bill contains all the details about the structures, but watch what happens in the constituencies. The Minister's electorate was affected by the ovine Johne's disease outbreak. Who were the people heavily involved in managing that issue?

Ms Katrina Hodgkinson: You.

Mr RICHARD AMERY: It was a very contentious political issue. Yes, I was the Minister in charge. Members of rural lands protections boards and livestock officers helped with all stock movement controls et cetera.

Mr Troy Grant: Yes, and now it will be local land services.

Mr RICHARD AMERY: The member for Dubbo says it just involves a name change now with land services people. Fewer elected people will be involved. Of course, we have already seen the drain of paid employees from these types of entities. Employers have changed more times in the past two years than since 1902. Why are they nervous? They are seeing the change. They first worked for a livestock health and pest authority, then it was changed to Primary Industries, followed by catchment management authorities and now, of course, they are going out the door. Those with good qualifications have started looking to pick up jobs with some private providers in rural New South Wales because they want security. They always had security in the Primary Industries and Agriculture departments. The *Land* newspaper publishes stories about agronomists leaving places such as Young and the Northern Tablelands. One can talk about the politics of the Northern Tablelands and the result of the by-election, but those areas are losing people, and probably not enough remain to make a change. I shall conclude my contribution.

(…)

Mr RICHARD AMERY: (…). For all country constituents this bill means that rural farmers will have fewer opportunities to sit on boards, manage livestock issues or manage disease outbreaks than they have had since the 1800s.

Mr Troy Grant: What a load of rubbish.

Mr RICHARD AMERY: That is what will happen. Read the bill, lad. Over 50 per cent of people will be elected by rural communities; the others will be appointed by the Minister. Members opposite have been duped. My worry is that they do not even know what is happening to their rural communities. This 219-page bill was dropped into this House yesterday. Those games can be played with the Opposition, because that is what it is all about with governments and oppositions, Labor and the Coalition. But why did the NSW Farmers Association not receive a draft bill at least a week ago? Why was it not given the opportunity to put propositions to the crossbench members of this Parliament or the Labor Opposition or raise its concerns about the bill? Its members will be burning the midnight oil tonight trying to work out the implications of this bill on rural communities.

This bill is a worry. The day is fast approaching when we will have to contract private companies to bring in the experts—livestock officers et cetera—to manage the next equine influenza outbreak or other Newcastle disease outbreak in the poultry industry. I hope I never see that eventuate. I hope those opposite never do anything to the State Emergency Service or any other emergency service that assists in matters such as quarantine issues. I am surprised by more than just the arrogance of this Government to introduce this bill at short notice. From the time I attended a first State Council meeting of a rural lands protection board I developed a great respect for rural communities, for the officers who worked on State Council advisory councils and those who were elected to the various boards, and livestock officers. I still see them on my trips to country New South Wales.

(…)

Mr RICHARD AMERY: (…) I will leave my contribution at that. The Opposition in the

upper House will have more to say. The Hon. Steve Whan is speaking to many stakeholders about the matter. I only hope that the rural constituency who so proudly defended the structures that looked after pastures protection, animal disease outbreaks, travelling stock routes and catchment management issues recalls which Government makes these changes. As a Labor Minister even I might have been forced to do something like this; I never would have predicted that a Liberal-Nationals Government and a Nationals Minister would have introduced this bill, regardless of how many years I have been in this place. We oppose this bill.

The DEPUTY-SPEAKER (Mr Thomas George): Order! I welcome to the gallery Fiona Simson, President of the NSW Farmers Association.

Mr TROY GRANT (Dubbo—Parliamentary Secretary) [4.49 p.m.]: I had a fair amount of respect for the member for Mount Druitt until today. I have not heard a bigger load of garbage: the Government did not spring this on the communities and stakeholders; it has been in discussion across the State for the better part of two years. If I had a dollar from every person who asked for efficient services to be delivered on the land I would be a rich man. I will contemporise it for the member for Mount Druitt: if I had a penny, or halfwit penny, I would be still be rich. People want value for money for the services delivered by the Government onto the lands they manage on behalf of their own primary production or on behalf of the broader community.

The member for Mount Druitt is a fool. I am proud to speak in support of the Local Land Services Bill 2013. I thank those on the reference panel, which included the NSW Farmers Association, the Livestock Health and Pest Authority, the local government sector, Landcare and Greening Australia. All of those organisations have a stake and interest in making sure that natural resources, land management and primary production benefits are delivered by an efficient and effective regional service model. I do not know what the Opposition is afraid of. It is about taking the best of those organisations, consolidating that effort, delivering it and giving people bang for buck and value for money.

The Opposition has not had the courage to introduce a bill such as this. That is what it is ashamed and afraid of. The failed former Minister in the other place can talk all day but he may as well yell at the clouds. The Hon. Steve Whan failed to deliver on this issue. He should be ashamed. The Minister for Primary Industries, and Minister for Small Business has taken the issues to the community, consulted and has put before the Parliament a framework that will deliver into the future for the people of regional New South Wales. The member for Maroubra knows that I am not talking from notes. I am representing the interests of constituents across the State who have demanded these changes.

I understand that any change is difficult and that conversations surrounding change are often highjacked by individuals with their own interests at heart. That is something Opposition members do regularly. (…)

Mr TROY GRANT: (...) This is about opportunity for regional New South Wales: to deliver services effectively and efficiently and to get value for money. (…)
This is an opportunity to take the best from the Livestock Health and Pest Authorities, Catchment Management Authorities and the Department of Primary Industries agriculture extension. If there is another Hendra virus outbreak there will be a consolidated effort and communities will make the decisions about what services they want. If they want more staff

they can have them. They will decide the services they require. Oh, my goodness! The Opposition is too scared to trust local people and experts from their own regions to make the best decisions across biosecurity, natural resource management and the issues necessary for efficient and effective primary production.

The local people will access the specialist and the extension services they require, whether it is in sheep, cattle or fruit flies—whatever is relevant to their area. Fancy giving New South Wales people a real say rather than having the member for Mount Druitt dictate to them! The member has no courage or vision and he should be ashamed. This bill establishes the new statutory corporation to be known as Local Land Services. Local Land Services has been created to provide improved frontline services to the people of regional and rural New South Wales. Local Land Services will provide the landholder with an easier way to access services information and advice to improve productivity, protect our natural resources and improve animal and plant health. None of these things are mutually exclusive; one benefits from the best management of the other.

Some of the best conservationists I know are farmers. They are not given credit for it but they are some of the best on the ground. Farmers now have a one-stop shop to take care of all their needs. How scary is this? If they want extra dairy officers in their area they can employ them. How can we do that? Local Land Services will bring together the services of the livestock health and pest authorities, catchment management authorities and the extension services of agriculture. It will combine the knowledge and expertise of those organisations into one service. Under the umbrella of Local Land Services these agencies and services will develop programs and deliver advice that is better tailored to meet the needs of our farmers and natural resource landscape. I make no apologies for that. Good production and good natural resource management go hand in hand.

Governance procedures for Local Land Services have taken a lot of debate and commentary. It will be a statewide organisation made up of 11 regions each with its own local board. The local boards will comprise three ratepayer elected members and four government appointments. Western Local Land Services, which includes the electorates of Murray-Darling and Barwon, given the shear geographic spread, will have two additional directors: one additional elected and one additional appointed. The elected members must have their primary residence within a region but the positions will not be limited to ratepayers.

In appointing members the Minister will have regard to the principle that the appointee should, if possible, reside in the region. Board members will be required to hold particular skills and experience in areas such as leadership, agricultural science and national resource management, strategic planning, management of community participation, biosecurity, emergency management, financial control and risk management. The boards will contribute effectively and constructively to all the activities undertaken by Local Land Services. The board of chairs will consist of each Local Land Services chair and an independent chair appointed by the Minister. It will develop an overarching State framework within which Local Land Services will operate.

It will help guide local boards in their strategic planning and operational activities. The board of chairs will also drive performance and ensure uniform procedures and processes are implemented across the State, especially in relation to those required under national and State imperatives—the things that the member for Mount Druitt is afraid of. It will happen and it will happen better. The board chairs will be answerable to the Minister and will operate under

sound governance and a rigorous reporting structure. This will promote transparency and accountability in the activities of the organisation. Local Land Services will have considerable financial resources that are secured and quarantined by the Minister. The current money flow has been secured and locked away.

Furphies have been spread about ratepayer money from the livestock health and pest authorities being used in natural resource management. It was announced last week that $112 million will be locked up for natural resource management. As someone who has seen the actions, motivations and outcomes of agri-politics I am cautious and vitally concerned that Local Land Services does not become politicised and a platform for personal politics. It has been put to me that our best commercial farmers, natural resource management managers and industry administrators will shy away from seeking a board position should they be required to run for election and there is any sense of agri-politics.

The role of government appointments to the board is very important. Their integrity and status should be protected by all who have an interest in the wellbeing of Local Land Services. Dr Allan Glassop, a recently retired district vet from the mid coast Livestock Health and Pest Authority, said in the *Land* last week, "Directors whose main motivation is self-interest and self-importance will clearly not help the new Local Land Services system." I believe he is right. If that occurs everyone will suffer. This is a lasting legacy delivered to the State of New South Wales by Ms Katrina Hodgkinson, Minister for Primary Industries, and Minister for Small Business. It is a legacy The Nationals will be proud to support. I thank the reference panel for its work. This is about opportunities, and the commentary around boundaries is nonsense. It is not the Berlin wall; they are administrative boundaries. Local Land Services, with the right people on board, will give good results for rural landholders. I commend the bill to the House.

Mr JOHN BARILARO (Monaro) [4.59 p.m.]: I make a brief contribution on the Local Land Services Bill 2013. Most members would understand the importance of the primary industries sector in this State and country. We all know the role that agriculture plays in our economy and in keeping the country ticking over. Farming today is just as essential as it was in the early days in producing food for consumption in Australia and for export. We need a modern, effective and efficient system to ensure that we protect the industry and its reputation while giving this valuable sector the flexibility to grow.

