



**New South Wales**

# **Legislative Council**

## **PARLIAMENTARY DEBATES (HANSARD)**

**Fifty-Sixth Parliament  
First Session**

**Wednesday, 29 March 2017**

Authorised by the Parliament of New South Wales



## TABLE OF CONTENTS

Motions .....	1
Tribute to Mr Vincent Thanh Minh Kong .....	1
Assassination of Mr Hrant Dink Tenth Anniversary .....	1
Saint Joseph's Maronite Catholic Church Solemn Divine Liturgy .....	2
Greek Independence Day .....	2
Woy Woy Roosters Rugby Club.....	2
Bangladesh Independence Day .....	2
Shoalhaven International Women's Day Awards .....	3
Documents .....	4
Tabling of Papers .....	4
Business of the House .....	4
Postponement of Business .....	4
Committees .....	4
Committee on Children and Young People .....	4
Membership .....	4
Bills .....	4
Fire and Emergency Services Levy Bill 2017 .....	4
Second Reading .....	4
Visitors.....	9
Visitors .....	9
Bills .....	9
Fire and Emergency Services Levy Bill 2017 .....	9
Second Reading .....	9
Visitors.....	21
Visitors .....	21
Questions Without Notice.....	21
Gas Exploration .....	21
Greater Sydney Water Supply .....	22
Gas Exploration .....	23
Inner West Council Rubbish Bins.....	23
Cassilis Bushfires.....	23
National Firearms Agreement.....	24
Sydney Water.....	25
Early Childhood Education.....	26
Energy Security.....	27
Energy Companies Paper Bills .....	27
Energy Security.....	28
Driver Licence Disqualification Reform .....	28
Local Land Services.....	29
Murray-Darling Basin Plan.....	30

## TABLE OF CONTENTS—*continuing*

Gas Exploration .....	30
Deferred Answers .....	31
Member for Castle Hill .....	31
Pill Testing.....	31
Council Amalgamations.....	31
Bayswater and Liddell Power Stations .....	31
Western Sydney Incinerator Proposal.....	31
Essential Energy Redundancies .....	32
Bills .....	32
Motor Accident Injuries Bill 2017 .....	32
First Reading.....	32
Fire and Emergency Services Levy Bill 2017 .....	32
Second Reading .....	32
In Committee .....	41
Adoption of Report .....	49
Third Reading .....	49
Committees .....	51
Committee on the Health Care Complaints Commission .....	51
Legislation Review Committee.....	51
Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission .....	51
Joint Standing Committee on Electoral Matters .....	51
Joint Committee on the Office of the Valuer General .....	51
Staysafe (Joint Standing Committee on Road Safety) .....	51
Membership .....	51
Bills .....	51
Motor Accident Injuries Bill 2017 .....	51
Second Reading .....	51
In Committee .....	70
Adoption of Report .....	81
Third Reading .....	81
Local Government Amendment (Rates—Merged Council Areas) Bill 2017.....	81
Returned.....	81
Committees .....	81
Joint Standing Committee on Electoral Matters .....	81
Staysafe (Joint Standing Committee on Road Safety) .....	81
Membership .....	81
Adjournment Debate .....	82
Adjournment .....	82
Quad Bike Safety .....	82
Tribute to Former Members of the Legislative Council .....	82
Riversdale Master Plan .....	83

**TABLE OF CONTENTS—*continuing***

Indigenous Incarceration Rates.....84

Indigenous Incarceration Rates.....85

Gosford Hospital Redevelopment.....86

# LEGISLATIVE COUNCIL

**Wednesday, 29 March 2017**

**The PRESIDENT (The Hon. John George Ajaka)** took the chair at 11:00.

**The PRESIDENT** read the prayers.

## *Motions*

### **TRIBUTE TO MR VINCENT THANH MINH KONG**

**The Hon. ERNEST WONG (11:02):** I move:

- (1) That this House congratulates Mr Vincent Thanh Minh Kong, of Strathfield, New South Wales, President of the Australian Chinese Buddhist Society, Mingyue Lay Temple, and a well-known and highly respected identity in the Australian-Chinese community on becoming a recipient of the Order of Australia Medal.
- (2) That this House notes that having come from a refugee background, Mr Kong has not only established a successful business, being now one of the biggest Asian grocery providers in Australia, employing in excess of 250 people locally, but that he has always recognised the value of re-investing in the community, particularly those that are most neglected, vulnerable and disadvantaged.
- (3) That this House recognises the outstanding contribution Mr Kong has made over the years through his passion and commitment to promoting and advocating for the truth of Buddhism.
- (4) That this House acknowledges that Mr Kong has dedicated his time and resources to setting up and teaching young children the language, culture, computer skills and tutoring of their heritage, all with the aim of deepening a connection and awareness towards their heritage, and ultimately their sense of identity within the Australian community at large.
- (5) That this House notes that Mr Kong has been an active member and advocate for the following community groups which provide important services to the community: Red Cross, Australia Chinese Buddhist Society Inc., Indo Chinese Elderly Hostel, and the Tue Thanh Alumni Association Australia Inc.
- (6) That this House commends Mr Kong for his dedication and unwavering support of his local community, including establishing and coordinating initiatives for fundraising efforts, volunteering and donations involving local schools.

**Motion agreed to.**

### **ASSASSINATION OF MR HRANT DINK TENTH ANNIVERSARY**

**The Hon. GREG DONNELLY (11:03):** I move:

- (1) That this House notes that:
  - (a) on 19 March 2017, the Armenian National Committee of Australia and the Armenian Missionary Association of Australia held the Hrant Dink commemoration evening at the Concourse Theatre, Chatswood;
  - (b) the event was held to mark the tenth anniversary of the assassination of well-known Turkish-Armenian journalist Hrant Dink on 19 January 2007;
  - (c) Hrant Dink was editor-in-chief of the bilingual Turkish-Armenian newspaper *Agos* and a prominent member of the Armenian minority in Turkey; and
  - (d) Hrant Dink was best known for advocating Turkish-Armenian reconciliation and human and minority rights in Turkey.
- (2) That this House notes that:
  - (a) the special guest at the commemoration evening was Mrs Rakel Dink, widow of Hrant Dink and President of the Hrant Dink Foundation, who delivered the keynote address in honour of her late husband; and
  - (b) other guests at the event included:
    - (i) the Hon. Gladys Berejiklian, MP, Premier of New South Wales;
    - (ii) the Hon. Greg Donnelly, MLC, representing the Leader of the Opposition, the Hon. Luke Foley, MP;
    - (iii) the Hon. Walt Secord, MLC;
    - (iv) Mr Damien Tudehope, MP, member for Epping; and
    - (v) Reverend the Hon. Fred Nile, MLC.
  - (c) the program for the evening also included traditional Armenian dance, music and singing.
- (3) That this House acknowledges and congratulates everybody involved in organising this significant cultural event and expresses its best wishes to the whole Armenian community in New South Wales.

**Motion agreed to.****SAINT JOSEPH'S MARONITE CATHOLIC CHURCH SOLEMN DIVINE LITURGY****The Hon. GREG DONNELLY (11:04):** I move:

- (1) That this House notes that:
  - (a) on 18 March 2017, the Saint Joseph's Maronite Catholic Church, Croydon held a solemn divine liturgy in honour of its patron, St Joseph;
  - (b) around 1,000 parishioners and friends attended the Holy Mass; and
  - (c) following the Holy Mass the congregation celebrated a traditional Hrisi supper.
- (2) That this House notes that:
  - (a) His Excellency Bishop Antoine-Charbel Tarabay presided over the Holy Mass and attended the supper;
  - (b) other guests at the event included:
    - (i) the Hon. Greg Donnelly, MLC, representing the Leader of the Opposition, the Hon. Luke Foley, MP;
    - (ii) Ms Jodi McKay, MP, member for Strathfield;
    - (iii) Mr John Sidoti, MP, member for Drummoyne; and
    - (iv) Councillor John Faker, Mayor of Burwood Council.
  - (c) a number of priests, both serving and retired, assistant priests and sisters were present at the event.
- (3) That this House acknowledges and congratulates Reverend Father Maroun El Kazzi, Parish Priest; Father Loubnan Tarabay, Assistant Priest; Father Claude Risk, Assistant Priest; and the Parish Stewardship Committee on their outstanding work in organising the event and offers its best wishes to the whole Maronite community.

**Motion agreed to.****GREEK INDEPENDENCE DAY****The Hon. SHAOQUETT MOSELMANE (11:05):** I move:

- (1) That this House notes that:
  - (a) 25 March is Greek Independence Day, otherwise known as the Greek Revolution, commemorating the day on which the Greek people began their struggle for independence from the Ottoman Empire in 1821; and
  - (b) 25 March also coincides with the Greek Orthodox Church's celebration of the Annunciation to the Theotokos.
- (2) That this House notes the significance of Greek Independence Day and congratulates the Australian-Greek community of New South Wales for helping to make Australia the most successful multicultural nation in the world.
- (3) That this House recognises the valuable work of his Excellency Consul General Dr Stavros Kyrimis for his leadership and commitment to the Australian-Greek community.

**Motion agreed to.****WOY WOY ROOSTERS RUGBY CLUB****Mr SCOT MacDONALD (11:05):** I move:

- (1) That this House notes that:
  - (a) the Woy Woy Roosters Rugby Club was established in 1927 at the initiative of local Constable Jenkins;
  - (b) the club hosted its 2017 seniors and juniors season launch on Saturday 18 March 2017 at the Woy Woy Leagues Club; and
  - (c) on the night, the club received a \$5,000 grant from the Government's Local Sport Grant Program to fund the purchase of new tackling equipment and footballs.
- (2) That this House congratulates the Woy Woy Roosters and President Dean Slattery for a memorable evening and wishes the team all the best for the 2017 season.

**Motion agreed to.****BANGLADESH INDEPENDENCE DAY****The Hon. SHAOQUETT MOSELMANE (11:06):** I move:

- (1) That this House notes that 26 March is the Independence Day of Bangladesh, commemorating the day in 1971 when Sheikh Mujibur Rahman declared the independence of Bangladesh, a day of great significance in the lives of the Australian-Bangladeshi community.

- (2) That this House congratulates the Australian-Bangladeshi community for its growing contribution to the future of Australia.
- (3) That this House notes that:
  - (a) the Australian-Bangladeshi community is one of the fastest-growing in New South Wales, having increased in size nationally by 72.8 per cent between 2006 and 2011;
  - (b) the Australian-Bangladeshi community is one of the success stories from Australia's Skilled Migration Program, with the 2011 census finding that 74.9 per cent of its residents aged 15 years and over have some form of higher non-school qualifications; and
  - (c) in keeping with the history of International Mother Language Day, members of the Bangladeshi community have put in great efforts to preserve the Bengali language amongst their descendants born in Australia.
- (4) That this House acknowledges the contributions of the Australian-Bangladeshi community and its celebration of Bangladesh Independence Day.

**Motion agreed to.**

**SHOALHAVEN INTERNATIONAL WOMEN'S DAY AWARDS**

**Mr JEREMY BUCKINGHAM (11:06):** On behalf of Mr Justin Field: I move:

- (1) That this House notes that on 18 March 2017, the Shoalhaven International Women's Day awards were held at Meroogal to recognise the achievements of women in the Shoalhaven community.
- (2) That this House acknowledges the contributions and services to the Shoalhaven community of the following award recipients:
  - (a) Anita Barry—for her contribution to the health and wellbeing of the Shoalhaven community;
  - (b) Lilly Boland—for her contribution to the Shoalhaven community as a young woman aged 15 to 24;
  - (c) Wendy Bolt—for her contribution to community and social services and the health and wellbeing of the Shoalhaven community;
  - (d) Margaret Britton—for her contribution to conservation of heritage as an active volunteer at the Jervis Bay Maritime Museum for more than 10 years;
  - (e) Pam Burrige and Roz Johnston—for their contribution to sporting groups, health and wellbeing;
  - (f) Leanne Colley—for her contribution to the health and wellbeing of the Shoalhaven community;
  - (g) Julie Anne Danser—for contributing to the environment, to community sporting groups and to the social services, health and wellbeing of the Shoalhaven community;
  - (h) Dianne Day—for her contribution to community and social services of the Shoalhaven community;
  - (i) Janie Hamilton—for her contribution to the health and wellbeing of the Shoalhaven community;
  - (j) Gemma Hart—for contributing to arts and culture, community and social services and the health and wellbeing of the Shoalhaven community;
  - (k) Dawn Hawkins—for her contribution to arts and culture, community and social services;
  - (l) Veronica Jean Husted—for her contribution to community and social services and the health and wellbeing of the Shoalhaven community;
  - (m) Lisa Johnson—for her contribution to community sporting groups through involvement with Shoalhaven Little Athletics;
  - (n) Trish Kahler—for her contribution to the conservation of the environment;
  - (o) Tanya McGeachie—for her contribution to community and social services and the health and wellbeing of the Shoalhaven community;
  - (p) Naomi McKelvie—for her contribution to community and social services and the health and wellbeing of the Shoalhaven community;
  - (q) Monica Mudge—for her contribution to the conservation of the environment;
  - (r) Margaret Ogle—for her contribution to conservation of heritage as an active volunteer at the Berry and District Historical Society;
  - (s) Jo Power—for her contribution to the conservation of the environment;
  - (t) Margaret Simoes—for her contribution to community and social services of the Shoalhaven community;
  - (u) Joanne Szczepanowski—for her contribution to community and social services and the health and wellbeing of the Shoalhaven community; and
  - (v) Kim Waters—for her contribution to the health and wellbeing of the Shoalhaven community.

**Motion agreed to.**

*Documents***TABLING OF PAPERS**

**The Hon. SCOTT FARLOW:** I table the following paper:

Law Reform Commission Act 1967—Report No. 143 of the New South Wales Law Reform Commission entitled "Third party claims on insurance money: Review of section 6 of the Law Reform (Miscellaneous Provisions) Act 1946, dated November 2016.

I move:

That the report be printed.

**Motion agreed to.**

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

**Mr DAVID SHOEBRIDGE:** I move:

That Business of the House Notice of Motion No. 1 be postponed until Tuesday 2 May 2017.

**Motion agreed to.**

*Committees***COMMITTEE ON CHILDREN AND YOUNG PEOPLE****Membership**

**The Hon. NIALL BLAIR:** I move:

That Mr Franklin be discharged from the Committee on Children and Young People and Ms Cusack be appointed as a member of the Committee.

**Motion agreed to.**

**The Hon. DON HARWIN:** I move:

That a message be forwarded to the Legislative Assembly conveying the terms of the resolution agreed to by the House.

**Motion agreed to.**

*Bills***FIRE AND EMERGENCY SERVICES LEVY BILL 2017****Second Reading**

**The Hon. BEN FRANKLIN (11:13):** On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

The Fire and Emergency Services Levy Bill will abolish the unfair emergency services levy [ESL], which is funded only by those who buy property insurance. The ESL will be replaced by the fairer fire and emergency services levy [FESL] to which every property owner will contribute. The bill will ensure fairer funding of emergency services as everybody benefits from these services but not everybody contributes to the levy. It will also reduce the cost of insurance making it more affordable.

**The PRESIDENT:** Order! There are far too many interjections. I do not want to have to call members to order at 11.15 a.m. The Parliamentary Secretary has the call.

**The Hon. BEN FRANKLIN:** This reform will reduce the cost of insurance and help to address under-insurance in New South Wales. Fire and Rescue NSW, the NSW Rural Fire Service and the NSW State Emergency Service are mostly funded by the ESL.

**The PRESIDENT:** I call the Hon. Penny Sharpe to order for the first time. I call the Hon. Mick Veitch to order for the first time.

**The Hon. BEN FRANKLIN:** This increases the cost of residential insurance premiums by about 20 per cent and commercial insurance premiums by about 30 per cent. The Fire and Emergency Services Levy Bill will abolish the ESL, making insurance more affordable. Average residential insurance premiums will be around \$233 lower as a result of the reform. In 2016-17 the ESL contributed \$941 million to emergency services, including the associated duty and GST. Currently New South Wales households have the highest rate of non-insurance of all States. Thirty-six per cent of households do not have contents insurance. In other States,

where the ESL does not exist, around 25 per cent of households do not have contents insurance. Everybody benefits from emergency services, even though only those who buy property insurance contribute to the cost of these services.

The fire and emergency services levy is a fairer way of funding emergency services as all property owners will contribute. The new method of funding emergency services brings New South Wales in line with all other mainland States, which already have replaced insurance levies with property levies. The FESL will be paid by property owners alongside their council rates. The levy is based on the unimproved land value of the property. Different FESL rates will apply for different property sectors—residential, commercial, industrial, farmland and public benefit. Government land will be exempt from the FESL. The FESL rates will be revised each year to ensure that the total revenue raised is equal to the funding needs of the fire and emergency services and to ensure that revenue shares are maintained for the various property sectors. The residential and farm sectors will pay the same share of revenue as they currently pay through the insurance levy with public benefit, commercial and industrial land providing the remaining revenue.

For each property the levy will have a fixed and a variable component. The fixed rate for residential and public benefit land will be \$100 per property and for farmland, commercial and industrial land, the fixed rate will be \$200 per property. The variable rate will be based on land values and the rate will be revised each year to achieve the revenue target for each property sector. For an average fully insured household, the reform will result in an annual saving of \$47. On average, households currently pay an additional \$233 through the ESL and associated GST and duty. Under the FESL the average fully insured New South Wales household will pay \$185.

Pensioners who are entitled to concessions on council rates will receive an FESL discount. The discount will be \$50 in 2017-18 and will be indexed to the Sydney consumer price index [CPI]. Vacant residential, commercial and industrial land will receive a 50 per cent discount. In cases where the payment of the FESL leads to financial hardship, it will be possible for landowners to apply for full or partial waiver of the FESL. Hardship guidelines will be issued by the Treasurer, with eligibility determined by the Office of State Revenue.

Councils will collect the levy from landowners on behalf of the State and transfer these funds to the Office of State Revenue. The levy will be listed on council rates notices as a separate State Government levy. Landowners will have the option of an annual or quarterly payment in conjunction with their council rates payments. Councils are also responsible for classifying land into the FESL categories of government, residential, commercial, industrial farmland or public benefit land. Councils will notify landowners of their classification and will supply data to the Valuer-General, which will be used to determine each year's FESL rates. Councils will be reimbursed for all costs reasonably incurred in implementing and administering the FESL.

More than \$900 million of taxes will be eliminated from insurance premiums by 1 July 2017. To make sure that insurers pass on the benefits of the abolished ESL to their customers, the Government appointed the emergency services levy insurance monitor last year. For any customer who has concerns about their insurance premiums during the transition process, the monitor is available to handle complaints or disputes. The monitor has the power to seek penalties of up to \$10 million from companies that charge excessively high prices during the transition. These powers are backed up by data-gathering powers, extending from 1 July 2014 to 31 December 2018, allowing a comparison of pricing both before and after the reform. This reform will not establish a new levy. People already pay for fire and emergency services through the insurance system. Rather, this reform will establish a fairer levy. Every property will contribute to funding the fire and emergency services. I commend the bill to the House.

**The Hon. ADAM SEARLE (11:19):** I lead for the Opposition on the Fire and Emergency Services Levy Bill 2017. Every bill that comes before the House reflects the priorities of the party or those introducing it. In recent times, members on this side of the House have introduced a variety of bills that reflect our approach to fairness, social justice and a fair go for all. That is why the Labor Opposition recently introduced legislation in the other place on medicinal cannabis to alleviate the suffering of those with terminal and other serious illnesses. It also introduced legislation dealing with transparency in motorway tolls so that those who pay do so on a fair basis and with proper independent oversight, and the steel industry legislation to boost jobs and economic growth throughout the supply chains across New South Wales.

I note that a range of principles are embodied in this bill. We support the concepts in the bill in principle, but as is always the case with this Government close attention must be given to the level of detail. The Opposition has some amendments that will address our concerns. If all or a substantial proportion of those amendments are successful, we will support the passage of the legislation through this House. On the other hand, if the Government does not join us in making those improvements to the legislation, we will be unable to support the legislation on its third reading. I reflect on the most recent Legislation Review Committee Digest No. 33/56, which pointed out some issues relating to the Fire and Emergency Services Levy Bill as it stands. It found that the bill trespasses on personal rights and liberties, particularly the right to receive a refund. The digest states:

The Committee notes that whilst policyholders are to receive refunds for over-collected amounts where practicable, in circumstances where it is impracticable to do so the over payments are to be paid into the Consolidated Fund. As the term "practicable" is not defined in the legislation, the Committee refers the potential non-payment of over-collected funds to policyholders to Parliament for its further consideration.

We share that concern and Labor will have a cluster of amendments that address that concern. The committee also found that the bill inappropriately delegates legislative powers. In particular, there are various clauses that seek to make regulations that may amend an Act of Parliament. The digest further states:

The Bill contains several clauses which authorise regulations to amend the Act. The Committee generally prefers an Act of Parliament to be amended by a further Act of Parliament, not a regulation. Regulations are subject to some parliamentary scrutiny through the disallowance process in section 41 of the Interpretation Act 1987. However, there is a much greater level of parliamentary scrutiny associated with the passage of a Bill through the Parliament.

The provisions which the Bill proposes may be amended via regulation are associated with key definitions relating to classifying land for the purposes of the fire and emergency services levy. They may also consolidate savings and transitional provisions. The Committee notes that savings and transitional provisions can sometimes impact on rights and liberties issues depending on the content of those provisions. The Committee refers clauses 43, 46 and schedule 3, clause 1 of the Bill to Parliament for further consideration as to whether authorising the regulations to amend various Schedules of the Act is appropriate in the circumstances.

When this bill was debated in the other place, the Opposition identified the issues and our proposed amendments will go some way to addressing those issues. Although such provisions have been held to be legally effective, they are colloquially known as Henry VIII clauses. It is one thing to have an enactment and regulation-making powers to fill in the details, but it is taking matters to another level when we enable Acts of Parliament to be changed by regulation. Although that is legally effective, it is significantly undemocratic because it reduces the level of scrutiny on what then becomes the final principal legislation. It is important to note that this Government engaged in that practice to a significant degree in its 2012 workers compensation reforms when the former Premier claimed—until he was blue in the face—that there was no retrospective effect to the legislation.

However, as a result of changes that were made to the Act by regulation, it went all the way to the High Court of Australia and the High Court upheld those changes, which had the effect of clawing back tens of millions of dollars worth of benefits from injured workers. This mechanism is legally effective, but it is profoundly undemocratic and we have grave concerns about it. The reaction of the big insurers to the legislation also gives us some pause for thought. We note there has been no outcry from the Property Council. We refer also to modelling by the Fire Brigade Employees Union, using the formula in the bill, which indicates that the introduction of this new State Government tax will be at the expense of working families and those doing it tough in New South Wales. In particular, there is a significant shift in the funding of the emergency services to individual households. Even though businesses are the prime consumers, we all consume the benefit of those services. I will come to that when we deal with the bill in more detail.

As the Parliamentary Secretary noted, the bill before the House proposes a new way to fund the essential work that Fire and Rescue NSW, the Rural Fire Service [RFS] and the State Emergency Service provide to the community as a whole. I recognise the great work of the fire and emergency service workers who support our communities, especially in times of vulnerability, and also the work they do in education and prevention. As a resident of the Blue Mountains, and we have another resident in the Chamber—the Hon. Shayne Mallard—our community is indebted to the work undertaken by generations of emergency services and RFS workers. We are thankful for the work of volunteers and staff in helping to save lives. They put themselves in the path of danger as members of the community are enjoined to move away from it.

At present the significant budgets of those frontline services are largely collected from insurance companies through a variety of insurance policies such as home contents, building, and comprehensive motor vehicle insurance premiums. The insurance levies currently make up almost 74 per cent of the contribution to the emergency services budget. The State provides approximately 15 per cent and councils make up the rest, contributing shy of 12 per cent. This scheme has worked and has underpinned a massive injection of funding for our emergency services. I note that much of that was achieved throughout the 16 years of the Labor Government. Today we have a modern and well-equipped fire and emergency service of which we can all be proud and which we can take comfort in for the security that it provides the community. Whether it is fire, floods, storms or accidents, New South Wales has an emergency service capacity that is the envy of other jurisdictions not only in Australia but also abroad.

Tinkering with the funding that underpins this important response mechanism should not be taken lightly and that is why the Opposition has closely examined the legislation before the House. As I indicated, we support the bill in principle. The principles that it embodies are sound and they reflect a range of reviews that have been undertaken such as the Henry Tax Review, an Independent Pricing and Regulatory Tribunal review and the 2013 parliamentary inquiry into the present levy. We note the findings of those reviews, but it should be noted that the levy, seen through the lens of taxation efficiency, is not necessarily all that it could be. While it is the aim of all governments to ensure as efficient a tax system as possible, progressive and sensible government must also

consider issues relating to fairness and sustainability. All governments should seek to balance those considerations and apply a number of tests to any tax or proposed tax reform.

As I indicated, the Opposition supports the principle of moving from an insurance levy to a land levy. In theory, it should be fairer because everyone benefits from those essential services, and funding for those services should not be merely borne by those who purchase insurance. Public benefit land, residential land, farmland, industrial land and commercial land will all be subject to the levy. To calculate the levy, different base rates and ad valorem rates are applied, depending upon classification of the land. Government land or land owned by a State-owned corporation is exempt from the levy unless, with a few exceptions, the land is leased. Councils will be responsible for recovering the levy, along with rates and charges that they levy under the Local Government Act 1993, and then pay the levy to the Chief Commissioner of State Revenue. The levy can be paid by landholders as a single instalment or by quarterly instalments, and the new scheme is set to begin on 1 July 2017.

As the Parliamentary Secretary noted, a separate but related piece of legislation is the Emergency Services Levy Insurance Monitor Act 2016. That Act created the Emergency Services Insurance Monitor role, which is to provide advice and guidance to consumers and the insurance industry to make certain that insurers genuinely phase out the insurance-based levy during transition to the property levy. Former Australian Competition and Consumer Commission Chair Allan Fels was appointed to the role, which is due to expire within two years of the bill's enactment. In looking at this bill we have focused on the end result: the funding of our essential fire and emergency services. One would think that, given their focus on the user-pays principle, those opposite would put forward a bill that reflects those who use the fire and emergency services and the differing degrees to which they do so. But this is not the case.

According to the Government's own reports of fire and emergency service usage, families use these essential services to the extent of 35 per cent; businesses, 55 per cent; and the rural sector, 7 per cent. However, the bill before the House will not, in its impact on those different parts of the community, reflect the risk faced by each sector or the cost of the emergency services used. In fact, the legislation will increase the residential land component—mums, dads and families—to 58 per cent of the funding. So families use 35 per cent of the services but will fund 58 per cent of the services. In any language that is a significant disconnect. Those opposite—the Liberal-Nationals Government of this State—are seeking to increase the cost of living for families who pay this new State Government tax to fund these essential services.

Some within our emergency services have also expressed concern that their fundraising will be affected by the new scheme. Concerns have been expressed that community fundraising will be negatively impacted by the perception by many ratepayers that they have already done their bit by paying the new tax collected through their rates. This is always the danger in moving to such a scheme, and the Opposition will maintain a close eye on how the new scheme impacts the important fundraising efforts of many of our emergency service volunteers across the community. The Opposition supports any effort to reduce the cost of living. Our party was founded on the principles of defending the living conditions of working people. Reducing cost-of-living pressures on the most vulnerable and those who can least afford to pay is one of our guiding principles. We can only hope that the Government's sale pitch on this legislation is true. But we have our doubts about how the new funding proposed in the bill will impact on different parts of the community—shifting more of the burden onto the shoulders of households and families.

It is said that the new property tax will offset expected insurance savings. We know that those who are not currently paying insurance will automatically pay more. We should be concerned about the Government's assumption that paying \$100 or so will see those people instantly take up insurance. I will return to that point later. When the Government talks about average savings it can hide great unfairness in terms of financial impacts, depending on the value of the property. We must be very careful that when this legislation is implemented it does not impact aggressively and disproportionately upon those who can least afford it. While the Opposition has not seen any of the Government's modelling, the Fire Brigade Employees Union has put together some modelling based on the formulas in the bill. I note that on page 11 of today's *Sydney Morning Herald* there is an extensive report about the union's work.

I will provide two real-life examples of how the proposed new State Government tax will impact on people in the community. The first example is of a three-bedroom fibro house at Arncliffe with a market value of around \$950,000 and a July 2016 unimproved land value assessment of \$635,000. It is estimated that the 2017-18 fire and emergency services levy on the property will be \$264. This home owner paid \$235 in their 2016-17 home and contents insurance, which leaves them about \$30 worse off. The Government relies on an average figure of \$186 as being the impact of this legislation but the family in the example I have just given will be \$78 more worse off than the Government has claimed. In the second example, a three-bedroom fibro house in Oyster Bay with a market value of around \$900,000 and a July 2016 unimproved land value of \$635,000, the 2017-18 fire and emergency services levy on the property will be \$248, less the \$50 pensioner discount. That

makes a total of \$198. This pensioner home owner paid a levy of \$137 in their 2016-17 home and contents insurance policy, which leaves them \$61 worse off. Once again, there is a disconnect between this real-world example and \$186 average figure that Government members keep repeating.

Lastly, let us consider a couple of local government areas. In the Kiama local government area, where the average unimproved land value is approximately \$464,000, the fire and emergency services levy under this legislation will be approximately \$220—\$34 more than the Government's stated average of \$186. In the Penrith local government area, where the average unimproved land value is approximately \$360,000, the fire and emergency services levy will be approximately \$200—\$14 more than the Government's average. I will give one final example—chosen completely at random of course. Under the average unimproved land values for Gosford, the fire and emergency services levy will come to approximately \$200. That is \$14 more than the average of \$186 that the Government claims. We can see from those examples that using a claimed average can mask the real-world and adverse consequences of such a significant shift as is embodied in this legislation.

Those opposite may claim that it is only a small amount—and to them it may well be. But to families and vulnerable people that money can mean one fewer school excursion, one fewer tank of fuel, no new school shoes for growing feet or no medications purchased for one month. These are the real-world cost pressures faced by everyday families. Those people are at risk under the legislation in its current form if stronger safeguards are not put in place. I will return to that issue later. The bill mandates the proportion that householders and our families will pay. It even mandates the proportion that local councils are required to pay. What the bill does not do is mandate the proportion that the State Government has to pay. It is of some concern that there may be further "mission creep"—if I can use that term—pushing the burden more onto individual households and off the State coffers. That is cost shifting, which local councils are only too experienced with.

As I indicated earlier, the Opposition has several amendments that will improve the bill. The Opposition still has significant concerns about the nature of the levy and the checks and balances that the Government is putting in place during the transitional phase. Our mission is to look after citizens and try to get the balance right in terms of the economy, society and the broader environment. However, we envisage some issues. Transitional issues will present difficulties in the reform process. For example, people purchasing or renewing insurance up to 30 June this year will be paying the emergency services levy for the 2016-17 financial year. Having just paid the old levy, they will then, in the new financial year, receive a rates notice that will require payment of the new fire and emergency services levy for the 2017-18 financial year. That is two annual payments that will be separated not by 12 months, but by a much shorter period. There is a risk of double payment unless the insurance companies take great care. The Opposition has received a significant number of representations from people who have paid their insurance premiums and are concerned that they will take a double hit when the rates come in.

The advice our side received from Treasury is that the insurance industry is aware of the issue and is seeking to address it by progressively absorbing much of this year's levy payment for policies taken out in the latter months of this financial year. This aims to avoid dramatic price changes between policies renewed on 30 June and on 1 July 2017. If it is not addressed, this aspect of the scheme will impact upon many of those who have taken out insurance in the lead-up to the introduction of the new scheme. I ask the Government to explain in detail how it intends to address this transitional issue to ensure that the people whom it claims to be helping will not be worse off in the crossover period. It is this bitter aftertaste that we are concerned to avoid. It would be a bitter aftertaste for many residents in this State, many of who are struggling already with cost-of-living pressures and who may be forced to pay a property tax with no real, long-term guarantee that insurance premiums will come down. We know that those in the insurance industry are always the winners in these situations.

The job of responsible government whenever dealing with a new tax to fund a service is to put in place a scheme that introduces the tax not only as efficiently as possible but also as fairly as possible. We are concerned that we may see a big win for some of the State's larger institutions, such as electricity transmission company TransGrid, motorway project WestConnex and the Sydney Airport Corporation—none of whom will pay the new levy under this legislation. Even the Government appears to have cashed in, reducing its contribution to our frontline services. We are concerned that not only will those who can least afford it be hit by this State Government's "great big new tax"—to quote a former Prime Minister—but the long-term oversight of the insurance industry and the even longer term challenges presented by climate change, for example, will mean there is a bigger impact on our community and even more pressure on our emergency services to respond to disasters and accidents.

The Opposition doubts whether the Government has thought through this new scheme sufficiently. The amendments proposed by the Opposition are designed to bring greater accountability, fairness and transparency to the new fire and emergency services levy. As I indicated at the outset, if the Government refuses to accept considered and positive amendments offered in the spirit of cross-partisanship, the Opposition will oppose the legislation if it is not changed. I look forward to the response of those opposite as well as finding out whether the

Government genuinely wants to improve the bill and, more importantly, what it has to say about some of the issues to be raised by Labor.

In conclusion, I indicate that Labor has 20 amendments to the legislation. The first one deals with the description of the levy. Amendments Nos 2, 3 and 4, which I intend to move together, deal with the major government entities that will not be making a contribution to public wellbeing under the legislation—WestConnex, TransGrid and the Sydney Airport Corporation. Amendments Nos 5 to 12 and 14 to 20 deal with extending the insurance monitor's period of responsibility and the issue of potential overpayment and how that should be dealt with, giving greater security to the community regarding possible concerns about the insurance industry. They are important amendments that I will also seek to move together. Amendment No. 13 deals with a proposed statutory review of the legislation before the House. I look forward to considering the bill in some detail later this morning.

*[Business interrupted.]*

#### *Visitors*

### VISITORS

**The PRESIDENT:** I take this opportunity to welcome to the Parliament and to the Legislative Council student leaders from high schools in New South Wales who are attending the Secondary Schools Leadership Program conducted by the Parliamentary Education unit. I trust that you will not only learn from your experience today but also enjoy your time at Parliament House. I am sure all honourable members join me in welcoming you to the Legislative Council.

#### *Bills*

### FIRE AND EMERGENCY SERVICES LEVY BILL 2017

#### Second Reading

*[Business resumed.]*

**Mr DAVID SHOEBRIDGE (11:43):** On behalf of The Greens, I indicate that we oppose the Government's Fire and Emergency Services Levy Bill 2017. We oppose it because the Government's legislation offers a billion-dollar gift to the insurance companies, which will be paid for primarily by ordinary mums and dads and residential owners across New South Wales. Let us be clear that this bill lifts a levy on insurance and transfers that obligation—those hundreds of millions of dollars that are currently obtained through a levy on the insurance industry—squarely to ordinary residential property owners across New South Wales. It is a gift to the big insurers, who have been after this for years. They have persuaded other State governments that they should lift the tax on insurance. Insurance companies seem to be much more persuasive in their negotiations with governments than ordinary mums and dads and residential property owners.

The big insurers have persuaded other State governments to lift the levy on insurance. New South Wales was the last bastion. It was the last place where the insurance companies paid their fair share for the provision of services to protect life and property. But obviously they have got in the ear of the Coalition Government, which they did first in 2012 when the original reform proposal was announced. At the time the Coalition Government proposed an even more unfair scheme than the current one. Let us be clear about what the bill is. If the Christian Democratic Party, the Shooters, Fishers and Farmers Party, and the Coalition Government vote for it, they will be voting for a huge tax cut to the insurance industry and the transfer of that burden primarily to residential property owners across New South Wales.

This is a great big new tax on ordinary residents and it is a great big gift to the insurance industry. It has been dressed up as some sort of equity issue: "Isn't it unfair that people who do not have insurance do not pay an appropriate amount of money for the fire brigade?" There are two answers to that. First, providing a fire brigade and fire and emergency services is a fundamental responsibility of government and should not depend upon capacity to pay. Linking the two is part of the Government's ugly neoliberal agenda: "If you do not pay, you should not get the service." It goes straight back to imperial Roman times, when Crassus provided the fire brigade. His team would turn up when the villa was burning down and say, "We have got the fire brigade out here. We would like to buy your villa from you." The owners would ask, "What is the price?" and Crassus' team would offer 50 per cent of the value. The home owner would say, "That is outrageous—50 per cent of the value!" The villa would keep burning and then Crassus would say, "We will offer you 40 per cent of the value." That was the way he achieved a very substantial property portfolio in ancient Rome, and that kind of neoliberal agenda is exactly what this Government pursues: "If you do not pay, you should not get the service."

The Greens have a fundamentally different view. We believe emergency services should be provided regardless of capacity to pay. Indeed, emergency services such as the fire brigade are a core responsibility of government and should be provided across the board. Instead, this Government proposes with this particular bill to put an even more unfair burden on residential property owners. We believe the provision of emergency services is a core responsibility of government and should be provided regardless of capacity to pay. The second argument that the Government uses is that there are these so-called "freeloaders" out there—the 5 per cent of people who have residential property and do not insure it. The Government says they are freeloaders because they are not paying the levy.

The Government describes the close to 40 per cent of property owners who do not insure their contents as freeloaders who are not paying their way. Let us be clear about the kinds of budget decisions people in those circumstances are making. Anybody who can afford to insure their property does insure their property because they realise it is an investment of multiple hundreds of thousands of dollars, or maybe more than \$1 million for some people in Sydney. If a person has the financial capacity to insure, they insure. When it comes to home and contents, ordinarily anyone who has the capacity to insure would insure.

So who are the people who are not insuring their properties or their home and contents? It is those people who simply do not have the money to do so. It is people who cannot afford to pay the insurance. Rather than saying, "Even if you cannot afford insurance, of course you should have the fire brigade and emergency services," the Government's response is to find a new and novel way to tax those people who cannot afford it. That is the deep inequity that lies at the core of this bill. The Government is looking for people it calls freeloaders. The Greens know that these are people simply trying to get by and they do not have the money to pay for insurance. To target them to squeeze an extra \$20 million to \$50 million across New South Wales is base and ugly politics from the Government. The bill proposes to change how fire and emergency services are funded. It will abolish the emergency services insurance contribution scheme, with a levy on insurance products, and introduce instead a big new tax that will apply to all land across New South Wales.

Of course, when I say "all land" there is an exclusion for State government land and for Commonwealth land—because the Government has not worked out a way to tax Commonwealth land. But there is also one other project that is excluded: a public-private partnership run primarily by a large private corporation. The Government has gone out of its way to exclude WestConnex, the private toll road, from the levy. The ugly highlight of this Government's agenda is that not only is it privatising our infrastructure but it is now giving the owner of that privatised infrastructure a free ride on the levy. Who will have to make up the shortfall if WestConnex does not pay its fair share?