Today much emphasis is placed on the mining boom that this country is enjoying but in the years to come the most sought-after commodity around the world will be clean, safe food, which Australia can produce, and New South Wales will play its role in producing quality food and fibre products. In fact, a group of farmers in Monaro came together to deliver efficient and modern farming practices. The main aims were to look at relevant, up-to-date information; improved knowledge and profitability; and provide a forum to focus on and manage research, development and extension on the Monaro. The group has followed the debate on local land services and has come on board. It came to Parliament, met with members from the Minister's office and me, and now proactively campaigns in favour of local land services, because of the flexibility and modernisation it brings to the sector throughout the State, not merely the Monaro area. The group is part and parcel of the reform needed to ensure the sector delivers safe, clean food for national consumption and for export.

It is important that we continue to support our primary industries so they remain productive and competitive. The Government acknowledges this and has developed local land services

to improve the delivery of services to the people of rural and regional New South Wales. Local land services will provide a variety of support services to our farmers on issues such as animal and plant health, land use management and primary production. Local land services will also help our farmers manage biosecurity risks and natural disasters such as fire and flood. Through community engagement, education and training, regional communities and individuals will be in a better position to prepare for and respond to emergency events. Local land services will also provide support and advice in times of emergency pest or disease outbreaks. This will help minimise the impact of these events on our economy, the environment and our community.

It is timely that the Government modernises the way services are delivered to our rural and regional landholders. Local land services will do exactly that; modernise and efficiently deliver services. Animal welfare, biosecurity and natural resource management services have been provided by a number of separate government organisations over the years. This has meant that the delivery of services has often been uncoordinated, programs have been duplicated and resources used inefficiently. Put simply, it has meant that our farmers are not getting real value for money. We have already heard about savings that will be made under the local land services model through bringing those organisations together. Those savings will be put back into front-line services. That is what this reform—what I call generational reform—is all about. The reform seeks to deliver essential services to the front line so that farmers have the support and services to grow this important sector.

The Government recognised that farmers were not getting real value for money and commissioned an independent review of the livestock health and pest authorities. The independent review, known as the Ryan review, was completed in 2012 and made a number of recommendations to improve the delivery of services to landholders. Significantly, it found that savings could be made and efficiencies achieved if the livestock health and pest authorities combined with other agencies in the delivery of services. Local Land Services is a positive step towards addressing the shortcomings of the current structure. If the former member for Monaro, who now talks about opposing the bill, were to listen to his constituents at the time he would have realised that the livestock health and pest authority model had failed. Indeed, it was one of the big issues in my campaign against him and many farmers raised it with me. I do not pretend to be a farmer but I listened to them. (…)

(…)

Mr JOHN BARILARO: (…) Due to the lack of time and the importance of what is fundamentally generational reform, I commend the Minister and her office for this complex reform that has taken considerable work and engagement with stakeholders. I am mindful that the bill is significant and complex. I know that the Minister is keen to elaborate on some of the themes that she covered in her second reading speech. I wonder whether she is able to table a document with further comments that elaborate on the structure and intent of the bill. I support the Local Land Services Bill 2013 because it is modern, efficient and delivers the services that our farmers are calling for. I commend the bill to the House.

Mr JOHN WILLIAMS (Murray-Darling) [5.06 p.m.]: It gives me great pleasure to speak on the Local Land Services Bill 2013. The member for Mount Druitt made a contribution to the bill but he must have been hiding under a rock, or hiding somewhere; he certainly has not been communicating with the big, wide world, because the first talk of a local land service occurred about six months ago when the Minister announced the direction for an

amalgamation of current services in regional New South Wales. I do not know where the member for Mount Druitt was at that time but he has suggested that this is a new concept. Opposition members obviously do not get out of the city. They should get out of the city and find out what is going on in the country, because this has been on the debating list in all the rural centres for over six months; it is not something new.

I thank the Minister for the support she has given me with respect to the bill. The regional meetings scheduled were not truly representative and as a consequence the regional meetings were extended. The electorate of Murray-Darling had the benefit of three regional meetings, enabling people to have open and frank discussions. The Minister insisted that the meetings take place and changed the original schedule pattern to accommodate my constituency. I commend her for that. I congratulate the Minister on responding to the outcomes, particularly the western local land services proposal for the boundaries. Despite the reference panel's suggestion that some parts of the western area should fall into the Murray region, the Western Division is now all under one area, which is what ratepayers were seeking. The western area will now have the services of the livestock health and pest authorities as one of the prime objectives. I have two other local land services areas, which have had their say. The rollout of the local land services in these areas will bring the benefits that were promised.

If issues arise we, as members of Parliament representing those areas, will communicate with the Minister. We have the flexibility to make adjustments. I believe the reforms will create a great deal of angst amongst farmers and key stakeholders. It is a big change. There is never a perfect way to introduce change, but the reforms will be put in place. The amalgamation of the pastures protection boards and the change to livestock health and pest authorities was not an easy transition. However, after the change came into effect there were not many complaints about the livestock health and pest authorities and the services they provided to the ratepayers. Local Land Services will be funded by three areas: the State and the Commonwealth, together with landholder rates. The broad numbers, provided in a briefing to members, clearly indicate that there will be sufficient funds in Local Land Services to provide effective services in those areas.

The current rating system that is in place under the Rural Lands Protection Act 1998 will continue under the Local Land Services legislation until a new ratings framework is developed. Similarly, the catchment contribution currently levied for the Hunter-Central Rivers region will continue under Local Land Services until a new system is implemented. The Independent Pricing and Regulatory Tribunal has been asked to assist with the development of a new ratings framework. It will provide guidance on the framework and principles that could be usefully adopted by Local Land Services. It is anticipated that the Independent Pricing and Regulatory Tribunal will provide this advice by the end of the year and work will then commence to develop a new rating framework.

The bill creates a Local Land Services Fund. Any monies received by Local Land Services, including rates or proceeds from investments, will be paid into this fund. Any expenditure in relation to the delivery of the functions of Local Land Services will be paid from this fund, including the allocation of grants. Local strategic plans, which are based on local priorities and national and State obligations, will guide the resourcing requirements for a region. This will allow for funds to be directed to those priority areas and programs. For example, where cattle tick is identified as a priority in a particular region, funds can be directed towards relevant programs or training days, or they may be used to employ an additional advisory officer to assist with the effective management of an issue. In another region wild dogs may

be the priority, and resources can be directed accordingly in that region. That will be the case for fruit fly in the Riverina or cattle tick on the North Coast.

The new structure will mean that ratepayers can have confidence that their rates will be used effectively. Any expenditure and the allocation of resources will be transparent and Local Land Services will be accountable. This will be achieved through the development and implementation of and reporting on State and local strategic plans, in accordance with statutory requirements. The plans will identify local issues and how those issues should be managed to achieve the best outcomes for landholders in the region in a specified time frame. In other words, the plans will describe what should be done, who should do it and when it should occur, as well as how performance will be measured and reported upon. Each draft plan will be publicly exhibited, allowing for community input into the development of priorities, targets and actions within each region. The plans must be approved by the Minister for Primary Industries and, in the case of natural resource management matters, with the concurrence of the Minister for the Environment. They must be published so that the activities of Local Land Services remain accountable to ratepayers, stakeholders and the community.

The bill contains other reporting and auditing requirements to help promote transparency in the activities of Local Land Services. Annual reports also will be required to measure and identify whether outcomes in the strategic plan are being achieved and whether particular targets relating to natural resource management, biosecurity and emergency management are being met. Local Land Services will be independently audited every five years, or more frequently if requested by the Minister. This will help to determine whether the activities of Local Land Services are efficient and effective and providing value for money. The reporting and auditing requirements under the Local Land Services structure will help to ensure transparency in the expenditure of rates and other funds by the organisation.

The requirements will help to ensure that Local Land Services are accountable for their activities, giving landholders the confidence that their levies will be used effectively and efficiently for the benefit of all ratepayers and the broader community. In meetings I have held in my electorate with farming communities, I have noted that the location of these services is causing angst. Two of the areas are dominated by the cities of Wagga Wagga and Albury. I will be advocating that Local Land Services has a strong representation in the regional areas that I represent. I will ensure that the elected board members focus on locating the services in the most suitable areas. For example, in the Riverina, Deniliquin offers a centralised location. I commend the bill to the House and I congratulate the Minister on this great reform.

Mr KEVIN ANDERSON (Tamworth) [5.16 p.m.]: I support the Local Land Services Bill 2013. I congratulate the Minister for Primary Industries on introducing this bill, which provides a better and more efficient way to deliver the services that our landholders have requested for so long. Many former Ministers have avoided this difficult task. It has necessitated hours, days, months and years of consultation. Agriculture covers a broad spectrum and getting consensus across all the fields is a very difficult task. The Government is focused on delivering services to our community. I acknowledge the presence in the gallery today of the NSW Farmers president, Fiona Simson. We will leave NSW Farmers to take care of the agripolitics and lobbying while we get on with delivering the services that our landholders want.

Local Land Services is a new organisation that will provide access to and deliver a range of services and programs and advice on primary production and land use management to our rural and regional landholders. The Department of Primary Industries extension model was developed in the early 1940s, and there has been only one major redesign in 1981. Incredibly, the last time a review was undertaken of the way we work our land, our sheep and cattle industry, biosecurity and a whole raft of issues relating to agriculture was in 1981. The work practices of landholders, farmers, graziers, those in the agricultural industry and irrigators right across my electorate are vastly different to work practices in 1981. This bill will assist landholders in the way they manage their industry and businesses. Farmers now have an abundant choice for advice: government assistance; private consultants; agronomy, financial, livestock, chemical, fertiliser and seed companies; and distribution networks.

It is also important to note that the cost of delivering those services far outweighed the service that was delivered. That was recognised and landholders made it clear they wanted more efficient services at a better rate. Farmers and landholders were paying several times over through taxes, levies and rates to support multiple government service delivery agencies. That money paid for the Agriculture NSW advisory services, the Livestock Health and Pest Authorities, the Catchment Management Authorities, the weeds county councils, the Wild Dog Destruction Board, the research and development corporations and the CSIRO. That is a classic example of why a Local Land Services model needed to be introduced to reform the way that services are delivered and costs are shared.

Boards will be set up across the Local Land Services regions. The north-west board, which will run from the bottom of the Liverpool Plains to the top of the Moree Plains, out west to Walgett and east to Gwydir, will have autonomous control over the services and human resources that will be required in our area. That is an excellent way of showing our landholders and people in the agricultural sector that they will receive services specific to them. We will not be dictated to by a board that has no understanding of what is happening in Tamworth, Moree, Gwydir, Narrabri, Walgett and Gunnedah or on the Liverpool Plains—those wonderful black soil plains. Our landholders will welcome that.

The need for change is quite simple. In response to a survey in 2012, 54 per cent of the producers surveyed felt that the Department of Primary Industries [DPI] needed to change to meet the needs of rural producers. More than 70 per cent of the Department of Primary Industries employees surveyed recognised the need to improve the coordination of Agriculture NSW services and other department services. These are big numbers. In response to another survey, 75 per cent of respondents said that services of Catchment Management Authorities could be better integrated with other services provided to farmers. We have listened and have come up with Local Land Services, which will be incorporated with the Catchment Management Authorities, the Livestock Health and Pest Authorities and the Department of Primary Industries. The Ryan review into Livestock Health and Pest Authorities found that there will also be opportunities for greater administrative efficiency and improved services to landholders from Livestock Health and Pest Authorities, in participation with other agencies on joint compliance and advisory functions, on pest animals and animal and plant biosecurity.

I will now touch on the budget. Will there be money to fund it? Will there be enough funds to sustain the new era that we are entering? In the forward estimates for 2014-18 for biosecurity, the existing Livestock Health and Pest Authorities revenue, including rates, other services and sundries is $140 million. The New South Wales government recurrent funding for natural

resource management is $105 million. Grants funding from the New South Wales Catchment Action Funding Allocation is $112 million. An amount of $128 million is budgeted to come from the Commonwealth's Caring for Our Country fund. The New South Wales government recurrent funding for agricultural advice is $22 million and the Local Land Services efficiencies dividend is $24 million over four years. An amount of $507 million is locked away in the budget to ensure that our Local Land Services receive funding support.

This is about working in partnership with farmers, grain growers, beef producers, horticulturalists, wool growers, lamb producers, dairy farmers and irrigators, who play a large role in the Tamworth electorate around the Peel Valley. The Government has listened to the views of the diverse stakeholder base. It has listened to the views of farming and environmental groups, individuals operating farming enterprises both large and small, councils, and members of the Catchment Management Authorities, Livestock Health and Pest Authorities and the Department of Primary Industries. I commend Minister Hodgkinson and the department. I also commend the Minister's hardworking staff, who have kept members up to date on the progress of this bill. I commend the bill to the House.

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

LOCAL LAND SERVICES BILL 2013

Second Reading

Debate resumed from an earlier hour.

Mr ANDREW GEE (Orange) [5.27 p.m.]: I support the Local Land Services Bill 2013.

(…)

Mr ANDREW GEE: (…) Farmers in my neck of the woods are particularly happy about the Local Land Services map. I display the map for the benefit of members who are present in the Chamber. The smiling orchardist, Guy Gaeta, was particularly happy about the purple shading in the middle of the map, the "Central Tablelands LLS". That area includes Lithgow, Oberon, Mid-Western Regional, Bathurst Regional, Blayney, Cowra, Cabonne and Orange local government areas. I draw this map to the attention of the House because the core constituency of The Nationals is very happy and very satisfied with the Government's reforms.

If I could speak for Mr Gaeta, who may be loading a carton of Granny Smiths, he would want to thank the Minister for delivering the farmers of the Orange electorate the Central Tablelands Local Land Service, which has made orchardists very happy. I spoke to Mr Gaeta, who is indeed happy. (…) From all reports, other farmers in my electorate are very happy about this legislation. I have already spoken about an eminent orchardist, Guy Gaeta. Another eminent orchardist with whom I met recently and who also is pleased about this legislation is Peter West. (…)

Mr ANDREW GEE: (…) A couple of weeks ago the local Orange orchardists organised the apple festival. Kath Thompson did a wonderful job of coordinating the festival. I make

special mention of the hardworking men and women from the Department of Trade and Investment, Regional Infrastructure and Services and the Department of Primary Industries. Some of those officers are in the lobby and do not wish to be named, but I know that others are listening on the feed to Orange as we speak. I know they have worked around the clock to prepare this legislation for its introduction. We should pay a special tribute to them.

I also pay a tribute to the Minister's staff, who I know also have worked very hard on this legislation—some of whom are present in the lobby. It must be very satisfying for them to witness this key agricultural reform coming to fruition. The member for Dubbo, who is present in the Chamber, and the member for Bathurst, who is watching the live streaming of this debate and who has worked very hard for the farmers in his electorate, also should be complimented. I make special mention also of Rebecca Cartwright from the Government Whip's office, who works very hard on ensuring that this legislation and all other legislation is able to be passed by the House.

(…)

Mr ANDREW GEE: (…) This legislation represents key agricultural reform. The local farmers in my electorate of Orange are truly very happy about it. They wanted the boundaries to be put in place before this new legislative vehicle started to roll, and the legislation has been driven successfully by a very hardworking Minister who cares what farmers and other primary producers think. They are very happy with what has been delivered. This is a red-letter day for agricultural reform in New South Wales. I support the bill. I thank the hardworking Minister for Primary Industries for the care she has shown for the farmers and other primary producers of my electorate.

Ms KATRINA HODGKINSON (Burrinjuck—Minister for Primary Industries, and Minister for Small Business) [5.36 p.m.], in reply: I thank all members who made valuable contributions to the debate—the member for Mount Druitt, the member for Dubbo, the member for Monaro, the member for Murray-Darling, the member for Tamworth, and the member for Orange. Each member made thoughtful contributions to the debate, but my Nationals colleagues worked very hard on the preparation of the legislation that is before the House. Their thoughtful contributions are very much appreciated. As we have undergone the formulation process over the past 18 months or more, they have all been very actively ensuring that their communities' considerations and thoughts on this very important legislation have been represented to me. I thank them for that. Debate has been robust and sometimes less so, but at the end of the day we must ensure that each member of Parliament and each community has been listened to and has been given the time and patience they deserve. I believe that we have done that very constructively over the past approximately two years of this bill's development.

The member for Mount Druitt complained that there was a problem with transparency and accountability in relation to the use of ratepayers' dollars by former primary production boards. Members may be interested to know that when this Government inherited the Livestock Health and Pest Authorities—which were incarnated from the original primary production boards which became rural lands protection boards and then national Livestock Health and Pest Authorities as a result of successive cuts by the former Labor Government—we inherited the very same problems. We discovered that the boards had not put forward audited accounts since their inception in 2008. No matter what any government did, the problem persisted and was still evident in 2008.

The problem was identified by the Ryan report, which this Government commissioned after the 2011 election. There was a real problem with the Livestock Health and Pest Authorities. There were great people working within the national Livestock Health and Pest Authorities and I cannot commend them highly enough for the amazing work they do in biosecurity, but the model simply was fundamentally wrong. There was no transparency and no accountability to the ratepayers, which was the problem. The former Labor Government's Minister and current shadow Minister did nothing about it, but this new system means that the boards will be professional, transparent and fully accountable.

There are some more formal parts of the bill I need to address. I take this opportunity to do so, now that we have more time than we had yesterday due to legislative pressures. The reforms contained in this bill dealing with the way our farmers and land managers access government agricultural advice, biosecurity and natural resource management services are the most significant in more than 60 years. The Local Land Services Bill 2013 will create a regionally based structure known as Local Land Services to deliver an integrated suite of services to farmers and landholders.

These services will relate to agricultural production, biosecurity management, including animal and plant pests and diseases, animal welfare, natural resource management, chemical residue management, travelling stock reserves, other matters relating to stock-related services and programs and, importantly, emergency management. It will establish local boards for the purposes of devolving the operational management and planning functions to the regional levels. Local Land Services will provide improved coordination of activities and a single point of contact for its users within the regions. It will work closely with communities and make best use of local knowledge and expertise in relation to the provision of local land services.

As a regionally based organisation, Local Land Services will be in a position to address regional priorities in the most effective and pragmatic way and engage the community, for example, through local community advisory groups established to support each local board. Local Land Services will be created through the amalgamation of the 11 catchment management authorities, the 14 livestock health and pest authorities, and the extension services of the Department of Primary Industries. That is the reason we need to draw up a new boundary. The member for Mount Druitt criticised that. We need to make sure we are working from common boundaries for a common cause. The organisation will bring together the contemporary planning, governance and accountability framework of the catchment management authorities with the landholder relationship, and regional representation strengths and biosecurity management of the livestock health and pest authorities.

The legislation that currently governs the catchment management authorities and livestock health and pest authorities will be repealed when the Local Land Services Act commences on 1 January 2014. The Local Land Services Bill 2013 is designed to create the new Local Land Services framework and to carry forward those provisions of the Rural Lands Protection Act 1998 and the Catchment Management Authorities Act 2002 that will still be relevant under the Local Land Services system. These include mechanisms for the charging of rates, levies and contributions on landholders and fees for services. One of the bill's objectives is to provide a framework for financial assistance and incentives to landholders—this means the current provisions for issuing grants under the Catchment Management Authorities Act will also continue. The Local Land Services Regulation, which is attached as a schedule to the

bill, will largely remake the Rural Lands Protection Regulation 2010 and the Catchment Management Authorities (Hunter Central Rivers) Regulation 2010.

The bill establishes Local Land Services as a statutory corporation that will act through a board to be known as the Board of Chairs. Local Land Services will represent the Crown, as the catchment management authorities currently do. Staff of Local Land Services will be employed through a division of the government service, but they will not form part of the New South Wales Public Service. The State will be divided into 11 regions, each having its own local board. Each of the local boards will have a chair who will also be a member of the Board of Chairs. The Board of Chairs will comprise the 11 chairs of local boards and an independent chair. The bill provides the Minister with discretion to appoint additional members if a specific area of expertise is required by the Board of Chairs, however these people will have no voting rights. The Board of Chairs will oversee the implementation of the functions of Local Land Services as prescribed in the bill and referred to earlier.