The shortfall will be made up primarily by those long-suffering residential landowners in Sydney, who are already next to financially crippled by paying their mortgages. This great big new tax brought in by the Coalition Government will commence on 1 July 2017. Obviously some strategic genius in the Coalition Government thinks a great big new tax nine months out from a State election is somehow politically attractive. I do not know who does the Government's strategy planning, but this person obviously thinks a statewide, across-the-board, massive new tax that kicks in on 1 July 2017, nine months out from the State election, is a good idea. Whoever thinks that is a good idea—

**The Hon. Robert Brown:** Michael Photios.

**Mr DAVID SHOEBRIDGE:** I acknowledge the interjection. Poor old Michael Photios gets a very bad rap, does he not? I would suggest it is some genius in Cabinet who thinks a great big new tax—

**The Hon. Niall Blair:** Are you going to the polls next year?

**Mr DAVID SHOEBRIDGE:** I am sorry, 18 months out from a State election.

**The Hon. Niall Blair:** Are you going to the Senate?

**Mr DAVID SHOEBRIDGE:** They have found me out! But they will be pleased to know that I so love Sydney that I will be staying here—if I can afford to stay in Sydney. This great big new tax is a grand plan from the State Government. What will it actually mean for property owners around Sydney? The Government is citing an average levy of about \$186 for property owners in Sydney. How much comfort will that offer to those who live in the central Sydney area? I am talking about the inner west, Parramatta, Canterbury-Bankstown, Burwood, Canada Bay, Hornsby, Ku-ring-gai, Ryde and Strathfield. In that area property owners will have to pay an average property levy of \$361—almost double the \$186 that the Government says will be paid. I am grateful to the Fire Brigade Employees Union [FBEU] for its analysis of the proposed levy, which I am quoting from.

For property owners in Sydney's east, which is Bayside, Sydney, Hunters Hill, Georges River, Lane Cove, Northern Beaches, Mosman, North Sydney—where by-elections are about to happen—Randwick,

Sutherland, Waverley, Willoughby and Woollahra, the average levy is not \$186, which is what the Government is trying to spin in an attempt to throw dust in the eyes of voters in the lead-up to by-elections, but \$471. That is more than double what the Government claims. The Government has said, "Don't worry, people in Sydney's west will be taken care of". That is not true. The average levy on a residential property in Sydney's west, which is Blacktown, the Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and The Hills—I note that many people would argue whether the Blue Mountains is in Sydney's west; it normally is if it wants funding from Sydney's west but not when it is thinking about the Blue Mountains' identity.

**The Hon. Adam Searle:** Are you slighting the people of the Blue Mountains?

**Mr DAVID SHOEBRIDGE:** No, I admire the way in which the people of the Blue Mountains have a malleable identity.

**The Hon. Adam Searle:** It's diversity.

**Mr DAVID SHOEBRIDGE:** Yes, it is diversity. In Sydney's west the average levy will be not \$186 but \$224. Of course, some households will pay substantially more than that. So who benefits? A good test of the motives of the State Government's legislation is to work that out. In the case of this bill we know it is not going to be residential property owners, because they will have to pay a great big new tax. It is probably not going to be rural property owners, who will pay a similar share to what they pay now. There are two interest groups that benefit. Those who own commercial land will enjoy a substantial saving and will continue not to pay their fair share of the emergency services levy.

The industry that is smiling like the Cheshire cat and saying to the Coalition Government, "Thank you so much for monsterring voters and giving us a \$1 billion gift", is the insurance industry. The insurers are getting an entire tax waived and they can sell more products while paying less tax. Why should the insurers pay the levy? It makes sense for insurers to pay the levy on fire brigades and emergency services because every time the fire brigade turns up and puts out a fire in a commercial property or prevents a property in the central business district from burning down, it saves the insurance industry a huge amount of money. Every time the fire brigade saves a residential property from burning down, it saves the insurance companies a huge amount of money.

**The Hon. Shayne Mallard:** That's seventeenth century thinking.

**Mr DAVID SHOEBRIDGE:** I acknowledge the interjection, but that is not true. Indeed, at the beginning of the twentieth century, before we had a rational approach to fire brigades in New South Wales and before we ran a single public fire brigade in New South Wales, the fire brigade in this State was run by the insurance companies. The brigade would turn up at a fire and unless the building had a plaque on the front stating that it was insured by ABC Insurance Company, the fire brigade would say, "Sorry, this building is not in the contract and we are not going to save it". The insurance companies realised, and continue to realise, that they gain a huge benefit from the services provided by fire brigades. Insurance companies were not providing fire brigades because they were nice guys. Insurance companies were providing fire brigades—and should pay for fire brigades—because having fire brigades saves them money in the long term.

However, instead of the insurers paying for the service that saves them money, this Government says, "No. Ordinary mums and dads, residential property owners should pay twice—they should pay for their insurance and they should pay a separate levy for the fire brigade to further bolster the profits of insurance companies". That is the kind of wrong-headed thinking that is driving the Coalition Government's ugly, pro-insurance agenda. The FBEU provided all members with a detailed briefing about the union's thinking on this levy. The union has an interest in this issue—it is pretty much the specialist on providing emergency services in New South Wales. It represents an amazing bunch of people, who bravely put their lives on the line in putting out fires and saving property and life in New South Wales. They know what they are talking about.

**The PRESIDENT:** Order! I call the Hon. Dr Peter Phelps to order for the first time.

**Mr DAVID SHOEBRIDGE:** The FBEU made a series of key points in its briefing documentation. The first is: The current system is not a levy on individual insurance policies, rather a levy on insurance companies. Not all insurance companies express this levy (which is simply another cost of doing business) as a levy on their policy holders.

So it is wrong to suggest that this is an individual levy on policyholders. It is a levy that the insurance company has to pay, and the insurance companies themselves choose how much they will levy individual policyholders. But the tax is a tax on the insurance companies, and it is quite rightly a tax on the insurance companies because they benefit from the service. The Fire Brigade Employees Union [FBEU] also says:

The Government's Emergency Services Property Levy [ESPL] is a brazen attempt at cost shifting from big business to the community, transforming insurers from major funders of the Rural Fire Service [RFS], Fire and Rescue NSW [FRMSW] and the

State Emergency Service [SES] into the greatest "free-riders" of them all insofar as they will remain major beneficiaries of these services without contributing to them at all.

I say again: We can just picture the insurance industry with its huge Cheshire cat style grin sitting over there on the Government benches. It is grinning away at this amazing billion-dollar victory that it will have as a result of this legislation. The FBEU then says:

Any new funding model must remain response to the funding needs of the services and ensure that any revenue is used solely for the purpose for which it is raised.

Given there is no levy for Police or Ambulance services, why should there be a levy (land based or otherwise) for fire services?

I think that is pretty fair. Why are fire services being treated differently to ambulance and police services? Everybody agrees that core emergency services, apart perhaps from an ideological minority, provided by the State Government include ambulance, police and fire services. Yet for some reason this Government is stuck in a nineteenth century view, or rather an ancient Roman view, of user-pays for fire services. These should instead be part of the core services provided by consolidated revenue in New South Wales, and paid for partly by consolidated revenue and largely by the insurance companies, who get the benefit of these services.

The bill provides that the relevant proportion that will be paid by the different property sectors is as follows: public benefit land is only paying a fraction, about one-third of 1 per cent; farmland is paying a little under 5 per cent, and that is not dissimilar to the call-out rates for farmland; industrial land is paying about 10.4 per cent; and commercial land pays about 26.66 per cent. Residential land is where they whack the levy. Residential land will be paying 58 per cent of the property levy on this. So let us compare that to who actually uses the system. Under the current system, before this new levy, residential owners are paying just 45 per cent of the levy. The Government now wants them to pay 58 per cent of the levy. We would think, therefore, that if we have a look at the call-out rates then we would see that the Government is simply matching the funding contribution to the call-out rates.

So who is using this service? If this is based on a user-pays idea, then who is using the service? In fact at the moment residential users comprise only 34 per cent of the call-outs. Yet they will be asked to pay 58 per cent of the levy. They account for 34 per cent of the call-outs, but they will be asked to pay 58 per cent of the levy. Industrial and commercial users make up 55 per cent of the call-outs, but they are being asked to pay only a little over 37 per cent of the levy. This is a huge cost shift to the residential owners, who make up only 34 per cent of the call-outs but will be paying 58 per cent of the levy, from the business owners, who account for 55 per cent of the call-outs but are being asked to contribute only 37 per cent of the levy. It is even worse than that because the capital investment required to deal with residential fires is much smaller than the capital investment required to deal with commercial fires. [*Time expired.*]

**The Hon. SHAYNE MALLARD (12:03):** I support the Fire and Emergency Services Levy Bill 2017 and this long-overdue reform of how we fund fire and emergency services in our community—with a more equitable, transparent and sustainable funding model. I grew up in Penrith in the shadow of a magnificent heritage house called Werrington House, which was built by Governor King in the late 1820s. My lifelong friend Oliver von Wilpert lived there and I remember spending many happy days at this oasis in suburban Western Sydney. The reason I mention this is that it fascinated me that on the exterior wall above the kitchen entry to the house there was a large plaque. It is still there today. Shaped like a shield, it proclaims which insurance company insured the house and which fire brigade was contracted to attend any fire. How chaotic and, frankly, uncivil that system must have been.

It seems a logical evolution that at some point the decision was made by government to provide a universal fire and emergency service and to fund it via the insurance companies, who, as we have heard, stood to benefit at the time. But of course those paying for the vast majority of the service were in fact those taking out insurance. I was not aware of this hidden tax in my insurance policy until discussion about this legislative reform commenced several years ago. It is a hidden tax in our insurance premiums, and I am sure that I am not alone in the community in recognising that this is not a transparent way of funding a fire service.

In February during the period of catastrophic fire danger in New South Wales—and thankfully it was not as bad as we expected, although there was some destruction in the south—the State Government deployed a fire task force to Katoomba. On that searingly hot and dangerous weekend, I greeted six fire equipment crews, including a tanker, several engines and a command vehicle. They parked right outside my semi-rural bushland home in the Blue Mountains. It reinforced to me how much we rely upon the fire services, as we heard also from the Leader of the Opposition in this place, in the Blue Mountains and why everyone should contribute based on the value of their land and not just on their insurance. As mad as it seems to me, a lot of people in the Blue Mountains, probably including some of my neighbours, do not have insurance. This reform will address that

inequity and spread the burden, if not the obligation, to fund our fire and emergency services across all property owners.

I turn now to the role of local government in this reform because there has been some misrepresentation about the role of local government in this process. Councils will undertake a range of functions to implement the Fire and Emergency Services Levy [FESL], including classifying land for purposes of the levy as residential, farmland, industrial, commercial, public benefit and Government land; providing the levy land classification and pensioner data to the Valuer General; advising property owners of their levy classification; applying the levy on rates notices; collecting the levy revenue; and transferring the levy revenue to the NSW Office of State Revenue. Councils will also take debt recovery action against landowners who have not paid the full amount of the levy and respond to questions from the community about the levy. These responsibilities reflect considerable consultation over the past several years.

Consultations began in 2012 when the Government conducted a four-month public consultation process on options for funding the Fire and Emergency Services Levy. Some 65 submissions were received from local Government and regional groups of councils, covering 119 councils. More than 70 per cent of the submissions received from local government supported moving from a levy on insurance to a property-based levy. So local Government itself supports the transfer of the levy from insurance policies to a property-based system. Throughout 2016 the Government engaged in confidential consultations with Local Government NSW and council representatives on levy implementation issues. We did not reach agreement on all issues, but the legislation was improved through this consultation process.

Some of the policies introduced in the Fire and Emergency Service Levy Bill reflect this consultation. The legislation provides that the fire and emergency services levy must be identified on rates notices as the "New South Wales Government Fire and Emergency Services Levy". So it must be clearly identified on rates notices as a levy from the State for fire and emergency services. The Government is taking full responsibility for the FESL and is not hiding behind rates notices. Councils will continue to be responsible for making direct contributions equal to 11.7 per cent of the cost of fire and emergency services. I point out that that is currently hidden from ratepayers in their rates. This amount will be communicated before the financial year begins. At present, under the system we inherited from Labor, the amount is communicated midway through the financial year, which can present budgeting difficulties for councils.

The FESL classifications for residential and farm land will have the same definitions as those used for council rates. The goal has been to simplify administration for councils as far as possible. Where the Valuer General reassesses land values as a result of a successful objection by a ratepayer, councils will be able to recover any lost rates revenue. At present, this recovery is limited to rates revenue associated with the landowner who makes the successful objection. The FESL legislation allows recovery following any reassessment, including neighbouring properties, that might be revalued following a successful objection. The Government recognises that the FESL is a significant new responsibility for councils. Given that, it is providing a range of support mechanisms, including reimbursing councils for all reasonable costs of FESL implementation. It is important to emphasise that point: This is not cost shifting; the Government is reimbursing councils for that cost.

As a former councillor, I acknowledge the benefit of developing this structure and the importance of the data that will be collected, which will be valuable in other areas of councils' operations. The Government is also conducting a series of webinars and training events; providing on-the-ground support for councils, where necessary; providing a web-based council portal with a range of resources available for council staff; facilitating the revision of council software through detailed discussions with eight software vendors; answering council questions; and providing support at the working and senior levels through site visits to all councils, regional meetings of mayors and general managers, and regional meetings of revenue professionals.

Given all this consultation with local government going back to 2012, and given that, as members have said, the legislation requires the levy to be clearly identified on council rate notices as the State Government fire and emergency services levy, and the Government is covering the cost of administering the levy, which will provide further benefits to councils, I was surprised to read in the *Blue Mountains Gazette* that the mayor is playing politics on this issue. I think we are also witnessing that from The Greens. The mayor, Mark Greenhill, is quoted in the 15 March edition of the newspaper as stating:

The NSW government is about to hit the people of NSW with a tax which will impact the residents of the Blue Mountains.

The method of introducing this tax is sneaky in that they are using rates to collect this payment, thus making it look like the extra cost is a council increase when, in fact, it has nothing to do with council.

I point out that this council increased its rates by 10 per cent. It has \$44 million of debt, and only a few months ago it gave \$130,000 to the campaign against the Western Sydney airport. It certainly seems to have its priorities right! The mayor went on to state:

... council will be making it clear on ratepayers' bills who is responsible.

The legislation requires councils to do that. Perhaps the mayor should read it. Doh! That is a Paul Keating term. He continued:

We will look at ways of making it clear on the rates notice that this is a state government impost.

The Government is ensuring that councils let their ratepayers know that. He then stated:

We need to support the bushfire effort.

I am glad he added that, because the Blue Mountains community relies heavily on our emergency services. He continued:

But the government needs to be upfront about this.

Thankfully, the article provides some balance by stating that Minister Perrottet's office has responded. It states:

Currently three-quarters of the annual \$950 million cost of funding Fire and Rescue NSW, the Rural Fire Service and the State Emergency Service is funded via a tax on insurance companies, passed onto customers via higher premiums.

I congratulate the journalists on including that in the article. Members would know that Mayor Greenhill withdrew funding for Anzac Day marches in his local area, and as a result the local RSL cancelled its commemorations. The article goes on to state:

Cr Greenhill said ratepayers in Ward 4—Glenbrook, Lapstone and Mt Riverview—

which are all in the marginal seat of Penrith—

would be hardest hit ...

That is the essence of the political campaign. Councillor Greenhill and the Opposition are playing politics with the safety of our community and the protection of our properties. Perhaps we should look at the behaviour of some councillors in respect of the administration of this levy. The key point of difference remains that local councils will continue to be responsible for making direct contributions equal to 11.7 per cent of the cost of fire and emergency services. That is not now identified in our rates. That is hidden by Mayor Greenhill, along with the 10 per cent rate increase and the \$130,000 contributed to the Western Sydney airport campaign.

Many councils argue that this direct contribution should be included in the FESL. However, it already forms part of councils' rate structures. Accordingly, there would be no financial benefit to landowners from changing it. Unlike insurer contributions to the emergency service levy, council contributions are not separately itemised on rates notices. As a result, it would be difficult for landowners to compare their FESL liabilities with the changes in their council rates and insurance premiums. This is simply a cost transfer by councils. This reform will not establish a new levy because people already pay for fire and emergency services through the insurance system. Rather, it will establish a fairer levy because every property owner will contribute to funding our fire and emergency services. I commend the bill to the House.

**Reverend the Hon. FRED NILE (12:15):** The Christian Democratic Party supports the Fire and Emergency Services Levy Bill 2017, which abolishes the insurance-based emergency services levy and establishes the fire and emergency services levy. On 10 December 2015, the Government announced its intention to abolish the insurance-based emergency services levy from 1 July 2017 and to replace the revenue with the fire and emergency service levy. A review of emergency services funding was a 2011 election commitment made by the Coalition Government, which conducted four months of public consultation on the issue during 2012. The Opposition opposes this legislation and I note its spokesman's remarks.

It is interesting to consider what is happening in other States. Queensland abolished its insurance-based levy in 1984 and replaced it with a property-based levy, South Australia did the same in 1999, and Western Australia followed in 2003. We hear a great deal about what is happening in Victoria under Premier Andrews. Victoria recently responded to the 2009 bushfire royal commission by abolishing its insurance-based levy and introducing a fire services property levy in 2013. These reforms have been initiated and supported by both Labor and Coalition governments across Australia.

In Victoria, the most recent State to transition to a property levy, the reform received bipartisan support. Victoria's legislation passed through both Houses of its Parliament with absolute majorities. Given that, New South Wales is behind the other States in introducing this reform, which will align our State's legislation with legislation in other States, including Labor States. A detailed submission was lodged by the Fire Brigade Employees Union expressing concerns about the legislation. I have been given copies of letters sent to the three organisations involved in providing adequate protection of properties in this State. A letter signed by Treasury Secretary Rob Whitfield on 22 March addressing some of the concerns raised by Fire and Rescue NSW states:

The implementation of the provisions of the FESL Bill will have no detrimental financial impact on the Rural Fire Service. Expenditure controls will continue to be set by Government through the Budget process and cash flow funding will be made available by Treasury to allow the Rural Fire Service to meet these approved Budget expenditures. That letter was written to the Commissioner of Fire and Rescue NSW. Another letter was sent, also on 22 March, to the Commissioner of the NSW Rural Fire Service making the same point—that implementation of the provisions of this bill will have no detrimental financial impact on the Rural Fire Service. A letter was also sent to the Commissioner of the State Emergency Service. One section of that letter states:

The implementation of the provisions of the FESL Bill will have no detrimental financial impact on the NSW State Emergency Service.

Further detail in that correspondence, hopefully, will remove any of the concerns that those three very important organisations have had, possibly because of misinformation, which has now been clarified. The legislation is the result of detailed consultation. When moving away from the insurance-based emergency services levy, it does not make sense to have a system that discourages people from buying insurance, thus leaving them exposed to catastrophic financial risk from fire and other emergencies. It is important that we encourage everyone to take out their own insurance, both on their properties and on their contents.

I have noted with some of the other briefing papers that a percentage of people do not take out adequate insurance on their property, but worse still, many people do not take out insurance on their contents in their homes. When the home is burnt down, they are in serious trouble in not only replacing the house but also their contents. I believe that this legislation, in line with the other States, is a forward move and in line with what Labor States have done. It will bring New South Wales into line with the other States in the Commonwealth for the benefit of the residents of New South Wales. I support the bill.

**The Hon. PETER PRIMROSE (12:21):** The Fire and Emergency Services Levy Bill 2017 proposes a new way to fund the essential work that our fire and emergency service providers deliver to the people of New South Wales—Fire and Rescue NSW, the Rural Fire Service and the State Emergency Services. Before I begin my detailed contribution to debate on the legislation, I must say that I continue to be taken aback in this place by the continued attack by Liberal and National Party members in this place on local government. This morning we again heard criticisms of local councils. Last night we heard endless criticisms of local councils from Coalition members. Clearly, local democracy is getting under their skin.

I express my gratitude to emergency service workers and volunteers across the State. These emergency service workers make sacrifices to serve the community in times of great need—from scorching heatwaves to flooding rains. Emergency service workers do not seek praise, but respond to the call of the community when it is confronted with nature's and indeed human's unforgiving adversity. We support the principle of moving from an insurance levy to a land levy which, in theory, should be fairer, as everyone benefits from these essential services. Funding for these services should not merely be borne only by those who purchase insurance. As Reverend the Hon. Fred Nile indicated, this is a principle and a policy that has been adopted by governments throughout New South Wales.

**The Hon. Michael Gallacher:** Throughout Australia, not just New South Wales.

**The Hon. PETER PRIMROSE:** Throughout Australia. We are not opposed to that principle, but what we want to examine is how it is implemented in this legislation, and hence our amendments. Public benefit land, residential land, farmland, industrial land and commercial land will all be subject to the levy. To calculate the levy, different base rates and ad valorem rates are applied depending on the classification of the land. Government land or land owned by a State-owned corporation are exempt from the levy unless, with a few exceptions, the land is leased. Councils will be responsible for recovering the levy along with the rates and charges that they levy under the Local Government Act 1993 and will then pay the levy to the Chief Commissioner of State Revenue. The levy can be paid by landholders as a single instalment or by quarterly instalments. The new scheme is set to begin on 1 July 2017.

A separate but related piece of legislation is the Emergency Services Levy Insurance Monitor Act 2016—a very important piece of legislation—which created the Emergency Services Insurance Monitor role, which is to provide advice and guidance to consumers and the insurance industry to ensure that insurers genuinely phase out the insurance-based levy during the transition to the property levy. From July 2017, the New South Wales Liberal and Nationals Government want every local council to collect a new State Government tax for them—the Fire and Emergency Services Levy. This is a new State Government tax that will be included on all council rate notices. At the moment, three-quarters of the annual funding to Fire and Rescue NSW, the Rural Fire Service and the State Emergency Services is funded via a tax on insurance companies.

In introducing this bill the Government says that for fully insured homeowners, the fire services levy contribution is estimated to drop from an annual average of \$233 to \$186 for a saving of \$47 a year. The precise amount charged to each landowner, however, will be determined by the size of each year's emergency services budget. In effect, homeowners will not know exactly how much they will pay until after 1 May this year and that

is only two months before its implementation. In trying to unpick the impact of this bill, especially for families, the Fire Brigades Employees Union put together modelling using the formula in the bill, and the clear message is that this legislation cost-shifts the burden onto families.

For example, in the former Parramatta local government area, based on the most current unimproved land value data from the Valuer General's online database, residents will be expected to pay, on average, around \$323 for this levy. In the Blacktown local government area the average is likely to be \$214, and in The Hills local government area, \$324. Using the Government's own average of \$186, it has estimated that with the fire and emergency services levy—the new State tax—families will be worse off from \$28 to \$138. As my colleague in the other place, the member for Keira, Ryan Park, mentioned in his contribution yesterday:

Those opposite may say that it's only a small amount—but to these families that amount of money means one less school excursion, one less tank of fuel, no new school shoes for growing feet, or no medications for one month.

The work of the Fire Brigades Employees Union modelling also shows that owners of residential land with an unimproved land value of around \$500,000 or more will pay more under the fire and emergency services levy than they are now under the current insurance-based scheme. Let us put that in context. The average unimproved land value for greater Sydney is \$903,000. This levy cost-shifts who bears the brunt of the new State tax—shifting it to the residential sector—or families, loved ones and neighbours. In terms of the existing emergency service levy arrangements, paid for by the insurance companies, families funded 45 per cent, and business funded 49 per cent. This is in no way reflected in the proportions in the bill of which sector will pay for this levy—where the residential sector has been mandated to pay approximately 58 per cent, and businesses and commercial sector just under 27 per cent. That is a significant change. It is shifting the cost to ordinary families.

The Fire and Emergency Services Levy Bill does not reflect the risk faced by each sector or the cost of emergency services used by those sectors. For example, in 2012, a New South Wales discussion paper reported the incidents by property sector were—residential 34 per cent, business 55 per cent, and rural only 7 per cent. Once again, this is in direct contrast to the bill, which apportions the cost of the new State Government tax as follows: residential, 58.07 per cent; commercial, 26.66 per cent; and the rest is the land categories.

It is particularly interesting that the State Government has mandated in the bill, and is trying to enshrine in this legislation, that families, small businesses, farmers and everyone who owns a piece of land in New South Wales will be required to pay. In fact, it specifies that local councils will have to continue their own contributions of 11.7 per cent. We must understand that local councils already pay through rates money and they will continue to pay under the bill. The bill is silent on mandating an amount or proportion that the State Government is to pay. In effect, the bill requires, even mandates, that everyone other than the State Government is to pay a share of the fire and emergency services levy. In relation to the 11.7 per cent that local government is continuing to pay, we understand that the peak body—Local Government NSW—is "dissatisfied with the New South Wales Government's failure to remove the 11.7 per cent levy on councils". I can understand why.

The State Government is requiring local councils to collect the fire and emergency services levy on its behalf and include it on council rate notices. I encourage all councils to point out in big, bold red letters that it is a new State Government tax and not of the council's making. I feel that I and other ratepayers are being asked to pay this levy twice through rates to the council, which not only includes the 11.7 per cent council component but also the State's new fire and emergency services levy. That is double dipping. I think that an essential element of dealing with a new tax to fund a service would be to put a scheme in place which attributes the incidence of the tax as efficiently and, importantly, as fairly as possible.

Instead, what those opposite have presented is a big win for the big insurers and a big win for some of the larger institutions in this State. TransGrid, WestConnex, and Sydney Airport will not have to make this contribution. Even the Government has cashed in by not legislating the proportion it should pay to help fund those important frontline services. The Opposition is concerned that not only will those who can least afford it be hit with the large new State Government tax but also that the long-term oversight of insurers and the longer term challenges presented by climate change will mean it will have a bigger impact on our community, and our emergency services will be put under more pressure to respond to disasters and accidents.

I stress that it is absolutely critical that the monitoring of this legislation continues after the date that is proposed in the legislation. We must trust the word of the insurance industry that it will do the right thing. Frankly, for those of us who were involved in the Law and Justice Committee when it inquired into compulsory third party green slips and workers compensation, we know the word of the insurance industry is not true. However, the Government did the right thing when it introduced that legislation and it put in place a monitor. It is absolutely critical that that time is extended so the community is given the assurance that it will not be ripped off by the insurance industry. The Opposition doubts if this Government has thought through the new scheme sufficiently. Our proposed amendments will bring greater accountability, fairness and transparency to this new levy.

**The Hon. MICHAEL GALLACHER (12:34):** I thank the Hon. Peter Primrose, the shadow Minister for Local Government, for clarifying that the Labor Party in fact supports the land-based levy concept not only here in New South Wales but also in other States. Using his words, not mine, he supports this levy and this big tax because the Opposition supports a land-based levy being introduced. In their words they support the concept of this levy but they are concerned about the detail. Let us not mix words. The Opposition supports the introduction of this land-based levy. They want to call it a tax, and they will try to frighten people in their homes yet again. Like Bill Shorten in 2017—let us frighten people. The fact is that the shadow Minister for Local Government put on record, in his calm, dulcet tone that the Opposition supports the land-based levy. Therefore, we will have no further discussion about the concept because they want only to talk about the details.

Let us bring on the amendments and we will have a look at them. I was a Minister at the time when this issue was being discussed. The current model is a good model for government because successive governments will be the beneficiaries of the good news that comes with the system. Counter to that is the argument that some people in the community are not paying their way. This bill is about having an equitable system. I fully understand that people in the community are concerned about its impact. That is why it is beholden on this Government, and it has given an undertaking, to continue to monitor the new levy to ensure that those protections and oversights are in place.

The good thing about this model is that the basic concept has been introduced in other States and, as Labor indicated, it supports the land-based levy. We learn from the experience of others. The arguments we are hearing, particularly the shrill arguments of The Greens, are the same as those that were parroted in other States. We can look at the evidence and learn from it. While we always have concerns about changing directions, we must gain confidence from the experience of others around the country and ensure that the necessary checks and balances are put in place. At the end of the day, the bill is about ensuring that the revenue stream filters through to our emergency service personnel, which includes volunteering professionals as well as paid professionals. They want to be certain that the levy will not change the way in which they operate because the Government will now have 100 per cent responsibility and accountability for how the money is spent. In the past, 75 per cent was paid by insurance companies who then recouped that money from those who paid insurance. The bill will introduce a more equitable scheme across the board.

Emergency service personnel are right to be seeking an assurance from government, which I am sure is being given to them. It is important to put on record that they have a secure budget going forward and that they will not experience any reductions. We will not see, for example, organisations carrying money over to the next financial year. In the past, that occurred in consultation with the insurance industry, but now that responsibility will be directly with Government. Volunteer-based organisations will still have the ability to carry their budgets forward should they decide to do that because they might have difficulties building new fire stations or in getting trucks up and running. Those organisations will seek to have that level of certainty. At the end of the day, the bill is about ensuring that everyone pays their fair share so that our emergency service personnel receive the best equipment, resources and support from Government that they possibly can.

It behoves some of the members on the opposite side of the Chamber to spend some time out in the electorate. I suggest that they travel down to Wentworth, as I have on a number of occasions, and meet the State Emergency Service [SES] personnel there. I went down there and asked them about the most simple things that they needed as opposed to the most simple things they got. If one listens to them one is compelled to give them the support that they need. In 2011, I met the people from Wentworth dealing with the floods in Taree. Months later I met the SES personnel again, further up the North Coast. In Wentworth they had heard the call and they walked away from their jobs and their families and headed north to help communities they did not even know.

**The Hon. Rick Colless:** Tell them where Wentworth is.

**The Hon. MICHAEL GALLACHER:** Those on the opposite side of the Chamber would not know where Wentworth is. They think it is in the Blue Mountains.

**The Hon. Greg Donnelly:** It is a long way.

**The Hon. MICHAEL GALLACHER:** It is a long way but they are great people. I visited the NSW Rural Fire Service [RFS] at a town called Gurley near Moree. I saw the looks on the faces of the RFS personnel when they were given a brand new fire truck—it was as if all their Christmases had been rolled into one. Why were they so happy to have the state-of-the-art fire-fighting equipment?

**Mr David Shoebridge:** To put out fires.

**The Hon. MICHAEL GALLACHER:** It was not simply to put out fires, as we hear from the member opposite. If he listens, David Shoebridge may learn something. Invariably the person sitting next to the driver of these trucks is a son, daughter, wife or neighbour. The drivers want to make sure that their loved ones who are

sitting beside them in the trucks, or helping on the hoses and the tools, have access to the very best lifesaving equipment to protect them whilst they do their job. We wish them well as they step away from their own safety and security to protect the rest of the community. During this debate about funding streams, it is important to recognise the beneficiaries of this funding, and we need to seek a guarantee that they are going to benefit. We need to ensure that they know that they are being heard as we debate this issue in State Parliament.

There is something which will not be addressed today, but which I think should be considered. I think there is an opportunity for some consolidation—particularly with respect to the RFS and the NSW State Emergency Service [SES]. The cultures are different but both organisations are made up of volunteers as well as paid personnel. I will put the RFS out of the discussion for the moment, but I think there is a need to look at the synergies that can be gained between the two organisations. I do not wish to consolidate them into one organisation because, in many ways, they have completely different cultures and a completely different focus, but there may be opportunities to gain synergies with respect to back-office operations. These synergies should be achieved not in order to save money but in order to return the money to the frontline personnel—to the battlefield of the fire or the flood, or the environmental conditions that these personnel are addressing.

We need to look at the opportunities to assist both organisations by having some consolidation. Now that the Government has 100 per cent responsibility for this it also falls to Government to have a really good look at supplying those people on the front line with more resources and newer equipment. We need to look at ways of doing that but we need to realise that it is not just about increasing levies; it is about looking for opportunities to improve resources. There has been some mention in this debate of the personnel of Fire and Rescue NSW. They are great people. I call on any member—especially on that date each year when you can call into your local fire brigade—to go and meet the personnel. They are great men and women representing our community.

**Mr David Shoebridge:** Increasingly women.

**The Hon. MICHAEL GALLACHER:** Those people are, increasingly, women. They do a fantastic job. They are incredibly well trained. The key to their success is their training. The same can be said for our volunteers. I do not split them up. I do not say that one group is a world leader or that they are better than the others. All of them are outstanding in what they do, and they should be looked at together. As a Government we should expect those emergency service organisations to do the best they can because they are being provided with public money. Some members might recall that a few years ago I made a decision in relation to the explosion of the overtime budget to take some steps with regard to what was known as "tolling". The response from Fire and Rescue was to take firefighting trucks off the line, to blockade State Parliament and Macquarie Street and to spray the front of the building.

**Mr David Shoebridge:** That was in relation to workers' compensation.

**The Hon. MICHAEL GALLACHER:** It was about a host of things.

**Mr David Shoebridge:** You are maligning them. You have it wrong. You should apologise.

**The Hon. MICHAEL GALLACHER:** They were concerned about those issues. They sprayed the front of Parliament House with fire hoses.

**The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile):** I ask Mr David Shoebridge to desist from interjecting. I remind him that interjections are disorderly at all times.

**The Hon. MICHAEL GALLACHER:** As I have indicated, using the hoses to spray Parliament House drew attention to the fact that this Government was prepared to expect the very best from all of our organisations. The Government expected those organisations to be prepared to debate the issues, not to stand out the front and try to clean the gutters with the hoses. This Government was resolute, and I continue to say that we have to sit down and talk to them about such things. Another issue I want to raise and will continue to raise—the Hon. Lynda Voltz has recognised it—is the role of Surf Life Saving NSW in all of this. It is not part of the emergency service debate at this stage.

**Mr David Shoebridge:** Point of order: A very large amount of leniency has been granted to this speaker to go well beyond what this bill is about, but now we have gone so far beyond that it is no longer relevant to the subject.

**The Hon. Lynda Voltz:** To the point of order: Surf life saving clubs are covered under the public benefit land component, and therefore it is relevant to the debate before the House.

**The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile):** The member may continue.

**The Hon. MICHAEL GALLACHER:** I thank the honourable member for her assistance. There is another issue that I would like both sides of the House to consider in the future—the role of surf lifesaving with

respect to the emergency service levy. When I became Minister one of the first things I tried to do was to get Surf Life Saving NSW onto the State Rescue Board. We all agreed that observer status was a starting point, but I think it is important that we recognise the role that Surf Life Saving NSW is increasingly playing in emergency services. That organisation therefore should be at the table in relation to this debate.

This is a perfect time to involve that organisation in discussions about the future of emergency services. When a person who is fishing along the coast falls into white water the NSW Police Force, Marine Rescue NSW and Surf Life Saving become involved. Surf Life Saving NSW become involved when emergency services are looking for a deceased person—someone who has drowned or fallen into the water. In those cases our surf lifesavers are dispatched to retrieve or rescue. It is extremely important that people understand that there is a distinction between the sporting aspect of surf lifesaving and the rescue and emergency services part of the organisation.

**Mr David Shoebridge:** Point of order: Surf lifesaving is not funded from this levy. Yes, they may have to pay a small amount of the tax based upon the 0.3 per cent of the levy, but this speaker is talking about the services provided by it, which are not funded by the levy. Therefore, it is not relevant to the debate.

**The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile):** There is an overlap, so I ask the member to continue and to clarify how the subject matter ties in with this legislation.

**The Hon. MICHAEL GALLACHER:** This legislation is all about emergency services. It is all about providing a funding stream to emergency services. Whether Mr Shoebridge likes it or not, the services provided by our surf lifesavers are emergency services. Surf lifesavers go into dangerous waters that the rest of us would run from.

**Mr David Shoebridge:** You have it wrong. They are not funded by this levy.

**The Hon. MICHAEL GALLACHER:** It is my argument that we are now discussing the funding for emergency services and that we also need to recognise that there is a need to consider bringing Surf Life Saving NSW to the table in relation to their provision of an emergency service. Do not let anyone tell you it is not an emergency service. For example, when 14-year-old Tui Gallaher went into the water at 8 o'clock at night at Maroubra in treacherous, dangerous seas, who was in the water first? Was it the police? Was it Marine Rescue? Was it The Greens? No. It was our volunteers from surf lifesaving on jetskis who were then called back in because it was dark and jetskis do not have lights. Surf Life Saving volunteers then put a rescue boat in with young Matthew Harper from Maroubra at the helm. Matthew tells me they were vomiting into the water for hours trying to—

**Mr David Shoebridge:** Point of order: Surf lifesaving does amazing work and perhaps should be funded by the Government under this levy. It is not being funded by this Government under this levy. The member is not speaking to a matter that is relevant to the debate.

**The Hon. Dr Peter Phelps:** You do not know if he is moving an amendment, do you?

**Mr David Shoebridge:** He is not, because he has not tabled one.

**The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile):** Order! The member will continue with his speech. I ask that he be relevant to the content of the legislation.

**The Hon. MICHAEL GALLACHER:** This whole debate about emergency services could have afforded an opportunity to consider how we can provide emergency services better to our community, rather than getting into the nuances of the debate. If we took that view with The Greens every other day, we would have about 15 minutes of contribution from them once a week. There is a lot of liberty given in debates, but this is an excellent opportunity for this Parliament to recognise that whilst we are debating the funding of emergency services, we can consider who should be at the table and have a part of that pie. Today I have taken an opportunity to put those things on the record because there may not be another chance. One thing I have found in politics is there may not be another chance. Today is the chance for me to put it on record.

I spoke about young Matthew Harper. I was told by him that as he and his volunteers were looking for this young boy's body they were vomiting into the water because the seas were so bad. I believe they should be at the table. I am saying to all sides, including The Greens, we should start to consider what we want our emergency service to look at. Do not just get into the detail in terms of where the Australian Labor Party is going with legislation but look at how we want to provide emergency services in future. There is a growing expectation. The State Emergency Service [SES] and the Rural Fire Service [RFS] have blossomed into our full-blown emergency responders. The RFS fights bushfires and does preventative work—it does outstanding mitigation work. The SES goes out into storms. In conditions in which everyone else is told to batten down the hatches, those people are there doing the job.

We also need to consider that growing aspect of surf lifesaving's operations. There are drones in the air to spot sharks, and jetskis and jet boats in the water—the latest equipment to provide a safe environment. If there was a natural disaster tomorrow and we were hit by a tsunami, the surf lifesaving people would be in that emergency service response. When Collaroy was hit by the seas only last year, it was the surf lifesaving clubs doing the sandbagging to protect the coastal fringe. I do not know why The Greens are so caught up on beating up on surf lifesaving being involved in this debate. It depresses me.

**Mr David Shoebridge:** Point of order. Mr Assistant President, first of all, you have not ruled on my earlier point of order. The member's comments appeared to be a response to the point of order. Secondly, the member is deliberately misrepresenting our position. We strongly support surf lifesaving. If he is going to talk about funding it, he should talk about it on a bill that actually funds it. This bill does not fund it and he knows it.

**The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile):** The member has almost concluded his remarks.

**The Hon. MICHAEL GALLACHER:** I have almost concluded. Sadly, I have run out of time. There were more things I wanted to put on the record about Surf Life Saving NSW. It is a wonderful organisation. I thank the Labor Party for clarifying its position in support of a land-based levy. That is very helpful. Sadly, I am probably not going to get a chance to talk about an amendment.