All of these functions can be delegated to members of local boards for practical development and implementation. For example, functions relating to rates, programs, advisory services, and training and education programs can be delegated for delivery at the local level. At the same time as delivering locally, Local Land Services will need to be aware of the State and national context within which it operates. It will be imperative that when Local Land Services functions are exercised they are informed by State and national priorities—for example, national priorities in relation to biosecurity and emergency such as the National Livestock Identification System and the Inter-Governmental Agreement on Biosecurity or State priorities such as the statewide standards and targets for natural resource management issues. As a member of the Board of Chairs, each local chair will be required to take a State perspective when developing the State Strategic Plan, as opposed to advocating for local issues and priorities—these can be addressed in the local strategic plans for their region.

The chair of the Board of Chairs will be appointed as the division head of the Local Land Services Division under the Public Sector Employment and Management Act 2002. This means that he or she may exercise the employer functions on behalf of the Government in relation to Local Land Services staff. The chair of the Board of Chairs can delegate these employer functions on a regional basis and to the local level to ensure efficiencies in operation. All local boards will have seven members—three elected by the ratepayers of the Local Land Services region and four appointed by the Minister, except for the western region where the ratio will be four elected and five appointed. The Minister will appoint the chair of the local board.

Local board members will be able to serve two consecutive three-year terms. However, if the person is chair of the local board, that person may serve three consecutive terms but only two of those can be as chair. This will allow for continuity and succession planning while minimising the risk of ideas and strategies becoming stale, and complacency developing in relation to implementation and compliance with policies and procedures. Each local board will have a general manager to drive day-to-day operations. The role of the local boards is to deliver identified priority services at the regional and local level, and to give effect to State and national policies.

Local boards, through the general managers, will ensure that agreed Local Land Services programs are delivered and that adequate staffing and resources are available and accounted for. Staff will deliver services relating to agricultural advice, animal and plant biosecurity,

livestock traceability, chemical residues, animal welfare and invasive species management, emergency response capabilities, and natural resource management support services to farmers, landholders and local communities. It is important to note that during an emergency response when government action is required, Local Land Services officers can be directed to take action by the director general of the Department of Trade and Investment. This is consistent with current provisions and practices under the Rural Lands Protection Act. Some Local Land Services staff will also have a compliance function and be appointed as authorised officers.

The compliance provisions in the bill have also been carried forward from the Rural Lands Protection Act, including in relation to the ability for authorised officers to effect compliance with a pest control order made by the Minister. The Minister, the Local Land Services and the director general of the Department of Trade and Investment will have the power to appoint authorised officers under the Local Land Services Act. Local Land Services will also have a key planning role, building on the catchment action plan model. The Board of Chairs will be responsible for developing a 10-year State strategic plan, which will set the overarching vision and priorities for Local Land Services across the State. The plan will detail the outcomes expected to be achieved within defined time frames. The plan must have regard to any State priorities for Local Land Services including statewide targets, any national or State priorities such as those agreed through inter-governmental agreements, provision of any environmental planning instruments, any existing natural resource management plans and the need for engagement with the community including the Aboriginal community.

Each local board will develop one or more five-year local strategic plans, which will include the vision, priorities and strategies in respect of the delivery of local land services to achieve the appropriate social, economic and environmental outcomes for their region. The content of the local strategic plan will be broadly aligned with the State strategic plan but with a stronger focus on local priorities. It may also include provisions that relate to water quality or other non-regulatory water management issues in the region. To start with, the catchment action plans recently finalised by the catchment management authorities will be adopted as local strategic plans. However, the catchment action plans only deal with natural resource management functions, so comprehensive local strategic plans addressing all Local Land Services' functions for a region will have to be prepared as soon as practicable after the Local Land Services Act commences.

The bill provides that the State strategic plan and the local strategic plans will be publicly exhibited, providing an opportunity for community input. All these plans must be approved by the Minister, and once approved must be published so that they are readily accessible to the community. Approval of the natural resource management components of the plans will require the concurrence of the Minister for the Environment. Before approving a plan, the Minister must seek the advice of any person or body engaged to carry out an independent audit of the activities of Local Land Services. Public exhibition of draft strategic plans is not the only way in which the community can input into their Local Land Services.

The bill includes a requirement for each local board to establish a local community advisory group. These groups will typically have between six and 12 members representing the community, key regional businesses and stakeholder groups. Members will be selected by the local boards. Membership will not be restricted to Local Land Services ratepayers, but will consist of those persons the local board considers suitably qualified and representative of the local community and stakeholders in the region. The local board will be required to develop

terms of reference for the community advisory groups in their region so that there is a clear focus and understanding of expectations and roles. Ideally, this group should meet at least twice a year.

The bill contains several provisions designed to make the mechanics and the performance of Local Land Services transparent and accountable. As would be expected, Local Land Services will be required to produce an annual report including a financial report, performance against the State Strategic Plan, progress in achieving compliance with State priorities, community engagement and resources expended and revenue received by Local Land Services and the management of programs in each region. The Minister may also request reports into other relevant issues. As well as these provisions, there is a requirement for an independent audit to be carried out at least every five years to consider whether the functions of Local Land Services are being carried out effectively and efficiently, and in accordance with State and local strategic plans. At any time the Minister may arrange for an audit of the exercise of all or any particular functions of Local Land Services.

The bill provides powers for Local Land Services to impose rates, levies and contributions on rateable land or other prescribed land in a region. A new rating methodology is being developed in consultation with the Independent Pricing and Regulatory Tribunal [IPART], which is expected to be finalised within two years. It will be implemented via an amending regulation in due course. In the meantime, both the current rural lands protection boards rating system and the catchment contribution system for the Hunter-Central Rivers Catchment Management Authority will continue, except that Local Land Services will now have the power to impose rates. The most recent notional carrying capacity assessments undertaken in accordance with the Rural Lands Protection Act will continue to be used as part of the rating formula to determine rates—until new provisions are made following the Independent Pricing and Regulatory Tribunal review.

Any outstanding rates or contributions owing to the Catchment Management Authorities and Livestock Health and Pest Authorities will be payable and recoverable by the Local Land Services. In addition, any tagged assets from the Livestock Health and Pest Authorities or Catchment Management Authorities will flow to the appropriate new Local Land Services region. Most money received by the Local Land Services, including grant funding, will be paid into the central Local Land Services Fund and then redirected as required to the accounts of the relevant local board. The bill carries over large parts of the Rural Lands Protection Act and the Catchment Management Authorities Act, amended to reflect the Local Land Services structure. Parts carried over from the Rural Lands Protection Act include part 6, Travelling stock reserves and public roads; part 7, Stock watering places; part 8, Impounding of unattended and trespassing stock and abandoned articles; part 9, Transportation of stock by vehicle; part 10, Pests; part 11, Powers of authorised officers; part 12, Enforcement provisions; and part 13, Administration of functions of Local Land Services or local board.

The bill also includes a number of miscellaneous provisions—for example, relating to delegations, acquisition of land, proceedings for offences and regulation-making powers. There is also the usual requirement for a statutory review of the Act to commence five years after implementation. There are also provisions to protect the Minister, board members and Local Land Services staff from liability for acts or omissions carried out in good faith for the purpose of executing the Act. Schedule 1 provides for the local services regions. As I have advised, there will be 11 regions: Western, Murray, Riverina, South East, Central West, Central Tablelands, Greater Sydney, North West, Hunter, Northern Tablelands and North

Coast. Schedule 2 provides for the constitution and procedures of the Board of Chairs and the local boards. Essentially, these are machinery provisions relating to filling vacancies and procedures of the boards. Schedule 3 reflects provisions of the Rural Lands Protection Act in relation to charges on land for unpaid amounts.

Schedule 4 provides machinery provisions in the case where the Minister may have appointed an administrator to Local Land Services or a local board. Schedule 5 again reflects a rollover of provisions from the Rural Lands Protection Act in relation to sale of land for unpaid money. Schedule 6 includes saving, transitional and other provisions, including the transfer of assets, rights and liabilities of State Council, Livestock Health and Pest Authorities and Catchment Management Authorities to Local Land Services. Schedule 6 also provides for the establishment of interim local boards and an interim Board of Chairs prior to the commencement of the Act so that Local Land Services can hit the ground running on 1 January 2014. Interim local boards will comprise four ministerially appointed members, except for the Western region which will have five members. One of these members will be appointed as interim chair and consequentially as a member of the interim Board of Chairs.

These members will be appointed until 1 January 2014 after which time they may be reappointed to the statutory local board for a period not exceeding 4½ years. This time frame will allow for membership of elected and appointed members of local boards to be staggered so that there is continuity on the boards. Again for continuity, the Chair of the interim local board may be appointed as the Chair of the statutory local board and as a member of the Board of Chairs. The independent Chair of the interim Board of Chairs will be appointed under provisions of the Public Sector Employment and Management Act and will become the Chair of the statutory Board of Chairs. The role of these interim bodies will be to carry out such functions as directed by the Minister relating to the administration of the Act—for example, commencing with the development of the strategic plans, operational policies and delegations. This schedule also explicitly provides for the continuation of the Catchment Action Plans that are currently in force.

Schedules 7 and 8 provide for consequential amendments to other Acts, regulations and statutory instruments. Schedule 9 will become the Local Land Services Regulation. Parts 1 to 3 of schedule 9 roll over provisions of the Rural Lands Protection Act regarding rates and annual returns. As noted earlier, the current methodology for making and collecting rates will remain unchanged for now. Rates will continue to be calculated based on Livestock Health and Pest Authority districts; however, the funds collected will be distributed proportionally to the new Local Land Services regions. The ability of Local Land Services to make rates without requiring approval from the Minister will enable it to take greater ownership and stewardship in the delivery of Local Land Services functions. Part 4 of schedule 9 rolls over the provisions relating to the levying and collection of the Hunter-Central Rivers catchment contributions and other matters relating to the making of catchment contributions. The Hunter-Central Rivers catchment contribution will be allocated to the Hunter Local Land Services region for defined natural resource management activities.

Parts 5 to 10 and part 12 are rollover provisions relating to travelling stock reserves and public roads, stock watering places, impounding of stock, transportation of stock by vehicle, pests, authorised officers and stock identification as are provided for in parts 6 to 13 of the bill. Part 11 deals with eligibility for nomination and election or appointment of members to local boards. An appointed member of a local board must, in the opinion of the Minister, possess knowledge, skills or expertise in at least one of the following areas: leadership;

strategic planning and management; community participation, regional service delivery and working with industry; government and other partners; audit, financial control, reporting and risk management; primary industries or providing services to support this sector; contemporary biosecurity programs in animal and plant health, pest and weed management; emergency management, especially in biosecurity and natural disaster emergencies; natural resource management and biodiversity conservation; working with Aboriginal groups and communities; and/or local government.

When appointing a member to a local board, the Minister should have regard to the principle that the person should, if possible, reside within the region. However, elected members to the local board must reside in the region, unlike the current process where eligibility is determined based on being an owner or occupier of rateable land. Any appropriately qualified person who resides in the region may stand for nomination and election to a local board. This will provide a broader base from which members can be elected and will result in well-qualified local boards that will make a difference at the local level. Voting rights will remain linked to rateable land. Schedule 9 also prescribes how elections are to be held. Participation in elections will be voluntary. The schedule provides for an election to be held via a postal or electronic system. It is anticipated that as Local Land Services establishes, more efficient ways of conducting business will be pursued. The current paper-based election system administered by the Livestock Health and Pest Authority is inefficient and costly to ratepayers.

The principles associated with the conduct of elections remain unchanged—that is, notice of the election must be made, rolls will be established and objections may be lodged with respect to any names appearing on the roll. Candidates must provide information on their eligibility for nomination and election, including how they satisfy the knowledge skills or expertise criteria required for appointed members. The only other change proposed to the election process at this time is that only one person may be nominated for or vote in an election with regard to a rateable holding. A person may not nominate for or be elected to multiple regions. The election process will be reviewed following receipt of the Independent Pricing and Regulatory Tribunal's report and consideration of a new rating system.

This bill will provide a streamlined, efficient framework for the delivery of services relating to agricultural production, natural resource management, biosecurity and emergency management. Through Local Land Services, landholders will have access to a network of resources and specialist advice to help them improve productivity and protect their properties from pests, weeds and diseases. Advice provided by Local Land Services on natural resource management will enable them to pass on their properties in better condition to future generations. The establishment of a single legal entity makes sense for landholders, government and the broader community.

I have spent almost my entire life, as the daughter of a fifth-generation superfine merino stud breeder, as a proud member of Parliament for the electorate of Burrinjuck and now as the Minister for Primary Industries, and Minister for Small Business, watching our agricultural industries evolve, improve productivity and meet the challenges of a rapidly changing global environment. I have also watched as many government and ratepayer-funded services provided to our farmers and land managers have failed to keep pace and remain relevant. For 16 years, Labor governments progressively trimmed, cut and slashed the Department of Primary Industries without any actual strategy for how services could be delivered more effectively. It cut hundreds of jobs from the department during this period. As many have

mused, the Department of Primary Industries was hollowed out to the point of it being simply a shadow of its former glory. At the same time, the former Labor Government conducted a wholesale, top-down rearrangement of the Rural Lands Protection Boards into the Livestock Health and Pest Authorities.

In 2004, we also saw the emergence of catchment management authorities to specifically deliver natural resource management. This bill exemplifies the fundamental difference between our side of politics and those opposite when it comes to delivering relevant, contemporary services to our farmers and landholders. In October 2012 when I announced the formation of Local Land Services, I did so under the goals articulated by the O'Farrell-Stoner team when we came to Government in 2011. The goals are: first, to put customer service at the heart of service design; secondly, to devolve decision-making to the community; and, thirdly, to restore accountability and transparency and give the community a say in the decisions which affect them.

Local Land Services delivers on the New South Wales Government's commitments by giving our communities the power to make decisions that influence what services are delivered where and how, by acknowledging that farmers and landowners know how to improve the productivity of primary industries and manage our land and water assets, and by knowing that land managers and community groups are best placed to manage pests, weeds and diseases and to sustain our land and water assets. We subscribe to the view that truly empowering those who have a commercial and social interest and who have the local knowledge and expertise is the most efficient way to help those farmers and landholders solve their challenges and realise opportunities. In short, we believe these people know best how to solve their problems, not central government.

There is virtually no area of the New South Wales Government more overdue for reform than the way in which we service our farmers, land owners and managers. The Department of Primary Industries extension model was developed in the early 1940s and since then it has had only one major redesign, which was in 1981 by the then Australian Labor Party primary industries Minister, Jack Hallam. Since the 1940s, and even in 1981, farmers have seen a huge transformation in both the sources of advice and how it is delivered. In addition to the traditional State and Federal departments of agriculture we now have a thriving industry of private independent consultants offering agronomic, financial, livestock, crop, pasture and farm management advice. We also have a maturing retail advice network through the distribution channels of the major seed, chemical and fertiliser companies.

The Grain Research and Development Corporation recently estimated that in New South Wales alone there were more than 700 private sector crop advisers and more than 240 of these were independent, meaning they did not receive any commissions from a reseller. Notwithstanding this private sector advisory market farmers are today paying several times over to support multiple government service delivery agencies: Agriculture NSW advisory services or Department of Primary Industries extension; Livestock Health and Pest Authorities; Catchment Management Authorities; Weeds County Councils; Wild Dog Destruction Board; Research and Development Corporations; and the CSIRO just to name the key ones.

I will mention some tremendous work of a number of people: Dr John Keniry, Mick Keogh, the Local Land Services reference panel members, my fantastic staff, the departmental officers, Natural Resources Commission, Parliamentary Council, my parliamentary

colleagues, the Parliamentary Secretary and member for Dubbo, my amazing chief of staff Tim Scott and the brains trust in my ministerial office who worked on the Local Land Services Bill 2013 including David Dawson and Fiona Dewar. Most importantly to all farmers and land managers in New South Wales I would say we will be vigilant and make sure that Local Land Services are always relevant valuable services that best help you to meet your challenges and grasp the opportunities that will enable your businesses to prosper in a manner which is sympathetic to our limited natural resources. The member for Monaro requested that I provide additional information for members. I seek leave to incorporate that information in *Hansard*.

(See additional information on Parliament Website)

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

Motion agreed to.

Bill read a second time.

Third Reading

Motion by Ms Katrina Hodgkinson agreed to:

That this bill be now read a third time.

Bill read a third time and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

WASTE LESS, RECYCLE MORE INITIATIVE

Ms ROBYN PARKER (Maitland—Minister for the Environment, and Minister for Heritage) [7.24 p.m.]: In February, this Government announced the Waste Less, Recycle More Initiative. The initiative is the largest ever waste and recycling package in New South Wales worth $465.7 million in funding to be directed towards investing in infrastructure, education and program work for communities across the State. Local councils in the Hunter and across New South Wales already engage with the Environment Protection Authority across a wide range of program areas, from improvements to household collection systems to investment in infrastructure and strategies to combat illegal dumping. A key part of the Waste Less, Recycle More package is to facilitate local councils pooling resources and working together to deliver regional waste and resource recovery outcomes tailored to meet the needs of their communities. The Waste Less, Recycle More package includes $22 million in funding for local councils to develop regional waste strategies.

Councils that prepare a waste strategy will be well placed to apply for the $60 million in funding for waste and recycling infrastructure. This funding will stimulate councils to critically examine their waste services. In my own electorate, Maitland City Council recently announced that it is considering the biggest overhaul of waste disposal services in decades by investigating the potential to introduce a third residential collection bin for food and garden waste. Council should be congratulated on that initiative as every nine hours residents dispose

of enough food waste to more than fill an Olympic swimming pool. However, not all waste generated in our households fits neatly within the current kerbside collection systems. As part of the package, $59 million is available for local councils to install drop-off centres. I am pleased to advise that the other council in my electorate, Port Stephens council, is one of the first to sign up to install demonstration drop-off centres, and will highlight the benefits these centres can provide to the community in accepting waste such as paint, gas bottles and fluorescent tubes.

I will work with Maitland council to ensure that the local waste strategy effectively addresses behaviour change, infrastructure and enforcement. If those three aspects of policy are aligned, I am confident we can deliver great improvements in the recycling and waste performance of Maitland and the amenity of local residents. This morning I was interested to read in the *Newcastle Herald* that Newcastle City Council last night resolved to call for a moratorium on the collection of the New South Wales Government Waste Levy in the Newcastle area, and for extra infrastructure funding to be specifically directed to the council. Labor Councillor Nelmes, who moved the resolution, should know better. She should know that two-thirds of waste levy revenue goes to Consolidated Revenue to fund our schools, hospitals and infrastructure. The remaining one-third goes to fund local environment, waste and recycling programs—such as the ones being considered in Maitland council—and the introduction of green waste bins and collection services.

Payment of the waste and environment levy is prescribed by law for councils under regulation and cannot be suspended at the Environment Protection Authority's discretion. This levy does not come out of council budgets; it is paid by users of waste facilities, including ratepayers, businesses and councils if they generate their own waste for disposal. I would be delighted if fewer levy amounts were paid, because the objective of this market mechanism is to drive down waste going to landfill. We want the waste levy to be reduced over time. Under the Local Government Act, the annual domestic waste charge levied on ratepayers can only be used to fund the actual cost of waste management, and for no other purpose such as infrastructure or other environmental programs. However, the levy helps to fund a range of waste initiatives designed by the New South Wales Government for the benefit of local communities, including the largest ever waste funding package announced this year.

That package will support and help local government, and that can apply for contestable funding as well. As I have stated, this mechanism is about resource recovery and avoiding landfill waste. As I have described, this package has allocated more than $250 million over the next five years to stimulate investment in new waste. Newcastle council could do well and follow the example of Maitland and Port Stephens councils by engaging this package to determine how it will work for them. The Election Funding Authority will be rolling out grant programs later this year and I would encourage Newcastle City Council to apply. Newcastle City Council should get on the website, as other local government areas do, and take advantage of this opportunity. The council should look at ways in which it can engage in illegal dumping and litter strategies. Funding of $58 million is available for littering programs. The council could look at measures such as drop-off centres or work in conjunction with other councils instead of moving ridiculous motions that are negative and do not hit the mark.

RENEWABLE ENERGY

The Hon. ROBERT BORSAK: I direct my question to the Minister for Roads and Ports, representing the Minister for Resources and Energy. Is the Minister aware of recent claims made may Dr John Kaye that "powering the State entirely on renewable energy, not fossil fuels, is possible"? What will be the cost to consumers and how long will it be before solar power and wind power are economically viable given the cost of coal-fired power stations?