**The Hon. LYNDIA VOLTZ (12:54):** I was surprised at the contribution from the Hon. Michael Gallacher on the Fire and Emergency Services Levy Bill 2017 because I was going to raise surf lifesaving clubs myself. Surf lifesaving clubs along with my under-13 girls division 2 soccer team, churches, bicycle tracks and community centres will all be paying this levy. They will all be contributing to this levy because they have public benefit lands, while companies such as WestConnex, which cannot provide any documents to government because it is a private company, and Sydney Airport—which, as anyone who has parked there knows, makes megabucks out of the monopoly on the ownership of Sydney Airport—will not be. So I am surprised that the previous speaker spoke about surf lifesaving clubs and did not raise the fact that those surf lifesavers who go out there and rescue people, do the hard yards and spend their hours voluntarily on our beaches looking after people are now going to be paying this levy that big corporations such as Transurban will not be paying.

Why on earth is the Government introducing legislation that will require sporting complexes and sports clubs to pay a levy when it will not require big multinational companies that can well afford it to pay that same levy? Look at the participation rates of sports around the country and in particular in this State. This State said it was going to increase sporting participation by 10 per cent. It has dropped 9 per cent under this Government. Every parent will tell you that every year they turn up with their kids to play with a soccer, rugby league or cricket team, they are hit with more insurance costs and more fees. At my local club alone they pay \$32,000 a year just to use the fields for soccer matches.

**The Hon. Niall Blair:** Do they own the fields?

**The Hon. LYNDIA VOLTZ:** It does not matter whether they own the fields, mate.

**The Hon. Niall Blair:** It does in this bill.

**The Hon. LYNDIA VOLTZ:** It does not matter whether they own the fields because they will still be hit with the cost of the fields. Sporting clubs are already being hit with the cost of the fields and they will now be hit for the levies that are being placed on their sports club facilities that are on those fields. The Minister at the table might want to check out what is included in schedule 1 on public benefit lands and the list of organisations that are affected. He might want to check out the fact that local government lands are not exempted under this Act. Government lands are exempted but local government lands are not.

When we tried in this House to get the information on what WestConnex does and to ask what is going on, the information could not be provided because it is a private company and is not covered by applications under the Government Information (Public Access) [GIPA] Act 2009 and therefore everything has to be done in secrecy; yet under this bill WestConnex is exempt from the levy. Suddenly they are government lands under this bill. My under-13 division 2 girls are not exempt, but those big companies are exempt. Even though we are not allowed to know what they do because they are private companies and even though they are not covered by GIPA because they are private companies, this Government tells us, "This legislation is fine."

Again, I am surprised at the response of the Hon. Mike Gallacher considering that the shadow Minister said in the lower House, "We are not opposed to this legislation but we have concerns and we are asking for amendments." That should not come as a surprise to anyone because Labor is hugely concerned that those companies that can most afford to pay, Sydney Airport being a prime example, are not being required to pay. We are concerned that WestConnex is suddenly not a private company—which is the information we receive anytime

we have tried to apply for any information under GIPA—but is exempt under this levy when Surf Life Saving NSW clubs and churches are not.

My 92-year-old next-door neighbour who does not have insurance because he cannot afford it—and he is 92 and probably thinks some things are inevitable—is now going to be hit with a levy. Even though he has lived in that house for 60 years and it is probably a bit tatty, we now live on a street that has a land value that he would possibly never have dreamed of when he moved in in 1948. He will be hit with a levy that is much greater than those living anywhere else will have to pay, but organisations such as TransGrid and Sydney Airport will not. The Opposition is quite clear in what it wants. It will be putting up a number of amendments. If the Government does not support those amendments then Labor will not be supporting the legislation. Labor is happy to support the legislation if the Government will consider those amendments.

**The Hon. Dr Peter Phelps:** Oh!

**The Hon. LYNDIA VOLTZ:** I hear someone groaning on the Government backbenches as if the idea that these people should pay their fair share is new to them—that Sydney Airport, for once, should actually pay for its public impact. I ask the Government to seriously consider these amendments. I ask the Government to look particularly at what sporting organisations will be paying and who are exempt under this bill.

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

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

#### *Visitors*

#### **VISITORS**

**The PRESIDENT:** I welcome into the public gallery a delegation of young political leaders from the United States of America, accompanied by representatives from the Australian Political Exchange Council. I am well aware that you have spent most of the day in Parliament House. I understand you have just come from question time in the other place. Welcome to the more real question time in this place. I am sure that you will enjoy yourselves because you will see a very well behaved Chamber.

#### *Questions Without Notice*

#### **GAS EXPLORATION**

**The Hon. ADAM SEARLE (14:31):** My question without notice is directed to the Minister for Resources, and Minister for Energy and Utilities. Given the Minister's comments as reported on 14 March in which he said, "Let me make this abundantly clear: New South Wales does not have and does not support moratoria on onshore gas development," what advice does he provide to New South Wales residents who are concerned that they will now have to re-fight battles against coal seam gas and unconventional gas exploration in their communities?

**The PRESIDENT:** Order! A question has been asked and the Minister should be given the opportunity to answer it.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:32:2):** I would say, first of all, that it cannot have escaped the attention of the Leader of the Opposition that there is widespread interest in the supply of gas and there are all sorts of constraints that are facing the eastern States in respect of gas. I am sure that the Leader of the Opposition would also be well aware of the fact that New South Wales historically has supplied only a very small part of its domestic gas needs. However, what I would say, and what he should say to those people, is that this Government has now implemented all 17 of the actions in the New South Wales Gas Plan. The Government published a progress report in October 2015 outlining the completion of 15 of those 17 actions, and since then a further action was completed with the release of the final report of the Independent Pricing and Regulatory Tribunal [IPART] on landholder benchmark compensation rates in November 2015. Final action was completed on 1 July 2016 when the regulations that established the Community Benefits Fund were completed.

Critically, we have paused and reset gas exploration in this State so that it is done on our terms. We completed a significant petroleum exploration licence buyback scheme which, together with licences bought back in the Northern Rivers, reduced the footprint of coal seam gas titles from more than 60 per cent of the State to approximately 7 per cent. We removed petroleum exploration titles from national parks. We also fundamentally reformed the way petroleum exploration licences will be issued in the future through the establishment of a strategic release framework for coal and petroleum.

In respect of establishing strong and certain regulation, we have established the independent Environment Protection Authority [EPA] as the lead regulator for compliance and enforcement of all non work, health and safety conditions of petroleum titles. In 2015 we passed legislation that better harmonises the administration of titles across the mineral and petroleum sectors. Those legislation changes also improved the compliance and enforcement tools available to the Environment Protection Authority as lead regulator. This provides both industry and the community with greater clarity about the rights and obligations that come with operating in the New South Wales resources sector.

In relation to sharing the benefits, as I outlined earlier, we established a Community Benefits Fund, which allows gas companies to voluntarily provide community development initiatives in areas where gas exploration and production takes place. We passed legislation in 2015 to ensure landholders received compensation from petroleum exploration and production and we asked the Independent Pricing and Regulatory Tribunal [IPART] to advise on benchmark compensation rates for gas exploration and production. IPART published this advice, which now can be used by landholders in their negotiations on compensation. Given the progress we have made through the Gas Plan, hosting a safe and sustainable gas industry in New South Wales is now well within reach. [*Time expired.*]

**The Hon. ADAM SEARLE (14:35):** I ask a supplementary question. Given that the Minister's answer touched on the widespread interest in the supply of gas for New South Wales and the implementation of the New South Wales Government's Gas Plan, will the Minister elucidate his answer with respect to where in New South Wales gas exploration and production will take place in the future?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:36):** There is only one proposal being advanced at the moment. It is at Narrabri and it is a matter of public record. The project at Narrabri is being considered.

**The PRESIDENT:** I call the Hon. Duncan Gay to order for the first time. The Minister has the call.

**The Hon. DON HARWIN:** The Narrabri gas project and its associated environmental impact statement was lodged on 1 February 2017. Public exhibition commenced on 21 February to run for 62 days, but that has now been extended to 90 days. It is the only proposal that is on foot at the moment. There are no other proposals being considered.

### GREATER SYDNEY WATER SUPPLY

**The Hon. LOU AMATO (14:37):** My question is addressed to the Minister for Resources, and Minister for Energy and Utilities. Will the Minister inform the House what steps are being taken to meet the future water supply needs of our growing Greater Sydney region?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:37):** I thank the Hon. Lou Amato for his question. Long-term water security for Sydney, the Illawarra and the Blue Mountains is a matter of great importance to this Government. We all remember the millennium drought of the early 2000s and how dam levels fell to record lows. While we might be in a good position now in terms of water supply, it is important that we plan for the future.

A fortnight ago, I launched the 2017 Metropolitan Water Plan, which is the New South Wales Government's strategy to ensure we can provide a secure and sustainable supply of water for the people of greater Sydney. Our water supply will be more than adequate to meet our needs, even in a drought worse than any in the historical record. We can have confidence in the context of driving costs down for Sydney Water consumers. Under this Government, the people of Sydney, the Illawarra and the Blue Mountains are experiencing lower water bills. A typical Sydney Water customer will save nearly \$100 more this year compared to their 2016 water bill.

The 2017 Metropolitan Water Plan will deliver sufficient drinking water for the next 10 or more years without new, costly supply. The plan will save an average of \$20 million a year, which will put downward pressure on future water bills. It is largely thanks to the community that we are in such a good position. Greater Sydney used 530 billion litres of water last year, which is about 100 billion litres less than was used 25 years ago, despite strong population growth. However, we cannot be complacent, with the population expected to increase by as many as two million people over the next two decades. The lower trigger level for the Sydney Desalination Plant outlined in the plan makes it 50 per cent less likely that consumers will pay the running costs of the plant. That plant is a symbol of the costly and poor planning of members opposite.

The plan focuses on investing in value for money, water efficiency, and water recycling initiatives designed to save water and to reduce demand. The plan also confirms that highly treated wastewater will not—I repeat, will not—be used as drinking water. The Metropolitan Water Plan was developed in close consultation with the community and industry stakeholders. We thank them for their considerable endeavours aimed at saving

water. I commend the plan to the House. I am sure that if honourable members were to look at the plan on the web—I am sure some of them have—they would find it very interesting reading.

**The Hon. Walt Secord:** I have.

**The Hon. DON HARWIN:** I would be disappointed if the member had not.

### GAS EXPLORATION

**The Hon. WALT SECORD (14:42):** I direct my question to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. In the light of his report of 14 March, his answer to a question asked earlier and the supplementary question, what is the Minister's advice to Central Coast and North Coast residents—including the Knitting Nannas and the Bentley blockade participants, who have been given a number of undertakings by this Government that there will be no coal seam gas or unconventional gas exploration in their communities—as to whether coal seam gas and unconventional gas exploration are permanently off the table in their communities?

**The PRESIDENT:** Order! A question has been asked and the Minister, and only the Minister, will answer it.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:42):** The member and the groups to which he referred can be absolutely certain that recommendations for the release of areas for exploration will be made only after community consultation and an upfront assessment of social, environmental and economic issues relating to a potential release area have occurred. I assure the House that there is no intention of issuing any exploration licences in either of those areas. In fact, the Government has spent a great deal of time buying back petroleum exploration licences that the Labor Government threw around like confetti. Nor will we be lectured by the Hon. Walt Secord or his party on community concerns about coal seam gas when we have spent years cleaning up the mess that he and his Ministers created.

**The PRESIDENT:** Order! When members come to order I will call the next member.

### INNER WEST COUNCIL RUBBISH BINS

**The Hon. ROBERT BORSAK (14:44):** I direct my question to the—

**The PRESIDENT:** Order! The member will start his question again. I have not been able to hear a word he said because of the level of interjections.

**The Hon. ROBERT BORSAK:** I direct my question to the Leader of the House, representing the Minister for Local Government. Given my previous question about the Inner West Council replacing perfectly good rubbish bins and recent media reports saying that the new bins will contain electronic surveillance devices, how many local councils will be bugging their bins, and how has consent for this invasion of privacy been obtained?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:45):** I believe the honourable member is a resident of the inner west. He and his partner have taken a very close interest in local issues in the area. In fact, they have been active in regard to a number of them. Their genuine interest in what happens in their community is well understood by me and by other members of the Government. The savings that already have been generated across local government as a result of the Government's policies are considerable. I am not aware of the proposals mentioned by the honourable member.

**The Hon. Robert Borsak:** They have been implemented.

**The Hon. DON HARWIN:** The member points out that they are not proposals. I did not catch that when I was listening to his question. I will ensure that his concerns are relayed to the Minister for Local Government and that she provides him with an answer as soon as possible.

### CASSILIS BUSHFIRES

**The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (14:45):** I address my question to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister update the House on the feedback that he received in Cassilis following the recent fires?

**The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:46):** I thank the member for his question. I am honoured that I am the recipient of his question. On 24 March I travelled to Cassilis with the member for Upper Hunter, Michael Johnsen, and the President of the NSW Farmers Association, Derek Schoen.

**Ms Dawn Walker:** He went to an electorate.

**The Hon. NIALL BLAIR:** I am sure the residents of the Upper Hunter would be interested to hear members opposite, particularly The Greens, making light of and interjecting on an answer about the bushfires in their area. Members opposite are an absolute disgrace. They did not bother to listen to the question and cannot show those people the respect they deserve by listening to the answer about an important issue impacting that community. We travelled to view firsthand the aftermath of the Sir Ivan bushfires in January and February. The fires had a devastating impact on properties and the local community.

**The PRESIDENT:** Order! The Minister will resume his seat. I cannot hear the Minister, which means that Hansard has absolutely no chance of hearing him. I cannot hear him not only because of the level of interjections but also because of the loud conversations taking place all around the Chamber. I am surprised that Government members are having loud conversations while their Minister is attempting to answer a question. That will now cease. If it does not I will start calling members to order.

**The Hon. NIALL BLAIR:** The fires had a devastating impact on properties and the local community. At the time, everyone was on the scene, including emergency services personnel and media networks. However, some of the most difficult days for those affected are those when everyone packs up and moves on. It is at that point that the impact is felt most deeply. However, it is also at that point when we see people from right across the country come together to assist our regional communities rebuild. The Sir Ivan fire in February devastated a huge area, burning through approximately 55,370 hectares. Our visit to Cassilis was to receive feedback on the recovery process from landholders, volunteers and staff from both Local Land Services and the Department of Primary Industries. One of the first groups on the scene following a fire is BlazeAid, a volunteer-based organisation that assists people affected by natural disasters in rural Australia such as fire and flood. They take part in the rebuilding of fences and other structures that have been damaged or lost.

I had intended to join them on the frontline, but ironically it was the recent rains that prevented me from doing so. While I did not get to roll up my sleeves I did get to hear what the past few weeks had been like for those involved. We know that there were things that we got right; for example, remarkable accounts of all their staff on the ground who were able to almost immediately assist in the difficult job of destroying stock when owners simply were not able to do so. However, we also know there are things we need to work on for future emergencies. This is about making sure those affected and those assisting in the recovery process have the resources and support they need.

We want our regional communities to be able to bounce back as quickly as possible when tragedy strikes. We saw this commitment to bouncing back recently when the New South Wales Minister for Emergency Services, the Hon. Troy Grant, and the Federal Minister for Justice, Michael Keenan, announced that category C funding—which is cash grants of up to \$15,000—would be made available for primary producers affected by the Sir Ivan bushfire in the Upper Hunter, mid-western regional and Warrumbungle local government areas. Category C grants are reserved for natural disasters at the most serious end of the scale where communities, regions or sectors of industry have been severely affected. I acknowledge both State and Federal agencies in the quick turnaround to enable this essential funding.

### NATIONAL FIREARMS AGREEMENT

**The Hon. ROBERT BROWN (14:51):** My question without notice is directed to the Hon. Niall Blair, representing the Minister for Police. Given the new National Firearms Agreement removes the ability of elite target pistol shooters to use their participation in the Olympics or Commonwealth Games as a genuine reason to own a firearm, will the Government refuse to ratify this change in the National Firearms Agreement so that Sydney can host the 2022 Commonwealth Games?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:51):** I thank the honourable member for his interesting question—something that I know he is certainly interested in—in relation to the reasons firearms owners can tick for the ownership of their firearms, particularly their licence requirements. Whether or not this provision would stop Sydney hosting the Commonwealth Games, if it had the opportunity, is something that is up for debate and I am sure that other factors that may come into play. Sydney would be a very good option for the 2022 Commonwealth Games bid. I am advised that the claims about this requirement on the firearms application may be a misinterpretation of the National Firearms Agreement. The definition of "approved club" in clause 13 applies to all future references to "approved club", which is defined in the National Firearms Agreement as:

Clubs participating in shooting sports recognised in the charters of such major sporting events as the Commonwealth Games, Olympic Games or World Championships.

There are no current plans to change the existing club approval process under the Firearms Regulation 2006. I note that the regulation provides for a permit for an international competitor to participate in events in New South Wales. Hopefully, that clarifies the hosting of such an international event as the Commonwealth Games if Sydney were to step into that area. Hopefully, that will clarify any misinterpretation of that part of the agreement. If any further information comes to hand, I am sure the Minister would be more than happy to provide it to my colleague. I am also sure that if he requires any further information, he will come back at a later date to ask for it.

### SYDNEY WATER

**The Hon. DANIEL MOOKHEY (14:55):** My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Given the board of Sydney Water will be meeting on 27 April to decide whether to outsource civil maintenance waste water treatment units within Sydney Water, what guarantees will he give to the more than 600 employees worried about job security, wages and entitlements? Does this mean that his refusal to meet with Private Outsource Offshore—colloquially known as Mr POO—indicate that the decision has been made already?

**The Hon. Scott Farlow:** Point of order: My point of order is that the question is argumentative and uses potentially unparliamentary language.

**The PRESIDENT:** Order! I cannot rule on a point of order unless I can hear it.

**The Hon. Scott Farlow:** The question is argumentative and it uses colloquialisms and unparliamentary language. Therefore, it should be ruled out of order.

**The Hon. Walt Secord:** To the point of order: The acronym is a registered trademark.

**The PRESIDENT:** There is no point of order. The question is in order. Order! I have ruled that the Minister can answer the question. Members opposite should allow him to do so.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:57):** First, I take this opportunity to commend Sydney Water for its ongoing efforts to provide value for money for customers. What we all want, of course, is downward pressure on prices. To date this has meant identifying efficiencies, and implementing new and innovative ways to deliver water and waste services to Greater Sydney. These efforts have resulted in the Independent Pricing and Regulatory Tribunal announcing a \$100 per year reduction in the typical household bill for Sydney Water customers over the next four years.

**The Hon. Shayne Mallard:** How much?

**The Hon. DON HARWIN:** One hundred dollars.

**The Hon. Walt Secord:** Point of order: My point of order goes to relevance. He is not within a bull's roar of the question.

**The PRESIDENT:** I believe that the Minister has been generally relevant. However, I cannot be certain because I was not able to hear him due to the continued interjections from all sides of the Chamber. Sadly, I cannot rule on the point of order. It would be helpful if members would allow me to hear the Minister.

**The Hon. DON HARWIN:** I thank the President for his ruling. In relation to the civil workforce, the nominal term of their enterprise agreement expires on 30 June. Sydney Water management has in fact approached the unions and made it quite clear that their preference is that the civil and treatment businesses be retained in-house. However, changes to the operating model are being considered to bring the in-house workforce back on par with equivalent utility workforces across Australia, not only in respect of costs but also, if not more importantly, in respect of safety and customer satisfaction. The preference of Sydney Water and the Government is to have an efficient service in-house. This makes sense. I look forward to updating the House on the outcome of Sydney Water's enterprise agreement negotiations throughout the year. I am comfortable with the bargaining parameters that Sydney Water has in place. My great-grandfather was a member of the civil workforce of Sydney Water.

**The Hon. Peter Primrose:** He would have been a member of the union.

**The Hon. DON HARWIN:** He may well have been. Sadly, I was quite young when he died, so I never had the opportunity to ask him.

**The PRESIDENT:** Order! I call the Hon. Peter Primrose to order for the first time.

**The Hon. DON HARWIN:** Regarding the question of the Hon. Daniel Mookhey, I have seen the interesting leaflet that was put out by the Australian Services Union [ASU] today. I wish to commend them because they are in fact doing the Government's job. It says, "Last year our water bills decreased by \$100." It is

important that we commend the ASU for ensuring that one of the key features of the Metropolitan Water Plan is being understood by everyone who has received one of these leaflets, which I understand were being distributed today in Martin Place. I thank the ASU.

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

**The Hon. DANIEL MOOKHEY (15:02):** I ask a supplementary question. Will the Minister elucidate his answer with respect to his comments about value for money? Is it his opinion that it constitutes value for money to outsource 600 jobs?

**The Hon. Scott Farlow:** Point of order: The supplementary question clearly asked for an opinion, and opinions should be ruled out in all questions, including supplementary questions.

**The Hon. Lynda Voltz:** To the point of order: The supplementary question clearly asked for an elucidation of a matter that was raised by the Minister in his answer and it should be ruled in.

**The PRESIDENT:** Order! The supplementary question is out of order. All members will remain seated until I have completed my ruling. The supplementary question contained the word "opinion", so it is difficult to say that the Hon. Daniel Mookhey was not seeking an opinion.

### EARLY CHILDHOOD EDUCATION

**Mr SCOT MacDONALD (15:03):** My question without notice is addressed to the Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Will the Minister update the House on how the New South Wales Government is investing in vital infrastructure projects to increase additional places in early childhood education centres?

**The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:04):** I thank the Parliamentary Secretary for his question and for his ongoing interest in early childhood education, particularly on the Central Coast. His question could not be more timely. I am sure the Hon. Walt Secord is interested in this question because during question time yesterday he interjected with a comment about whether I had been to the Gosford electorate. I was in the Gosford electorate last Friday because this Government has invested in a vital infrastructure project in that electorate, which is providing local families with 60 extra early childhood education places. The Liberal-Nationals Government has invested more than \$1 million in an early childhood education centre in Woy Woy, creating 60 new places. That is 60 extra children receiving a quality early childhood education because this Government is committed to seeing the next generation succeed and to easing the burden on young families.

**The Hon. Ben Franklin:** Point of order—

**The PRESIDENT:** The point of order is not necessary. I ask the Deputy Leader of Government and the Deputy Leader of the Opposition to cease having a conversation across the table. It should not be necessary for the Minister to scream over other members. The Minister has the call.

**The Hon. SARAH MITCHELL:** As I have said many times in this House before, we all know the success of a child's education on their last day of school is determined by their first day of school. Last Friday I was able to officially open the St John the Baptist Early Learning and Care Centre in Woy Woy, which will enhance the wellbeing and quality of early childhood education for children in the Gosford region. It was encouraging to witness firsthand the engagement between children and teachers in the purpose-built facility and to hear of the relief it has brought to local families. In addition to the three new rooms, the preschool has an outdoor area with an amphitheatre, a shallow riverbed and mud pit, and all are covered with sunshades. Quality early learning is of paramount importance to this Government, which is why it has invested more than \$1 million in this service through the Capital Works Grants program to make those 60 places possible.

It was a privilege to open this centre and I thank CatholicCare for the opportunity to do so. I look forward to the centre growing and the outcomes it will have for the children who attend the preschool. The Government created the Capital Works Grants program to help provide all children with access to a preschool program. The grants program supports the creation of additional preschool places in rural and remote communities by funding construction projects for community preschools like this one in Woy Woy. We not only are investing in capital works infrastructure but also are lifting attendance to the 600 hours benchmark.

Since 2013, an extra 40,000 children have enrolled in a preschool program for 600 hours, which is proof that our \$115 million Start Strong reform package is making a real difference to the lives of young children and their families. We also recognise the importance of qualified early childhood teachers in ensuring the delivery of quality early childhood education programs. I take this opportunity to thank all educators across the State for their

education and commitment to providing quality early childhood education. I also relayed that message to the educators last Friday when I was at St John the Baptist Early Learning and Care Centre in Woy Woy.

The Liberal-Nationals Government has spent more in early childhood education every year since being elected than Labor did in its last year in Government. We will continue investing in early childhood education infrastructure across the State because we are not afraid to put quality early childhood education at the top of our priority list. Our children deserve it and their parents expect it. The best thing we can do is invest in the younger generation. This Government is putting its money where its mouth is and we are backing early childhood education centres.

### ENERGY SECURITY

**Mr JEREMY BUCKINGHAM (15:08):** My question is directed to the Minister for Energy and Utilities. In its submission to the Finkel review, the Government urges the review to "consider the need for a mechanism that provides market signals and framing for orderly generation transition, and ensures an appropriately diversified energy mix within the NEM". Can the Minister outline whether this should include an emissions intensity scheme, and why?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:09):** My number one priority, of course, is energy security. I am pleased to say that New South Wales is in a strong position, with about 20,000 megawatts of electricity generation capacity from three main sources: 10,000 megawatts based on coal, 2,300 megawatts based on gas and oil, and 6,900 megawatts from renewables, including Snowy Hydro and rooftop solar photovoltaic systems. This is a good mix of energy sources, including coal, gas and renewables. There have been many remarks about the closure of the Hazelwood generator in Victoria. I am glad to report that New South Wales based generators can operate at higher capacities than they did on average last year, and we have every reason to believe that we have a reliable energy system.

**Mr Jeremy Buckingham:** Point of order: My point of order is with respect to relevance. The Minister is just reading any old cut-and-pasted nonsense in front of him. He is not addressing the substance of my question.

**The PRESIDENT:** That was a very good debating point from Mr Jeremy Buckingham, but it is not a point of order.

**The Hon. DON HARWIN:** The Council of Australian Governments [COAG] Energy Council agreed that it is time for a wider independent review to take stock of the security and reliability of the National Electricity Market [NEM]. COAG endorsed an expert panel led by the Commonwealth Chief Scientist Dr Alan Finkel to undertake an independent review on energy security and reliability. It will deliver a blueprint for the national energy market in a changing landscape where, for example, the cost of renewable energy and energy storage technologies is declining. The New South Wales Government believes that the Finkel review should have all options on the table for discussion.

This is the position that the New South Wales Government took to COAG's energy council last year, and it remains our position. We have not taken a position supporting any one position above others. We await the outcome of the Finkel review. We need certainty to get the investment required to replace our ageing generation assets in an orderly transition and ensure affordable, reliable, clean energy. We support a private-sector-led market, and that means having a market that provides investment confidence. This means that our preference is for a nationally consistent and integrated climate and energy policy. This will mean greater coordination of climate and energy programs across all jurisdictions, whether Federal, State or Territory.

Many stakeholders—such as AGL Energy, Origin Energy, Energy Australia, the Australian Industry Group, Snowy Hydro and the National Farmers' Federation—have expressed support for an emissions intensity trading scheme. The Finkel review preliminary report highlighted it as one option for nationally integrating climate and energy policy within Australia. I am concerned about the uncertainty and price rises occurring in the energy market. It hinders the ability of companies to plan and for long-term investment in energy to occur in Australia. That is why there is a pressing need for national market reform, as I raised recently at COAG's energy council. I look forward to receiving the final Finkel review report later in the year and I look forward to considering its blueprint for the national energy market. [*Time expired.*]

### ENERGY COMPANIES PAPER BILLS

**The Hon. GREG DONNELLY (15:14):** My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. In the light of my question on 23 February in relation to the unfair imposition of fees for our seniors and rural residents who receive their electricity bills via mail, and your commitment, "I will try to have an answer back to the Hon. Greg Donnelly certainly by the time

that the Parliament sits again", why has the Minister not responded to this important issue by 9 March as he committed to? Will he finally respond today?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:15):** I am well aware of the question that was asked by the honourable member. I am also well aware of the standing orders of the House and when I am required to respond. I will be responding to the member within those time frames.

**The Hon. GREG DONNELLY (15:15):** I ask a supplementary question. In the light of the specific answer the Minister gave to my question on 23 February, when will he provide that answer to this House?

**The PRESIDENT:** Order! As I have indicated previously, the test of a true supplementary question is that it must seek to clarify or expand upon an aspect of a Minister's answer by providing additional information on part of the answer given. Let me make it clear that that relates to the answer given on the day of the question about which the supplementary question has been asked; it does not relate to an answer that might have been given or was given on a previous occasion. The supplementary question is out of order.

### ENERGY SECURITY

**The Hon. BEN FRANKLIN (15:16):** My question is addressed to the Minister for Energy and Utilities. What level of confidence should New South Wales households and business owners have in the future security of their electricity and gas supplies?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:16):** I thank the Hon. Ben Franklin for his question. The topic is attracting considerable attention, and I am grateful for the question. My two priorities as Minister for Energy and Utilities are energy security and energy affordability. Every citizen and business in New South Wales can be assured that this Government is working on all fronts to safeguard their interests as energy consumers.

On 10 February 2017, New South Wales experienced one of its hottest days and its second-highest electricity demand on record. The community pulled together, and the investment attracted by the New South Wales Government ensured that we met this peak. It highlighted the need to continue attracting investment to boost new supply and diversify our energy mix. I am glad that yesterday the Manildra Solar Farm between Orange and Parkes announced that it has secured financial backing. I congratulate First Solar and Energy Australia on the project, which will commence construction soon, bringing new regional jobs to the Central West of the State around Orange and Parkes.

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

**The Hon. DON HARWIN:** The project is expected to produce enough solar energy to power 14,000 average New South Wales homes. But there is no room for complacency, and that is why I established the New South Wales Energy Security Taskforce to report to me on the resilience of our system and our readiness for the future. The Chief Scientist and Engineer, Professor Mary O'Kane, is chairing the task force, assisted by specialists in electricity network operation and emergency management Dr Brian Spalding and Mr David Owens. The work of the task force has become even more relevant due to tightening conditions in the national markets. Whilst these are due to factors outside New South Wales, with the retirement of old generation in other States and the Queensland export gas sector, consumers in New South Wales should not be unduly alarmed.

There is sufficient capacity in New South Wales generators that will be utilised over the coming summer. At the end of last year we consulted on measures which would boost supply and manage demand through new investment. Through the NSW Gas Plan, Santos and its partners continue to develop the Narrabri gas project which could supply up to half the State's gas demand if it is approved through the planning system. At the end of the day we need national energy market reform to provide additional investment certainty. Through COAG's energy council we are developing a reform blueprint for a secure National Electricity Market through the Finkel review, assisted by our own Professor Mary O'Kane who sits on that review panel. The Government will represent the interests of New South Wales to secure clean, affordable and reliable energy for households and businesses in New South Wales.

### DRIVER LICENCE DISQUALIFICATION REFORM

**Dr MEHREEN FARUQI (15:20):** My question without notice is directed to the Minister for Resources, representing the Attorney General. Given it has been 2½ years since the New South Wales Government committed to introducing reforms in line with the driver licence disqualification reform committee report, why have these changes not been introduced and when does the Government intend introducing them?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:21):** I thank Dr Mehreen Faruqi for the question. She certainly has been showing considerable interest in this issue for some time. I am happy to be able to provide some information in that respect to her this afternoon. The Legislative Assembly Committee on Law and Safety recommended several reforms to driver licence disqualification in its report published in November 2013. The Government reviewed the committee's report and tabled its response in June 2014. The Government response supported the majority of the committee's recommendations.

The Department of Justice is continuing to work on the implementation of the detail of these reforms. These changes are complex and involve many stakeholders. As the details of the reforms are being finalised, legislation to establish the new scheme will be introduced; but it has not, of course, as the member would be aware, been introduced yet. It is acknowledged that reform in this area is important to many people who have accumulated lengthy disqualification periods but who have been offence-free for many years. The Government intends to introduce legislation to implement its response to the committee's report in the near future. If there are any additional aspects in relation to these particular matters, the member should feel free to ask me additional questions and I will be happy to speak with the relevant Minister and ensure she gets the response that she seeks.

### LOCAL LAND SERVICES

**The Hon. MICK VEITCH (15:23):** My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. In the light of data released revealing that 10 per cent of Local Land Services staff reported being bullied in the workplace and 22 per cent reported witnessing this offensive behaviour, what steps are you taking to fix this serious workplace health and safety matter within Local Land Services?

**The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:23):** I thank the member for his question—an important question in relation to a very important agency under my portfolio, Local Land Services. One thing that can be certain is that like most agencies Local Land Services takes any type of bullying or harassment in the workplace seriously. Many members in this place will have received emails that have been circulated from some people that claim to be within Local Land Services in relation to this. One thing that we need and that I must make clear is that if people have allegations in relation to bullying or harassment in the workplace, we have the necessary provisions and systems within the agencies for people to report them. One thing we cannot do, however, is respond to anonymous emails. Local Land Services has tried to respond to the emails and the people have circulated information to all members to encourage them to go through the correct channels if they have some information that should be reported.

I reiterate that Local Land Services takes the issue of bullying very seriously. While the results quoted by the honourable member in relation to a percentage of people who felt that they had been bullied were from the 2016 People Matter survey of staff areas of concern, specific actions have been undertaken across the organisation to address these behaviours, including counselling, mediation and staff training workshops. Local Land Services—and I have already said this—does not tolerate bullying. If anyone has a specific allegation of bullying or inappropriate behaviour, they should provide details to their manager, who will ensure the matter is investigated.

In terms of the specific issues regarding the south-east region, which were more specifically detailed in the email that was circulated to all members of Parliament, a change management process began in early 2015 and was completed in December last year to integrate the former separate functions carried out by staff of the three legacy agencies—the Catchment Management Authority, Livestock Health and Pest Authority, and the Department of Primary Industries [DPI] agricultural advisory services. The local board developed a new approach to internal organisation and communication based on an integrated service delivery model rather than a structure that operated along functional lines. This new structure is designed to enable better customer and stakeholder service delivery and outcomes.

As I have said, if anyone has any specific allegations and they are within Local Land Services, they need to report this to their manager and the appropriate processes will be followed. This is behaviour that we do not tolerate in Local Land Services. We do not tolerate it in any of our other government agencies and I would ask anyone who feels that they have been the victim of this to come forward. In relation to the email and the so-called "alliance", we would again ask if people have specific information that they go through the correct channels. It is difficult to act on something that has been provided by someone who remains anonymous because it provides barriers for us to be able to go through those correct channels. So I would encourage those people, if they are employed in Local Land Services, to speak to their manager and I expect that it should be dealt with.

### MURRAY-DARLING BASIN PLAN

**The Hon. BRONNIE TAYLOR (15:27):** My question is addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. What progress has come from the latest meeting of the Murray-Darling Basin Ministerial Council in Mildura? Where does this leave New South Wales and its role in the basin plan?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:28):** I thank the Parliamentary Secretary for her question. I was very pleased with the productive discussions I had at the ministerial council just over a fortnight ago. Most importantly we reached an agreement on a credible path forward, which is no mean feat when there are four States and the Commonwealth all involved in negotiations. Given its complexities, the plan is not without its risks and challenges but we are much closer to achieving the outcome that New South Wales has been striving for. One aspect of the basin plan that is not negotiable for us is no further water buybacks. The New South Wales Government remains confident we can restore the health of New South Wales rivers and catchments while continuing to produce world-class food and fibre.

This is not a goal shared by some in this Chamber, who believe it is a choice between one or the other. This Government wants to achieve a 30 per cent increase in primary industries by 2019, and our plans for the Murray-Darling Basin are a key part of that. One of the factors that New South Wales has been driving is the sustainable diversion limit [SDL] adjustment mechanism. We are using that mechanism to improve and maximise environmental outcomes for the basin while avoiding harmful water buybacks that undermine our regional economy.

Why have we been able to come away from ministerial council [MinCo] with a win for New South Wales? It is because we did our homework in the lead-up; we did not leave it to chance. In February we engaged an expert panel to look over the SDL adjustment mechanism to find ways to improve it. Those findings have helped inform discussions and made our negotiating position much stronger. In February and March we also reviewed parts of the basin plan legislation, along with the existing intergovernmental agreements. These reviews showed that more work is needed to ensure that New South Wales businesses and communities are not left with a raw deal as the basin plan is rolled out. This is absolutely fundamental to our dealings on the Murray Darling Basin plan.

I applaud the efforts of the Deputy Prime Minister, Barnaby Joyce, who is also the Commonwealth Minister for Agriculture and Water Resources. The rivers do not understand State boundaries, and those who rely on that water do not care about arguments between State and Federal bodies either. They just want outcomes that will deliver sustainable production for years to come throughout the basin. No system will ever be perfect, and we always want more from these negotiations, but we are working to ensure that New South Wales is set up for the future. The recent MinCo meeting has taken us another step closer to that future. We are about putting regional communities first and it is absolutely vital for New South Wales communities in the Murray-Darling Basin to remain the food bowls of the future. That cannot be done without water, and that is why we are so determined to get our sustainable, fair share of that water for New South Wales producers.

I thank those who took part in the roundtable discussion in Mildura. It was terrific to meet with and listen to many familiar people, see their faces and hear their voices, and importantly to meet some new ones too. I will keep standing up for farmers and irrigators to ensure that New South Wales achieves the best results for communities throughout the Murray-Darling Basin. This Government is committed to making sure that this plan is not achieved at all costs. We believe we can achieve the right outcomes and keep our regional communities viable. We know that implementing the plan is not a choice between one or the other, and we believe farmers and irrigators in this State are key to resolving issues and restoring river health which we all seek. These farmers must be part of the plan so that they can continue to produce the food and fibre required for our future. That is our position. We are one step closer to achieving our goal and we will not stop until we get it done.

**The Hon. DON HARWIN:** If members have any further questions, I suggest they place them on notice.

### GAS EXPLORATION

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:33):** In response to a question asked earlier by the Hon. Walt Secord, and in addition to my clear comments ruling out coal seam gas exploration on the North Coast, I refer the member to an excellent recent report, the North Coast Regional Plan, issued by the Minister for Planning, Minister for Housing, and Special Minister of State. Minister Roberts makes it quite clear—

**The Hon. Walt Secord:** Weasel words, Don. What about you?

**The Hon. Lynda Voltz:** Point of order: I believe the Hansard reporters may have a problem hearing the Minister not only because of interjections but also because the Minister is not speaking at the lectern.

**The PRESIDENT:** I uphold the point of order.

**The Hon. DON HARWIN:** I thank the Hon. Lynda Voltz for reminding me of the importance of being courteous and helpful to the Hansard staff, whom we all appreciate. I conclude by reading the extract from Minister Roberts' report, which states:

The New South Wales Government has listened to the North Coast community and has no intention to revive coal seam gas on the North Coast. More than \$27 million has been spent to buy back the exploration licences handed out by the previous Government. This plan makes it manifestly clear that coal seam gas resources on the North Coast will remain in the ground.

#### *Deferred Answers*

#### **MEMBER FOR CASTLE HILL**

In reply to **the Hon. ADAM SEARLE** (22 February 2017).

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts)**—The Minister provided the following response:

I refer you to my answer to the Legislative Assembly regarding this matter.

#### **PILL TESTING**

In reply to **Dr MEHREEN FARUQI** (22 February 2017).

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts)**—The Minister provided the following response:

The Government remains opposed to the introduction of pill testing as a means of increasing the safety of people attending dance parties, music festivals and other such events.