The Hon. DUNCAN GAY: I have to treat some of the statements made by Dr John Kaye carefully. As I have pointed out in this place, Dr John Kaye is a great fan of coal seam gas. In fact, he lobbied very hard for coal seam gas development on the North Coast as an alternative to a powerline. Dr John Kaye said in this House that I was misleading the House but later said, "Well, maybe he wasn't misleading the House, maybe I have had a change of mind." We have to be a little bit careful with the comments of The Greens, particularly those of Dr John Kaye. I had the displeasure to hear Dr John Kaye bash on yesterday about renewable energy; he thought it would be terrific to have a wind farm in every community in regional New South Wales.

I live in Crookwell, a community with wind farms and this normally harmonious community is split down the middle between those who are in favour of wind farms because they are a great drought proofing for a farm to have an income coming in and, frankly, I do not blame farmers for trying to protect his or her future and family future. Farmers have done it tough particularly under Labor Governments, and from blokes like Hon. Walt Secord who jumps ship before train wrecks happen as he did with the Hon. Kristina Keneally and Northern Tablelands. However, other people in our community, friends and neighbours, have to put up with the impact of a wind farm and that is where the split has happened. It has been a terribly unfortunate development in our community. If Alby Schultz is as good as he claims as he is he would have stopped the former Government from providing an incentive for big business to install them.

Legislative Assembly Thursday 30 May 2013

COMMITTEE ON ENVIRONMENT AND REGULATION

Inquiry

Mr Chris Patterson, as Chair, informed the House that, pursuant to Standing Order 299 (1), the Committee on Environment and Regulation had resolved to conduct an inquiry into the management and disposal of waste on public lands, the full details of which are available on the committee's home page.

PETITIONS

The Clerk announced that the following petitions signed by fewer than 500 persons were lodged for presentation:

Container Deposit Levy

Petition requesting the Government introduce a container deposit levy to reduce litter and increase recycling rates of drink containers, received from **Mr Alex Greenwich**.

The Clerk announced that the following petitions signed by more than 500 persons were lodged for presentation:

Rocky Hill Coal Project

Petition requesting the rejection of Gloucester Resources Limited's application to operate the Rocky Hill Coal Project and calling on the Government to revoke coal exploration licences 6523, 6524 and 6563, and to declare the area covered by those licences exempt from all future coal exploration and mining, received from **Mr George Souris**.

Mount Thorley Warkworth Mine

Petition calling on the Government to support workers and their families by fixing the planning system and supporting policies that strengthen mining at Mount Thorley Warkworth and throughout New South Wales, received from **Mr George Souris**.

PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT (ILLEGAL WASTE DISPOSAL) BILL 2013

Bill introduced on motion by Ms Robyn Parker, read a first time and printed.

Second Reading

Ms ROBYN PARKER (Maitland—Minister for the Environment, and Minister for Heritage) [3.24 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Protection of the Environment Operations Amendment (Illegal Waste Disposal) Bill 2013. The bill makes it clear that this Government will not tolerate serial waste dumpers—those who flout the laws that are there to protect the health of our communities and the health of our environment. I know that the community is with the Government on these changes. We are all sick and tired of people who take the law into their own hands, flout the law, and illegally dump. Illegal dumping is a despicable criminal act. The Government is taking action to ensure that those people's illegal actions are dealt with by application of the full force of the law.

The bill provides additional powers to the Environment Protection Authority [EPA]. Under our Government the Environment Protection Authority has been strengthened, and this bill will confer further powers on the authority. The bill will increase sentencing and penalty provisions to enable courts to crack down on illegal waste dumpers and break the business model of organised illegal waste activities. For the information of people who adopt as a business practice doing the wrong thing I point out that there are plenty of people in the waste disposal industry who are capable of running a business within the law and that they are doing so quite successfully. It is a shame for those participants in the industry to see rogue operators who continue to do the wrong thing. However, the illegal dumping of waste is not proliferating. The Government intends to stop it, and that is the purpose of the bill. The bill is

all about breaking the business model of organised criminal groups who think that they can get away with illegal waste disposal.

The Government estimates that each year $100 million is lost to the New South Wales Government from incidents causing significant and long-lasting environmental harm, associated clean-up costs and unpaid waste levies. There is a strong expectation from the community that companies and individuals that are polluting the environment and placing human health at risk as a result of those actions should face heavy penalties. They have been getting away with illegal waste dumping because the fines and penalties for environmental crimes, which we inherited from the previous Government and were imposed by the courts, have been low enough to be regarded by unscrupulous operators as simply a cost of doing business. The cost of fines and penalties was factored into their business model. It has been a case of paying the fine and carrying on with whatever they were doing.

Illegal waste dumpers sometimes choose a site that is a vacant block in a residential area, and communities suffer the consequences. Not all illegal waste comprises asbestos, but asbestos is a large part of it. Illegal waste also comprises mattresses, tyres, building waste and a whole range of things. The communities on the fringes of rural lots often suffer more than others. However, it is not only rural communities that are adversely affected by illegal waste dumping. To put the scale of illegal waste dumping into perspective, I remind the House that during the stint of the member for Blacktown as environment Minister—brief as it was; only 82 days, during which he gave us the Solar Bonus Scheme—he presided over 58 reported incidents of illegal dumping, which equates to well over one incident every second day. As we all know, the member for Blacktown did nothing about it. Most of us agree that, no matter how small the scale of illegal dumping is, under the current system it continues to be a lucrative business. The Government is closing that opportunity.

Recently some particularly abhorrent examples showed that some waste operators have no regard for the wellbeing of the environment or the community. The examples include emptying truckloads of asbestos outside preschools and flouting court orders to stop illegally dumping waste on innocent people's private property. Prior to the introduction of this bill some waste operators were serial illegal waste dumpers and they did not face a custodial sentence for their crimes. However, the issues are not limited to a couple of individual rogue operators. Over the past 12 months the Environment Protection Authority conducted the largest covert intelligence operation in the organisation's history. We have been on the case for a while, uncovering organised illegal dumping and waste levy fraud, and more information will be coming forward on what is systemic in some parts of the industry.

The current options available to the courts to penalise both individuals and businesses that break the law do not outweigh the profits that can be made from these unlawful waste-related actions. As the Minister for the Environment and a member of the New South Wales community I find this unacceptable. I have visited sites across New South Wales where rubbish has been trucked and dumped, left for councils and government to clean up and communities to bear the eyesore, not to mention any associated health risks. A site that becomes an illegal dumping site is often used by a number of operators or individuals. By introducing this bill the Government will ensure that sufficient penalties are in place to deter environmental criminals, and courts are empowered to punish them appropriately.

The bill includes five significant reforms that crack down on illegal dumping and waste activities and strengthen the penalties available to address and deter serious and repeated

environmental crimes. These are: introducing a new penalty of imprisonment available to the courts to punish repeated waste-related strict liability offences; providing the Environment Protection Authority with powers to seize vehicles for repeated waste-related offences and allowing forfeiture of the vehicles on conviction of an offence; introducing a new offence that includes an imprisonment penalty for fraudulently providing false or misleading information in relation to waste; and restructuring the waste levy to remove the incentive for illegal waste disposal and to ensure an even playing field is evident across the waste industry as well as ensuring that a monetary benefits calculation model can be prescribed by regulation for use by the courts.

The bill includes a new offence for committing a repeated waste-related offence within a period of five years that may be prosecuted in the Land and Environment Court. Upon conviction of the offender, the court may sentence the offender to a term of imprisonment. This will act as a strong deterrent to those offenders who feel that the current fines are too small to warrant changing their unlawful behaviour. This important amendment will apply to specific waste offences regardless of whether that waste is disposed of to land, water or to an unlicensed industrial premises. Recalcitrant illegal waste operators will be put on notice that waterways and land in New South Wales are not dumping grounds. We will review the effectiveness of this offence within three years to make sure that what we think will happen does happen. The waste levy is the Government's key economic instrument to drive waste avoidance and recycling in New South Wales. It has traditionally been applied at the landfill gate to drive increased waste avoidance and the recovery, reuse and recycling of materials.

The idea with the waste levy is that it is a marketplace mechanism to drive down what goes to landfill and increase recycling. The more recycling there is the less that goes into landfill. We know from Environment Protection Authority intelligence that illegal waste activity is occurring at waste storage, recycling and transfer facilities. Waste transported from these facilities for disposal is not showing up at lawful landfills and is likely to have been illegally disposed of on private property, in State forests and national parks. Other unscrupulous operators have been stockpiling large volumes of waste at recycling yards in the name of recycling, but these waste piles are never processed. The community wears the risk for the eventual clean-up of these alleged recycling sites. They are eyesores, the odour is quite significant sometimes, and if a rogue waste operator walks away from these stockpiles the community will have to pay for them to be disposed of appropriately.

To break the business model of these illegal waste operators it is proposed to apply the waste levy whenever waste is received at all licensed waste facilities, not just landfills. A waste levy rebate or reimbursement will then be available where waste is sent off-site for recycling. By requiring the levy to be paid upfront at all facilities we are removing the incentive for unscrupulous operators to transport waste long distances to dump their waste at unlicensed sites to avoid paying the levy. It removes the incentive for unscrupulous operators to run illegal waste dumping or dubious stockpiling operations through waste storage, recycling and transfer facilities. This scheme is a clear message to those operators. It will have no effect on those legitimate recycling businesses who are currently paying the levy on waste going to landfill. Any additional levy they pay in the short term will be returned to them once they apply for a rebate. This new system will provide an even regulatory and financial playing field for the lawful operators and expose the illegal operators.

Certain waste facilities are currently exempted from the waste levy under the Act. As part of implementing the new approach the bill will repeal the current exemptions so that all waste

facilities will be subject to the levy. We hope this new approach will break the business model of shonky operators. That is certainly the aim. The bill also includes provisions for the Environment Protection Authority to seize vehicles used to commit repeat waste offences and for the court to be able to order those vehicles to be forfeited if the offender is found guilty. This is an important amendment that will act as a circuit breaker for repeat offenders who would otherwise continue to break the law while they have access to their vehicle.