Pill testing may provide false confidence that the drug a person is intending to take will not harm them. Testing will not provide any indication of how the pill may affect the user, including their physiology, possible allergies, and potential interactions with alcohol or other drugs they have consumed.

#### **COUNCIL AMALGAMATIONS**

In reply to **the Hon. ROBERT BORSACK** (22 February 2017).

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts)**—The Minister provided the following response:

I am advised that waste bins in the former Ashfield local government area were required to be replaced under an existing contract between the former Ashfield Council and its waste contractor.

#### **BAYSWATER AND LIDDELL POWER STATIONS**

In reply to **the Hon. MICK VEITCH** (22 February 2017).

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts)**—The Minister provided the following response:

Future decommissioning and remediation of power stations in New South Wales, whether they are privately or publicly owned, is regulated by a range of legislation and New South Wales Government policies and guidelines.

The owner will be required to comply with environmental obligations under their Environment Protection Licences under the Protection of the Environment Operations Act 1997.

The decommissioning, demolition and remediation of sites subject to closure decisions by the owner may require development consent under the Environmental Planning and Assessment Act 1979 [EP&A Act] prior to any work being undertaken. The EP&A Act places the responsibility for seeking development consent on the proponent rather than the consent authority.

The consent authority would direct the owner to undertake the work in compliance with any conditions set out in the development consent, and to monitor and report compliance on a regular basis.

As such it was not necessary or appropriate for the State to impose specific contractual requirements as part of sale conditions regarding the standards to be met when decommissioning and remediating the Bayswater and Liddell power station sites.

#### **WESTERN SYDNEY INCINERATOR PROPOSAL**

In reply to **Mr JEREMY BUCKINGHAM** (22 February 2017).

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts)**—The Minister provided the following response:

The proposed Next Generation Energy from Waste facility is to be located at Eastern Creek.

The Department of Planning and Environment is conducting a comprehensive assessment of the potential impacts of the proposal, including (jointly with the Environment Protection Authority) commissioning independent experts in the fields of human health risk and best practice waste to energy technology, to assist in the assessment.

As part of the assessment, the applicant will be required to respond to public and agency concerns raised during the extended public exhibition (which concluded on 1 March) and the findings of the independent experts.

### **ESSENTIAL ENERGY REDUNDANCIES**

In reply to **the Hon. DANIEL MOOKHEY** (22 February 2017).

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts)**—The Minister provided the following response:

As I said in my initial response, the Fair Work Commission has determined that Essential Energy's involuntary redundancies will be capped at a maximum of 600 until the Workplace Determination's nominal expiry date of 30 June 2018. The actual number of involuntary redundancies, specific roles and locations are not known at this time. Any decision Essential Energy makes will be based on the future business needs of the organisation.

### *Bills*

### **MOTOR ACCIDENT INJURIES BILL 2017**

#### **First Reading**

**Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Don Harwin.**

**The Hon. DON HARWIN:** I move:

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

**Motion agreed to.**

**The Hon. DON HARWIN:** I move:

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

**Motion agreed to.**

### **FIRE AND EMERGENCY SERVICES LEVY BILL 2017**

#### **Second Reading**

**Debate resumed from an earlier hour.**

**The Hon. JOHN GRAHAM (15:36):** I support the principle of the Fire and Emergency Services Levy Bill 2017 but I will oppose the bill unless the Government increases its protections for consumers. I support the principle of this legislation in part because it is a Henry tax review recommendation, which stated:

Australia does have high taxes on insurance, both in comparison to other countries and to the way that other products and industries are taxed. Specific taxes on insurance add to the cost of insurance premiums and can lead to under-insurance or non-insurance.

The review went on to say:

Low-income earners are more likely than high-income earners to abandon insurance in response to higher premiums.

The result is that low income earners bear more risk themselves although they are less well placed to do so than are higher income earners. As has been pointed out in the debate, 36 per cent of people in New South Wales do not have home and contents insurance. The Government has not explained clearly the benefit of more people having this type of insurance, but I am happy to help out by giving an explanation. Decreasing the cost of contents insurance would be a real helping hand for people who cannot currently afford to pay insurance premiums because, if they do not have insurance, they are taking on the risks themselves. That can have catastrophic consequences. Just because a person cannot afford to pay insurance premiums does not mean they are less likely to be robbed or affected by fire or flood. In fact, sometimes such people are more likely to be robbed if they live on the wrong side of the tracks, for example, or to experience fire or flood if they live in some of the poorer regional coastal communities. It is therefore clearly a good thing to ensure lower cost insurance premiums so that people who are less able to bear the risks will be able to afford the premiums.

Part of the reason there is scepticism about some of the Government's claims is that the Government will not spell out who the winners and losers will be. It will not spell out the facts. Even cheaper insurance will not work for some people. This measure is bad news for some home owners who still will not be able to afford insurance. Those households will be left bearing a new State Government tax. This bill might be good news for some tenants who are currently insured and whose insurance will get cheaper. They have to hope that their rents

do not increase, but they could see some benefit. There will be winners and losers from this significant tax change, and there is scepticism because the Government will not tell us who those winners and losers are.

The Government has the modelling and it should be more up-front about it. It is hiding behind the averages. I believe the Government has figures showing that the benefit will be bigger in the bush than in the city. I believe there will be a benefit of \$97, on average, in the bush and just \$26 in the city. I call on the Government to be transparent and to release the figures. I invite the Parliamentary Secretary in his reply to confirm whether those figures are correct. Does the Government have modelling to confirm a big benefit in the bush and a much smaller benefit in the city? I will make a couple of observations about the nature of the insurance industry that are very relevant to this bill.

First, the industry is very concentrated. The insurance monitor, which is doing some fantastic work, indicates that in residential contents insurance, for example, just two companies control 56 per cent of the market, and a third company controls a further 9 per cent. Secondly, there is a wide range of products, and prices can differ wildly for even the same basic quotation in the same suburbs. The insurance monitor has done some great work to show that in Canowindra, for example, when applying the same parameters people might be quoted \$1,076 at the lower end and up to \$2,230 at the high end. Let us take an insurance policy in East Gosford as an example.

**The Hon. Dr Peter Phelps:** For example—at random.

**The Hon. JOHN GRAHAM:** Yes, at random. A policy in East Gosford could be quoted as \$1,044 on the low end or \$2,505 at the high end. This is for the same basic quote in the same suburb but the prices differ wildly. The Insurance Council of Australia's chief executive, Rob Whelan, branded the monitor's comparisons "misleading". He said "each insurer's policy is different" and that "they offer varying inclusions and exclusions, with different limits". That is exactly the point; this is a market strategy. It confuses consumers and it is a way to maximise profits. The insurance monitor had done important work to shine a light on this issue. Thirdly, there are varying products on offer in the market and households often have a poor understanding of exactly what is on offer.

There are two key pieces of research in this area. The first is the Australian Securities and Investments Commission [ASIC] reviews from 2014, which revealed three key findings. First, consumers generally displayed little knowledge about the details of their home insurance policy. I do not think that would shock anybody in this House. Less shocking is that consumers rarely read the information contained in the product disclosure statement. I think we all understand why that might be the case. ASIC estimated that 30 per cent of customers have a set-and-forget approach whereby they accept an automatic renewal and roll over their policy without testing alternatives.

The second key piece of research that is of particular interest on this point comes from the United Kingdom Financial Conduct Authority. In December 2015 it found, similarly, that more than one-quarter of motor and home insurance customers either do not recall receiving their renewal notice or do not read them. It also found that if the premium from last year is listed on the bill then it has a real impact on behaviour. Home insurance customers who received a greater than 5 per cent price increase at renewal were more likely to switch if the premium amount for the previous year was listed on their renewal notice—the number increased by 3.2 per cent. So people with the evidence in front of them are more prepared to switch policies.

Shockingly—and we do not have research on this for Australia—the evidence from the United Kingdom is that home insurance customers who have been with the same firm for five years pay, on average, 70 per cent more than new customers. There is real evidence that these products are structured in such a way that if people do not go to the trouble of putting them under scrutiny—and I think we all understand why people would not—then they end up paying significantly more. Having made those observations about the industry, I will now speak about three issues in the bill: the transition, the Government's priorities and the cost of living. First, on the issue of transition, the Government denies that people will pay twice—that they will pay as they move into the levy and then pay a second time. I will simply quote from the Government's own discussion paper on this issue, which was issued in 2012. It gave the example of a scheme implemented on 1 July 2014, and said:

But people who renewed their insurance on, say, 30 June 2013 would pay the full amount of the insurance-based ESL in respect of the coming year, and would also be liable to pay the full property levy for the same period.

I ask the Parliamentary Secretary: How does the Government reconcile this with the Minister's statements? How does the Government reconcile the Government's own 2012 discussion paper with the Minister's statements in the House? The discussion paper went on to set out one option to fix this problem. It said:

To ensure a smooth transition, insurance surcharges could be compulsorily phased down by 1/365<sup>th</sup> per day during the year before the replacement property levy commences.

That was one option but the Government chose not to proceed with it. It ran out of time and it has left the transition up in the air. Its own discussion paper highlights an issue that it is now trying to walk away from. Those are my comments on transition.

Secondly, I refer to the Government's priorities. As I have pointed out already, I do not think the Government could have made them any clearer. Not applying the emergency services levy to a body such as WestConnex but applying it to church halls, Country Women's Association halls and public benefit land indicates the Government's priorities. The Opposition will move amendments in Committee that go to that issue and, for example, would see WestConnex pay the levy. I encourage the Government to accept our amendments. Thirdly, I turn to the cost-of-living issues to do with this bill. I congratulate Alan Fels and the entire team at the insurance monitor for their good work. It is a small team but it is doing fantastic work shining a spotlight on these issues.

The insurance monitor has three concerns: that companies do not over-collect; that the levy is fully removed; and that companies do not hike premiums before the scheme starts. I will examine each of those in turn. There have been over-collection issues. The monitor has reported two cases where policyholders have been charged incorrectly. In the first case, 3,000 policyholders with Swann insurance were charged the emergency services levy when they had been informed that it had been removed from their premiums. In a second incident, an internal review at the Insurance Australia Group [IAG], which owns NRMA Insurance, found that the company had overcharged policyholders for the emergency services levy by \$6.8 million in 2013—a time frame outside the monitor's monitoring period.

Both those companies self-reported these issues to the monitor, and I congratulate them for doing so. It is a good example of how scrutiny of the monitor is working well and companies are fessing up. Good on those companies for doing so. There is an issue with over-collection and the Government's bill restricts the period during which this can be scrutinised. It should be longer. There will be over-collection issues outside the period. The Opposition will move amendments to make sure that New South Wales consumers do not miss out and the amendments should be accepted by the Government. The second concern raised by the insurance monitor is that the levy is fully removed, and I look forward to the insurance monitor's work in that area.

I turn now to the insurance monitor's main concern, which I share. It is concerned about companies hiking premium prices early, before the scheme gets going. I have some real concerns about that. On 1 July 2012 the Insurance Council of Australia ceased to issue guidance about how companies should factor in the emergency services levy. The last guidance, released in July 2012, advised that companies should factor in 23 per cent for residential properties and 40 per cent for commercial properties. Those figures were mentioned in the Government's discussion paper.

However, after that discussion paper was released—that is, between July 2012 and July 2014—the companies increased premiums at a significantly higher rate than the average increase imposed across the rest of the country. In fact, they were imposed at up to eight times Sydney's rate of inflation, and in some cases at up to 16 per cent. These figures are in the emergency services levy insurance monitor's documentation. The monitor has said that interstate movements in premiums will be monitored closely. That does not mean the monitor will have no concerns about base premiums in New South Wales that are in line with other jurisdictions. However, it will help to inform the monitor's judgements.

I invite members to consider what happened in New South Wales compared to the rest of Australia after the Government flagged that it would proceed with this proposal but before it allowed monitoring. The premiums went through the roof. That was money going out of New South Wales residents' pockets and into the companies' pockets. In July 2014, when price monitoring commenced, premium increases were much smaller; they tapered off when monitoring was allowed. The companies increased their premiums and, rather than what had happened in the past—they lost market share—they were hopeful, or even certain, that the Government would proceed and they would make larger profits than they would make normally. The information revealed to the public by the monitor suggests that that is what happened.

The companies bet on raising their premiums based on the information the Government made public. However, we do not know what discussions they had with the Government during that period. What assurances did the Government give that it would stay the course on this reform? The monitor's work clearly indicates premiums and profits were increasing based on the fact that the reform would be implemented. We do not know the substance of those discussions. Why will the Government not let the monitor examine that period? Why can we not say that premium increases between 1 July 2012 and 1 July 2014 will be examined and taken into account in determining whether New South Wales residents are getting a fair deal? The Opposition is not asking that those increases be ruled out, but they should be taken into account when the companies' behaviour is being examined.

The Opposition's amendments address that issue, and they are crucial if we want the residents of New South Wales to feel confident that they are being treated fairly. This money has come out of the pockets of

residents of this State. To the extent that decisions about premium increases were made based on the Government's assurances, it is responsible for what consumers are paying. That cannot be examined under this bill, and it should be. We must let in the light and let Alan Fels loose to examine that question. Why will the Government not allow that to happen? What is the downside for the consumers of New South Wales? There is none. There might be an explanation, and there is no reason to shield those premium increases.

This is a bad deal for New South Wales consumers. That is at the heart of the Opposition's concern about this legislation. Premiums will fall and insurance companies will sell more policies and they will benefit. I have no problem with that. The problem is that companies are not required to give back anything. The Government could have required companies to give something back to consumers. I mentioned the previous year's premium being included on renewal notices. The insurance monitor has indicated to insurance companies that it would like to deal with people having to pay up to 70 per cent more, which according to research is what happened in the United Kingdom. The insurance monitor stated:

Insurers' policy documents analysed to date by the Monitor have not identified any provider that currently includes the prior years' cost on renewal invoices.

The Government should have required insurance companies to do that as part of this deal. New South Wales consumers would have benefited and it would have been a fair deal given the benefits that the companies will enjoy. The insurance monitor also referred to a price comparison website [PCW], stating:

A well-developed PCW has the potential to enhance competitive price pressure in the property insurance market and would help raise consumer awareness of price differences and price consciousness more generally.

The Government should have required such a website as part of the deal, but it did not. I call on it to do so because without those benefits for consumers this is a very one-sided and bad deal. The insurance companies are not being required to give back anything. This bill has two crucial flaws: It is a bad bill and it is all give and no take. The Government is not requiring last year's premiums to be included on bills nor the establishment of a price comparison website. It has allowed premiums to increase by dragging its feet, but it will not allow scrutiny of the period from 1 July 2012 to 1 July 2014. It should do so because premiums were increasing dramatically during that time. We need that scrutiny. Until those measures are implemented, the Opposition will oppose the bill.

**The Hon. ROBERT BROWN (15:48):** I speak on behalf of the Shooters, Fishers and Farmers Party in debate on the Fire and Emergency Services Levy Bill 2017. A number of Opposition members have said that they support the bill in principle. I will jump on that bandwagon and say that the Shooters, Fishers and Farmers Party also supports the principle behind the bill. Once it is passed—and it will be, with or without amendments—the question will be whether it will work in the way the Government believes it will, and in the way in which it proposes it will work. My party is concerned, as am I personally, that it may not. But like my colleague the Hon. Peter Primrose did last night, I throw myself on the mercy of the Government and trust it on this issue.

**Mr David Shoebridge:** You always do that.

**The Hon. ROBERT BROWN:** Not always. Generally speaking, I am not disappointed; sometimes I get what I want and sometimes I do not. While we will reluctantly support the bill, the Shooters, Fishers and Farmers Party has many concerns about the changes to be introduced and the potential windfall to profit-driven insurance companies that will result. That is our key difficulty with this bill. I have read the bill and I understand what the Government intends in terms of the monitor being able to regulate the insurance companies—or should I say "encourage" them to do right thing. Our concern is that insurance companies—bless their cotton socks—will not do the right thing. Given that this bill will shift the onus of generating funds for firefighters and other emergency service providers from insurance companies directly onto ratepayers, the Shooters, Fishers and Farmers Party is concerned that it will benefit only multinational insurance companies, and that the proposed pain spread will not happen in the way the Government believes it will.

Emergency services workers and volunteers perform a difficult task in the harshest and most challenging environments when we need them most. As speakers said before—including the Hon. Mike Gallacher, who extended that group to include surf lifesavers—they are our lifeline. We are supporting this bill because we do not want to see the ability of those volunteers who do the work curtailed, or their being put at risk because their agencies are not properly funded. I take this opportunity—this is not directed at the Government; this is directed to the *Hansard* reproduction of this speech—to issue a warning to the major insurers in New South Wales: Do not dare take the people of New South Wales for a ride once this bill is passed. Do not even contemplate raising profit margins or lowering payouts because the Government has granted you a windfall on the non-payment of the fire and emergency services levy. It will be the Government's job to ensure that these insurance companies do not get that opportunity. To the insurance companies I say this: We will be watching you, and I would have no qualms about supporting a comprehensive inquiry into the insurance industry if things do not work out the way

the Government believes they will, and I am sure the Government would probably do something about that too. AAMI, IAG, NRMA, Allianz, Comminsure and others—this warning is for you.

I will not go into some of the detail that is in this very well written speech because of time constraints. I think most members who have spoken on this bill have pretty much covered the issues that we see as a problem. In supporting the legislation, I offer a word of caution: We wanted to see whether the NSW State Emergency Service [SES] would receive an increase in funding as a result of this levy, given that the NRMA is a principal partner of the SES. The NRMA is able to use its logo on this emergency service's material and in campaigns in return for fronting up with some running costs. Given the NRMA is receiving a benefit from this levy, one assumes there will be more cash available for our State Emergency Service volunteers. I am not picking on NRMA; I am just using them as an example. My question without notice to the Minister on 23 August last year was:

Given that the NRMA is a principal partner of the New South Wales State Emergency Service, will the Government be expecting it to increase its financial contribution to the service from the savings it will be making as a result of the cost-shifting of the emergency services levy to ratepayers?

Later that day, I received a response:

The total amount of funding provided to the fire and emergency services will not be changed as a result of the emergency services levy reform. The sponsorship provided by the NRMA to the New South Wales State Emergency Service is not related to, and will not be affected by the introduction of, the Emergency Services Property Levy.

This will be tested once the legislation is in place and after one or two years go by. Time will tell. We support the principle of the bill. In fact, I think some of the amendments that have been moved by the Opposition are worthy of consideration by the House, but that is about as far as I will go.

**Mr SCOT MacDONALD (16:03):** I support the Fire and Emergency Services Levy Bill 2017 with a very brief contribution. This is a very important bill and I would like to bring the perspective of the Hunter and the Central Coast to this debate. In 2015 we had what we called the April super storms. They gave the Hunter and the Central Coast a hammering; more particularly the northern part—places like Maitland, Dungog and those sorts of areas—really got a smashing. I had the privilege of going around and meeting many members of the community. I met some with the recovery co-ordinator, Brigadier Darren Naumann. He was excellent at reaching out to the community and going out to some of those far-flung places.

My overwhelming impression is that there was inequity between people who were insured and some people who were not insured. It was a very difficult moment to meet people who had lost their house completely or part of their house, or part of their contents or suffered damage of various sorts, and who had very little or no cover. They were under-insured. Their plea, of course, was for help and they looked to us for assistance through non-government organisations [NGOs], the councils, and the State and Federal governments with their various forms of assistance. All credit to all those agencies; they did step up, particularly the NGOs, Red Cross, the Salvation Army, Benevolence, and a huge number of people. There was fundraising going on that was often sponsored by the council. Councils stepped in to help people and of course, as I say, the State and Federal governments were very active and helped.

There was a disparity between people who were well and truly covered—whether it was their rural property, an industrial complex, a house or whatever—and were able, by virtue of the cover that they had, to pick themselves up and get going again quickly, get back into employment, and get their premises or farm back in order as best they could, and those who had no cover. We met people who had no cover and who were absolutely distraught about where they could go next. I still can picture some houses in the Dungog area that were not insured and whose owners walked away from them. People could not see their way clear to restore their house and their premises.

For me, this bill is very much about equity. It is about recognising that some people have taken out insurance cover, but roughly four-tenths of the population have no cover or inadequate cover, and that leaves the rest of the community to help them as best they can. This is about socialising the risk. Some people either deliberately, or because their circumstances were such they could not pay for insurance cover, were left under-insured or not insured at all. I do not want to revisit a disaster zone such as I saw in the Hunter and the Central Coast. I think Gosford also was mentioned by one of the previous speakers. I do not want to go back into that situation and have people pleading with me on the spot or later through representation at a meeting for some sort of assistance to get back on their feet. This bill is about fairness across the community and enabling people to have the capacity and resilience to get back on their feet through having the financial support that is so necessary after a fire, floods and storms.

I commend the Government. Various Ministers have been active in this area in this term of Parliament. I will not name the services Ministers who have got us to this point, but I think it is to the credit of the Government that we have finally reached this point. I have heard all the prophecies of over-charging or under-charging. Fair

enough, we need to look at that. In Professor Fels we have a good person looking at that area and he is empowered, I think, to get refunds if that is necessary. I urge members not to walk away from this reform. Do not divide us on this to the point where this legislation is put on the backburner. It cannot be delayed any longer. We need to move forward with this. We have communities that have felt the pain and individuals who have been severely disadvantaged by not having a fire and emergency services levy. I commend the bill to the House.

**The Hon. Dr PETER PHELPS (16:08):** I did not intend to make a contribution to debate on the Fire and Emergency Services Levy Bill 2017. However, the contribution of The Greens has prompted me to come forward to offer a little bit of—

**The Hon. Greg Donnelly:** Balance?

**The Hon. Dr PETER PHELPS:** —balance to the equation. The position taken by the Labor Party regarding the principle of this matter is fine. I will not criticise the Labor Party. Arguments can be made about which proportions should be paid, but it is meritorious that Labor accepts the principle of moving away from contributions via voluntary insurance to a system of universality relating to the ownership of property. I congratulate Labor on recognising that. However, the contribution by The Greens to this debate is bizarre, to say the least. Their argument that people should not pay for a service that they use is bizarre. Instead, they say they should rely on other people providing money for that service. In other words, it is all right for people to utilise a service that is paid for by others without making any necessary contribution to that service which they may use in the future. That is a bizarre position to take.

**The DEPUTY PRESIDENT (The Hon. Trevor Khan):** Order! I ask Mr David Shoebridge to refrain from interjecting. The Hon. Dr Peter Phelps will finish his contribution far more quickly if he is not interrupted.

**The Hon. Dr PETER PHELPS:** Under The Greens proposal, we are placed in a bizarre situation of having two neighbours with identical land values and identical houses, one of whom has taken out insurance and is effectively subsidising the provision of emergency services to his or her neighbour. The Greens speak a lot about social justice, but there is no social justice in that example. One person is making an appropriate contribution to their own wellbeing but at the same time there is the injustice of another person who is essentially freeloading or bludging—to use a great Australian-ism—on the contribution of the other. Maybe the problem is that The Greens are opposed to the concept of an extension of a land-based levy. I thought that was slightly bizarre, considering that on Friday 11 December 2015 Ms Jan Barham suggested the proposal to broaden the base of land tax would promote the efficient use of available property. Similarly, on 5 April 2016, a press release—which is freely available on The Greens website under their heading "News"—states:

Greens NSW Housing spokesperson Jan Barham MLC has welcomed the call by peak bodies from civil society and the business sector to phase out stamp duty and replace it with a broad-based land tax.

"I moved for our 2014 Parliamentary inquiry to recommend a transition from stamp duty to a broader land tax ...

"It's time for the Government and Opposition to get over their reluctance to mention tax reform and support a move to tax land value instead of charging stamp duty on transactions ...

A broad annual land tax in its place would improve affordability for would-be home owners ...

At the state level, the Government needs to wean itself off the stamp duty windfalls caused by the housing boom and act in the best interests of households by moving to land tax instead.

We have a remarkable situation where The Greens say it is perfectly acceptable for a broad-based extension of land tax to pay for consolidated revenue expenditure, but it is not acceptable to have an expansion of land tax—which is essentially what this levy is—to pay for a selected portion of expenditure from consolidated revenue. In other words, you can have a land tax that pays for everything but you cannot have a land tax that pays for some things. That is the illogicality and ridiculousness of The Greens. The Greens want to expand it because part 16 of The Greens New South Wales education policy explicitly calls for the abolition of land tax exemption from non-Government educational institutions.

We have a situation of The Greens being kind of half pregnant. They say, "No, we do not like this expansion of land tax to pay for the emergency services of this State, but we are very happy to have a land tax that pays for everything else the State does." While I disagree with Labor, its position is not utterly illogical. Labor's position recognises that the extension of land tax is a genuine social justice measure. It provides a greater degree of justice for the provision of services in this State to those who might use the services. We may disagree on the proportional breakdown, but it is a hell of a lot better than the lunacy and hypocrisy coming from The Greens corner of this Chamber.

**The Hon. MATTHEW MASON-COX (16:14):** It is always interesting to follow my colleague the Hon. Dr Peter Phelps. Whilst I will not contribute comments about the lunacy of The Greens, I concur with his general comments. I make comment on the history behind this important reform. Let us not forget that this is tax

reform in New South Wales that has support, in principle, from the Labor Party, which does not happen often in this Chamber. Sadly, we do not have complete consensus because Labor is troubled with the detail. We will have a discussion in Committee as to what that detail is, but it is important to reflect on the issues raised by the Leader of the Opposition about that detail. I could not help but be somewhat amused with some of the examples that the Leader of the Opposition gave and the areas from which he took those examples.

First, he commented about the fact that this levy may have an effect on low income households and then trotted out an example from Kiama, which happens to be a marginal Liberal seat. For good measure, he threw in Gosford, which happens to be the subject of an imminent by-election. Then he mentioned Arncliffe. Why Arncliffe? Arncliffe is in Rockdale, of course, which is close enough to Oatley or East Hills if the member was to throw a dart at the board. Maybe he was confused about where Arncliffe is because he lives that far west. I am not sure. Dressed up in the details is the normal political manifesto from those opposite, which is the fear campaign. Let us get to the detail and point out all of the idiosyncrasies that might lead to a conclusion that some people are worse off.

This is important tax reform. Those opposite are not dealing with it seriously when they go straight to a political fear campaign rather than look at what is being done. This reform has had a long gestation; it has not occurred overnight. It has gone through an exhaustive discussion process with all stakeholders and it has gone through an exhaustive modelling process by the competent people in Treasury. A lot of people have been on this journey since the discussion paper was first issued in 2012. At that time I was the Parliamentary Secretary to the then Treasurer, the former Premier Mike Baird. We went through this in some detail. I can see some Treasury officials in the Chamber who have also been on the long journey.

At the time, a number of roundtable discussions were held with all stakeholders. A lot of modelling was focused on how this levy would go forward and some of the issues were highlighted. Some of the members opposite have looked at the transition issues. The discussion paper mentioned one way of ameliorating the effects of that transition, which was a one in 365 smoothing of the timing impacts of these changes. However, the Government decided to look at those issues through the eyeglass of what happened in Victoria and to learn from that experience. Those opposite might recall that the controversy that occurred in Victoria when changes to the emergency services levy were brought in was in the newspapers at the time.

Indeed, it followed recommendations made by the inquiry into the Victorian bushfires, to which some members on both sides of the Chamber have alluded. That inquiry focused on the tragedy which resulted for many people who were not insured. It was a recommendation of that royal commission that we look at introducing an emergency services levy across the country to deal with this issue, so that we can encourage people to get insured. Indeed, there are some very good equity issues in spreading the load across a high base. That was the genesis of the levy with respect to this State's consideration of the issue. When the Victorian Government introduced that important reform, this Government looked very closely at its impacts on the market. Allan Fels was brought in at that time by the Victorian Government, and he did an excellent job in identifying issues and bringing the insurance companies to account.

The issue of transition is difficult. That is why, last year, the Emergency Services Levy Insurance Monitor Bill was introduced. It will result in a smooth transition. If somebody has a home and contents insurance policy at the start of the year, one year later they will be brought into the fire and emergency services levy [FESL] scheme through their payment of rates to local government. It will be a smooth transition which will mean people will not have to pay twice, depending on the timing. The payment was picked up in a way that will be balanced out over 12 months. That was left to market forces and to the insurance monitor to ensure that the appropriate smoothing mechanisms were in place. If there is any over-collection it will be returned to the affected person, and in circumstances where that is not possible it will go into the consolidated fund, which would mean that it would then come off the budget for the fire and emergency services levy in the following year, improving the situation for all people who are subject to that levy.

From an equity point of view, we have done a very thorough job. The officials in Treasury, the Ministers involved and the Premier, in her former capacity as Treasurer, have done an excellent job in working through these difficult transition issues. The legislation is by no means perfect but the reality is that it cannot be perfect. Those who look at the detail to try to find something to disagree with are really objecting to the whole intention of the Government with respect to this important reform that will achieve equity in this area in New South Wales. It is worth having a charitable look at the practical effect of this legislation because, at the end of the day, it is very good reform. Members on both sides of this Chamber—with the exception, perhaps, of The Greens—acknowledge in principle that this reform is long overdue. Let us not forget that New South Wales is the last mainland State to introduce this important reform. Tasmania will catch up one day. New South Wales has been waiting for some time.

I acknowledge that there may be some political cost, from the Government's perspective, of doing this. It takes a little bit of courage to bring in reform and change the rules, which may have a negative effect on some people—people who may not have insured their homes and household contents. Those people may have a property and are not paying a cost. It may be difficult to explain the reforms to those people. Other people will be affected differently due to their personal circumstances. The Government has done the modelling. In the general case—we have to deal in generalities in relation to this—a fully insured person who owns property will be better off as a result of this reform. That follows logically from the fact that the FESL will be spread over a larger base. *Mutatis mutandis*, that is what will follow because of what is being done. There will be some circumstances where some people may not be as well off. That is just the way it is. Change brings winners and losers. The Government has tried, as best it can, to smooth that transition.

In the end we will have a much better system which is much fairer and which will encourage people to insure because it will cost them less. At the end of the day we will have a much more efficient tax, which will be much easier to collect. I note that some comments have been made in relation to over-collection and under-collection and how that might work practically. It is worth reflecting on the way the system works now with respect to how the emergency services levy [ESL] is determined. We had a system whereby the Minister for Emergency Services worked out what the budget was and then the insurance companies worked out, on an estimate basis, how that would work with respect to their policyholders and their market share and all the rest of it. It was a complicated process which resulted in a policy price increase. Members who have insurance policies would understand that that is clearly shown on bills. Some people have mentioned in the debate that they did not realise there was an ESL component of their insurance but most people would have seen the significant impact it has on their insurance bills.

There are also some insidious impacts that are a result of the current taxation systems at the State and Federal levels. There is a stamp duty on the ESL and a goods and services tax on the stamp duty as well. So we have double taxation, which will be corrected by these changes. That can only be a good thing. At the end of the day, the new levy will be collected through the local government rates system, which will provide a much cleaner and more accountable system. In the end we will still have a budget that needs to be met. The budget will be very clearly stipulated by the Government and, based on that, estimates will be made in relation to what needs to be collected on a yearly basis, with appropriate safeguards should over-collection occur.

It is important to understand that this is a complex system. We need to look at the general cases to ensure that we are fair in the way that we assess the impact. It is clear that a political fear campaign is about to be launched by the Labor Party and unions. That is really poor form and against the bipartisan principle that this legislation is based on. The members opposite should have another cold, hard look at themselves and stop the political fear campaign before it begins and start thinking about what is in the interests of the people of New South Wales. I commend the current Treasurer, the former Treasurer and the former Premier and all those involved, including the bureaucrats who have done a wonderful job in the background with the modelling and all the other work to bring this legislation to this Chamber. This is worthy reform that is well overdue. It would be remarkable to see The Greens support anything that moved New South Wales ahead. This Government is certainly very proud of this reform.

**The Hon. BEN FRANKLIN (16:27):** On behalf of the Hon. Don Harwin: In reply: I thank all members for their contributions to the debate on the Fire and Emergency Services Levy Bill 2017. As many speakers have noticed, the replacement of the insurance-based emergency services levy [ESL] with the fire and emergency services levy [FESL] is a major piece of tax reform for New South Wales. It is more transparent and it will be fairer because it shares the burden across all property owners. Everyone benefits from fire and emergency services protection, and everyone should contribute.

I say from the outset that the Government does not accept the Opposition amendments because, while they are well intentioned, they are unnecessary. However, I thank the members of the Opposition for their genuinely constructive contribution to this debate and for their interest in the matter. For the record, through the FESL this Government is doing more to reduce home and contents insurance premiums and protect consumers than members of the Opposition ever did when they were in Government.

I shall now address a number of matters raised earlier in the debate. Some members of Parliament have asked if there is a risk of double charging as the Government transitions from an insurance-based levy to a property-based levy. I emphasise that property owners pay only once each financial year for the cost of the fire and emergency services under both the current emergency services levy and the new fire and emergency services levy. People who renew their insurance in the months before the ESL is abolished in July 2017 make a contribution towards the cost of the fire and emergency services in respect of the 2016-17 year. While the insurance policy may extend into 2017-18, the ESL contribution is made for the financial year in which the policy commences. This is true even when insurance customers choose to pay their annual premiums through monthly payments.

When the FESL commences in July 2017, contributions will be payable in respect of the cost of fire and emergency services in the 2017-18 financial year. Because insurance companies are transitioning their prices prior to the ESL's abolition, most customers who renew close to 1 July 2017 will find that the ESL has already been largely eliminated on their renewal notice. I acknowledge that this may be confusing in the interim, but it further demonstrates the need to reform the current ESL. The FESL, which we are moving to, is a fairer and more transparent arrangement. I remind members, and particularly the Hon. Robert Brown after his contribution, that last year this Government appointed Emergency Services Levy Insurance Monitor Professor Allan Fels and deputy insurance monitor Dr David Cousins to ensure that insurers remove any ESL mark-up on insurance premiums from 1 July onwards. To ensure that this occurs and on the advice of Professor Fels and Dr Cousins the monitor will have the power to seek fines of up to \$10 million for price exploitation or false and misleading conduct by insurance companies.

Opposition members have asserted that the State Government's contribution to funding the fire and emergency services is not mandated. They are wrong. Under the new FESL, the Government will continue to approve budgets for the Rural Fire Service, Fire and Rescue and the State Emergency Service in the same way it funds other Government departments. FESL and council contributions are spelled out in the amended Fire Brigades Act, Rural Fires Act and State Emergency Service Act, and the State Government is responsible for contributing the rest. A number of Opposition members have also mistakenly asserted that households will provide a cross-subsidy for businesses. That simply is not true. The bill sets out shares of revenue that will be collected from different property sectors. These revenue shares are based on revenues currently collected under the insurance-based emergency services levy. The Government has explicitly committed to maintaining the existing ESL revenue shares for the residential, farm and non-residential sectors.

These revenue shares differ from those published in a 2011 Insurance Council report. The old data was not accurate. It was based on a small sample of data. Since that time, Treasury has undertaken extensive modelling based on data provided by the insurance sector to refine revenue share estimates. The proportions the Government has set reflect the true revenue shares collected under the current insurance levy. The burden has not shifted from business to residents. It has stayed the same. Despite comprising about 90 per cent of properties, the residential sector is estimated to currently contribute only 58.07 per cent of ESL revenues. Finally, the Hon. John Graham asked for information regarding why the levy will be lower in the regions than the city, and the answer is simple: The levy is based on the unimproved land value of the property, which is always and clearly lower in the regions than in the city.

The Labor Party has raised a number of questions today, but I have a few of my own. If those in the Labor Party have such major objections to the current system then why did they not lift a finger to address or reform the ESL while they were in government? Like other Labor bright ideas, this one is half-baked. They have mentioned call-out rates. Are they aware that call-out rates vary throughout the State? There are some parts of the State where residential call-outs greatly outnumber those from businesses. Is Labor then in favour of shifting the burden to the average family in those areas? Call-outs for residential properties may be low, but the costs of service are typically high because of the remoteness of the properties protected. Is the Opposition then arguing to dramatically shift the burden to those rural areas? Through the FESL, this Government has sought to reform the current system and move to a fairer and more transparent arrangement. This is an important bill that ensures our fire and emergency services are funded in a way that is fairer for all in the community. I commend the bill to the House.

**The PRESIDENT:** The question is that this bill be now read a second time.

**The House divided.**

Ayes .....29  
Noes .....4  
Majority.....25

AYES

Amato, Mr L  
Donnelly, Mr G  
Gallacher, Mr M  
Green, Mr P  
Maclaren-Jones, Ms N  
(teller)  
Mitchell, Ms S  
Nile, Reverend F  
Primrose, Mr P

Clarke, Mr D  
Farlow, Mr S  
Gay, Mr D  
Khan, Mr T  
Mallard, Mr S  
  
Mookhey, Mr D  
Pearson, Mr M  
Searle, Mr A

Cusack, Ms C  
Franklin, Mr B (teller)  
Graham, Mr J  
MacDonald, Mr S  
Mason-Cox, Mr M  
  
Moselmane, Mr S  
Phelps, Dr P  
Secord, Mr W

## AYES

Sharpe, Ms P  
Voltz, Ms L

Taylor, Ms B  
Wong, Mr E

Veitch, Mr M

## NOES

Faruqi, Dr M

Field, Mr J

Shoebridge, Mr D  
(teller)

Walker, Ms D (teller)

**Motion agreed to.****In Committee**

**The CHAIR (The Hon. Trevor Khan):** There being no objection, the Committee will deal with the bill as a whole. I have one set of amendments, being Opposition amendments on sheet C2017-012.

**The Hon. ADAM SEARLE (16:41):** I move Opposition amendment No. 1 on sheet C2017-012:

No. 1      **Description of levy**

Page 27, clause 78 (3), lines 16 and 17. Omit all words on those lines. Insert instead "The levy is to be described as the "NSW Government Fire and Emergency Services Levy—this is a NSW Government charge" or as the "NSW Government FESL—this is a NSW Government charge". The description may include a reference to the".

The bill proposes that on rates notices the levy be referred to as either the "NSW Government Fire and Emergency Services Levy" or the "NSW Government FESL". To enhance transparency, we propose this amendment so that the levy will be described as the "NSW Government Fire and Emergency Services Levy—this is a NSW Government charge" or as the "NSW Government FESL—this is a NSW Government charge". I am sure those opposite who railed against the Gillard Government's efforts to price carbon and were very supportive of the inclusion of the carbon price in all New South Wales utility bills will support a clear explanation about why people's rates are being increased in the way proposed. The amendment does not go as far as specifying a colour, font size or background colour; we are just trying to enhance transparency. The amendment will provide a consistent explanation of the levy for however many councils are left in New South Wales when the new system comes into effect. I urge honourable members to adopt this amendment in the spirit of promoting transparency.