Recent Environment Protection Authority investigations have also uncovered sophisticated waste levy evasion schemes. In a recent example the authority uncovered a levy evasion scheme between a landfill and recycler which amounted to $3 million in unpaid waste levies. These operators are not only defrauding the New South Wales Government of millions of dollars, but they are also distorting the waste market and undermining legitimate waste and recycling businesses. These are serious crimes. While there is already a tier two, strict liability offence for providing false or misleading information about waste, this bill includes a new offence for knowingly supplying false and misleading information.

This new offence carries significant fines of $500,000 for corporate offenders and $240,000 for individual offenders. It also allows the court to sentence individual offenders to up to 18 months imprisonment instead of or in addition to a fine. This will ensure that the penalties for waste levy evasion schemes are consistent with penalties in other legislation for fraudulent activities. Of course, it is for the courts to impose the fine, and we certainly hope they do. A court can currently order a person convicted of an offence against the Protection of the Environment Operations Act to pay an additional financial penalty equal to the monetary benefit they gained from committing the crime. The monetary benefit could include, for example, avoided waste disposal costs and additional market share or business acquired by undercutting legitimate waste operators.

The bill will enable the regulations to prescribe a protocol that can be applied by the courts to consistently and transparently calculate the size of the monetary benefit. The use of an agreed or prescribed calculation model will allow the courts to readily and consistently calculate the size of the monetary benefit penalty and ensure that the offender does not benefit from the offence. It will also act as a greater deterrent to all offenders. The only people who would oppose this bill are those rogue operators who undercut the market, pollute our environment and put public health at risk. Those dodgy dumpers should consider themselves on notice. As Tony Khoury from the Waste Contractors and Recyclers' Association of NSW told 2GB this morning:

> The system is in need of reform and the Government has recognised that with the announcement of the last 24 hours … these changes send a strong message to a rogue operator he could find himself facing a jail term in the future.

Indeed, the intention of this bill is to create a meaningful deterrent to the act of illegal dumping. It is an important enhancement of the range of powers available to the Environment Protection Authority and the courts to crack down on illegal waste operations and environmental criminals. In an industry where the monetary incentive to break the law often outweighs the existing penalties, this bill provides a range of strengthened and expanded penalties and sentencing options to seriously deter unscrupulous operators from continuing to commit illegal waste activities. I commend the bill to the House.

Debate adjourned on motion by Mr Ryan Park and set down as an order of the day for a future day.

Legislative Council Thursday 30 May 2013
UNLAWFUL ENVIRONMENTAL ACTIVISM

Debate resumed from 2 May 2013.

The Hon. AMANDA FAZIO [12.16 p.m.]: As I said on the last occasion this matter was debated, I have serious concerns about the implications of paragraph 1 (a) because I believe it could be construed as constituting an infringement on the rights of parliamentarians to support people who peacefully make illegal protests about matters of great social importance. I believe that New South Wales has a long history of supporting illegal peaceful protests. I mentioned a campaign that I supported vigorously in the 1960s.

(…)

The Hon. AMANDA FAZIO: I wholeheartedly supported the campaign for the right of women to drink in a public bar of a hotel. It was not legal at the time for them to do so. Some women went to the extent of chaining themselves to the foot rails in public bars so that they could not be evicted from them.

(…)

The Hon. AMANDA FAZIO: Perhaps that raises another issue that we will not go into at the moment. I support equality for women and, therefore, I supported that campaign. I supported the right of people to march in moratorium protests also, even though sometimes they were illegal. I am not prepared to reject all illegal activities in which people may engage, but I will always condemn things such as what happened in relation to Whitehaven Coal Limited and the ANZ Australia Bank, which was a matter of forgery. Forgery is an illegal act and I do not believe it is a form of peaceful protest. I believe it constituted an illegal action.

That action reduced the value of shares in those companies. To a certain extent, it may well show the capriciousness of the stock market—we read about something happening in another country and all the international share markets drop, and then a retraction is issued or the matter is clarified and the stocks rise again. To a certain extent the value of shares reflects the beliefs of the people who own the shares rather than the innate value of the companies. But deliberating issuing a forged document to try to manipulate the share price to impact a company such as Whitehaven Coal, which is engaged in a business that The Greens do not support, was reprehensible. I believe it was reprehensible for the Federal Leader of The Greens to commend the person for issuing a forged document as it goes well beyond the realm of supporting peaceful protests about matters of great social concern. Accordingly, I move:

> That the question be amended by omitting paragraph 1 (a) and inserting instead:
> (a) recognises that there are occasions when oppression or lack of democratic process justifies unlawful protests however this is not the case in New South Wales and the New South Wales public therefore expects its political representatives to reject illegal activities and participate in debate in a lawful manner.

This amendment will overcome my concerns in relation to paragraph 1 (a) of the motion and,

if agreed to, it will allow the Opposition to support the amended motion. I turn now to some of the comments that have been made in the debate. Reference was made to the coal seam gas blockades on the Liverpool Plains and it was said that those blockades were illegal. I found it interesting that a country Liberal Party member made those comments, given that many involved in the blockades were landowners who did not want exploration on their land and who received the support of Coalition members not captive to the coal seam gas lobby. I do not believe that some of those issues should not be captured by this. However, it is a different matter altogether if we are talking about people other than the landowners themselves trying to defend properties.

Mr David Shoebridge spoke about the greater good. I looked very carefully at the Whitehaven and ANZ bank forgery case but I was not able to find any aspect of greater good in relation to that matter. The greater good refers to other types of peaceful protests—which are sometimes illegal. There was no great social issue involved, no pressing concern that had the vast support of the majority of the people, or no legal anomaly being addressed by the protest. It was simply an attempt to attack—whether The Greens like it or not—a legitimate industry in New South Wales: the coal industry.

A lot of people are concerned about fossil fuel and coalmining. Some of those arguments are addressed at where the coalmining is occurring. Some believe coalmining is occurring in the wrong places such as in national parks or under properties and there is concern about the effects of long-haul mining on aquifers, and we could look at a range of those issues. The Whitehaven-ANZ forgery matter was a blanket attack on coal because a group of environmental extremists did not want fossil fuels used to produce energy. They do not have a viable alternative yet they are prepared to financially cripple a coal company, which has all of its legal permits to mine and its environmental regulations to abide by—if the company does not do these things it will be fined by the regulators. And this serial hoaxer—as he has been described in more recent days—has forged a document to affect the share price of Whitehaven Coal.

I do not know anyone involved in Whitehaven Coal, and I do not know anyone who works in an executive position in the ANZ bank. But until it is proven otherwise, those companies have the right to be protected with the full force of the law. It is not a good enough reason to commit a criminal offence because someone who wants to be known as a serial hoaxer and an environmental activist wants to highlight a cause. People have climbed on top of coal loaders at Newcastle and hung banners from buildings. That is still an illegal form of protest but I am more comfortable with that than people forging documents to try to cripple companies on the stock market. As politicians we need to be responsible in what we advocate. In my view it is a step too far to say that the actions against Whitehaven Coal and the ANZ bank on 7 Monday 2013 were a valid form of protest. It also demonstrates a lack of maturity on the part of the leaders of The Greens not to understand that this matter is serious.

They can do a range of different things to promote their view point—a view point that I do not support—to shut down the coal industry, including holding blockades and protests, distributing petitions and placing information on websites. There is a plethora of ways that can be done legally. It was stupid to try to garner support for these legal activities by giving it the imprimatur that the Leader of the Greens nationally had said, "It was for the greater good. We were only hoaxing to try to destroy a coal company and destroy the credibility of one of the largest banking institutions in this country." It was politically naïve. Any sensible person in a senior leadership position in a political party that wants to hold the balance of power in

the Australian Senate would hang their his or her head in shame. I encourage members to support my amendment in the knowledge that it will allow the Opposition to support the amended motion.

Dr JOHN KAYE [12.26 p.m.]: I begin by thanking Mr Scot MacDonald for the opportunity to exercise a number of the important moral and philosophical issues contained in this motion. I am not 100 per cent convinced that Mr Scot MacDonald knew he was doing that when he prepared the motion but, nonetheless, I hope I can do justice to some of those issues in my contribution. I do not support the motion and I foreshadow that I will move some amendments to it. The motion clearly comes from the perspective of the gas industry, which is facing massive protests. Indeed, it is almost to a point of community uprising or rebellion against the imposition of coal seam gas in local communities around this State. We are fortunate to have Mr Scot MacDonald in this Chamber because he gives us an insight into the industry that he represents: the petroleum extraction industry in New South Wales.

(…) I see an opportunity for the Chamber to debate at a deeper and more profound level some of the crucial issues surrounding protests: issues of moral imperatives and the law. It is an age-old question: What do people who are confronted with a moral imperative to act do when the only action available to them is to violate the local law?

People have mentioned the Nuremberg principles. When an individual is confronted with an intolerable situation, a situation that transgresses the very fibre of their moral being, how do they respond when all legal avenues have been exhausted? What do they then do? There are other questions about the moral dilemma between the supremacy of conscience and the rule of law and order in society, both of which are important social goods. The supremacy of conscience is probably the most important bulwark to dictatorship. The rule of law and order in society is also important in terms of creating a common good. How do we resolve the issue when the two are in conflict?

Another deeper issue in the motion, certainly for me, is that of protecting a common asset that is being destroyed or devalued by exploitation for the purpose of profit. In this case the common asset I am referring to is the environment. Mr Scot MacDonald's motion goes to the heart of one of the biggest environmental issues facing society, that is, how we respond to greenhouse gas emissions. I will not be voting for the motion; I do not think any members of The Greens will vote for it. However, I thank Mr Scot MacDonald for giving us an opportunity, from our different perspectives—no doubt the Shooters and Fishers will have their—

(…)

Dr JOHN KAYE: (…) It is good to have this debate. Before we get to the substance of the debate we need to go behind some of the issues that are driving the protests referred to by Mr Scot MacDonald in his motion. Those issues largely centre on three things. The first issue is greenhouse gas emissions. The second issue is the local environmental impact. The third issue is the failure of the current legal framework, the planning framework, to deal with those issues in a way that fairly balances the needs of the community. The most recent figures on coalmining in New South Wales that I could find relate to the 2009-10 financial year. Those figures show that 145 million tonnes of coal were extracted in that financial year, producing 350 million tonnes of carbon dioxide when it was burned.