**Mr DAVID SHOEBRIDGE (16:43):** The Greens support the Opposition's amendment No. 1.

**The Hon. BEN FRANKLIN (16:43):** The Government does not support the Opposition's amendment No. 1. The proposed description of the FESL on rates notices already clearly indicates that it is a New South Wales Government levy. We are not hiding this fact; we are sending out a one-page information document detailing these changes. There is limited space on council rates notices, and the proposed addition could even involve additional costs to councils by forcing them to add an additional page to their rates notices. It is absolutely clear that this is a New South Wales Government charge. Therefore it is a superfluous amendment and one that we do not support.

**The CHAIR (The Hon. Trevor Khan):** Mr Adam Searle has moved Opposition amendment No. 1 on sheet C2017-012. The question is that the amendment be agreed to.

**Amendment negatived.**

**The Hon. ADAM SEARLE (16:44):** By leave: I move Opposition amendments Nos 2 to 4 on sheet C2017-012 in globo:

No. 2      **Payments by Commonwealth lessees**

Page 48. Insert after line 34:

**151      Report on negotiations with Commonwealth lessees**

- (1)      The Minister is to negotiate with Commonwealth lessees for the purpose of securing contributions from them in lieu of the levy.
- (2)      A report on the outcome or progress of those negotiations is to be tabled in each House of Parliament by 30 November 2017.
- (3)      In this section:  
*Commonwealth lessee* means a lessee of land owned by the Commonwealth.

No. 3      **Liabe State owned corporations**

Page 55, Schedule 3, clause 6 (5). Insert after line 17:

(d) TransGrid.

No. 4 **Land treated as Government land**

Page 55, Schedule 3, clause 6 (6) (a), line 20. Omit all words on that line.

Members on this side of the House think it is shocking to see in this bill several inappropriate exemptions for the payment of the new property tax. Are those exemptions for pensioners or charities? No, three of the entities singled out for favourable treatment under this bill are WestConnex, TransGrid and the Sydney Airport Corporation. In these exemptions we can see the priorities of those opposite. The Government will enshrine in legislation exemptions to the \$16 billion WestConnex, the profit-gouging Sydney Airport Corporation and the recently privatised electricity company TransGrid but will not give a clear explanation for doing so. This last point is quite telling because both Ausgrid and Endeavour Energy have been partially privatised and, as I read the legislation, will be liable to pay the levy. Under the terms of this bill charities will pay the levy, pensioners will pay the levy, householders will pay the levy, but this Government will go to extraordinary lengths to exempt struggling toll road operators and the monopolistic beneficiaries of other government privatisations. We propose these amendments to deal with this situation.

Opposition amendment No. 4 will deal with WestConnex. Under schedule 3, part 2 division 2, clause 6 (6) (a) to the bill, land owned by WCX M4 Proprietary Limited is deemed to be operating on government land and therefore exempt from paying the levy. This is not a sports car—in fact, it is the name of the secretive private entity responsible for the oversight of WestConnex. The Opposition would love to have heard the discussion between the Treasurer and the company, but of course WCX M4 Proprietary Limited is a new form of privatised company outside normal government channels of regulation. It is a commercial entity and it is not clear why it should be exempt from the levy when other private companies will be required to pay the levy. I am sure WestConnex will require the services of our emergency response teams from time to time, and using the logic that has informed the Government's position it is fitting that the company should pay the levy. Instead of sponsoring AFL teams, WestConnex should be made to pay its way when it comes to this levy, and this amendment deals with that.

Amendment No. 3 deals with TransGrid. While land owned by State-owned corporations is exempt from paying the levy, the state-owned corporations Essential Energy, which is entirely state owned, Ausgrid, which has been partially privatised, and Endeavour Energy, which has also been partially privatised, are specifically made to pay the levy. But TransGrid was not included, we assume because unlike Ausgrid, which was majority leased, it was 100 per cent privatised. It reflects the outlook of this Government obsessed with privatisation and then going out of its way to give the new privatised entity as much publicly funded assistance as possible. We ask: Where is the public good in this? Why should a struggling family and pensioners be forced to pay when a new privatised energy giant is exempt from payment of this tax? In the other place we sought clarification as to why TransGrid was not listed as being liable to pay the levy along with these three distributors, but no satisfactory explanation has yet been given by the Government. I look forward to the Parliamentary Secretary giving a full explanation to the House prior to the vote.

Amendment No. 2 deals with the lessees of the Sydney, Bankstown and Camden airports, which are not subject to the levy as they occupy Commonwealth land and therefore are exempt. The exemption has its basis in section 114 of the Australian Constitution, which prevents the States and Commonwealth from taxing each other. It is assumed that under the old scheme the airports would have contributed significant amounts to emergency services funding via insurance premiums, and appropriately so. The potential call of our emergency services by the operator of airports is significant. That being so, the airports are about to receive a substantial windfall by not being included in having to pay this levy. Although technically the Commonwealth is still the owner, there is a "long-term lease", but to all intents and purposes Sydney Airport Corporation is a private for-profit entity and it should pay the levy.

In the interests of fairness, and to ensure that we do not have another subset of free riders on our emergency services, the Government must do what it can to extract the agreement of the airports to pay the levy. We have a precedent where airports, technically Commonwealth land and not rateable by local councils, agree to make payments in lieu of council rates. So we have moved an amendment to require the Minister to report to the Parliament by 30 November this year on the outcome of negotiations with the airport lessee companies to secure the payments in lieu of a levy. If the Treasurer, the Premier and indeed the Parliamentary Secretary, as well as other Government members, are so concerned about the free-rider problem in the current system, as we have heard time after time about people not taking out appropriate insurance and leaving their neighbours in the lurch, then I am sure the Government will support this sensible amendment. We urge the House to adopt the amendments we have moved.

**The Hon. BEN FRANKLIN (16:50):** I will deal with the amendments in ascending order rather than descending, unlike the Leader of the Opposition. Opposition amendment No. 2 deals with the requirement that the Minister negotiate with the Commonwealth to secure contributions in lieu of the fire and emergency services levy [FESL]. The Government suggests that this measure is unnecessary given that the New South Wales Government already intends to discuss with the Commonwealth a tax equivalent payment being made by Commonwealth lessees under the Commonwealth Places (Mirror Taxes) Act. So we are already looking at this issue and therefore it is not necessary to support the amendment.

Amendment No. 3 seeks to clarify the position of TransGrid. I am delighted to advise the Leader of the Opposition that this amendment is redundant because TransGrid is already liable for the FESL. I am sure that the Leader of the Opposition will sleep more soundly at night knowing that is the case. In relation to amendment No. 4 and the application of the FESL on WestConnex the Government says two things. First, WestConnex is Government property and therefore, like all Government property, is exempt from the FESL. Secondly, if it were to be levied on WestConnex then the cost obviously would be shouldered by the Government—and, as Mr Shoebridge well knows, not by the Government but rather by the taxpayers—which of course would be unfair. Therefore the Government does not support amendment No. 4.

**Mr DAVID SHOEBRIDGE (16:51):** I accept what the Government says about the TransGrid amendment. If that is true then I see the merit of the Government's position. In terms of opposing the requirement to report to the Parliament on the discussions, which I think is what the Parliamentary Secretary said—

**The Hon. Ben Franklin:** Intending to look into—

**Mr DAVID SHOEBRIDGE:** So the present intention is to look into a discussion with the Commonwealth about a future payment. I think the clear requirement to report to the Parliament about not only the current intention to look into a discussion but also in fact an obligation to negotiate the payments from the Commonwealth is obviously beneficial to the New South Wales taxpayers and ultimately to the services, and we cannot see a rational reason for opposing it, apart from doggedness. As for WestConnex, it is one of the biggest private infrastructure projects. It will be a privatised road with a privatised toll where the income will be going to a private corporation. For the Government to say that it opposes the idea of a levy on WestConnex and opposes WestConnex paying its fair share for emergency services, when all of the income from WestConnex will be going into the pockets of a private corporation, shows just how out of touch the Government is with ordinary Sydneysiders.

I can tell the Government that Sydneysiders who are living anywhere near the WestConnex think it is an outrage that they will be paying \$200, \$300, \$400 or \$500 a pop for an emergency services levy on their house or their unit while a multibillion-dollar private corporation that is sucking a private toll out of their wallets will be getting a free ride right next door. I think most Sydneysiders recognise that this is the Government delivering for a very well-connected corporation and doing ordinary Sydneysiders in the eye in the course of that. There is no good, principled argument for excluding WestConnex—other than that perhaps this is just another way for the Government to try to hide what is now a massive financial black hole. Last time I checked, WestConnex was \$7 billion over budget. The government clearly—

**The CHAIR (The Hon. Trevor Khan):** Order! Mr David Shoebridge is straying from the amendments. I invite him to speak to the amendments. We are not dealing with WestConnex.

**Mr DAVID SHOEBRIDGE:** Well, we are.

**The CHAIR (The Hon. Trevor Khan):** Do not argue with me. We are not dealing with WestConnex; we are dealing with the amendments. Mr David Shoebridge should address his comments to the amendments.

**Mr DAVID SHOEBRIDGE:** Speaking to amendment No. 4, it seeks to omit words from schedule 3, clause 6 (6) (a). It proposes to give an exemption from land tax to land owned by WCX M4 Proprietary Limited. The clear intention of that is to have WestConnex not pay its fair share for emergency services. Given the Parliamentary Secretary's response was that if WestConnex has to pay a levy then that cost will be passed on by WestConnex and then will be indirectly paid by the Government, it is obviously in the Government's mind that it is already \$7 billion in the red on WestConnex and it does not want to add the actual cost of emergency services levies on top of that.

It is a free ride for a private corporation—let alone the free ride that has been proposed for Sydney Airport. Macquarie Bank, the owner for all intents and purposes of Sydney Airport, is a very close player in New South Wales politics. It has been hanging around like a vulture for years picking off State and Federal infrastructure, and now it is being given a tax holiday on proposed emergency services levies. When will the free ride for corporate Australia end with this Government? When will this Government actually stand up for the ordinary Sydneysiders who now have to pay for that free ride?

**The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:46):** I had not planned to speak on this bill. But I happened to be in my office listening to this debate when I heard the illogical and just plain wrong comments made by The Greens on WestConnex, so I just had to come into the Chamber to make a contribution. The Greens claimed that WestConnex is \$7 billion over budget. What a filthy lie. It is absolutely spot on budget. What part of Government projects does Mr Shoebridge not understand? When he wants to spin The Greens' lies across the State on a great piece of infrastructure he will stop at nothing—even distorting things in a bill. This is Government infrastructure financed by the State and Federal governments, and on a user-pays basis, to provide infrastructure. To then add this tax on top of it would be just illogical, and that is where The Greens member was wrong in his contribution on the amendments. This is a very good bill and the amendment should not be supported, even more so because of the deceit of The Greens members in their comments to the amendments before the House.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Adam Searle has moved Opposition amendments Nos 2 to 4 on sheet C2017-012. The question is that the amendments be agreed to.

**The Committee divided.**

Ayes .....16  
Noes .....19  
Majority.....3

**AYES**

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

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

Faruqi, Dr M  
Mookhey, Mr D  
Primrose, Mr P

Secord, Mr W  
Voltz, Ms L

Shoebridge, Mr D  
Walker, Ms D

**NOES**

Ajaka, Mr J  
Colless, Mr R  
Franklin, Mr B (teller)  
Green, Mr P  
Maclaren-Jones, Ms N  
(teller)  
Mitchell, Ms S  
Taylor, Ms B

Amato, Mr L  
Cusack, Ms C  
Gallacher, Mr M  
Harwin, Mr D  
Mallard, Mr S

Nile, Reverend F

Clarke, Mr D  
Farlow, Mr S  
Gay, Mr D  
MacDonald, Mr S  
Mason-Cox, Mr M

Phelps, Dr P

**PAIRS**

Houssos, Ms C  
Sharpe, Ms P

Blair, Mr N  
Pearce, Mr G

**Amendments negatived.**

**The Hon. ADAM SEARLE (17:05):** I move Opposition amendment No. 13 on sheet C2017-012:

No. 13 **Statutory review of Monitor**

Page 63, Schedule 4.1. Insert after line 23:

**[14] Section 80**

Insert after section 79:

**80 Review of Monitor**

- (1) The Minister is to conduct a review of the effectiveness of the Monitor and of the exercise of the Monitor's functions under Part 3A.
- (2) The review is to be undertaken as close as practicable to the date that is 6 months before the repeal of this Act.

- (3) A report on the outcome of the review is to be tabled in each House of Parliament as soon as practicable after its completion and, in any case, no later than 3 months before the repeal of this Act.

This amendment provides for a statutory review of the effectiveness of the monitor and the exercise of the monitor's functions under part 3A of the legislation that creates the monitor. It provides for a report on the outcome of the review to be tabled in each House of Parliament. When such mechanisms are used to sell or to support public policy based on the notion that it is an effective mechanism to ensure that insurance companies, for example, do not get out of control, it is important for public confidence that there be such an investigation and report.

**The Hon. BEN FRANKLIN (17:06):** The Government does not support this Opposition amendment No. 13 because the insurance monitor already provides quarterly reports that allow its effectiveness to be monitored on an ongoing basis. It does this already, and it will continue to do so. The amendment is redundant.

**Mr DAVID SHOEBRIDGE (17:07):** Far from being redundant, Opposition amendment No. 13 strengthens the monitoring and reporting processes. The Greens cannot understand why the Government is opposing this amendment if it seriously thinks the model it has in place is worthwhile. The Greens agree that this amendment will strengthen the legislation, and we support it.

**The Hon. ADAM SEARLE (17:07):** The Parliamentary Secretary seems to be confused. The quarterly monitoring is undertaken by the monitor. This amendment refers to a report on the monitor's activities. It is an evaluation of the monitor's effectiveness. It is not the monitor speaking for himself; it is someone else working out whether the statutory task has been undertaken properly.

**Mr David Shoebridge:** The watched watcher.

**The Hon. ADAM SEARLE:** I acknowledge the interjection. It is important that the monitor's mechanisms are evaluated not by the monitor but by an impartial body.

**The CHAIR (The Hon. Trevor Khan):** Mr Adam Searle has moved Opposition amendment No. 13 on sheet C2017-012. The question is that the amendment be agreed to.

**Amendment negatived.**

**The Hon. ADAM SEARLE (17:08):** By leave: I move Opposition amendments Nos 5 to 12 and 14 to 20 on sheet C2017-012 in globo:

**No. 5 Extension of price monitoring period**

Page 58, Schedule 4.1. Insert after line 31:

**[5] Section 10 Price monitoring**

Omit section 10 (3). Insert instead:

- (3) For the purposes of subsection (2), the monitoring period is the period commencing on 1 July 2012 and ending on the beginning of the day that this Act is repealed.

**No. 6 Investigation of over-collection under scheme**

Page 59, Schedule 4.1 [9], lines 21 and 22. Omit all words on those lines. Insert instead:

*final 5 years of the scheme* means the financial years commencing on 1 July 2012, 1 July 2013, 1 July 2014, 1 July 2015 and 1 July 2016.

**No. 7 Investigation of over-collection under scheme**

Page 59, Schedule 4.1 [9], line 38. Omit "final 2 years". Insert instead "final 5 years".

**No. 8 Investigation of over-collection under scheme**

Page 60, Schedule 4.1 [9], line 4. Omit "final 2 years". Insert instead "final 5 years".

**No. 9 Investigation of over-collection under scheme**

Page 60, Schedule 4.1 [9], line 9. Omit "final 2-year". Insert instead "final 5-year".

**No. 10 Investigation of over-collection under scheme**

Page 60, Schedule 4.1 [9], line 11. Omit "final 2-year". Insert instead "final 5-year".

**No. 11 Investigation of over-collection under scheme**

Page 60, Schedule 4.1 [9], line 13. Omit "final 2-year". Insert instead "final 5-year".

**No. 12 Term of Emergency Services Levy Insurance Monitor**

Page 63, Schedule 4.1. Insert after line 23:

**[14] Section 79 Repeal of Act**

Omit "1 January 2019". Insert instead "1 July 2022".

No. 14 **Term of Emergency Services Levy Insurance Monitor**

Page 63, Schedule 4.1. Insert after line 23:

**[14] Schedule 1 Provisions relating to Monitor and Deputy Monitor**

Omit clause 3. Insert instead:

**3 Terms of office**

- (1) The Monitor holds office for the period specified in the Monitor's instrument of appointment.
- (2) The term of office of the person holding office as Monitor immediately before the substitution of this clause by the *Fire and Emergency Services Levy Act 2017* ends on 31 December 2018. However, that person may be re-appointed as Monitor.
- (3) The Deputy Monitor holds office for the period specified in the Deputy Monitor's instrument of appointment.
- (4) The term of office of the person holding office as Deputy Monitor immediately before the substitution of this clause by the *Fire and Emergency Services Levy Act 2017* ends on 31 December 2018. However, that person may be re-appointed as Deputy Monitor.
- (5) The term of office for which the Monitor or Deputy Monitor is appointed or re-appointed must expire on or before the date of repeal of this Act.

No. 15 **Investigation of over-collection under scheme**

Page 73, Schedule 4.2 [19], lines 17–34. Omit all words on those lines. Insert instead:

**37 Commissioner to make final 5-year assessment**

- (1) The Commissioner must make an assessment, in relation to each insurance company that was required to make fire brigade contributions in any of the final 5 years of the scheme, of the total amount of fire brigade contributions payable by the insurance company for the final 5 years of the scheme (a *final 5-year assessment*).
- (2) The final 5-year assessment is to consist of the total of the following amounts, as assessed by the Commissioner:
  - (a) the final contribution payable by the insurance company for the final year of the scheme (excluding any insurer loading payable by the insurance company),
  - (b) the total of fire brigade contributions payable by the insurance company for the financial years commencing on 1 July 2012, 1 July 2013, 1 July 2014 and 1 July 2015.
- (3) The Commissioner is to give the final 5-year assessment to the Monitor.
- (4) The Commissioner must give to the Monitor a final 5-year assessment in relation to an insurance company within 30 days after making an assessment of the final contribution payable by the insurance company for the final year of the scheme.
- (5) In this clause:
 

*final 5 years of the scheme* means the financial years commencing 1 July 2012, 1 July 2013, 1 July 2014, 1 July 2015 and 1 July 2016.

No. 16 **Investigation of over-collection under scheme**

Page 73, Schedule 4.2 [19], line 40. Omit "final 2-year". Insert instead "final 5-year".

No. 17 **Investigation of over-collection under scheme**

Pages 84 and 85, Schedule 4.6 [20], line 38 on page 84 to line 10 on page 85. Omit all words on those lines. Insert instead:

**35 Commissioner to make final 5-year assessment**

- (1) The Commissioner must make an assessment, in relation to each insurance company that was required to make rural fire brigade contributions in any of the final 5 years of the scheme, of the total amount of rural fire brigade contributions payable by the insurance company for the final 5 years of the scheme (a *final 5-year assessment*).
- (2) The final 5-year assessment is to consist of the total of the following amounts, as assessed by the Commissioner:

- (a) the final contribution payable by the insurance company for the final year of the scheme (excluding any insurer loading payable by the insurance company),
- (b) the total of rural fire brigade contributions payable by the insurance company for the financial years commencing on 1 July 2012, 1 July 2013, 1 July 2014 and 1 July 2015.
- (3) The Commissioner is to give the final 5-year assessment to the Monitor.
- (4) The Commissioner must give to the Monitor a final 5-year assessment in relation to an insurance company within 30 days after making an assessment of the final contribution payable by the insurance company for the final year of the scheme.
- (5) In this clause:  
*final 5 years of the scheme* means the financial years commencing 1 July 2012, 1 July 2013, 1 July 2014, 1 July 2015 and 1 July 2016.

No. 18 **Investigation of over-collection under scheme**

Page 85, Schedule 4.6 [20], line 16. Omit "final 2-year". Insert instead "final 5-year".

No. 19 **Investigation of over-collection under scheme**

Pages 94 and 95, Schedule 4.7 [21], line 44 on page 94 to line 15 on page 95. Omit all words on those lines. Insert instead:

**19 Commissioner to make final 5-year assessment**

- (1) The Commissioner must make an assessment, in relation to each insurance company that was required to make SES contributions in any of the final 5 years of the scheme, of the total amount of SES contributions payable by the insurance company for the final 5 years of the scheme (a *final 5-year assessment*).
- (2) The final 5-year assessment is to consist of the total of the following amounts, as assessed by the Commissioner:
  - (a) the final contribution payable by the insurance company for the final year of the scheme (excluding any insurer loading payable by the insurance company),
  - (b) the total of SES contributions payable by the insurance company for the financial years commencing on 1 July 2012, 1 July 2013, 1 July 2014 and 1 July 2015.
- (3) The Commissioner is to give the final 5-year assessment to the Monitor.
- (4) The Commissioner must give to the Monitor a final 5-year assessment in relation to an insurance company within 30 days after making an assessment of the final contribution payable by the insurance company for the final year of the scheme.
- (5) In this clause:  
*final 5 years of the scheme* means the financial years commencing 1 July 2012, 1 July 2013, 1 July 2014, 1 July 2015 and 1 July 2016.

No. 20 **Investigation of over-collection under scheme**

Page 95, Schedule 4.7 [21], line 21. Omit "final 2-year". Insert instead "final 5-year". The amendments relate to extending the insurer monitor's period of responsibility. We think the current period in which the monitor operates is not sufficiently lengthy and it is important that be extended. The insurance monitoring period is from 1 July 2014 and ends on 31 December 2018. During the period, the monitor can provide advice to policyholders, monitor the effect of the emergency services reform on insurance contract prices and on whether there has been any price exploitation or any false or misleading conduct. We think the success of the reform will be dependent on competition between insurers, ensuring that the savings on the abolition of the insurance levy are in fact passed on to consumers. Therefore, the role of the monitor is critical in ensuring that transparency is promoted and competitive pressure on the insurance companies is successful.

The bill provides that the monitor can investigate over collection by insurance companies, but only for the 2015-16 and 2016-17 financial years. Over collection, of course, occurs where insurers have collected more from policyholders than they have actually contributed to emergency services funding. If there are over-collected amounts, these are to be refunded to the relevant policyholders or, if that is not practicable, paid to the Consolidated Fund. One insurer, NRMA IGA, has already announced it overcharged the emergency services levy for the 2012-13 year by nearly \$7 million. Under the current bill, the monitor does not have the power to investigate over collection for the financial years 2012-13 or 2013-14 and 2014-15, and would not have the power to review the over collection already identified by NRMA IAG.

The end date of 31 December 2018 is only 18 months after the new scheme begins, and we think that provides an insufficient protection for holders, as it is possible for insurers to increase premiums significantly from 1 January 2019—less than 100 days before the next election. We think there will be no oversight of the insurers after 2018 and we have moved a series of amendments to extend the term of the monitor. We think the public do not really trust insurers, and I think whether they can trust this Government will depend upon whether the Government agrees with the Opposition in putting in place a proper mechanism to have a tough cop on the beat that will make sure the insurers do the right thing over an extended period.

The amendments we propose will ensure monitoring back to July 2012, and ensure that over collection in that fuller time frame is able to be investigated properly forward to 1 July 2022 to ensure that savings from the reform are sustained, but also are secured by consumers. I urge the Government to put aside the intransigence that it has exhibited towards all our other amendments and to join with the Opposition and accept our constructive amendments in the spirit in which they are put forward: to strengthen the regime provided for in the bill and to make sure that all the safeguards are implemented properly and all overcharged funds are returned to those who have paid them—the consumers.

**The Hon. BEN FRANKLIN (17:12):** I will deal with the amendments in two lots. I turn first to amendments Nos 12 and 14 regarding the extension of the term of the insurance monitor. The term of the insurance monitor was agreed in conjunction with Professor Fels and Dr David Cousins, and it reflects their experience in a similar role in Victoria. They remain comfortable with the term, and so the Government has no reason to believe this term should be changed. Therefore, we will not support the amendments. With regard to amendments Nos 5 to 11 and 15 to 20, which extend the period for assessing past insurer overcharging from the existing requirement of two years to five years, the Government knows that the Opposition is always happy to dramatically increase the size and scope of government and this is another case of that—but it takes it a step further.

The Opposition is now suggesting that the State Government exceed its bounds and encroach on the responsibilities of Commonwealth regulators. Through the fire and emergency services levy this Government is doing more to reduce insurance premiums and protect consumers than those opposite ever did when they were in government. Furthermore, as a part of the Emergency Services Levy Insurance Monitor Act, this Government has already doubled the period of hindsight monitoring compared with the period that Victoria allowed when it implemented its comparable reform. It is important to note that the Emergency Services Levy Insurance Monitor Act was also drafted in partnership with Professor Fels and Dr Cousins—two experts of absolute renown. The Government remains utterly confident in them, and therefore will not support the amendments.

**Mr DAVID SHOEBRIDGE (17:14):** We all know that when the Government first proposed this levy—coming up to 2012-13—it was a time when the moral jeopardy, if you like, first arose in relation to overcharging by insurance companies under the levy. The insurance companies, realising that there might be a transition, knew there was the potential for them to jack up their premiums in order to get to an inflated position so that when the transition took place they could notionally reduce their premiums by the amount of the notional levy and still be well ahead. The fact that the moral jeopardy started in 2012 is the intellectual underpinning, if you like, of the Opposition's argument that the monitoring and the review should go back to 2012.

The fact that the Government does not seem to get that—and the fact that perhaps Professor Fels and others think a shorter period might be okay given the Victorian experience—ignores the reality of what has happened in New South Wales. The moral jeopardy started in 2012, and that is when the monitoring and the review should extend back to. The Government's argument simply that there is some sort of parallel Commonwealth regulation that it does not want to trespass on ignores the fact that it is already going back two years, which negates the in-principle argument that it does not want to trespass on the Commonwealth's regulatory power. If it is going back two years, why not go back to the start of the moral jeopardy? Why not go back to when it is likely the gouging started—if it started—because it likely would have started in 2012? That is why The Greens support the Opposition's amendments.

**The Hon. ADAM SEARLE (17:16):** In response to the Parliamentary Secretary, the mere fact that Professor Fels had a particular period of office in Victoria does not address the Opposition's amendments or answer the question of whether the time period we propose is necessary for New South Wales. That is simply a non-answer. The Government is bereft of ideas regarding greater scrutiny of the operation of the emergency services levy. It should be a matter for this House to determine what the appropriate time periods should be. As to monitoring the potential overcharging going back to 2012-13, I would have thought the prime focus in this legislation is to make sure there is no overcharging in whatever time period. Again, the Government has offered no rationale as to why it opposes our sensible amendments, other than to say it is double the period in Victoria. So what? Victoria might conceivably have gotten it wrong. Maybe the circumstances in Victoria and New South Wales are significantly different. The fact is we think we should err on the side of caution and on the side of greater protection for consumers.

**Mr David Shoebridge:** What is there to be afraid of?

**The Hon. ADAM SEARLE:** I acknowledge the interjection. I do not know what the Government is afraid of. Perhaps it does not want too much scrutiny of potential overcharging by the insurance companies. If that is the Government's motivation it would be of grave concern and cast a dark cloud over the efficacy of the whole arrangement proposed in the bill.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Adam Searle has moved Opposition amendments Nos 5 to 12 and 14 to 20 on sheet C2017-012. The question is that the amendments be agreed to.

**The Committee divided.**

Ayes ..... 15  
Noes ..... 19  
Majority.....4

#### AYES

Buckingham, Mr J  
Graham, Mr J

Donnelly, Mr G (teller)  
Mookhey, Mr D

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

Pearson, Mr M  
Secord, Mr W  
Voltz, Ms L

Primrose, Mr P  
Shoebridge, Mr D  
Walker, Ms D

#### NOES

Ajaka, Mr J  
Colless, Mr R  
Franklin, Mr B (teller)  
Green, Mr P  
Maclaren-Jones, Ms N  
(teller)  
Mitchell, Ms S  
Taylor, Ms B

Amato, Mr L  
Cusack, Ms C  
Gallacher, Mr M  
Harwin, Mr D  
Mallard, Mr S

Clarke, Mr D  
Farlow, Mr S  
Gay, Mr D  
MacDonald, Mr S  
Mason-Cox, Mr M

Nile, Reverend F

Phelps, Dr P

#### PAIRS

Houssos, Ms C  
Sharpe, Ms P

Blair, Mr N  
Pearce, Mr G

**Amendments negatived.**

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

**Motion agreed to.**

**The Hon. BEN FRANKLIN:** On behalf of the Hon. Don Harwin: I move:

That the Chair do now leave the chair and report the bill to the House without amendment.

**Motion agreed to.**

#### Adoption of Report

**The Hon. BEN FRANKLIN:** On behalf of the Hon. Don Harwin: I move:

That the report be adopted.

**Motion agreed to.**

#### Third Reading

**The Hon. BEN FRANKLIN:** On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

**The Hon. ADAM SEARLE (17:27):** As I foreshadowed in my contribution during the second reading debate, I inform the House that because the Opposition's balanced and sensible amendments have failed, the Opposition will not support the bill on its third reading. We have concerns about the efficacy of the safety mechanisms in the bill, the insurance monitor functions, the evaluation thereof—

**The PRESIDENT:** Order! Members who wish to have private conversations will have them outside the Chamber.

**The Hon. ADAM SEARLE:** —the provisions dealing with the potential overcharging of customers, and the lack of security that ensures all the overcharged funds are returned to policyholders and consumers, as well as the other matters that we spelled out during the second reading debate and in the Committee of the Whole. Given those concerns have not been satisfied, Labor is unable to support the bill on its third reading. We have difficulties with the detail of the scheme. We support the principles embedded in the legislation, but our profound concerns are that the bill as it currently stands will significantly shift the cost of funding emergency services in this State further onto the shoulders of individual households and away from owners of commercial properties and other businesses, which will lead to a significant windfall for insurance companies. Those are our concerns. The Opposition will not support the bill.

**The PRESIDENT:** The question is that this bill be now read a third time.

**The House divided.**

Ayes .....19  
Noes .....15  
Majority.....4

#### AYES

Amato, Mr L  
Cusack, Ms C  
Gallacher, Mr M  
Harwin, Mr D  
Maclaren-Jones, Ms N  
(teller)  
Mitchell, Ms S  
Taylor, Ms B

Clarke, Mr D  
Farlow, Mr S  
Gay, Mr D  
Khan, Mr T  
Mallard, Mr S  
  
Nile, Reverend F

Colless, Mr R  
Franklin, Mr B (teller)  
Green, Mr P  
MacDonald, Mr S  
Mason-Cox, Mr M  
  
Phelps, Dr P

#### NOES

Buckingham, Mr J  
Graham, Mr J  
  
Pearson, Mr M  
Secord, Mr W  
Voltz, Ms L

Donnelly, Mr G (teller)  
Mookhey, Mr D  
  
Primrose, Mr P  
Shoebridge, Mr D  
Walker, Ms D

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

#### PAIRS

Blair, Mr N  
Pearce, Mr G

Sharpe, Ms P  
Houssos, Ms C

**Motion agreed to.**

*Committees***COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION****LEGISLATION REVIEW COMMITTEE****COMMITTEE ON THE OMBUDSMAN, THE LAW ENFORCEMENT CONDUCT COMMISSION  
AND THE CRIME COMMISSION****JOINT STANDING COMMITTEE ON ELECTORAL MATTERS****JOINT COMMITTEE ON THE OFFICE OF THE VALUER GENERAL****STAYSAFE (JOINT STANDING COMMITTEE ON ROAD SAFETY)****Membership**

**The PRESIDENT:** I report receipt of the following message from the Legislative Assembly:

Mr President

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

That:

- |     |  |      |   |
|-----|--|------|---|
| (1) | (a)  | (i)  | Pursuant to section 68 of the Health Care Complaints Act 1993, Katrina Ann Hodgkinson be appointed to serve on the Committee on the Health Care Complaints Commission in place of Melinda Jane Pavey. |
|     |  | (ii) | Mark Owen Taylor be appointed to the Committee on the Health Care Complaints Commission in place of Eleni Marie Petinos, discharged.  |
|     | (b)  |      | Pursuant to section 6 of the Legislation Review Act 1987, Gregory John Aplin be appointed to the Legislation Review Committee in place of Alister Andrew Henskens.                                    |
|     | (c)  |      | Stephen Bruce Bromhead be appointed to the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission in place of Eleni Marie Petinos, discharged.                   |
|     | (d)  |      | Melanie Rhonda Gibbons and Andrew Raymond Gordon Fraser be appointed to the Joint Standing Committee on Electoral Matters in place of Melinda Jane Pavey and Jai Travers Rowell, discharged.          |
|     | (e)  |      | Kevin John Humphries be appointed to the Joint Standing Committee on the Office of the Valuer-General in place of Melanie Rhonda Gibbons, discharged.   |
|     | (f)  |      | Kevin John Humphries be appointed to the Joint Standing Committee on Road Safety in place of Christopher Gulaptis, discharged.  |
| (2) | A message be sent informing the Legislative Council. |      |   |

SHELLEY HANCOCK  
Speaker

Legislative Assembly  
29 March 2017

*Bills***MOTOR ACCIDENT INJURIES BILL 2017****Second Reading**

**The Hon. DAVID CLARKE (17:38):** On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

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

**Leave granted.**

The bill introduces a new New South Wales compulsory third-party [NCTP] insurance scheme for people who are injured or lose their life as a result of a motor accident. It represents a major reform for the Berejiklian-Barilaro Government. As a result of the NCTP, the owners of the 5.3 million registered vehicles across New South Wales will see a significant reduction in their premiums. The people injured on our roads will benefit from broader coverage and greater benefits. Subject to approval by Parliament, the new scheme will start on 1 December 2017.

Motorists can expect to see a gradual reduction in green slip premiums throughout the course of this year with the full reductions to be felt from day one of the new scheme. The NCTP will give people injured in accidents fast access to statutory benefits in the form of weekly income support and medical treatment and care. The focus of NCTP will be on rehabilitation of injured road users so they can return to good health sooner. The reforms will also improve the claims and dispute resolution process and arrest insurer

super profits. Why the need for reform? Put simply, the old CTP scheme is seriously broken. The adversarial nature of the scheme means that only 6 per cent of benefits are paid out in the first year, and 22 per cent by the second year.

The majority of payments to injured road users do not start flowing until years three, four and five. Injured road users receive only 45 cents in every green slip dollar, with the balance being subsumed in costs. This is symptomatic of a grossly inefficient scheme. Under the new scheme, 55 per cent of benefits will be paid in year one, and 56 per cent by year two. In simple terms, this means that injured people on our roads will receive better payments faster so that they can focus on rehabilitation and return to good health, rather than being left out of pocket while a protracted dispute between lawyers and insurers ensues. Under the reforms, 57 per cent of a premium dollar will go to injured people, of which 65 per cent will be paid to those people with more serious injuries.

On 22 February 2017, the *Daily Telegraph* published on page 20 an editorial entitled, "Green Slip is an Insult". The editorial stated: "The green slip scheme strongly resembles a still-running terminal older vehicle. ... It's a busted device that arguably costs more to keep running than the scheme, so the aim of the reform is a tough one. ... Any overhaul might not be sufficient. This baby could be better off sold for scrap." I agree with the *Daily Telegraph*. The people of New South Wales do not need a patched-up old jalopy. The Motor Accidents Compensation Act 1999 is that jalopy, which is why we are sending it straight to the wrecking yard. The people of New South Wales deserve a brand new car with a smart engine. The Motor Accident Injuries Bill that delivers NCTP is a brand new bill.

The Government has consulted widely throughout this reform. The constructive input and broad support from the key stakeholders has been crucial to shaping this bill. I now turn to the details of the bill. The bill establishes a hybrid scheme. It delivers statutory benefits for injured road users with injuries other than soft tissue or minor psychological injuries, regardless of fault, while retaining the right to claim modified common law damages for those able to establish fault.

The Lifetime Care and Support Scheme for severely injured people is not affected by the reforms. One of the landmark changes in the bill will see all injured people receive support soon after they lodge a claim. Part 3 of the bill includes provisions for a statutory income, medical and care benefits for up to six months for all injured people, without any need for fault to be proven. At the moment, at-fault drivers can only claim a maximum of \$5,000 under the accident notification form. This includes drivers, for instance, who may have been injured due to a momentary lapse in concentration or being blinded by the sun.

The Government believes denying those people adequate support is not fair and only delays their recovery. NCTP will extend coverage by providing a six-month safety net for all at-fault drivers. When the only injury is soft tissue or minor psychological injury, statutory benefits for loss of income and treatment and care will be available for up to six months. All other injured people who are not mostly at fault will be entitled to additional income support and treatment and care. Under division 3.3, people with moderate level injuries, up to and including 10 per cent whole person impairment [WPI] will receive regular income benefits of up to 95 per cent of pre-injury weekly earnings for the first three months after an accident and up to 80 or 85 per cent of pre-injury weekly earnings after that.

The maximum weekly payment will be indexed and capped at 2½ times average weekly earnings, or \$3,853. Income benefits will be paid for up to two years for injured people not mostly at fault. However, if an injured person has continuing needs beyond two years, and has made a common law claim, income benefits will be paid for up to three years. Income benefits will be subject to the injured person's capacity to earn income, with insurers able to regularly assess the person's earning capacity. This is to ensure that injured people who have the capacity to return to employment stay off work only as long as is necessary to support their recovery.

If there is contributory negligence, such as not wearing a seatbelt or helmet in the case of a motorcyclist, payments for loss of earnings or earning capacity are subject to being reduced after six months. For injured people who are not mostly at fault and do not have soft tissue or minor psychological injuries, reasonable medical and commercial attendant care costs will be payable for life, if needed. Insurers will be responsible for claimant medical and care costs for up to five years and the Lifetime Care and Support Authority will be responsible for those costs after five years. Gratuitous care by family and friends will not be payable. For people with more serious injuries—above 10 per cent of whole person impairment [WPI]—statutory weekly benefit payments will be paid for up to five years if a common law damages claim has been made. People with such injuries will also be entitled to medical treatment, rehabilitation and commercial care for life. If someone loses their life in a motor accident, part 3 provides statutory benefits for reasonable funeral expenses.

Claims for economic loss can also be made where dependents of the deceased can prove another driver was at fault. Part 4 of the bill retains access to modified common law damages for injured people who can establish another driver was at fault, and do not have soft tissue or minor psychological injuries. This means people with injuries less than or equal to 10 per cent of whole person impairment will continue to be able to make a claim under common law for economic loss. Those with injuries above 10 per cent WPI will be able to make claims for economic loss as well as pain and suffering. The cap for non-economic loss payments for pain and suffering will be \$521,000—which is the current cap under the existing scheme—and indexed. It should be stressed that such a person with ongoing needs will remain entitled to defined medical and care expenses for life, if needed.

The bill will reduce costs in a number of ways. The introduction of statutory and no-fault benefits under part 3 will reduce legal costs and the adversarial nature of the scheme because injured people will no longer have to lodge a common law damages claim to get compensation for their injuries. Costs will be further reduced by the removal under part 4 of access to common law damages for soft tissue and minor psychological and psychiatric injuries, which have contributed to a large spike in scheme costs and reduced the proportion of benefits going to those with more serious injuries.

The bill also tackles cost by allowing the regulation of legal fees that injured people can be charged. It allows for both the fixing of maximum legal costs by reference to the amount recovered by the claimant and a fee-for-service model. I have seen too many cases of injured people being left with a small fraction of their original payout after legal, insurance and other costs have been taken out. In one case an injured person received a payout of \$150,000 but was left with only \$60,000 after insurance and legal costs were deducted. In another instance, an injured person received a payout of \$40,000 but ended up with just \$479 in their pocket. The introduction of statutory benefits should allow insurers to price risk more accurately, ensuring more funds flow to injured people when they need it, particularly the more seriously injured. Crucially, eliminating insurer super profits will also help reduce green slip premiums. The Government's actuaries estimate the reforms will produce state-wide average premium reductions of more than \$100. This will be welcome news for New South Wales vehicle owners, who pay on average \$635 for a premium—the highest in Australia. In Sydney, this runs to more than \$700 for the average family car.

This is a real social equity issue. As a further safeguard against high premiums, part 2 of the bill confirms the regulator's power to impose a risk equalisation mechanism to stop insurers targeting low risks and avoiding high risks. This will lead to more price competition and encourage potential new market entrants. In addition, a profit normalisation mechanism during the transition to the new scheme will ensure any insurer super profits are returned to vehicle owners. The State Insurance Regulatory Authority [SIRA] will review the ongoing need for this power three years after it commences.

SIRA will be empowered to collect and regularly publish a range of insurer profit, filing and loss ratio information. Part 2 of the bill boosts the regulator's powers to regulate premiums, including the ability to reject a premium an insurer proposes to charge if it is deemed excessive or does not comply with the premium guidelines. As part of this, division 2.3 gives SIRA additional powers to place limits on what it considers unreasonable assumptions by insurers in relation to superimposed inflation and insurer expenses. Taxis will also be significant beneficiaries under the legislation. Sydney taxi owners currently pay on average around \$8,000 for their green slip premiums, and country taxi owners pay almost \$5,000.

Under the reforms, average taxi premiums are expected to fall by up to 40 per cent. Green slips are one of the major cost components in keeping a taxi on the road, so these reforms will significantly relieve pressure on the industry. Division 2.3 of the bill establishes a new premium-setting process for green slips for taxis and rideshare vehicles which will create a more level playing field for point-to-point transport providers. Premiums for taxis and rideshare operators will comprise a base premium with a top-up or refund based on their vehicle usage to ensure CTP insurance accurately reflects a motor vehicle's risk and usage.

These reforms respond to concerns raised by the New South Wales taxi industry. The Chief Executive Officer of the NSW Taxi Council, Mr Roy Wakelin-King, said in September 2016, "Without reform to the current CTP scheme, owning and operating a taxi could become uneconomic when compared to ridesharing and this is clearly not in the public interest." Having been briefed on the proposed reform, Mr Wakelin-King said in a letter dated 6 March 2017 "The proposed reforms achieve significant saving for taxis, it will also achieve competitive neutrality across the point-to-point transport sector." His letter went on to say "...we are greatly heartened by this approach". Importantly, the bill is also designed to reduce fraudulent and exaggerated claims. Fraud and exaggeration currently costs New South Wales motorists as much as \$400 million per year and adds about \$75 to the cost of each green slip. Parts 3 and 4 of the bill will substantially reduce opportunities for fraudulent and exaggerated claims by providing statutory benefits for soft tissue and minor psychological injuries for up to six months and removing access to the common law system.

Part 10 of the bill will give the regulator stronger powers to investigate fraud as well as for prosecution and enforcement, and penalties will be increased for people abusing the system. Part 7 of the bill establishes a new and enhanced dispute resolution model. If disputes do arise in a claim, this new model requires much more robust decision-making by insurers, and provides an independent dispute resolution service for disputes to be resolved independently, flexibly, fairly, cost-effectively and quickly.

The State Insurance Regulatory Authority will also establish a claimant support service to provide injured people with assistance with completing and lodging forms as well as advice on claims and dispute processes. Part 10 of the bill will introduce enhanced data collection and reporting, and real-time performance monitoring of insurer behaviour and claims experience, to enable SIRA to better regulate the scheme. CTP reform is very difficult reform. That is why no government has successfully navigated it in nearly two decades. Former State Government Minister John Della Bosca said attempting CTP reform was akin to the first 30 minutes of *Saving Private Ryan*. John was right. The battle over CTP reform for many years has been akin to a war. The brunt of that battle has been borne by New South Wales motorists. That changes today. JFK—John F. Kennedy—famously popularised the Italian saying that victory has 100 fathers and defeat is an orphan: *La vittoria trova cento padri, a nessuno vuole riconoscere l'insuccesso*. The CTP reform contained in this new bill has many fathers and many mothers and without their contribution the Government and I would not be in a position today to deliver this monumental win for the motorists of New South Wales.

The reforms contained in this bill represent an authentic victory. It will be a success for the people of New South Wales by dint of the many authors who have contributed their time, energy and intellectual rigour to its creation. I place on record my sincere appreciation to each and every one of them. I will list them, in no particular order: immediate past president of the Law Society of New South Wales Gary Ulman; current President Pauline Wright and long-serving Chief Executive Officer Michael Tidball; President of the New South Wales Bar Association Noel Nutley, SC; Deputy Executive Director Alastair McConnachie; and Common Law Committee member Elizabeth Welsh. I especially thank Andrew Stone, SC, who in many ways is the godfather of CTP in New South Wales. He is a man who wears many hats, and many bowties, including those of the New South Wales Bar Association and the Australian Lawyers Alliance. His knowledge of the scheme has been invaluable along the way. I acknowledge and thank Roshana May, New South Wales Branch President of the Australian Lawyers Alliance and Andrew Christopoulos, New South Wales Branch Secretary. From the insurance industry, I thank and acknowledge Robert Whelan, Chief Executive Officer of the Insurance Council of Australia; Vicki Mullen and Richard Shields of the Insurance Council of Australia; Anthony Day of Suncorp; George Karagiannakis and Anthony Justice of Insurance Australia Group [IAG]; Niran Peiris, Tony Mobbs and Nicholas Schofield of Allianz; and Steve Rivers and Kate O'Loughlin of QBE. I also pay tribute to Roy Wakelin-King, Chief Executive Officer of the NSW Taxi Council. Taxi drivers, owners and operators of this State are lucky to have a man of Roy's ilk at the helm.

I also acknowledge David Holmes, CEO of GoCatch, and David Rohrheim, CEO of Uber, as well as Jessika Loefstadt, Manager of Public Policy and Government Relations at Uber. I acknowledge the significant work undertaken by previous Ministers of Finance Greg Pearce, Andrew Constance and Dominic Perrottet. I also acknowledge the members of our CTP backbench reference group—Alister Henskens, Trevor Khan, Damien Tudehope, Stephen Bromhead, Shayne Mallard and Jonathon O'Dea.

I thank the Premier, Gladys Berejiklian, and Deputy Premier, John Barilaro, and all my Cabinet colleagues for their support along the way. I thank the staff in my ministerial office for work they have put in behind the scenes to get us here today—my chief of staff, Matt Dawson, in particular has been heroic as he has put his heart and soul into this legislation. I also thank my director of policy, Jane Standish, my media adviser, Will Sparling and my policy adviser, Tom Green, who have been sensational. My thanks also to Dora Shipley, our departmental liaison officer. I have promised Dora we will tackle workers compensation dispute resolution next. My final acknowledgements must go to the engine room behind this reform, and that is my agency, the Department of Finance, Services and Innovation, ably led by its outstanding secretary, Martin Hoffman.

The quality and volume of work that the team within the State Insurance Regulatory Authority [SIRA]—have produced is nothing short of remarkable. It is probably the best example that I think I have seen, during my six years in government, of a ministerial office and a department working in sync, as one team, towards one common goal, for the betterment of the people of this State. I thank Anthony Lean, the CEO of SIRA, for his wise counsel and tireless efforts along the way. I also acknowledge the executive

director of the Motor Accidents Insurance Regulation Division of SIRA, Andrew Nicholls, who is certainly the godfather of CTP within Government. He is a walking *Encyclopaedia Britannica* on CTP. I thank him for taking all my late-night and early-morning phone calls and brushing up on my knowledge of the scheme before a radio interview or Cabinet meeting. Other members of the SIRA team I must thank are Christian Fanker, CTP Reform Project Director, Sharon Mooney, Louise Briffa, Theresa Fairman and Catherine Ellis, and the hundreds of other unsung heroes who have played a role in the reform process. I also acknowledge Cameron Player, Executive Director of Dispute Resolution Services, as well as Dr Ian Harris and Professor Ian Cameron. I also acknowledge the magnificent contribution of the SIRA board: Chair Trevor Matthews, Deputy Chair Nancy Milne, Abby Bloom and the most recent addition, Dr Graeme Innes.

I also thank John Della Bosca for, alongside Nancy Milne, leading an extensive round of stakeholder consultation and producing a top-rate report. I conclude my thanks by acknowledging one of the great "Dons" of the New South Wales Public Service: Parliamentary Counsel Don Colagiuri, SC. In the preparation of this bill, I read an email that contained a thread from the Don that was sent at 3:15 a.m. on Sunday 5 March 2017. This was a powerful reminder to me of how dedicated people have worked so hard behind the scenes to deliver this reform. For every person I acknowledged, I know there is a team of people behind them who deserve equal praise. My cascading thanks go to each of them. Finally, my greatest thanks go to the many people who have worked tirelessly behind the scenes for so many years to achieve this reform whom I have not directly or indirectly acknowledged. You know who you are. The people of New South Wales thank you. The Berejiklian-Barilaro Government is determined to deliver reform that improves the lives of the people of New South Wales. That is why I commend the bill to the House.

**The Hon. PETER PRIMROSE (17:38):** With great pleasure I lead the Opposition's response in this second reading debate on the Motor Accident Injuries Bill 2017. In his second reading speech the Minister used an analogy of a car in explaining the whys and wherefores of the bill. Let me extend the car analogy again. This bill is the latest spluttering of a clapped-out wreck of a car—beaten up, behind schedule and crawling to get to its final destination. It has gone on a harrowing journey with twists and turns—a five-year journey that, with a competent driver, should have taken no longer than one year. Passengers and observers have wondered: Why has it taken so long? Why all the bumps and bruises?

The reason behind the delays in getting significant savings to motorists over these past few years has been simple: the pure ideological obsession of this Government with stripping back the hard-won rights and protections of the people of New South Wales. With compulsory third party, this has involved removing the long-enshrined common law rights of thousands of innocent victims of motor vehicle accidents who, under previous iterations of this bill, would have been left far worse under a black-and-white legislative framework which would have handed more power and profits to the insurers while leaving those who through no fault of their own would be in financial, emotional and physical pain. It would have left workers worse off, it would have left regional motor accident victims worse off and it would have left female victims on the cusp of returning to work far worse off, all without addressing the elephant in the room—the super profits of the insurers.

From day one Labor believed compulsory third party [CTP] premiums could be reduced without sacrificing the longstanding common law rights of the innocent victims of motor vehicle accidents by tackling fraud and by putting legislative breaks on insurer super profits. There was always a better way to get real savings for motorists without destroying the principles of CTP insurance in New South Wales. The bill we are debating today is a vast improvement. I thank the Minister for listening to the concerns of Labor, the legal profession and the community in bringing to Parliament a bill which Labor believes is 90 per cent to 95 per cent of what a CTP reform bill should look like.

I will now briefly touch on the essential elements of the bill. The Motor Accident Injuries Bill 2017 replaces the existing compulsory third party motor accidents scheme as established under the Motor Accidents Compensation Act 1999 with a new scheme to cover persons injured in motor accidents. The scheme remains compulsory and privately underwritten. It will retain common law rights for most innocent victims of motor vehicle accidents, besides those defined as suffering minor injuries and/or psychological or psychiatric injuries. For this category, a newly defined benefits scheme is introduced with a step-down in loss of weekly earnings and time frames where compensation is scaled back and ceases. Significantly, statutory benefits for at-fault drivers are expanded to six months worth of compensation for medical and economic loss.

The bill establishes a dispute resolution service within the State Insurance Regulatory Authority [SIRA], with a process commencing with an internal review by insurers rather than a merit review within SIRA, much of which is to be fleshed out in the regulations. Importantly, it creates a more level playing field between traditional taxi services and the emergent ridesharing companies like Uber. Currently, taxi drivers pay exorbitant CTP premiums of approximately \$8,000 on average, creating another distinct disadvantage compared to Uber operators. This bill should reduce average CTP premiums for taxi drivers to roughly \$3,000 per annum.

The Opposition notes that this could have been resolved by the Government almost 12 months ago with the broader changes to the taxi industry. The taxi industry has been the forgotten victim of the Government's delays and ideological obsession in weakening CTP. The stoic persistence and patience of the taxi industry in this part of the reform process should be acknowledged. We also have to take the Government at its word that the reductions will be achieved through the premium determination guidelines. Again, Labor will maintain a watching brief to ensure these promised savings will be delivered.

The bill attempts to address two of the fundamental problems of the existing scheme: risk equalisation and profit normalisation. Risk equalisation is an issue that has been raised with the Opposition. The attempt to spread the burden of high and low risk should realise significant wins and hopefully encourage more participants in the CTP industry. The decline in the number of competitors in CTP insurance is not helping premiums and it is contrary to the very fundamental and foundational principles of the original legislation. Efforts to prevent cherrypicking of low risk and avoidance of high risk are a positive step, and the Opposition looks forward to reviewing the effectiveness of this measure in future years. Profit normalisation—the elephant in the room—is the one area where substantial gains can be made in further reducing premiums.

The bill's clawback provisions whereby SIRA is able to recoup any profit beyond an 8 per cent per annum return into reduced premiums the following year should prove to be an important factor in efforts to keep downward pressure on insurance premiums. The Opposition has some suggestions to improve this part of the legislation, which I shall address shortly. The bill regulates legal fees in certain cases to ensure victims maximise their payouts and that payouts are not eaten away by exorbitant fees and charges—another move welcomed by the Opposition. Finally, the bill enhances data collection and reporting—necessary elements to bolster efforts to tackle fraud. To realise much of the administrative impact of the new bill, the Opposition understands that \$17 million has been provided to meet the expected costs of establishing the dispute resolution service and enhancements in data collection. Again, this is welcomed as an effective CTP insurance scheme needs the necessary government funding to be able to function efficiently and fairly.

I turn to several components of the bill which the Opposition believes could be significantly stronger. The Government's hand has been forced on insurer profit in recent times. It was only under questioning in last year's budget estimates that the Minister began talking about the role played by super profits. Up until then the entire problem had been characterised as being one of fraud and the insolence of innocent victims of motor vehicle accidents seeking legal advice to protect themselves and their families. It was classic Liberal strategy: Attack the victim, the less well-off, while ignoring some of the real factors contributing to the problem—in this case, the super profits being gouged by the big insurers.

The insurance industry has taken a large share of the pie when it comes to CTP. While the Government rightly points out that only 45 cents in the dollar went to victims, a whopping 19 per cent went to insurers as pure profit. This was on top of the 15 per cent for insurers' expenses as well as another chunk for their share of legal and investigation expenses. All up, approximately 45 per cent went to the big insurers and that surely should have been a focal point when it came to reform, yet this has only ever been barely mentioned by any Coalition Ministers. It was the issue that dared not speak its name—until the middle of last year, at any rate.

When most people were lucky enough to get 3 per cent on cash and not much more on their super, insurers were normalising profits of up to 19 cents in the dollar. That should have been an immediate target of the Government. The fact that it was not reflects the Government's warped priorities and prejudices. It was only sustained political pressure and the excellent campaign conducted by the legal fraternity that forced the Government's hand and made it address insurance super profits. One needs to look at the backstory when looking at the specific provisions in the bill. Look at the clawback provisions. These are all dealt with internally by SIRA, the same government organisation which only in recent weeks was slammed by the Standing Committee on Law and Justice—a committee dominated by Coalition members. The committee said:

However, it was clear from the evidence presented during the review that SIRA needs to provide more guidance to scheme participants, particularly insurers, to ensure the system operates effectively. As such, we have directed a number of recommendations to SIRA to better meet the needs of scheme participants. This is hardly a ringing endorsement of SIRA to date in the field of workers compensation, so why does the Government now want to make SIRA solely responsible for clawing back super profit? The Opposition believes that to get real reform, to ensure SIRA does what it is expected to do, an independent umpire is needed to ensure insurer super profit is captured and returned as reduced premium. The Fire and Emergency Services Levy Bill 2017, which we have recently finished debating in this Parliament, contains a number of proposals that we believe to be worthy of looking at in relation to the bill before us now. This bill, which largely replaces an insurance levy with a property tax, has an independent cop on the beat, Professor Allan Fels, to make sure insurers reduce property insurance premiums.

The Government even went to the length of creating the Emergency Services Levy Insurance Monitor Act 2016, which was strongly supported. While inadequate and a political fix, it just shows that when the Government has some reputational risk on the line—namely, a new property tax with insufficient reduction in premiums—even it does not trust the big insurers. Yet with this bill, the Government has left the role of ensuring premiums and profits with the bureaucracy—no independent oversight, no cop on the beat. This is why the Opposition will move an amendment to ensure a cop on the beat by broadening the remit of the Fire and Emergency Services Insurance Monitor to include compulsory third party insurance premiums. This will send a strong bipartisan message to the big insurers that the days of super profits are over once and for all.

I also seek clarification from the Minister in his reply as to whether he will act in the instance of excessive losses by the insurers. Also, will he contemplate, as set out in proposed section 2.25 of the bill, that the

Government will effectively write out a big cheque for a CTP insurer that has made an excessive loss, which may in fact be a lower-than-expected profit? While we need to continually monitor the performance of the insurers in a privately underwritten scheme, we should not be acting as backstop when the insurers make bad decisions. I turn to clawback provisions. While the clawback provisions are welcomed, the Opposition does not support the limiting of profit clawback for three years. We agree with the legal profession that the clawback should be allowed to operate for five years. Even the scheme's own actuaries believe that the clawback needs to function for five years to get the full impact of the scheme. Labor believes that an ongoing role is required, and the CTP monitor will ensure more independent oversight when deciding whether to make these clawback provisions permanent.

In relation to definitions of minor injury, the latest iteration of the bill indicates the eleventh-hour nature of bringing it all together. This is seen in the definition of minor injury and minor psychological injury, which, whilst providing a definition of sorts, allows the regulations to add or subtract from the definition. Minor injury and minor psychological and psychiatric injury are a critical threshold in this new bill. The definitions for these criteria should be precise and written in black and white, not left to a regulation. It shows that the Government has not done its homework and has made these late changes to the bill, which has now raised the definition of minor physical and psychological injury as a critical threshold question. This is simply not acceptable. The Government has had at least five years in which to work out reforms to CTP, and yet here we are, on the floor of Parliament, debating a bill without a thorough definition of what is a critical threshold part of the bill. The Legislation Review Committee has noted the serious steps in depriving innocent victims of their common law rights under the terms of this bill. Its report states:

The Committee notes a person with minor injuries under this scheme is not entitled to more than 26 weeks of statutory benefits. The Committee also notes that a person with minor injuries under this scheme is precluded from seeking common law damages. Given that a person may still be suffering quantifiable damages 26 weeks after a motor accident, the Committee refers to Parliament for its further consideration the reasonableness of restricting such injured individuals from seeking common law damages.

This is a significant shift in common law rights, and we need to ensure any definition that inserts a dividing line between statutory benefits and common law damages is researched very thoroughly and very carefully. If Government members have concerns about this bill then we should also be worried. That is why we need to be very careful about what is and what is not defined as a minor injury. This is why we will be moving an amendment to ensure any definition, any subtraction, any addition, is subject to the full scrutiny of the Parliament. The bill establishes a new dispute resolution service, with most of the detail left to the regulations. This is another "trust us" bill from the Government, as the effectiveness of the DRS will play another critical role in ensuring fairness and efficiency at the same time.

Concerns have been expressed by stakeholders about the insufficient detail: Who will be the merit reviewers? What are the skills and expertise they require? Stakeholders have also noted the unfairness of expecting an average person to enter into what could be an arduous and painful experience without any support. The Opposition will maintain a watching brief on this matter. One aspect that has been pointed out is the value of an internal review by the insurer. It has been put to us that this will largely be a wasteful, tick-a-box process that could add expense and time to processing victims' claims. If the Government is serious about speeding up some of the processes around CTP claims, it will back our amendments to remove internal review and move directly to merit reviews with the dispute resolution service in SIRA.

A related concern is the need for an internal review for disputes to be undertaken by the insurers. The legal fraternity has questioned the wisdom of forcing victims to go through an internal review of their case with the insurers. There is concern that this will be a tick-and-flick exercise, or another hurdle to subtly persuade more victims to stop their claim. Insurers should have their own internal review processes to ensure they are getting things right—we do not need to coopt them into the statutory process. If the Government is serious about getting claims through the system more quickly, getting people fixed where possible and back to work if they are able to work, then removing this step is a sensible and practical improvement in that direction.

While not opposing the no-fault provisions, the Opposition does query the rationale of bringing a whole new category of victims into the CTP scheme and whether it should be a priority. We also have concerns about the cost impacts on insurance premiums. I talk of course of making the scheme no fault and bringing roughly 7,000 at-fault drivers into the scheme. The Opposition does query the priorities of enhancing protection for at-fault drivers at the expense of innocent victims of motor vehicle accidents. I think the pub test would lead to the conclusion that you look after the innocent, however minor an injury, before dealing with the guilty. At-fault drivers are currently addressed in a minor fashion within the CTP scheme through the accident notification form [ANF] that was introduced by the former Labor Government in its last tranche of reforms. Of course, all victims still have access to Medicare as the bedrock of their right to medical treatment, something that Labor will always champion.

The Government in this bill extends the ANF to provide similar benefits for at-fault drivers to those of innocent victims with minor injuries. This must not be done lightly, particularly when it will actually place upward pressure on premiums—and I am advised this could be anywhere up to \$30 a premium. When the Government is talking about saving \$100 on green slips, this cost increase is significant. Again, the Opposition will watch this area of reform closely. If we see that it acts as an impetus for fraud, or that innocent victims are unfairly worse off under these reforms, we will move to strike out these provisions. In his second reading speech, in speaking about dealing with the complexities of CTP reform, the Minister gave the analogy of watching the first 30 minutes of the film *Saving Private Ryan*. In looking back at the last five years of the Government's attempted reforms, it could also be described as like watching *Goodfellas*, *Wall Street* and *Mr Bean* all played out at once. It has been part mobster rule, part corporate greed and at times high farce.

Labor has been pushing the Government to take concrete action to reduce the cost of green slips in New South Wales. By addressing fraud, tackling the practice of claims harvesting, capping legal fees and, importantly, addressing insurer's superprofits, we could reduce premiums. The Minister has claimed that tackling fraud could save \$75 per green slip per annum—more than half of the expected savings that the Government uses to justify this bill. Labor always thought that we could do so in a gradual, incremental way, without discarding the principles of the compulsory third party scheme, which were introduced by the McKell Labor Government in 1942.

McKell, while faced with the growing threat of an invasion by the Japanese Imperial Army, had the presence of mind to establish an insurance scheme that would protect the growing number of drivers from the disasters that come from motor accidents. We should never forget that behind the legal wrangling, the actuarial sums and the policy conundrums lies human tragedy—lives wrecked and changed forever. This is why the earlier iterations of this bill under this Government were so shocking—they showed a clinical disregard for the human cost of motor vehicle accidents. So it is pleasing in many ways that the bill we are examining today is a vast improvement on what the Liberal Party and The Nationals were originally proposing.

I thank all those who fought the good fight against the Government's brutalist approach. They often did so against the backdrop of the broader public's lack of understanding of what CTP is and what it represents. While having cheaper premiums is important, it can never come at the expense of the fundamental common law rights of those who, through no fault of their own, are caught up in a whirlwind of tragedy. Every day when we step into a car we are taking a risk, and more often than not that risk is pushed to the furthest parts of our minds. But risk is present, and we are indeed fortunate to have a compulsory third party insurance scheme to protect us and our families. The Opposition will not oppose the bill, but encourages the Government to take on board the suggested amendments in the Committee stage to ensure a better, fairer scheme.

**Mr DAVID SHOEBRIDGE (18:01):** On behalf of The Greens I indicate that we support the Motor Accident Injuries Bill 2017. Some people might find The Greens support for this bill surprising, given the strong opposition The Greens have had to the two previous efforts by the Government to reform the compulsory third party [CTP] insurance scheme. Before dealing with what distinguishes this bill and what has been a good reform process undertaken by the Government compared with previous reform processes, I will briefly indicate the main features of the bill. The bill effectively has a two-tiered system. The first proposes a no-fault general access scheme that operates for six months for anybody injured in a motor accident. Unless the injury was intentional, anybody injured in a motor accident under this scheme, regardless of whether they were at fault or not and regardless of whether they were effectively blameless, is covered.

In regional New South Wales there have been many occasions when people could not access the current scheme. For example, they may have veered off road to avoid an animal that has come onto the road. Unlike under the present scheme, this new scheme will give those at-fault motorists cover for the first time. It will provide them with cover for up to six months of income replacement and up to six months of medical expenses. If somebody is catastrophically injured on New South Wales roads we already have a universal access no-fault scheme called the Lifetime Care and Support Scheme. So, on any view of this bill, it significantly expanded the benefits that are currently available to at-fault drivers.

The bill also puts in place two thresholds for access to common law damages. The first threshold is based upon minor injury. If somebody has what is classified as a "minor injury" under the scheme—and I will deal with that in more detail later in my contribution—then, whether they are at fault or whether the injury is the fault of somebody else, they are limited to the statutory scheme. The hope is that the soft tissue injuries, the muscular injuries, the strains and the like that are sustained in the great majority of accidents will be readily dealt with in that statutory scheme. Prompt access to medical treatment, prompt access to income replacement and not having to go through an expensive legal route to obtain it should mean that the overwhelming majority of those cases can be resolved in the statutory scheme within the six-month timeframe.

Anyone who has an injury that is greater than a minor injury and who can prove that the injury was the result or the fault of another person will have access to common law benefits. They will have access to claim their

loss of earnings for their expected earnings up to the Commonwealth pension age—currently up to the age of 66 or 67 years of age, and no doubt by the time that Mr Deputy President Green and I retire it will be 174 years of age. As with the current scheme, if an individual can prove that their injury was caused by the fault of somebody else, or it was a blameless accident as defined in the bill, then they will get not only income loss but also, if they are able to prove that they have a whole person impairment assessment of greater than 10 per cent, access to what is called non-economic loss, which is general damages; damages for the physical injury they have suffered to their person or the severe psychological injury they have suffered as a result of the motor accident.

Those benefits are exactly the same as they are under the current scheme. Everybody who has an injury that is greater than a minor injury and can prove negligence will also have access to lifetime medical support. For The Greens that access to lifetime medical support—which guarantees that someone is covered if they need an operation in five, 10 or 20 years time or has access to physiotherapy and ongoing treatment for the rest of their life while they need it as a result of injury—is one of the important bulwarks of the scheme that The Greens strongly support. So there are the six-month statutory benefits regardless of fault and then two entry points into common law damages if someone can prove fault.

If someone can prove fault and they have more than a minor injury, but 10 per cent whole person impairment or less, then they have lifetime medical benefits and they have income loss until they retire. If someone can prove fault and can prove greater than 10 per cent whole person impairment then, as with the current scheme, they get lifetime medical expenses—although in this scheme it will be paid out over the course of their life as they need it as opposed to a lump sum. They will also get non-economic loss for their general damages and they will also have their economic loss up until the retirement period. The Greens believe that this is a nuanced scheme that gets the balance right between a broad statutory protection, regardless of fault, that is immediately accessible when people most need it—that is, straight after the accident—and retains those necessary common law benefits.

Why do we need reform? Anybody who has paid for a green slip, particularly in Sydney over the past 12 months, will know the first reason we need reform—green slips in Sydney now cost on average more than \$700 a pop. For many people in Sydney that is simply unaffordable. They are not quite as much in the regions, but they are still at a very high level. Because of the very poor public transport available in much of Sydney, having a car is basically essential—and for many families, having to pay \$700 for a green slip puts that out of reach. So we need to do something on that. This bill will put significant downward pressure on premiums. It is estimated that it will cut green slip premiums by at least \$100.

We needed to do something to get rid of superprofits. Since the current statutory scheme was instituted some 20 years ago, the insurance industry has taken approximately one dollar in every five, or 20 per cent, of all premiums and put it into their pockets as profit. That is just unconscionable. It is a failure of regulation to date that has allowed that to happen, because every year we have insurers putting their filings and estimates in for premiums. Every year they say, "We think this will give us 8 per cent in terms of profits," but then when it plays out and they actually get their claims history after three, four or five years for that particular premium year—every time, except for one year when I think they did get slightly under 8 per cent—they have profits that go well beyond 8 per cent.

As the claims history plays out, in the second year the companies say, "We think our profits are now 12 per cent." In the third year they will be 14 per cent and in the fourth year they will be 15 per cent. It appears that every time that happens the regulator is surprised. That represents a comprehensive regulatory failure. Hopefully, by reducing the long-tail nature of this scheme, we will reduce the amount of capital that insurers need to hold, more claims will be dealt with in the first 12 months, and there will be a substantial reduction in insurance superprofits. The scheme has experienced a number of specific pressures over the past three years, many of which were extraordinarily predictable. We have seen the claims experience in comparable jurisdictions like the United Kingdom where claims harvesting has been happening for about five years. Offshore firms are going through areas of London and elsewhere identifying potential clients, gathering their details and selling them to law firms, which contact them to draw claims out of the community. That is now happening in New South Wales.

Overseas firms are effectively farming claims from within this State. They are gathering potential clients and selling their details to law firms, which can then run often small and not very meritorious claims that provide an exaggerated profit. In some parts of Sydney we are also seeing significant evidence of fraudulent claims. Undoubtedly, a handful of the people involved—it is a very small number—and some very questionable members of the medical profession are submitting claims that are difficult to defeat. It is extremely difficult to prove fraud, but it is putting significant pressure on the scheme. I am talking about the 11.00 p.m. rear-end accident involving a car with five occupants in which every occupant complains of whiplash or psychological injury, which involves five separate claims that each settles for \$45,000, inclusive of legal costs.

The lawyers take the bulk of the settlement, leaving the claimants with only a small amount. Who loses in that scenario? All of the other motorists who are contributing to the compulsory third party scheme lose. We

must get rid of those small claims. Hopefully, the definition of "minor injury" in this bill will go a significant way in achieving that. I am not suggesting that we should prevent people who have a legitimate minor injury from making a claim. However, we must remove the cost incentive to make claims that will result in lawyers and their clients pocketing a windfall. With the passage of this bill, if someone is genuinely injured they will have their medical expenses paid as they are incurred, not as a lump sum, and they will receive income replacement when required. Why is this good reform and how does it reflect on the Government's previous reforms? When the Hon. Greg Pearce was Minister for Finance he introduced a particularly appalling proposal that would have prevented all access to common law benefits, moved everyone into a statutory scheme, and terminated benefits after five years regardless of the merit of the claim.

**The Hon. Shayne Mallard:** That upset the lawyers.

**Mr DAVID SHOEBRIDGE:** It not only upset the lawyers; it also upset anyone with a sense of fairness. The proposal was based on a whole person impairment threshold. If an injury did not result in more than 10 per cent whole person impairment then the claimant would be put in a statutory scheme providing a maximum of five years of benefits. Case after case was highlighted in that reform process, primarily by the legal profession because the lawyers knew what the effect would be. Ordinary members of the public did not understand the implications of a whole person impairment threshold. However, members of the legal profession did, and they cited the case of a bricklayer with an injury at one level of his spine. That might constitute a 9 per cent whole person impairment, but the bricklayer's career would be over because for him that would be a significant spinal injury. Under the Hon. Greg Pearce's proposal, that person would have been in a scheme that would provide a maximum of five years of benefits. After five years, he would have been on his own.

I ask members to consider the nurse who has rolled her ankle while carrying a heavy load at work and as a result has an ankle fusion. That sort of injury is often assessed as a 4 per cent, 5 per cent or 6 per cent whole person impairment. Under the proposed scheme, that nurse would have received a maximum of five years of benefits and then she would have been thrown to the dogs. The concert pianist who loses a finger is the classic example used in debates about whole person impairment. That person is probably assessed as having 1 per cent or 2 per cent whole person impairment, but their career is ruined. It was no wonder that a majority of members in this Chamber—regardless of whether it was members of The Greens, the Labor Party, the Shooters, Fishers and Farmers Party or the Christian Democratic Party—would not support the proposal. It was downright unfair.

How do we come up with a new way of rationing scarce funds while ensuring that all minor injuries do not go down the expensive common law route, suck up a huge amount of legal fees and premiums, and potentially make the scheme uneconomic? How do we winnow out those cases and at the same time ensure fair access for those who have a minor injury and protect those who have a bona fide injury that is potentially career threatening or ending? That is the real challenge that everyone was considering. I give the Minister credit for seriously engaging with that issue. How could he ration limited funds while protecting small legitimate claims and arrive at a fair outcome? How could he ensure that the bricklayer, the nurse, the piano player and others do not suffer a life-destroying injury for which they are not fairly compensated?

**Reverend the Hon. Fred Nile:** The Minister did a lot of hard work.

**Mr DAVID SHOEBRIDGE:** The Minister undoubtedly engaged in that issue. However, he was helped by some extremely creative ideas offered by the legal profession. I acknowledge in particular a submission from the Australian Lawyers Alliance, and specifically Roshana May and Andrew Stone, who were critical creative thinkers in this process. They examined how comparable jurisdictions dealt with this issue. The French model provides that if something can be identified on a scan or an x-ray, or someone has had surgery then the injured person falls within the scheme. If that cannot be done, the injured person will not have full access to benefits. When the Minister considered that as a potential rationing mechanism, his office, the bureaucrats, the lawyers and others gathered to draft the definitions. That is how the stakeholders came up with the definition of "minor injury" in the scheme.

Part 1 division 1.2 clause 1.6, which contains the definitions, may not be perfect. There may be people who have what is defined as a minor injury, whose incapacity extends beyond six months, and they may lose some benefits. I believe we must accept that. Of course, a class of additional people that has been injured through their own fault will now get benefits for the first time. There may be a small class of losers, but undoubtedly there will be a very large class of winners. That will include all vehicle owners whose premiums will be significantly reduced and who will enjoy the equity benefit to which I referred earlier. The bill states:

Meaning of "**minor injury**"

(1) For the purposes of this Act, a **minor injury** is any one or more of the following:

(a) a soft tissue injury...

The bill further states:

- (2) A *soft tissue injury* is ... an injury to tissue that connects, supports or surrounds other structures or organs of the body (such as muscles, tendons, ligaments, menisci, cartilage, fascia fibrous tissues, fat, blood vessels and synovial membranes), but not an injury to nerves or a complete or partial rupture of tendons, ligaments, menisci or cartilage.

In other words, if someone suffers a disc prolapse, if they bugger up the cartilage in their knee, if they break a bone, or if they rip or tear a meniscus or a tendon, they have suffered something more than a minor injury and they will have access to the common law benefits if they can prove fault. If they have suffered a soft tissue injury—that is, significant bruising, whiplash and the like—they are defined as having a minor injury and they do not have access to lifetime medical expenses and common law benefits. However, they will have access to what soft tissue injuries need; that is, immediate access to medical assistance, support for six months and income replacement. That is the quid pro quo and the key rationing mechanism.

The nurse with the ankle fusion, the concert pianist who loses a finger and the bricklayer with the back injury to L4/L5 will satisfy the definition of minor injury. If those people can prove fault, they will have access to lifetime medical benefits and to ongoing income loss. Anybody who has a fracture of their bone or has required surgery or has sustained a ripped rotator cuff injury—all of those cases that were raised by the lawyers and other stakeholders in the last set of reforms, every single unfair case, will actually satisfy the definition of minor injury. The definition for psychological injury is:

A minor psychological or psychiatric injury is a psychological or psychiatric injury that is not a recognised psychiatric illness.

With the new DSM-5, a much more refined way of assessing psychiatric and psychological injuries, pretty much every plausible psychological injury—if it can be proven—will satisfy the definition of minor injury. Are there challenges ahead? Absolutely there are significant challenges ahead. There are guidelines, there are regulations, there is a whole body of additional work that needs to wrap around this bill and it has to happen in pretty quick time to be in place by the end of this year. The Minister said that he is establishing a task force and, as I understand it, there will be ministerial representatives on that task force, not just the bureaucrats and other stakeholders, but ministerial representatives, which will be essential to ensure that we get the guidelines right and that we get issues like legal fees organised in such a way that people still have access to justice.

The Government's reform process can be contrasted with the previous failures on comprehensive third party insurance and to the very damaging process that workers compensation went through. The way to deal with these types of reforms is to deal with stakeholders with dignity, listen to their submissions and come up with a scheme that really has done the next to impossible. You reform something as politically contentious as CTP and green slips. You have the lawyers on side, you have the insurers on side, and you have pretty much every political player in New South Wales on side. That is a pretty good test for a good reform. The Greens have no difficulty in giving our support to this bill.

**The Hon. ROBERT BROWN (18:21):** On behalf of the Shooters, Fishers and Farmers Party I speak in support of the Motor Accident Injuries Bill 2017. I will say a few things as I go that have been brought to mind by the contribution of Mr David Shoebridge, but I will go by the book from the start. From the outset, this bill and the broad reform it seeks to achieve within the motor vehicle accident and insurance scheme is far more refined than what was originally presented to our office by Minister Dominello. At that stage, the ideas, or lack thereof, presented by the Minister would not have been supported by our party. After a robust debate late last year, it is clear the Minister has made a genuine attempt at reforming the motor vehicle insurance system. I do not want to give the Minister a big head, but it is not just a genuine attempt, it is a very clever attempt. Ministerial staff, consulting stakeholders, lawyers, even the insurers—God bless their cotton socks—have put a great deal of work into this.

It appears as though Mr David Shoebridge was quite correct when he said that this legislation is not a bad way to go about sensitive reform in these sorts of areas of the law, given the impacts that these things can have on so many ordinary consumers. We are particularly impressed by several key reforms in the bill, to which I will turn briefly. First, the clear definition of "minor injury", as elucidated by Mr David Shoebridge, as either a soft tissue injury, or a minor psychological or psychiatric injury, is a welcomed change that will add certainty to the process, particularly in the detailed way in which that phrase is defined within the bill. It ensures that those who have suffered a serious injury will receive the support they need, including medical treatment for life.

The Hon. Robert Borsak and I have personal skin in this game. Robert's wife was severely injured in a motor vehicle accident and one of our party luminaries was severely injured 10 years ago in an accident. When you see the pain and suffering, and the likely long-term effects of those sorts of injuries, you approach this type of legislation with a great deal of caution. Furthermore, this legislation seems to help stop those with minor injuries, or indeed no injury at all, from rorting the system to the detriment of all legitimate injured persons. Both

at-fault and not at-fault parties are entitled to statutory benefits for loss of income and medical treatment for six months, meaning an extra 7,000 claimants will be covered.