Mr Scot MacDonald: That's 5 per cent of the world.

Dr JOHN KAYE: That is not true. The member's statistics are totally out but never mind. Mr Scot MacDonald will have an opportunity to respond to the debate, and I look forward to his response. In the meantime I will use my statistics. That coal produces 350 million tonnes of carbon dioxide when burned, which is 2¼ times the State's total contribution. In fact, our coal exports are creating 2¼ times the amount of emissions in New South Wales. On top of that, fugitive emissions are coming from coalmines. They are largely unquantified at this stage but the figure is growing. The NSW Department of Industry and Investment website identifies another set of projects which, when added together, will provide 143.6 million tonnes of coal each year. If all of those projects go ahead the existing 145 million tonnes will effectively double. In terms of run-of-mine coal, I estimate that to be about 110 million tonnes of coal each year, which is about 264 million tonnes of carbon dioxide each year. If all those coalmines go ahead, that coal will produce 614 million tonnes of carbon dioxide each year when it is burned around Australia. That is more carbon dioxide than comes out of Australia.

(…)

Dr JOHN KAYE: On top of the threat to the global environment, there are local environmental impacts with water, dust and air quality. Each of these threatens the quality of life and health of individuals who live near those coalmines and impacts on the local economy. To this we add the new kid on the block, coal seam gas, with massive resources in New South Wales. Those resources are being exploited with huge impacts on water quality, air quality, farming, the capacity to use arable land and, indeed, human health. A fossil fuel industry that is growing massively is impacting on the local environment, the local community and the local economy. The next question is: what should people who are concerned about the future of the planet and areas such as Leard State Forest do? How should they react? One could say that they should pursue this through legal channels. These matters have been agitated before the Land and Environment Court and other courts by the Environmental Defender's Office, and they have been agitated by truckloads of submissions to the New South Wales Government through the planning system. What we get in return is an untrammelled expansion of the coal industry. I can only think of one coalmine that has been slowed down by the planning industry.

Mr Scot MacDonald: Warkworth.

Dr JOHN KAYE: During the decade and a half that I have been interested in these matters Warkworth is the only coalmine I can think of where there has been an impediment to development. Therefore, one can understand why there has been substantial frustration in the community and why many members of the community, myself included, feel that the legal avenues have been exhausted and the only avenues left are protest avenues. I turn briefly to the case of Jonathan Moylan and the Maules Creek mine. At the outset I say that I know Jonathan Moylan personally. I know his father; I have worked with him. His father is an extremely fine engineer. I know his uncle, who is a professor at the University of Leuven in Belgium. I worked with him and I learned a lot from him in terms of his expertise in system engineering. I also know his mother quite well. So I know the family. I have known Jonathan, effectively, since before he was born. Jonathan does not do things lightly.

Mr Moylan would have looked at Maules Creek coalmine and recognised that it produces 325

million tonnes of carbon dioxide over its 30-year life. When the coal is burned in steel mills overseas it will produce about 877 million tonnes of carbon dioxide. That is 60 per cent more than Australia's annual in-country emissions. So Maules Creek coalmine will effectively add more than another year of Australia's annual emissions. Mr Moylan would also be aware of the economics of this. He would have looked at the various social costs, the real costs of carbon in the atmosphere, and recognised that on even the most conservative figures Maules Creek coalmine would be responsible for about $68.8 billion in social impacts. Those are real impacts on individuals. Human health, human lives and human economies around the world are being undermined by mines such as Maules Creek. That has a substantial impact on the economy.

Mr Moylan is alleged to have issued a media release which may have allegedly damaged the shares of Whitehaven, which is the company developing Maules Creek. The matter is before the court so I am being guarded in my language; I do not wish to prejudice a court hearing. People have said that what Mr Moylan did is a terrible form of protest. I understand that the net impact on the value of shareholders was less than $500,000 in a company that is developing a $32 billion mine. It had a relatively small impact, a tiny impact, compared to the potential impacts of the coalmine costing $68 billion. Interestingly, people are upset because Mr Moylan allegedly interfered with the marketplace. Maybe he did; maybe he did not. What is not being discussed is the way that the massive profits that Whitehaven will make from this coalmine will interfere with the lives, the health, the wealth, and the welfare of communities around the world, particularly some of the most vulnerable communities which have no say in this.

There are different moral imperatives at play here. It is a valid moral decision to say that, while I recognise the importance of the law, I also recognise that the law is failing to deal with a moral imperative. The failure of the legal system, the regulatory system, to deal with this leaves individuals of conscience with no choice. In the same way, individuals protested—in some ways, illegally—against slavery because they recognised that the legal system was failing them; and protested illegally about the denial of the rights of women to vote, because they recognised that it was a matter of moral conscience. I am fascinated by the history of the battle against slavery and the role played by Christians of the time, particularly the non-conformist Christians. For those reasons, I believe that paragraphs 1 (a) and 2 of the member's motion are misleading. I therefore move:

That the motion be amended by deleting paragraphs 1 (a) and 2.

I recognise the truth of paragraph 1 (b) and I am proud of that truth, but what I do not accept is that, in all situations, the law overcomes one's individual conscience. When people act in good conscience and attempt to do the right thing that should be respected. [*Time expired*.]

The Hon. NIALL BLAIR [12.41 p.m.]: I want to make a small contribution to this debate and to talk about a couple of matters that have been raised. Firstly, I refer to the illegal actions of Mr Moylan and the consequences those actions have had for people who have done nothing wrong throughout this process. The company affected by those actions was operating within the law and had gone through all the required approval processes. It contributes to the economy of New South Wales by employing people in a number of direct and indirect jobs throughout the State. The shareholders are also to be considered. Dr John Kaye thought that losing half a million dollars from the share price of the company was no big deal. It is a big deal if you are a self-funded retiree or someone who has worked with a financial adviser to invest in that area. It is a big deal when one is suffering because of the illegal activities of Mr

Moylan. It is something about which we should all be concerned.

I take offence to the comparison made between Mr Moylan and people in regional communities who have exercised their right to peaceful protest. Recently in my electorate members of the community sat in peaceful protest to try to stop drilling in their local area. They sat there until there was a judgement made by the referee. The matter was put to the court and they sat in peaceful protest and did not try to mess with anyone else. Once the referee made the decision, they packed up and said, "Okay, we accept the referee's decision; will go and look at other legal avenues." They did not take it upon themselves to do what Mr Moylan does. This is the same Mr Moylan who recently asked John Robertson questions in a public forum.

The Hon. Steve Whan: He was lying.

The Hon. NIALL BLAIR: He was misleading in his comments because he was referring to The Hon. Luke Foley's comments. I think they were actually The Hon Steve Whan's comments from a speech in this Parliament, so he did lie. People take illegal actions in order to make known their point of view in a way that is not acceptable to many members on both sides of this House. They are a law unto themselves and their actions should be condemned because of the intended and unintended consequences of what they do. They believe it is for the greater good but their actions impact upon good people who are doing the right thing and following the law in New South Wales.

Mr SCOT MacDONALD [12.43 p.m.], in reply: I thank all members who made a contribution to this debate. It does flush out where members stand in this House and our attitude to the law. First of all, I address the amendment from the Labor Party. The Government will not be supporting that amendment, particularly because the motion does not make a judgement, good, bad or indifferent, about unlawful protests. The motion is fairly clear and deliberate. The motion is about the role and responsibility of elected representatives. A number of people on both sides are sympathetic to the thrust of the amendment put forward by the Hon. Amanda Fazio that there is sometimes justification for unlawful protests. But I think it misses the mark of the original motion. It is about the standards and behaviour of elected representatives so we will not be supporting that amendment.

We will not be supporting The Greens amendment. I think I have covered that pretty well. I thank the Hon. David Clarke, the Hon. Jeremy Buckingham, the Hon. Robert Borsak, the Hon. Peter Phelps, the Hon. Steve Whan, Mr David Shoebridge, the Hon. Amanda Fazio, Dr John Kaye and the Hon. Niall Blair for their contributions. A lot of them touched on similar points. People understand why others get frustrated and want to protest. The Hon. Niall Blair covered that point well.

The Hon. Peter Phelps talked about the selectivity of The Greens and which laws they want to have apply or not apply. His comments were colourful when he said that The Greens are religious zealots and transcend the need to follow the law. The Hon. Robert Borsak made some strong points about The Greens being hypocrites and bigots who assist in breaking the law. He said they should have another look at the illegal activities in the south and north forests. I have had representations to that effect.

The New South Wales Greens' response to this motion confirms their political immaturity. As

many speakers noted, the motion did not say there is not a place for dissent, advocacy or robust debate in our society. It clearly condemns The Greens members of this Parliament for failing to demonstrate support for the laws of this State. It confirms that they have not evolved from a protest movement. It demolishes any reason for taking seriously any of their proposed bills or amendments. Why listen to any legislative idea coming from The Greens if they believe the law is to be treated as discretionary? Signing up to the logic of The Greens NSW, there is no point in free and fair elections or Parliament or an independent judiciary or a police force to enforce the regulations. They have abrogated their leadership role and responsibilities as elected representatives. I urge the House to support the motion as it originally stands.

Question—That the amendment moved by the Hon. Amanda Fazio be agreed to—put and resolved in the negative.

Amendment negatived.

Question—That the amendment moved by Dr John Kaye be agreed to—put and resolved in the negative.

Amendment negatived.

Question—That the motion be agreed to—put and resolved in the affirmative.

Motion agreed to.

COAL SEAM GAS

The Hon. JEREMY BUCKINGHAM: I direct my question to the Minister for Roads and Ports, representing the Minister for Resources and Energy. The Minister for Resources and Energy addressed the Australian Petroleum Production and Exploration Association annual conference this week and said that opposition to coal seam gas was caused by "ignorance in the community". Does the O'Farrell Government believe that the NSW Farmers Association, the Country Women's Association, the New South Wales Irrigators' Council, Thoroughbred Breeders New South Wales, Hunter Valley vignerons and millions of citizens of this State are ignorant?

The PRESIDENT: Order! The question is clearly out of order.

The Hon. Jeremy Buckingham: On what basis?

The PRESIDENT: Well, let us see. What does the member want me to pick? There are several reasons why the question is out of order. I will not detail them all and take up the time for questions.