Benefits will end at six months for all soft tissue injuries, and minor psychological and psychiatric injuries, but will continue for up to two years for those with non-soft tissue or minor psychological issues. I note the definition of "other than soft tissue injuries" includes neurological damage, which is sometimes very hard to determine by any of the available technologies, but is nevertheless an extremely debilitating injury. After the two-year mark, claimants with long-term injuries can make a common law claim. We welcome the simplicity and clarity of this section, particularly as those with a whole person impairment of 10 per cent or greater can claim a common law lump sum immediately. They are not required to wait two years.

Secondly, the reforms surrounding the provision of medical treatment are such that they do not hurt or stop seriously injured persons from accessing medical treatment. In fact, all reasonable medical costs will be provided for all injured road users with a non-soft tissue or minor psychological injury for life. The introduction of a safety net for this type of medical assessment will help inject some clarity for the lawyer, the assessor and the insurer, who will no longer have to contemplate potential future medical costs at first instance when considering future damages claims. Rather, for injured workers it is very much an "it is there if you need it" system as per part 3 division 3.4 of the bill. Again, a very, very elegant solution put together by the stakeholders for the Minister with the Minister's stamp on it.

We come up with a system that, as Mr David Shoebridge says, is not perfect. I have been through a number of these sorts of debates—workers compensation, police death and disability—and believe you me, this is a very tricky area. Finally, insurers cannot commute statutory benefits they are obliged to pay a claimant. We believe it is sensible and good policy that at the five-year mark, private insurers will be required to transfer liability for future medical treatment to icare, which is the Government's workers compensation insurer that administers the Lifetime Care and Support Scheme for people with catastrophic injuries.

The Shooters, Fishers and Farmers Party has always taken a very keen interest in insurance and compensation reform. To be frank, we do not care for the interests of insurers and their profits, as I said earlier today. Our concern is for persons with a legitimate injury who have had the perilous experience of recovering whatever loss they have incurred over sometimes very long periods of time filled, in many cases, with pain—pain, pain, pain. Whilst I understand and support the need to try to stamp out those rorting the system, the paramount consideration must always be to protect and grow the rights and benefits of those with a legitimate injury. Once again, as Mr David Shoebridge referred to in his contribution, we stopped this legislation once before when it was not quite good enough.

Now, it is a completely different scheme and it appears to be very close to being—I should not use the word "perfect", should I? While not everyone gets everything with this bill, I think it has struck the right balance for the reasons I have outlined. There is, however, one issue that I would like the Minister to address in his reply, and it relates to the cost of CTP insurance to the taxi industry. We have had representations from the taxi industry and from the Transport Workers Union. Obviously the taxi industry has been concerned for a long time at the extraordinarily high costs of CTP insurance for taxi drivers when—we will call them other drivers, Uber drivers—do not require that level of cover.

My two questions to the Minister are, first, what provision has the Government made, when trying to use this opportunity of rewriting of the CTP scheme, to address the cost of CTP insurance for the taxi industry; and, secondly, does the Government propose—because it has not done it in this bill—to insert a level playing field into the industry so that there is not such a lack of equity? I would be grateful if the Minister could address those questions in his reply speech. I understand that the crossbench parties and the Opposition have amendments, and those amendments appear to me to be subject to detailed consideration by the parties. They do not appear to be simple political amendments for the purpose of grandstanding.

As such, I foreshadow that the Shooters, Fishers and Farmers Party will support The Greens amendments—which I know is surprising—because they have been crafted carefully and they address some of our minor nagging concerns. We will also support the amendments of the Christian Democratic Party. I will not say that we are not so keen on the Opposition amendments because that does not give the right impression. However, we do not think they are as pertinent or as penetrating as the amendments of The Greens and the Christian Democratic Party. Irrespective of whether those amendments are won and the bill is amended, the Shooters, Fishers and Farmers Party will support the legislation. We congratulate the Minister on his effort to convince our office, which was one of the niggers in the wood pile—if I can use that term these days—

**The Hon. Don Harwin:** Probably not.

**The Hon. ROBERT BROWN:** We were not keen on this legislation, but the Minister brought the regulator and his staff to a meeting—I probably should not have said that.

**Mr David Shoebridge:** Withdraw it.

**The Hon. ROBERT BROWN:** I withdraw that comment. I am a 60-year-old guy and I say things like that. Let us not get distracted. The point I am trying to make is that the Minister made a genuine effort to allow his skilled people to explain the bill to me, who was not too keen on it. We commend the bill to the House.

**The DEPUTY PRESIDENT (Mr Jeremy Buckingham):** I will now leave the chair until 8.00 p.m.

**Reverend the Hon. FRED NILE (20:00):** I am pleased to speak in debate on the Motor Accident Injuries Bill 2017 and indicate my support for this legislation. In the dining room I have just announced to all the members there that I call this bill a success story for the Government and for all members of Parliament. The bill introduces a new compulsory third party insurance scheme for people who are injured in motor vehicle accidents in New South Wales. The bill follows a review of the CTP scheme undertaken in 2016 involving extensive community and stakeholder consultation. The review found that the CTP scheme required major structural reform to achieve the Government's stated objectives. These objectives were: increasing the proportion of funds returned to injured road users; reducing the time it takes to resolve a claim; reducing claims fraud and exaggerated claims; and the objective that is most important from the point of view of the Christian Democratic Party, reducing the cost of green slip premiums. The fourth objective was a priority in our discussions with the Government.

The bill has received in-principle support from the Law Society of NSW, the New South Wales Bar Association, the Australian Lawyers Alliance, the NSW Council of Social Service and especially the NSW Taxi Council and the Insurance Council of Australia. I have in front of me correspondence regarding this legislation sent to the Minister for Finance, Services and Property, Victor Dominello, by the Christian Democratic Party congratulating the Minister on the way in which he handled the negotiations and discussions with party members concerning this legislation. These negotiations took place over more than 12 months—probably for two years—and we thank the Minister for the time he and his advisers gave to brief us on the progress of developing this legislation. This legislation has not been rushed to the Parliament, and a lot of thought and planning went into its development.

I have concerns about the success of this legislation and particularly about the situation with the NSW Taxi Council following presentations to me concerning the situation of taxidriver and those with taxi plates in New South Wales. I was told that green slip insurance premiums for taxis in Sydney, Wollongong and Newcastle now exceed \$9,000 per vehicle and in some cases prices have been quoted at more than \$10,000. Obviously, that could not continue; it was killing the taxi industry in New South Wales. I am pleased that we have had lengthy discussions with the NSW Taxi Council, particularly with the chief executive officer, Mr Roy Wakelin-King, who has discussed this situation with us over many, many months. A significant issue for the taxi industry is the impact that Uber has had on the taxi industry.

The vehicles of Uber providers have been treated as private vehicles and those providers have been paying the same for green slip insurance as other drivers pay in New South Wales—\$500 or \$600—whereas a taxi driver or those who have a taxi plate have to pay \$9,000 per vehicle or even more than \$10,000. That situation could not be allowed to continue. I know the Minister shared that concern and that it was one of the driving forces behind his trying to develop a new, fairer system of compulsory third party insurance in New South Wales. The Minister wanted to lower the cost of third party insurance for the taxi industry but, on the other hand, to increase in a reasonable way the cost to Uber drivers. That is the potential good that will come out of this legislation. In a letter to the Minister, the Hon. Victor Dominello, Mr Roy Wakelin-King from the NSW Taxi Council states:

I would also like to take this opportunity to express my greatest appreciation to you for the proactive manner you have taken in relation to this matter and the engagement you have afforded us throughout the reform process. Your recognition of the need for a fair and balanced approach to CTPI reform for the point to point transport sector has been well received and our industry is committed to working with SIRA and the Government to help ensure that these outcomes are achieved.

We have received copies of similar very favourable correspondence, one being a jointly written letter to the Minister from the Law Society of NSW, the New South Wales Bar Association and the Australian Lawyers Alliance. It is almost miraculous to have those three legal bodies come together in unity in one letter with the signatures of Pauline Wright, the President of the Law Society of NSW; Noel Hutley, President of the New South Wales Bar Association; and Roshana May, the New South Wales Branch President of the Australian Lawyers Alliance. I cannot remember ever seeing a letter jointly signed by those three individuals who head up those legal organisations. A section of their letter states:

The profession believes that the 2017 model is a significant improvement on previous proposals. The new scheme will retain acceptable levels of support for the more seriously injured, whilst delivering the premium reductions for motorists that the government seeks.

The profession will monitor the implementation of the new scheme to ensure that it delivers on its objectives.

The profession appreciates the open, constructive and collaborative approach that Minister Dominello has taken through the reform process. I believe it is the Minister's personal handling of this whole issue, with his ability to cooperate, consult and, over a period of time, gradually develop the legislation, that has brought about this successful result. It is one thing to get the legal bodies on side, but to get the Insurance Council of Australia on side is a great achievement. The Insurance Council of Australia has sent a similar letter. I quote the final paragraph:

The Insurance Council thanks the Government for the significant level of consultation that has occurred to date and for the clarification of matters outlined in SIRA's letter of 4 March 2017. We look forward to continuing to provide assistance to the Government and the SIRA as regulations and guidelines are developed.

Signed by: Robert Whelan, the Executive Director and CEO of the Insurance Council Australia.

To get all those bodies working in harmony is a great achievement for Minister Dominello and he deserves credit for his success in bringing forward a bill that, even though there are some amendments—the Christian Democratic Party has some, mostly machinery amendments that improve the legislation and that are on the same wavelength as the legislation—I believe we will come to a very satisfactory conclusion with the passage of this legislation through the House tonight. The Christian Democratic Party fully and enthusiastically supports the Motor Accidents Injuries Bill 2017.

**The Hon. DANIEL MOOKHEY (20:10):** I had the misfortune to participate in the Law and Justice Committee Biennial Review—amiably and amicably chaired by the Hon. Shayne Mallard last year—at the same time that I was renewing my green slip. What stuck in my craw was that, in addition to having to hand over \$658 to my insurer of choice, was the knowledge that only about \$300 of those dollars would arrive in the hands of injured victims of car accidents and the rest of it would be pocketed by others along the way. What stuck in my craw even more was my understanding of the magnitude and scope of the discrepancy and the inefficiency of this scheme versus other schemes, both in New South Wales and in other jurisdictions—only 44¢ returned in the dollar in the compulsory third party [CTP] insurance in New South Wales. It is a record low. At the same time, a comparative scheme—notwithstanding our objections to its current design—the Workers Compensation Scheme, returns 86¢ in the dollar to injured workers. In Victoria the equivalent CTP scheme returns approximately 84¢ in the dollar.

To learn firsthand just how many people were clipping the ticket in the CTP market in New South Wales at the same time that I was compelled by law to participate in that was enough to make me angry and I am sure many other premium payers of New South Wales angry as well. Through the course of that inquiry, the committee had the opportunity to probe in detail the claims harvesting practices that have ballooned in recent times. We understood the magnitude and costs implications of the inefficiencies, and the design of the dispute resolution procedures, but equally we had the opportunity to understand the most objectionable part of the CTP scheme in its current form and that is the 19¢ out of every dollar in the CTP going to insurer profits at a time when, year after year, they file their premiums saying that, at best and at most they would receive 8¢. For 14 years, under both Labor and Liberal governments, people were clipping the ticket to the level of 19¢ in the dollar.

Those practices, as well as the legitimate consumer reaction to them, are reason enough for this Parliament to reform the system, to reset the regulatory sentence, to return focus to those injured in motor vehicle accidents and to return savings to drivers, by way of lower premiums. This bill is a welcome bill to the extent to which it achieves those objectives. The most welcome aspects of the bill are the extension of the no-fault component—a meaningful change that will make a difference to lots of people, a meaningful change around dispute resolution, and at least an attempt to tackle insurer super profits by way of the clawback mechanism that has been mentioned by others. Of course the success of the bill—putting aside the calibre of its design and all the minutiae of its clauses, which I am sure we will have the opportunity to go through line by line in the Committee stage—will come down essentially to two things. The first is the attitude adopted by the regulator as it obtains its new powers. I pay tribute to the people of the State Insurance Regulatory Authority [SIRA]. It is a new regulator, it is applying a new model and it is well-meaning. Its people are hardworking.

**Mr David Shoebridge:** And it is a lot like the former Motor Accidents Authority.

**The Hon. DANIEL MOOKHEY:** I accept that interjection from Mr David Shoebridge. As I was about to say, SIRA is a lot like the former Motor Accidents Authority. It is certainly not yet at its peak level of performance as it goes about discharging its very important responsibility to oversight this market and this scheme. There is plenty of evidence that the speed of change at SIRA is too slow and there is also evidence that, because it is not changing fast enough, too many practices that ought to have been checked under existing laws have been allowed to continue. In truth, SIRA needs to develop a proper theory of change as to how it will apply the powers this House will grant it tonight. It has to decide if it is more akin to a market regulator or to a prudential regulator.

SIRA has to decide whether it is more like the Australian Securities and Investments Commission [ASIC] or more like the Australian Prudential Regulation Authority [APRA], because right now it is stuck somewhere between the two—the consequence of which is that it does not have a strategic attitude towards behaviour in the

insurance industry. It certainly has no idea about the level or the design of any strategic litigations that it could be employing, as do other like regulators in this space, to drive change. In addition to that, it lacks a theory of which powers should be used in proportion to which problems. When we take all of these problems that have developed over the past few years together and we pass a bill like this one before us tonight to give SIRA more powers, unless the regulator resolves the day-to-day problems inside itself then the objectives of this bill simply will not be met.

The second major problem we face, which is even greater than the problems we have with the regulator as it exists today, is the attitudes of the insurers. They are commercial businesses and they operate in market settings. That is legitimate and it is an appropriate way in which social protection insurance can be delivered. The problem is that they all expect abnormally high levels of return on their capital. SIRA put before the committee as evidence work undertaken by the SIRA commissioned independent review of insurer profits. It all said that insurers were planning on a return on capital of anywhere between 12 to 15 per cent. Let us compare that to the bond rate, which I checked just this evening. The United States Treasury bond rate is at 1.86 per cent. Insurers operating in a social protection setting and selling a product which by force of law people are obligated to buy are expecting a return of close to—

**The Hon. Shayne Mallard:** Ten times.

**The Hon. DANIEL MOOKHEY:** I accept the interjection from my friend the Hon. Shayne Mallard. The insurers are expecting a rate of return 10 times that of the bond rate. It is excessive and abnormal, and if that attitude continues then the temptation for these very big businesses will be to capture any savings we make in other aspects of this scheme by way of a higher return on their capital. I do not object to them making profits and I certainly understand that, should they deploy their capital for this purpose, they deserve to make a return. But this is not like any other consumer insurance product; this is a product we compel people to buy by force of law. Because the insurers do not have to compete for the actual business, because they do not actually have to persuade consumers to take out this product as they do in other insurance markets—whether it be life, health or other insurance alternatives—the idea that they can arrive in this market with their attitudes and expectations around returns simply is not acceptable.

Until that attitude is challenged, and until the Government has a grand strategy for how it will use the new power that it will gain tonight to drive cultural change in that industry, the objectives we set by passing this bill will not be met. In time we will have the opportunity through our various accountability mechanisms to check on the success—to see whether or not the objectives of this bill are indeed being met in the marketplace in truth. The law and justice committee and other like bodies will ask themselves to what extent this bill tackled the problems that exist in the market today.

The problem with this bill is that it does not address the fundamental problem of the market. That fundamental problem is diminishing competition. When the Parliament in its wisdom privatised the Government Insurance Office in 1995 it was privatising the Government Insurance Office in a context where there were 14 companies competing for consumer dollars. Today there are only four. The rumour is that the level of insurers participating in this market may well reduce to two. In time these insurers will assess whether or not this law made it easier or harder for them to participate in the market. Should we find ourselves in a circumstance where an oligopoly turns into a duopoly it does not matter what laws we pass tonight.

The market power of the four institutions is tremendous, but should that be reduced to three or two the market power will exceed the ability of the regulatory framework Parliament creates tonight to check them. The Parliament needs to address the need for more competition in the market and how it will promote participation in the market. Both sides of politics acknowledge that competition for a product such as this can lead to a public good, especially if the insurers use the market power as cost containers. If they use it to manage the claim process properly it will be the result of good competition. There needs to be more of it. The problem is that there is not enough of it today. The market designs that have worked best in insurance have been a combination of private operators competing hard with a public option that is there to check them should they decide to collude rather than compete.

**The Hon. Shayne Mallard:** That sounds very capitalist.

**The Hon. DANIEL MOOKHEY:** I acknowledge the interjection. I am capable of that. If we look at health care and other forms of social protection insurance, the markets that have done poorly are those where the public option disappears and the Government vacates the field. Over time private operators drive each other out of the market, which results in a circumstance where consumers have less choice. If the bill does not deliver on its promises, in time the Parliament will be back deciding whether or not it is time for a more radical restructure.

**The Hon. SHAYNE MALLARD (20:22):** I support the Motor Accident Injuries Amendment Bill 2017. I do so with a sense of satisfaction and pride in the Government's achievement. The bill introduces a new compulsory third party insurance scheme for people who are injured or lose their life as a result of a motor vehicle accident on New South Wales roads. During this debate dozens of affected people in New South Wales will be making claims on this insurance scheme. It represents a major economic reform by this Government that will provide meaningful and measured benefits for injured people as well as millions of vehicle owners across New South Wales. The New South Wales compulsory third party scheme provides a vital safety net to protect and support injured road users in this State. The scheme provides compensation such as medical and treatment expenses, compensation for economic loss, and payments for pain and suffering to injured road users who have sustained permanent injuries.

The cost of the scheme is met through the compulsory third party [CTP] green slip premiums. The last speaker spoke of the pain of paying those premiums, which are paid by all vehicle owners in this State. A CTP green slip covers the owner or driver of the motor vehicle for the cost of the injuries sustained by other road users that were caused by the owner or driver's fault or negligence and in some cases regardless of fault. It is compulsory for motorists in New South Wales to purchase a green slip before registering their vehicle. Since 1988 the New South Wales compulsory third party insurance scheme has been provided by private insurance companies that are licenced and overseen by the State Insurance Regulatory Authority [SIRA]. These reforms follow recent reports into CTP insurance by the Standing Committee on Law and Justice, which I chaired.

We heard from the Hon. Daniel Mookhey that he participated in the Standing Committee on Law and Justice, as did Mr David Shoebridge, the Hon. David Clarke, the Hon. Lynda Voltz and you, Mr Deputy President. I like to think that the committee's report assisted the Government and the Minister in formulating their reforms, which largely follow the direction of the committee's recommendations. In response to the committee's first report, the Government responded that we should wait a while because it was reviewing the legislation. That involved a level of trust on the part of the committee. Committee members were aware during the inquiry that the Government had released a proposed model for consultation. That is the model in this legislation. However, the committee did not have the opportunity to examine it. In 18 months, or thereabouts, when the committee reviews the compulsory third party insurance scheme it will be able to examine the impact of these reforms. That might be too soon to establish a trend, but we will be able to review its operation, which is one of the important roles of this House.

The Minister in the other place said that these reforms have had many mothers and fathers. He did not mention the Standing Committee on Law and Justice inquiry, but perhaps we are their great uncles and aunties. We have certainly had a role to play over the years, and particularly recently during the consultation process. As members are aware, it is universally agreed that the current compulsory third party green slip scheme is no longer serving the best interests of people injured in motor vehicle accidents or vehicle owners in our State. All stakeholders have said that the scheme is broken, that it is unsustainable, and that it should be reformed. The committee heard that insurance schemes like this around the world need to be reviewed and reformed roughly every decade.

**Mr David Shoebridge:** And hopefully treated more nimbly.

**The Hon. SHAYNE MALLARD:** Yes. Certain organisations and individuals find gaps and loopholes, and start to exploit them. It has been 15 years since the New South Wales scheme has been reviewed. As Mr Shoebridge suggested, the Government should maintain a watching brief over the performance of the scheme, and the Standing Committee on Law and Justice will do that. The committee heard evidence from a range of organisations. Coincidentally, they are the same organisations that have endorsed this reform bill. They include the New South Wales Bar Association, the Australian Lawyers Alliance, the Law Society of NSW, the Insurance Council of Australia, and the Royal Australasian College of Surgeons.

The evidence presented to the inquiry revealed a strong emerging trend of fraud, exaggeration and claims harvesting that was impacting dramatically on the scheme's performance. That had resulted in significant increases in minor severity claims with legal representation and a consequent increase in the cost of green slips of approximately \$200 per premium per year, which was projected to increase exponentially if nothing was done. The committee heard from the State Insurance Regulatory Authority that fraud and claims harvesting were estimated to be costing the scheme \$400 million a year. All the evidence suggested that that was unsustainable and clearly inequitable. The Government has responded by introducing this amending legislation.

Nearly all witnesses, whether they were lawyers, barristers or insurance industry representatives, agreed that that could not continue. It was recognised at the time that the Government was well advanced in its reform process, which involved the hybrid fixed-benefits model that we have before us in this legislation. The committee believes that that model will address some of the issues. Like other speakers, I congratulate Minister Victor Dominello on his work done and consultation in dealing with these compulsory third party insurance scheme

reforms. The committee raised concerns about the urgency of the situation. It recommended that the Government reform the regulations in respect of the legal costs of the scheme, and that has been achieved in this bill.

We must not lose track of the objective of this type of scheme, which is to ensure that someone who is injured in a car accident receives proper treatment, and is able to return to their life and work as quickly as possible. Under the current scheme, a large number of people are caught up in legal action that delays their claim and they are forced to undergo multiple medical tests. Sometimes they wait months or years for their claims to be resolved. Like other members, I note that we are engaging in a mature level of debate in respect of the third party compulsory insurance scheme. I did not envy Minister Dominello when he took on responsibility for the compulsory third party insurance scheme reform process.

We know from our inquiry and from previous models put forward, including an earlier model proposed by this Minister, that it is, for want of a better term, a minefield of vested interests who have a lot of say in the community. It was a difficult reform process to go through. I congratulate all stakeholders and my colleagues in this House on the maturity of the debate on these reforms in a very difficult area. In a compulsory third party insurance scheme a great deal of work is dedicated to car and traffic safety, but unfortunately there will always be car accidents. We want a compulsory third party insurance scheme that will help people get through a difficult period in their life after a car accident. We want to ensure they will receive appropriate treatment and get back to their life, family and work as quickly as possible.

We heard that reform of this scheme is a housekeeping project that will be undertaken approximately every 10 years. I urge the Government to monitor the performance of this scheme nimbly, as suggested, on an ongoing basis to detect the emergence of any trends of fraud and to close loopholes expeditiously so that the scheme maintains its viability and fairness. This bill follows a comprehensive review of the scheme undertaken in 2016 involving extensive community and stakeholder consultation. The scheme affects all of us as vehicle owners and members of Parliament. Without reform, green slip prices would continue to increase dramatically. The State Insurance Regulatory Authority estimated that the additional cost to New South Wales motorists of fraudulent and exaggerated claims was as much as \$400 million a year. Fraud, as we discussed in the report, apparently adds about \$75 to the cost of each green slip.

The scheme actuaries reported that if the rising trend in claim costs went unchecked it would have a significant impact on the scheme's affordability, with predicted price increases of 10 to 20 per cent per year over the next 18 months and into the future. That would equate to an average increased cost for passenger-vehicles owners in Sydney of between \$65 and \$130 over the next two years. This bill represents the views emerging from consultation and the feedback the Government has received. The overwhelming consensus that emerged from the consultation was that the CTP scheme is broken and is not serving injured road users as well as it could and should. It has to be reformed.

In the current CTP scheme only 45¢ in every green slip dollar ends up in the hands of injured road users. When I paid my green slip recently I thought that less than half of the \$640-odd I paid would go to injured road users and that the rest would be eaten away by scheme costs, provider fees and profits. That would include insurer expenses, insurer profits, legal and investigative expenses and other expenses involved in administering the scheme. In relation to insurer profits, New South Wales green slip prices have also been particularly volatile over the past few years as a result of external market components such as the reduction in investment income for CTP insurers from premiums—they invest their premiums for future costs—government bonds and inflation, commercial decisions by CTP insurers to change their pricing mechanisms and a lack of certainty in the scheme. They were the reasons given for the volatility of the profit.

They claim that this uncertainty is built into the premiums by conservative pricing of the insurers, which has historically led to insurers obtaining larger than expected profit margins year after year. An independent review of the insurer profit and competition in the New South Wales CTP scheme was undertaken in 2015. The review found that over the life of the scheme there has been a consistent pattern of discrepancy between filed and realised profits of CTP insurers. The long-term average of realised profits is about 19 per cent—not a bad return for any business, let alone insurance—which is more than double what insurers filed when they were setting their prices.

The Standing Committee on Law and Justice inquiry into CTP insurance expressed serious misgivings around excessive insurance profits. This bill will deliver a substantial reduction on the average price of green slips and ensure that the scheme is sustainable into the future. It will also reduce insurer profits by bringing greater certainty and benefits and time frames. The bill will introduce defined benefits and no-fault benefits for people injured in motor vehicle accidents in New South Wales. That will allow insurers to price risk more accurately, ensuring more funds flow to injured people when they need it, particularly the more seriously injured.

Importantly, eliminating those so-called insurer "super profits" will help reduce green slip premiums. I, and no doubt my colleagues on the committee, put the insurers on notice that we will watch their performance in this area. Perhaps there will not have been enough time to see a trend when the committee sits next, but we are keen to see how the insurance profits perform under the reforms. As a further safeguard, the bill will boost SIRA's power to regulate premiums, including the ability to reject a premium if it is deemed to be excessive or if it does not comply with the premium determination guidelines. SIRA has a beefed-up role, which the committee also will monitor closely with regard to the performance of insurance profits. At present, six licensed CTP insurers exist in New South Wales. Green slip prices are set independently by those insurers having regard to the likely cost of claims and the associated costs of delivery. In recent years, green slip prices have increased dramatically. Currently, New South Wales has the highest CTP premiums in Australia—which is not something we wish to boast about—with the average vehicle owner paying more than \$650 for a green slip.

The bill will provide significantly better outcomes for people injured on our roads and more affordable CTP premiums. For the first time, defined benefits for loss of earnings and treatment and care will be provided to all people injured in a motor vehicle accident, regardless of fault, for up to six months post-accident. This is a big reform. Injured people with moderate to serious injuries who meet certain criteria will be entitled to up to two to five years of benefits and also will be able to claim for damages under common law. The reforms focus very much on ensuring that injured people receive the support they need when they need it so they can get back on their feet as soon as possible. It does this by providing defined benefits for soft tissue and minor psychological injuries for up to six months and by removing access to the common law system in those cases.

The Government released an options paper for reform of the CTP scheme, calling for submissions and feedback from stakeholders. More than 50 submissions were received from a range of individuals, organisations, and industry and stakeholder associations. The CTP inquiry received only eight or nine submissions, so a lot of stakeholders are involved in the Government reform process. Roundtable forums were held with all major stakeholder groups including legal professionals, insurers, road user groups, transport bodies and medical and allied health associations. The consultation process was supported by independent consumer research which covered vehicle owners, road users and injured people who have made a CTP claim. The research incorporated focus groups, qualitative research and an online discussion forum. Legislation should always be drafted with this level of consultation. The bill represents the views emerging from those consultations and the feedback that the Government received. I also hope that the upper House inquiry assisted in that process.

This Government has listened to all key stakeholders and it has their support to deliver long-overdue reforms for people injured on our roads and for vehicle owners in New South Wales who, for too long, have paid increasingly high green slip premiums. It is now time for members of this Parliament to heed the call of the people and deliver long-overdue green slip reforms to our State. Again, I congratulate Minister Victor Dominello on his reformist zeal in this and other areas and on his courage. He continues to demonstrate an ability to build Coalition support for sensible reforms that ultimately benefit injured persons in need of insurance and those who pay for it. I commend the bill to the House.

**The Hon. PAUL GREEN (20:37):** On behalf of the Christian Democratic Party, I make a contribution to debate on the Motor Accident Injuries Bill 2017. My colleague Reverend the Hon. Fred Nile has also spoken to the bill. The object of the bill is to replace the current third party motor accident scheme under the Motor Accidents Compensation Act 1999 with a new scheme to cover persons injured in motor accidents after the commencement of the Act. I quote the Minister in the other place:

CTP reform is very difficult reform. That is why no government has successfully navigated it in nearly two decades. The main problems with the current compulsory third party [CTP] green slip scheme are, first, that the majority of payments to injured people occur, on average, three to five years after an accident. Secondly, injured people receive less than half of the funds in the scheme. Thirdly, premiums are also among the highest in the country and they are set to rise further. Finally, there is an increase in fraudulent and exaggerated claims under the scheme. Members will be aware that the Legislative Council Select Committee on Human Trafficking in New South Wales is currently conducting an inquiry. I have been told that some who traffic in sexual exploitation encourage victims to fraudulently sign a form at the expiry of their visa saying that were involved in an accident. The claims are then processed after victims have returned home and the perpetrators receive even more money. I do not wish to point the finger because that example is based on anecdotal evidence given in good faith.

I return to the bill. The Christian Democratic Party has met with numerous stakeholders to discuss the proposed changes. Unfortunately, there is no one-size-fits-all response to the proposed changes but, as the Hon. Peter Primrose said earlier, it is about 90 per cent to 95 per cent better than the previous scheme. The average payments currently made to people who have suffered minor injuries are unsustainable. This has led to increased green slip premiums. The State Insurance Regulatory Authority [SIRA] is the government organisation responsible for the regulatory functions in motor accidents compulsory third party [CTP] insurance. CTP insurance is compulsory in all Australian States and Territories and is designed to ensure that compensation is available to those who are injured in motor vehicle accidents.

SIRA has identified a significant increase in CTP claims for minor injuries from claimants who have engaged legal representation. Green slip prices have also been driven by increasing claim numbers since 2008. If this trend continues it will have a significant impact on scheme affordability, with predicted price increases of between 10 per cent and 20 per cent per year over the next 18 months above current premium rates. That is unaffordable. Many of my six children now drive. The cost of green slips easily equates to the sort of money that many of us paid for our first cars. It is a shock to receive a bill for between \$700 and \$1,200.

**The PRESIDENT:** I know exactly how you feel.

**The Hon. PAUL GREEN:** Indeed.

**Mr David Shoebridge:** Invest in public transport.

**The Hon. PAUL GREEN:** Yes. Hopefully, with bipartisan support, the price of green slips will be reduced this evening. SIRA found evidence that some claims handled by lawyers acting in a large number of cases involve only a small number of medical providers. For example, one legal service provider has represented claimants in more than 400 claims in the past few years and one medical provider was the treating doctor in more than 200 of these claims. SIRA stated:

Given the number of GPs in NSW and the number of minor claims, in any year a GP would expect to see on average two new CTP claimants. The fact that some GPs are seeing hundreds of claims over three years is unusual.

The Government has advised that moving away from lump sum payouts for people with minor injuries will reduce uncertainty in the scheme for the insurer when setting premium prices, and it will also remove the incentive to lodge fraudulent and exaggerated claims. The Government has also advised that SIRA will establish an injured person's advisory service to provide information and advice about the claims and dispute process. It will also give general assistance with completing forms. The reforms propose the establishment of a new dispute resolution system aimed at simplifying the dispute process for injured people.

The final model presented in the bill reflects feedback received on continued common law access for those with moderate injuries; improvements to the claims management process; curbing insurer profit; and reducing green slip premiums, with a significant reduction for more than 5.3 million registered vehicles in New South Wales. Regardless of fault, all injured people may receive income and medical treatment for up to six months. This includes motorcyclists, who were not eligible in the past. I call this version of the legislation, mark 3. With respect to mark 1 and mark 2, a motorcyclist association met with Reverend the Hon. Fred Nile and me to let us know how unjust it was and how unfair the system would be for motorcyclists. I note that income support will be available to all injured people, regardless of fault, for up to six months for those who need time off work to recover. Under the reforms, drivers who are at fault will not be entitled to claim lump sum compensation. Also, drivers who have committed serious driving offences will not be entitled to benefits.

I am happy with the lump sum compensation provision because as a nurse I saw people who had been terribly injured in motor vehicle accidents. Sadly, they received a lump sum payment. Some were very switched on and bought houses—an investment that keeps giving. But many of them—often younger men—would buy a really snazzy car. As most of us know, your car drops nearly half of its value the minute you drive it out of the showroom. So, unfortunately, the money that was set aside for them was not there when they needed it in later life for the long-term management of their injuries. This issue has been addressed in a very smart way in this bill.

Importantly, the Minister advised that those with minor injuries who can prove fault will retain their rights to claim for damages through the common law for past and future economic loss, and those with serious injuries can claim for pain and suffering, which is known as non-economic loss. I acknowledge the way that Mr David Shoebridge articulated his understanding of that provision. I know that this is one of his passions. Tonight he certainly presented the different categories and the meaning of "soft tissue injuries" and "life-time care needs" very well. The Government has advised that the bill is supported by the Insurance Council of Australia, the NSW Taxi Council, the Law Society of NSW, the New South Wales Bar Association and the Australian Lawyers Alliance. It is amazing; that sort of thing never happens in this Chamber. It is what I would call an unholy alliance, but it goes to show that things can be achieved if tough legislation like this is given air, time and respect. This Parliament can address issues such as this and come up with great results.

On behalf of the Christian Democratic Party, I will move a series of amendments that address some of the Opposition's concerns and the concerns of others. I will go into further detail about those amendments during the Committee of the Whole. Basically, we will move amendments relating to managing excess insurer profit, dispute resolution, increased fairness for injured people, and the premium setting process for point to point transport vehicles such as taxis and rideshares. This important amendment will ensure a more level playing field in this rapidly changing sector by legislating that these vehicles will pay the same premium when they travel the

same distance. I have spoken with numerous stakeholders regarding the disclosure of individual legal costs to insurers and the public. I met with representatives from Suncorp Group, who advised:

Under current regulations, lawyers are obligated to disclose their legal costs—but only to the Regulator, SIRA. There is no legislative requirement for these fees to be disclosed to the client. While the majority of lawyers do this, in some cases (involving the more unscrupulous lawyers) these fees are disclosed. This means that, using a generic example, an injured person could receive a lump sum of \$100,000 without knowing their actual payout was \$200,000 with the difference going towards their legal representatives. Ensuring this information is disclosed to the client will ensure greater transparency around the CTP scheme. While the Christian Democratic Party believes in transparency, we think SIRA is doing enough through its claims cost disclosure program. It allows the regulator to monitor the amounts being charged and collected by lawyers in individual cases. In conclusion, it is obvious that the CTP system needs major reform. The bill reflects constructive feedback from numerous stakeholders, including injured people, vehicle owners, other road users, the legal profession, insurers, and health and injury support groups. The bill will reduce the annual average premium by at least \$100 and will ensure injured people receive ready access to benefits. This will allow people to get better faster and to return to their families and their work. The reforms will also improve the claims and dispute resolution process, as well as stop insurers from making super profits. People will be covered in those first six months without having to prove fault.

I noted the comments by the Hon. Robert Brown, and I know that the Hon. Robert Borsak was under great stress when his wife had an injury. That brings home how these policies—the laws we make in this House—actually work out at the dinner table and in the home. It has been great to hear from people with that sort of perspective. They are saying that they have considered this in the context of someone they know and love, where they are up to in their life and the sorts of benefits that are available to them. It is important that we take that type of approach to this and many other bills.

I remember the first bill about CTP green slips, which was brought in by the Hon. Greg Pearce. Mark II came in under the Hon. Andrew Constance. Now we have mark III, which has been brought in by the Hon. Victor Dominello. All of them represented steps in the reform process, but there is no doubt that mark I was a pretty nasty bill. Of course, we need to consider that in the context of reform of the workers compensation legislation or the Victims Compensation Scheme, where 24,000 people—victims of crime, sexual abuse or domestic abuse—were on the waiting list for immediate help for the different sorts of needs they had. I think the Government was trying to quickly save a lot of people who were hurting, and that created urgency. This time, with this third piece of legislation, we have had the advantage of being able to take the time to get it right.

I acknowledge that in that first round I had representations from Slater and Gordon—Mr David Nagle was incredibly helpful in suggesting ways to look after the injured and their rights and Genevieve from Slater and Gordon was also very helpful. They did not even knock on my door on this occasion, which is a fairly good indication that we have got this pretty well right—although it could be a fair point that they do not get paid anymore. I thought it was important to acknowledge their help. As we know, it is from exposure to these bills that members are educated about making better legislation. The people I have mentioned certainly helped me when I was a new member.

I also acknowledge Reverend the Hon. Fred Nile for his work with the taxi industry, which was absolutely devastated by Uber. It is fantastic that green slips will be discounted to level the playing field between taxi owners and Uber. That is a fair thing to do. I like the comment that was made earlier that this bill goes a long way towards "fort-proofing" the system. I hope it will go a long way towards knocking out fraudulent cases. Those who defraud the system do damage to the rights of others to access the money they need to help them get well. People who make fraudulent claims are basically scamming the people of New South Wales. This bill will certainly do that, and that is welcome. I agree with many others in this House that this bill will deliver when people need medical help most. It is an extremely smart bill.

Rather than giving people cash up-front the money will be held off so that it will be there when they need a doctor appointment, dental appointment, psychologist appointment or whatever appointment is needed, including alternative health services. That is a tremendous way to handle the Motor Accident Injuries Bill 2017. We proudly stopped mark I of the bill and we proudly slowed down mark II. Minister Constance at least got a roundtable and took our advice on that. We proudly stand here today and say that we stopped that. It was the right thing to do. We slowed down the second one. The Government caught up with the fact that there were some real issues. My experience as a crossbench member of the Legislative Council who has worked tirelessly with Minister Victor Dominello in different areas is that he gets it. It is about the people of New South Wales getting a fair deal. Today he has delivered. We commend the bill to the House.

**The Hon. DAVID CLARKE (20:55):** On behalf of the Hon. Don Harwin: In reply: I thank members for their contributions to this debate. In response to the questions that the Hon. Robert Brown raised, I can confirm that the average compulsory third party [CTP] premium for the 1,000 or so true-blue battlers who own and drive a taxi in regional New South Wales will reduce to less than \$3,000, which is a saving of 40 per cent. There will be a new premium setting process for green slips for taxis and rideshare vehicles, which will create a more level playing field. As members have heard, over the past few years the cost of green slip premiums in New South

Wales has spiralled out of control to the point where car ownership is becoming unaffordable for many families. Our reforms will bring much-needed change to increase affordability for New South Wales households.

The Motor Accident Injuries Bill 2017 will significantly reduce green slip premiums by approximately \$120 on average for most motorists, with many experiencing even greater savings. At the same time the bill will improve the support available for people injured in motor vehicle accidents in New South Wales. A new safety net will allow all injured road users to access benefits for loss of income and medical expenses for up to six months, with lump sum compensation retained for those with long-term injuries. This is a great bill and I am very proud to commend it to the House.

**The PRESIDENT:** The question is that this bill be now read a second time.

**Motion agreed to.**

### **In Committee**

**The CHAIR (The Hon. Trevor Khan):** There will be a somewhat different procedure as we consider the Motor Accident Injuries Bill 2017, so I will indicate the amendment sheets I have and we will go from there. I have Opposition amendments appearing on sheet C2017-009D, Christian Democratic Party amendments appearing on sheet C2017-014 and The Greens amendments appearing on sheet C2017-015. There being no objection, I will take the bill as a whole with the exception of division 7.3, clause 7.11, clause 7.15, clause 7.20 and clause 7.42.

**The Hon. PETER PRIMROSE (21:00):** I move Opposition amendment No. 1 on sheet C2017-009D:

No. 1      **Minor injuries**

Page 7, clause 1.6, lines 20–24. Omit all words on those lines.

This goes to the heart of the reform scheme where if a person is deemed to have suffered a minor physical injury or minor psychological or psychiatric injury they now have their common law rights stripped and are left with only defined statutory benefits. The Government has had at least five years to work out a definition of what is a minor injury and what is a minor psychological or psychiatric injury. Clause 1.6 starts the definitions, which continue in clauses 2 and 3, but they are followed by clause 4, which allows these definitions to be changed by regulation. It is effectively another Henry VIII clause by an increasingly arrogant and out-of-touch government. They have not done the work, yet they want to be able to narrow the gateway to common law rights by regulation. The Opposition believes that such critical aspects of this compulsory third party scheme should be subject to the full oversight of Parliament. If proposed changes are legitimate I am sure both Houses will amend the Act expeditiously. We need to be watchful for Henry VIII clauses that provide wide scope for this Government to further erode common law rights.

**The Hon. DAVID CLARKE (21:01):** This amendment proposes to amend clause 1.6 to restrict the definition of minor injury. The Government opposes it. This amendment will not allow the regulator to further define minor injury by regulation. During consultation the definition of minor injury was an area of much discussion and varied opinion amongst stakeholders, including medical experts. It was generally agreed that further and ongoing monitoring and consultation was required in regards to defining minor injury and ensuring it remained relevant and current. Locking a definition into an Act will not do this. That is why the Government and the majority of stakeholders support the ability to further define minor injury through regulation. The Government does not support this amendment.

**Mr DAVID SHOEBRIDGE (21:02):** This is a difficult issue for The Greens. The definition of minor injury is the touchstone of this legislative change. To ensure that it does not produce unjust outcomes and exclude injuries, that hopefully a majority in this Chamber would think should get through the gateway and should have access to payment for ongoing economic loss, is, as the Parliamentary Secretary says, an ongoing challenge. There will need to be ongoing monitoring. In the contribution from the Hon. Shayne Mallard he said that these kinds of schemes require wholesale reform every 10 years. That is one type of scheme design: set it up in year one and watch it slowly get more and more out of kilter over 10 years as pressures slowly build up so it eventually almost falls over and requires a radical redesign. Having watched for a few years how these schemes have operated I think there is probably a much better way of doing scheme design, and that is by having a nimble regulator. I do not think either the regulator for workers' compensation or motor accidents in New South Wales has been nimble to date.

We need a nimble regulator that is in touch with stakeholders and hopefully gets good data from the insurance industry to monitor where cost pressures are building up in a scheme. The regulator could therefore see where unfairness is building up in a scheme and would then be able to move with some alacrity to put some minor pressure on points in the scheme to push it in a better direction. For example, when the question of minor injury

is at issue, it may well be that there is a court decision that defines "minor injury" to include particular classes of whiplash as having got through the minor injury threshold—and I do not know if that is true—although if a few years of premiums were tested that would potentially create a very large imposition and increase in premium costs. It may well be that those kinds of whiplash injuries were not intended to pass through the minor injury threshold and would largely be resolved within six months. The regulator needs to be in a position to deal with a situation like that in a nimble fashion. I want to stress that I do not believe the regulator in its current state is really up to doing this work. A huge amount of work is required not just on claimants, insurers and scheme design but also on the regulator to ensure it is able to undertake this work.

It is for those reasons that The Greens do not support the Opposition's amendment, although I think the amendment comes from a good place. The other reason for not supporting this amendment is that not only will the regulations allow specified injuries to be excluded from the definition but also the converse is true. There may be a class of injuries that everyone would agree, and the regulator agrees, should be getting through the threshold but that is not the case. This bill allows a regulation to be made to include those injuries in the minor injury category that will get through the gateway. It is a difficult issue, but it is for those reasons that The Greens do not support this amendment.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Peter Primrose has moved Opposition amendment No. 1 appearing on sheet C2017-009D. The question is that the amendment be agreed to.

**Amendment negated.**

**The Hon. PETER PRIMROSE (21:06):** The Opposition will not proceed with amendments Nos 2 and 3.

**The CHAIR (The Hon. Trevor Khan):** We will therefore move on to Christian Democratic Party amendment No. 1 on sheet C2017-014.

**The Hon. PAUL GREEN (21:07):** I move Christian Democratic Party amendment No. 1 on sheet C2017-014:

No. 1      **Premium adjustment**

Page 19, clause 2.25. Insert after line 27:

- (b)      must be undertaken if the average realised profits of insurers for 1 or more years are greater than the average filed profits of insurers by 2% or more of the average filed profits, and

This legislation is a major reform that represents a good outcome for injured people and motor vehicle owners. The Christian Democratic Party, however, proposes some amendments to make the bill before us better. This amendment is to the clause relating to managing excessive insurance company profits, which has always been a problem in this scheme. Many contributions to the second reading debate pointed out that insurer profit margins started at 8 per cent then rose to 9 per cent, 14 per cent and 15 per cent, and some companies are now making even greater profit margins. It is shocking that some companies are taking advantage of the most vulnerable members of our community. There is a reasonable expectation that businesses make a profit for their investors as no business is set up to go backwards, but making super profits at the expense of the most vulnerable in our communities is wrong. With that in mind, I move this amendment.

**Mr DAVID SHOEBRIDGE (21:08):** The Greens support the Christian Democratic Party amendment No. 1 on sheet C2017-014. To give the Opposition credit, this amendment is identical to the Opposition's amendment that was actually lodged earlier than the CDP's amendments. There has been a lot of discussion about when there should be a review of insurers' potential super profits—whether it should be instantaneous when the bill commences or only after at least two years of claims experience so that there is some data to work on.

I believe that this is a pretty sensible compromise in that the review must be undertaken even before the two-year period if the average realised profits for insurers for one or more years are greater than the average filed profits of insurers by 2 per cent or more of the average filed profits. In other words, if in the first claims year it is realised that the average filed profits are already, with that amount of claims experience, 2 per cent above, in terms of profit, what they expected in their filings, that will trigger a review. It is getting that compromise between not wasting time in doing a review when we do not have enough data but also ensuring that we do get a review if the data is showing an early troubling trend.

**The Hon. DAVID CLARKE (21:09):** The Government supports this amendment, the effect of which is that the regulator must undertake a review of insurer profit if realised profit is 2 per cent or more greater than filed profit.

**The Hon. PETER PRIMROSE (21:10):** While it is true, as Mr David Shoebridge indicated, that the Opposition put this amendment in first, we are not going to play those sorts of games. Obviously we are just pleased to see good policy and that is why we will also support this amendment.

**The Hon. PAUL GREEN (21:10):** I acknowledge the Opposition's graciousness in this matter.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Paul Green has moved Christian Democratic Party amendment No. 1 on sheet C2017-014. The question is that the amendment be agreed to.

**Amendment agreed to.**

**The Hon. PETER PRIMROSE:** I move Opposition amendment No. 4 on sheet C2017-009D:

No. 4      **Premiums**

Page 19, clause 2.25, line 29. Omit "greater or".

The Opposition amendment is part of a suite of proposed amendments that will force the State Insurance Regulatory Authority to take action on super profits when identified and pass them back to premium holders.

**The CHAIR (The Hon. Trevor Khan):** I note that this amendment is identical to Christian Democratic Party amendment No. 2. Because the Opposition amendment was received first and it has been moved, the Christian Democratic Party amendment will lapse.

**The Hon. DAVID CLARKE (21:12):** On the basis that the Opposition amendment is identical to the amendment of the Christian Democratic Party, the Government wholeheartedly agrees with the amendment.

**Mr DAVID SHOEBRIDGE (21:12):** The reason we support the Opposition amendment is not only that it is exactly the same as the amendment of the Christian Democratic Party but also because we think it is the right trigger for doing the review.

**The Hon. PAUL GREEN (21:13):** In light of our amendment probably not having an opportunity to succeed, it is our pleasure to give way to the Hon. Peter Primrose and his amendment because it does achieve the spirit of this bill.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Peter Primrose has moved Opposition amendment No. 4 on sheet C2017-009D. The question is that the amendment be agreed to.

**Amendment agreed to.**

**The Hon. PAUL GREEN (21:13):** I move Christian Democratic Party amendment No. 3 on sheet C2017-014:

No. 3      **Premium adjustment**

Page 19, clause 2.25, lines 38–44. Omit all words on those lines. Insert instead:

- (3) If, as a result of the exercise of a function under this section, the Authority determines that premiums and Fund levies under Division 10.4 should be adjusted to avoid excess profits, the Authority must take action to make adjustments to avoid those excess profits.
- (4) The Authority may, following any adjustment referred to in subsection (2) of premiums and Fund levies under Division 10.4 to avoid excess losses, direct payments from the Motor Accidents Operational Fund under that Division to insurers corresponding to any increase in Fund levies otherwise payable.
- (5) The Authority must, following any adjustment referred to in subsection (2) of premiums and Fund levies under Division 10.4 to avoid excess profits, direct insurers to make payments to the Motor Accidents Operational Fund under that Division corresponding to any reduction in Fund levies otherwise payable.
- (6) An amount payable to or from the Motor Accidents Operational Fund under subsection (4) or (5) is not recoverable from or payable to policy holders.

I will not take the time of the House, because I have already stated why we support the first three amendments on the sheets.

**The Hon. DAVID CLARKE (21:14):** The Government supports the Christian Democratic Party amendments.

**The Hon. PETER PRIMROSE (21:14):** To save the Committee's time, we have been through all the Christian Democratic Party amendments. We think they are all reasonable and will be supporting them.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Paul Green has moved Christian Democratic Party amendment No. 3 on sheet C2017-014. The question is that the amendment be agreed to.

**Amendment agreed to.**

**The CHAIR (The Hon. Trevor Khan):** I understand that the Hon. Peter Primrose will not move Opposition amendment No. 5.

**The Hon. PETER PRIMROSE (21:15):** That is correct. I move Opposition amendment No. 6 on sheet C2017-009D:

No. 6      **CTP Insurance Monitor**

Page 20. Insert after line 40:

2.27      **CTP Insurance Monitor**

- (1)      The *Emergency Services Levy Insurance Monitor Act 2016* applies to or in respect of insurance premiums for third party policies in the same way that it applies to or in respect of prices for the issue of regulated contracts of insurance.
- (2)      For that purpose, the Emergency Services Levy Insurance Monitor appointed under the *Emergency Services Levy Insurance Monitor Act 2016* has the same functions in relation to the monitoring and investigation of conduct of insurers and insurance premiums for third party policies as the Monitor has in relation to the monitoring and investigation of prohibited conduct and prices for the issue of regulated contracts of insurance under that Act.
- (3)      The *Emergency Services Levy Insurance Monitor Act 2016* is not repealed by the operation of section 79 of that Act. However, on and from 1 January 2019, the Emergency Services Levy Insurance Monitor ceases to have functions in relation to the emergency services levy reform.
- (4)      The Emergency Services Levy Insurance Monitor is, in the exercise of functions conferred by this section, to be known as the **CTP Insurance Monitor**.
- (5)      If the CTP Insurance Monitor is of the opinion that, having regard to actuarial advice and to other relevant information available to the Monitor, the average realised underwriting profits of insurers for one or more years exceed by more than 8% the estimated underwriting profit on which premiums filed under this Division are based, the Monitor is to direct the Authority to reject the premium under section 2.22 (Rejection of premiums by Authority). The Authority is to give effect to the direction.
- (6)      The CTP Insurance Monitor may require the Authority to provide to the Monitor any information held by the Authority that is reasonably necessary to assist in the exercise of the Monitor's functions under this section.
- (7)      The CTP Insurance Monitor is to prepare an annual report on the setting of premiums and the underwriting profits of insurers during the preceding 12 months.
- (8)      Each such report is to be given to the Minister and tabled in each House of Parliament.

We have already established an independent monitor to ensure insurance companies reduce property insurance levies on the introduction of the Fire and Emergency Services Levy. That legislation was passed today. The Opposition supports this position. In fact, we want to extend the monitor's term. This amendment broadens the power of that Emergency Services Levy Monitor's role. The compulsory third party scheme is triple the size of the emergency service budget yet the Government wants to leave its oversight with the State Insurance Regulatory Authority, which was only recently criticised for its ineffectiveness by the Law and Justice Committee review of the workers compensation scheme. The amendment will ensure an independent cop on the beat to ensure that insurers pass on their profits. It will also provide greater independent oversight when transitioning to the new scheme. This is a sensible, simple amendment that should be supported by the House.

**The Hon. DAVID CLARKE (21:16):** The amendment proposed by the Opposition involves unnecessary duplication and is therefore opposed by the Government.

**Mr DAVID SHOEBRIDGE (21:16):** Anyone who has been observing the way that the regulator has utterly failed for the last 20 years to address super profits and thinks that things are going to magically change because we have put a new statutory test in the bill believes in hope over experience. I have that hope: I hope that things will improve. But experience would suggest that we should do more. The Opposition's amendment, which is proposing to put that monitor in place, is a good step forward. Given our experience in the past, I think having somebody with the expertise and the capacity to oversee it and ensure it is actually producing the outcomes we all hope it will achieve is a good idea. For those reasons The Greens support the Opposition's amendments.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Peter Primrose has moved Opposition amendment No. 6 on sheet C2017-009D. The question is that the amendment be agreed to.

**The Committee divided.**

Ayes .....15  
 Noes .....19  
 Majority.....4

**AYES**

Buckingham, Mr J  
 Graham, Mr J

Donnelly, Mr G (teller)  
 Mookhey, Mr D

Field, Mr J  
 Moselmane, Mr S  
 (teller)  
 Searle, Mr A  
 Shoebridge, Mr D  
 Wong, Mr E

Pearson, Mr M  
 Secord, Mr W  
 Veitch, Mr M

Primrose, Mr P  
 Sharpe, Ms P  
 Walker, Ms D

**NOES**

Amato, Mr L  
 Colless, Mr R  
 Franklin, Mr B (teller)  
 Green, Mr P  
 Maclaren-Jones, Ms N  
 (teller)  
 Mitchell, Ms S  
 Taylor, Ms B

Blair, Mr N  
 Cusack, Ms C  
 Gallacher, Mr M  
 Harwin, Mr D  
 Mallard, Mr S

Clarke, Mr D  
 Farlow, Mr S  
 Gay, Mr D  
 MacDonald, Mr S  
 Mason-Cox, Mr M

Nile, Reverend F

Phelps, Dr P

**PAIRS**

Houssos, Ms C  
 Voltz, Ms L

Pearce, Mr G  
 Ajaka, Mr J

**Amendment negatived.**

**Mr DAVID SHOEBRIDGE (21:31):** By leave: I move The Greens amendments Nos 1 and 2 on sheet C2017-015 in globo:

**No. 1 Treatment and care**

Page 40, clause 3.33, line 34. Omit "resides outside Australia". Insert instead "is not an Australian citizen or a permanent resident of Australia".

**No. 2 Treatment and care**

Page 40, clause 3.33, lines 35 and 36. Omit "while the person is residing".

The Greens believe that one aspect of this bill is particularly unfair. The bill as originally drafted provided that if someone were involved in a motor vehicle accident in New South Wales and they moved out of Australia they would immediately lose their entitlement to medical benefits. The Government's argument in support of the original version of the bill was twofold. First, it said that backpackers and other travellers almost always have travel insurance, so when they move back to their home country after a motor vehicle accident, their travel insurance and income protection policies would pick up their expenses. The Government asked why New South Wales motorists should pay for medical treatment in another country when it is probably already covered by an insurance policy in that country.

I understand that argument and there may be some merit in it, although I think it is mean. The original bill also cut coverage of medical expenses resulting from a motor vehicle accident for an Australian citizen or permanent resident if they leave the country. If they are badly injured in a motor vehicle accident many people would have a desperate need to travel overseas to the care of their family. It seems terribly mean to cut their medical expenses cover in those circumstances, particularly if they are Australian citizens or permanent residents. Unamended, the bill provides:

An injured person who resides outside Australia is not entitled to receive any weekly payment of statutory benefits in respect of any period during which the person resides outside Australia ... If these two amendments receive support the clause would then read:

An injured person who is not an Australian citizen or permanent resident of Australia is not entitled to statutory benefits under this division in respect of treatment and care provided outside Australia.

In other words, if an Australian citizen or a permanent resident is injured on the roads in New South Wales, provided they are entitled to medical treatment, that entitlement will follow them around the globe, which we think is a much fairer outcome. Whilst that is probably not where we would like to be, any person injured in New South Wales should be protected regardless of whether he or she is a traveller or a resident. I give credit to the Government's argument relating to travellers but we think that this is a much fairer outcome. I commend The Greens amendments.

**The Hon. DAVID CLARKE (21:35):** The Government supports these sensible amendments that clarify that injured people who are Australian citizens or permanent residents are entitled to ongoing treatment and care benefits even if they reside outside Australia.

**The CHAIR (The Hon. Trevor Khan):** Mr David Shoebridge has moved The Greens amendments Nos 1 and 2 on sheet C2017-015 be agreed to. The question is that the amendments be agreed to.

#### **Amendments agreed to.**

**Mr DAVID SHOEBRIDGE (21:35):** I move The Greens amendment No. 3 on sheet C2017-015:

No. 3      **Damages for economic loss**

Page 48, clause 4.5, lines 5–7. Omit all words on those lines. Insert instead:

- (a)            damages for past or future economic loss due to loss of earnings or the deprivation or impairment of earning capacity, and

This amendment seeks to improve the wording of one of the aspects of damages in new section 4.5. Currently new section 4.5 (1) (a) and (b) states that damages may be awarded for economic loss of the following types:

- (a)            damages for past economic loss due to loss of earnings, and
- (b)            damages for future economic loss due to the deprivation or impairment of earning capacity, and

Those kinds of definitions—what is past and/or future loss of earnings and what is past and/or future loss or deprivation or impairment of earning capacity—have been fought for in court case after court case in any mixed statutory common law scheme. The problem that was perceived by the Bar Association, the Australian Lawyers Alliance, the Law Society and others was that new section 4.5 (1) (a) as currently drafted refers only to past economic loss due to the loss of earnings; it does not refer to any future loss of earnings. New section 4.5 (1) (b) refers only to future economic loss due to deprivation or impairment of earning capacity; it does not refer to past losses. There will be cases where people will want to claim past and future economic loss.

The courts could have looked at this provision and thought that it meant both past and future economic loss—which was probably the likely outcome if they had been tested—the proposed amendment makes that clear. The Greens amendment seeks to delete new subsections (a) and (b) and replace it with "damages for past or future economic loss due to loss of earnings or the deprivation or impairment of earning capacity". This amendment makes it clear that one can recover past or future economic loss due to either loss of earnings or deprivation, or impairment of earning capacity. This is an issue for lawyers but it is a substantial issue. I hope that it is clarified by this amended wording.

**The Hon. DAVID CLARKE (21:38):** The Government supports The Greens amendment No. 3 which will have the effect of clarifying that damages may be awarded for past loss of earning capacity rather than loss of earnings to avoid any unintended taxation issues. This will ensure that claimants are not adversely affected by a definitional issue that may have presented taxation consequences.

**The CHAIR (The Hon. Trevor Khan):** Mr David Shoebridge has moved The Greens amendment No. 3 appearing on sheet C2017-015. The question is that the amendment be agreed to.

#### **Amendment agreed to.**

**The CHAIR (The Hon. Trevor Khan):** We now move to part 7 of the bill.

**The Hon. PETER PRIMROSE (21:39):** By leave: I move Opposition amendments Nos 7 to 14 on sheet C2017-009D in globo:

No. 7      **Internal review**

Page 73, clause 7.1, lines 7 and 8. Omit all words on those lines.

No. 8      **Internal review**

Page 76, clause 7.10, lines 6 and 7. Omit all words on those lines.

- No. 9      **Internal review**  
Page 77, clause 7.15, line 40. Omit "internal review or".
- No. 10     **Internal review**  
Page 78, clause 7.15, lines 9 and 10. Omit "an internal review or".
- No. 11     **Internal review**  
Page 78, clause 7.15, line 11. Omit "internal review or".
- No. 12     **Internal review**  
Page 78, clause 7.16, lines 26 and 27. Omit "internal review or".
- No. 13     **Internal review**  
Page 78, clause 7.17, line 35. Omit "request an internal review or".
- No. 14     **Internal review**  
Page 78, clause 7.17, lines 36 and 37. Omit "an internal review or".

These amendments relate to the internal review. The legal fraternity has repeatedly questioned the wisdom of forcing victims to go through an internal review of their case with the insurers. There is concern that this will be a tick-and-flick exercise or another hurdle to persuade more victims to stop their claims. Insurers should have their own internal review processes to ensure they are getting things right; we do not need to coopt them into the statutory process. Removing this step is a sensible and practical improvement if the Government is serious about pushing claims through the system more quickly and fixing people so they may possibly return to work.

**The Hon. DAVID CLARKE (21:40):** The Government does not support Opposition amendments Nos 7 to 14.

**The CHAIR (The Hon. Trevor Khan):** I will have to put some questions separately, and I will be guided by the Clerks in this regard.

**Mr DAVID SHOEBRIDGE (21:24):** To be clear, The Greens support the Opposition amendments Nos 7 to 14. However, as I understand the bill, if those amendments fail then simply voting no to those other amendments will make the bill incoherent and unworkable. I hope the Opposition takes that on board. If the first tranche of amendments fail, then not only is there no utility but also it creates an incoherent bill if the other "vote no" questions succeed.

**The CHAIR (The Hon. Trevor Khan):** I will put the question in a manner that is clear.

**Mr DAVID SHOEBRIDGE:** It may be that the Opposition does not choose to vote no on those particular definitions because it will create an incoherent bill.

**The CHAIR (The Hon. Trevor Khan):** I think I know what will happen.

**Mr DAVID SHOEBRIDGE:** The Greens support the removal of internal reviews. Internal reviews have one substantial benefit for a scheme such as this. Actuaries love the benefit of internal reviews. Every time there is a process point that requires a step to be taken by a claimant who wishes to progress his or her claim, a bunch of claimants drop off. They give up and walk away. An internal review produces significant cost savings on actuarial assumptions. I do not know what cost saving the Government has identified by including internal reviews, but it is probably in the order of \$30 or \$40 a premium. A significant proportion of claimants literally drop off when there is an internal review process.

If we cast our minds back to the utility of internal reviews in workers compensation schemes, we realise that internal reviews in those schemes almost never end up with a different result. The original review of the insurer and the internal review usually ends up in agreement 99 per cent of the time because the same decision is made on the same evidence with the same corporate culture. There is little, if any, utility for claimants having internal reviews. I accept that in respect of premiums rising a significant perceived utility for the scheme is that internal reviews reduce premiums because they see claimants drop away. We do not think that is a strong argument for retaining internal reviews. It is an unnecessary and unhelpful hurdle for claimants, which is why we support Opposition amendments Nos 7 to 14.

**The CHAIR (The Hon. Trevor Khan):** Opposition amendment No. 7 is simply an amendment to clause 7.1, so I will put that question separately first. I will then put the question for the balance of the amendments. The Hon. Peter Primrose has moved Opposition amendment No. 7 on sheet C2017-009D. The question is that the amendment be agreed to.

**Amendment negatived.**

**The CHAIR (The Hon. Trevor Khan):** I will now put the question in respect of Opposition amendments Nos 8 to 14. The Hon. Peter Primrose has moved Opposition amendments Nos 8 to 14 on sheet C2017- 009D. The question is that the amendments be agreed to.

**Amendments negatived.**

**The CHAIR (The Hon. Trevor Khan):** I will now put the question on division 7.3 and clauses 7.11, 7.20 and 7.42, which all relate to the internal review and upon which the Opposition has requested that I put the question separately. I indicate that members who would like the division and clauses to remain in the bill should vote in the affirmative. Those who would like the division and clauses to be omitted should vote in the negative.

**The Hon. PETER PRIMROSE (21:46):** For the convenience of the Committee, the Opposition will not persist in that request.

**The CHAIR (The Hon. Trevor Khan):** I thank the Hon. Peter Primrose. I will now put the question on clause 7.15 at the request of the Christian Democratic Party. I indicate that members who would like the clause to remain in the bill should vote in the affirmative and those who would like the clause to be omitted should vote in the negative. The question is that clause 7.15, as read, stand as a clause of the bill.

**The Hon. Don Harwin:** Point of order: There is some confusion in the Chamber so it might expedite matters to put the question again.

**The Hon. Peter Primrose:** I seek some guidance. Is the Christian Democratic Party persisting in this request?

**The Hon. Paul Green:** That is correct.

**Mr DAVID SHOEBRIDGE (21:47):** This is a two-step process from the Christian Democratic Party, which I understand the Government will support. It will delete the provision from this part of the bill and a further amendment will put a similar provision, but with slightly improved wording, back in the bill later.

**The CHAIR (The Hon. Trevor Khan):** I will now put the question again on clause 7.15 at the request of the Christian Democratic Party. I indicate that members who would like the clause to remain in the bill should vote in the affirmative and those who would like the clause to be omitted should vote in the negative. The question is that clause 7.15, as read, stand as a clause of the bill.

**Clause omitted.**

**The Hon. PAUL GREEN (21:49):** By leave: I move Christian Democratic Party amendments Nos 4 to 10 on sheet C2017-014 in globo:

**No. 4 Provision of information**

Page 76, clause 7.12. Insert after line 40:

- (5) The claimant and the insurer must provide to the merit reviewer such information as the reviewer may reasonably require for the purposes of the merit review.
- (6) It is a condition of an insurer's licence under this Act that the insurer must comply with subsection (5).
- (7) The merit reviewer may decline to review the reviewable decision if the claimant or the insurer has failed to provide any such information required by the reviewer.

**No. 5 Merit review**

Page 77, clause 7.13. Insert after line 22:

- (6) If a merit reviewer is satisfied that a certificate under this section contains an obvious error, the merit reviewer may issue a replacement certificate to correct the error.

**No. 6 Dispute resolution**

Page 78, clause 7.16, lines 26 and 27. Omit "Sections 7.14 (Effect of merit review decision) and 7.15 (Effect of decision on internal review or merit review) apply". Insert instead "Section 7.14 (Effect of merit review decision) applies".

**No. 7 Provision of information**

Page 79, clause 7.21. Insert after line 41:

- (4) The claimant and the insurer must provide to the medical assessor such information as the assessor may reasonably require for the purposes of the medical assessment.
- (5) It is a condition of an insurer's licence under this Act that the insurer must comply with subsection (4).

- (6) The medical assessor may decline to make a medical assessment if the claimant or the insurer has failed to provide any such information required by the assessor.

No. 8 **Provision of information**

Page 88, clause 7.44. Insert after line 11:

- (5) It is a condition of an insurer's licence under this Act that the insurer must comply with a direction given to the insurer under this section.

No. 9 **Dispute resolution**

Page 89. Insert after line 32:

**7.48 Effect of decisions under this Part**

- (1) This section applies where a decision is made in accordance with this Part by an insurer on an internal review or by a decision-maker on a merit review, medical assessment or assessment of a dispute about a miscellaneous claims assessment matter.
- (2) If the decision results in an increase in the amount of payments of statutory benefits payable to a claimant, the claimant is entitled to the increase in payments from the date of the original decision that is the subject of the review or assessment concerned.
- (3) If the decision results in the discontinuation of or a further reduction in any payments of statutory benefits payable to a claimant, and is less favourable to the claimant than the decision that is the subject of the review or assessment, the requirements of Division 3.3 (Weekly payments of statutory benefits to injured persons) as to the giving of notice before discontinuing or reducing weekly payments of statutory benefits extend to the discontinuation or further reduction that results from the decision on the review or assessment concerned.
- (4) This section extends to any new decision made by a review panel under section 7.16 (Review of merit review decision by review panel) or 7.27 (Review of medical assessment by review panel).

No. 10 **Premiums for taxis and hire vehicles**

Page 146, Schedule 4, Part 2. Insert after line 23:

**7 Determination of premiums for taxis and hire vehicles**

- (1) This clause applies in respect of Motor Accident Guidelines that:
  - (a) relate to the determination of insurance premiums for third-party policies for taxis or hire vehicles (within the meaning of section 2.26 (Special provisions relating to taxis and hire vehicles and other vehicles)), and
  - (b) provide for the premium, or part of the premium, to be paid on the basis of the distance travelled by the vehicles.
- (2) This clause applies only in respect of Motor Accident Guidelines issued during the period of 3 years starting on the commencement of this Act.
- (3) In determining the guidelines for insurance premiums for third-party policies for taxis and hire vehicles, the Authority is to ensure that similar insurance premiums are to be paid for taxis and hire vehicles having regard to relevant factors of comparison, such as the class of the vehicles, the distance travelled by the vehicles and the activities in which the vehicles are engaged.
- (4) However, the methodology used to determine the distance travelled may differ according to the class of vehicle.
- (5) Subclause (3) does not apply to the determination of guidelines under section 2.26 (Special provisions relating to taxis and hire vehicles and other vehicles) to the extent that the determination relates only to that part of the premium to be paid before the issue of a third-party policy.
- (6) The Motor Accident Guidelines may provide for the refund of part of the premium paid for a third-party policy after the period for which the policy is issued by reference to digital information recorded about the distance travelled by the motor vehicle.
- (7) The Motor Accident Guidelines may exclude any class of vehicles from the operation of this provision.

These related amendments will ensure that claimants and insurers provide documents and information reasonably requested by a dispute resolution assessor, whether it be a merit review or medical or claims assessment. This will ensure that information is provided to assist a speedy resolution of all dispute types. These amendments will also allow merit reviewers to correct an obvious error in a determination of a merit review application. While the Christian Democratic Party is confident about obvious errors being the exception, these amendments will provide similar powers to what exists for claims and medical assessors. Importantly, this will reduce further the number of unnecessary disputes, which is only a good thing for injured people.

Amendment No. 9 increases fairness for injured people. This amendment allows for back payment of statutory benefits when the dispute review decision is more favourable to the claimant than what is currently being paid by the insurer. It ensures that injured claimants receive payments at the higher level from the date of the original decision by the insurer. Amendment No. 10 proposes an amendment to schedule 4, part 2, in relation to the premium-setting process for point-to-point transport vehicles such as taxis and rideshares. This amendment will ensure a more level playing field in that rapidly changing sector by legislating that when those vehicles travel the same distance they will pay the same premium. If a car or a similar vehicle is in the business of transporting passengers for money it is only fair that they pay the same premium if they do the same amount of work.

Many people have ideas about improving the scheme. While I and others may agree with some of them, I believe some others are not in the best interests of the scheme or the people it serves—motorists and injured people. I have been approached by various stakeholders seeking changes to the definition of "minor injuries". It is a deeply contentious issue; however, the Christian Democratic Party finds it difficult to support those changes given that CTP premiums in this State are amongst the highest in the country and are set to rise. There are definitely increasing numbers of fraudulent and exaggerated claims, especially for minor injuries. The Christian Democratic Party believes it is important to get people better so they can get back to work and support themselves and their families.

The Christian Democratic Party has also advocated strongly for the disclosure of individual legal costs to insurers and the public. While our members believe in transparency, we also believe that the State Insurance Regulatory Authority [SIRA] is doing this sufficiently through the claims cost disclosure program, which allows the regulator to monitor the costs being charged and collected by lawyers in individual cases. All things considered, we do not believe at this time that this should be expanded. I commend the amendments to the Committee.

**The Hon. DAVID CLARKE (21:53):** The Government supports these worthy amendments proposed by the Christian Democratic Party.

**The Hon. PETER PRIMROSE (21:53):** The Opposition also supports the amendments.

**Mr DAVID SHOEBRIDGE (21:53):** The Greens support the various amendments put forward by the Christian Democratic Party. If there is more work to be done in this area it is in terms of the dispute resolution on statutory benefits. Many lawyers are deeply critical of it. I am anxious that the experience of claimants in the statutory dispute resolution process may be less than satisfactory. The Hon. Shayne Mallard was working out what work there will be for the committee to do in the future. I imagine that work will be in trying to resolve some of the problems that are very likely to arise as a result of the statutory dispute mechanisms. That being said, what the Christian Democratic Party is putting forward makes some modest improvements on it, and I commend them for that. I think we are pretty much all in agreement that we should be doing what we can to level the playing field between taxis and other point-to-point travel services for CTP premiums. This is one part of that package.

**The Hon. PAUL GREEN (21:54):** I thank all members for their contributions and gracious favour on these amendments.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Paul Green has moved Christian Democratic Party amendments Nos 4 to 10 on sheet C2017-014 in globo. The question is that the amendments be agreed to.

**Amendments agreed to.**

**Mr DAVID SHOEBRIDGE (21:55):** By leave: I move The Greens amendments Nos 4 and 5 on sheet C2017-015 in globo:

No. 4      **Persons under legal incapacity**

Page 84, clause 7.33, lines 20–23 and 26–40. Omit all words on those lines.

No. 5      **Persons under legal incapacity**

Page 89. Insert after line 32:

**7.48      Persons under legal incapacity**

- (1)      A claimant who is a person under legal incapacity in relation to proceedings under this Part may not make any application or refer any matter to the Dispute Resolution Service, or carry on proceedings, under this Part except by his or her appointed representative in accordance with the Motor Accident Guidelines.
- (2)      In this section:

*appointed representative*, in relation to a person under legal incapacity, means a person appointed to represent the person under legal incapacity (whether by a claims assessor or otherwise) in accordance with the Motor Accident Guidelines.

*person under legal incapacity* includes:

- (a) a child under the age of 18 years, and
- (b) an involuntary patient or forensic patient within the meaning of the *Mental Health Act 2007*, and
- (c) a person under guardianship within the meaning of the *Guardianship Act 1987*, and
- (d) a protected person within the meaning of the *NSW Trustee and Guardian Act 2009*, and
- (e) an incommunicate person, being a person who has such a physical or mental disability that he or she is unable to receive communications, or express his or her will, with respect to his or her property or affairs.

This issue has raised some significant concern, particularly amongst those in the legal profession who have experience in infant approvals. Infant approvals are where a settlement is effectively agreed between an insurance company and the legal representatives of a minor. To date, the check and balance to ensure that the minor's interests are properly looked after—to ensure that the sum is adequate to deal with the economic loss and the ongoing treatments costs and the like—is District Court oversight. The case is brought before the District Court and the lawyers for both the claimant—the injured minor—and, effectively, the insurance company need to convince the District Court that there is adequate compensation to meet the needs of the infant.

There was a proposal that those kinds of approvals might be done within the statutory scheme rather than in a court. The effect of these amendments is to make it clear that those approvals for minors—and other persons who are under a legal incapacity—will be done in the District Court, not in the statutory scheme. There is a minor wrinkle in this in that there may well be some issues in relation to statutory benefits that do not fall within the jurisdiction of the District Court. They will therefore need to be dealt with in the statutory scheme. So there is still a capacity for the representative of a person under a legal incapacity to agree to some statutory benefits within the statutory scheme. In summary, that is the effect of the two amendments and that is why I have moved the two of them together.

**The Hon. DAVID CLARKE (21:57):** The Government supports these two amendments, the effect of which is to extend the protections for people under a legal incapacity beyond claims assessments to applications for merit review or medical assistance.

**The Hon. PETER PRIMROSE (21:57):** The Opposition also supports the amendments.

**The Hon. PAUL GREEN (21:57):** The Christian Democratic Party supports the amendments.

**The CHAIR (The Hon. Trevor Khan):** Mr David Shoebridge has moved The Greens amendments Nos 4 and 5 on sheet C2017-015 in globo. The question is that the amendments be agreed to.

**Amendments agreed to.**

**The Hon. PETER PRIMROSE (21:58):** I move Opposition amendment No. 15 on sheet C2017-009D:

No. 15     **Transition period**

Page 144, line 24. Omit "3 years". Insert instead "5 years".

This amendment very simply takes cognisance of the advice that the Government is receiving from its own officers: that at least five years is needed to get meaningful data on the effectiveness of the clawbacks. It seeks to insert "5 years" in lieu of "3 years" so that a valid review can be done.

**Mr DAVID SHOEBRIDGE (21:58):** The Greens support Opposition amendment No. 15. The tables that have been published in pretty much every statutory review of the motor accidents scheme to date—and I think I referred to this in my second reading speech—show that the insurers estimate their profits at 8 per cent. Then they get another 12 months claim experience and they realise that in fact injury numbers were lower than they thought they would be and payments were less significant than they thought they would be and maybe in the second year they realise that their profits are closer to 10 per cent. Then in the third year as they get more claims experience and they realise that those actuarial assumptions were overblown they begin to think that their profits are probably more in the order of 13 per cent or 14 per cent. By the time they get to the fifth year out they are getting up to 16 per cent or 17 per cent. History shows that people need about five years claims experience to properly understand the level of super profits. It is possible to get a reasonable grip on it after three years but a much better understanding is possible after five years. That is why The Greens support the Opposition's amendment.

**The Hon. DAVID CLARKE (21:59):** The Government opposes this Opposition amendment.

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

**The Committee continued to sit.**

**The CHAIR (The Hon. Trevor Khan):** The Hon. Peter Primrose has moved Opposition amendment No. 15 on sheet C2017-009D. The question is that the amendment be agreed to.

**Amendment negatived.**

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

**Motion agreed to.**

**The CHAIR (The Hon. Trevor Khan):** Before I call the Parliamentary Secretary I thank members and the Clerks at the table for their help on what has been an extraordinarily confusing evening.

**The Hon. DAVID CLARKE:** I move:

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

**Motion agreed to.**

### **Adoption of Report**

**The Hon. DAVID CLARKE:** On behalf of the Hon. Don Harwin: I move:

That the report be adopted.

**Motion agreed to.**

### **Third Reading**

**The Hon. DAVID CLARKE:** On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

**Motion agreed to.**

## **LOCAL GOVERNMENT AMENDMENT (RATES—MERGED COUNCIL AREAS) BILL 2017**

### **Returned**

**The DEPUTY PRESIDENT (The Hon. Paul Green):** I report receipt of a message from the Legislative Assembly returning the abovementioned bill without amendment.

### *Committees*

### **JOINT STANDING COMMITTEE ON ELECTORAL MATTERS STAYSAFE (JOINT STANDING COMMITTEE ON ROAD SAFETY)**

### **Membership**

**The DEPUTY PRESIDENT (The Hon. Paul Green):** I report receipt of the following message from the Legislative Assembly:

Mr President

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

That:

- (1) (a) Jai Travers Rowell be appointed to the Joint Standing Committee on Electoral Matters in place of Melanie Rhonda Gibbons, discharged.
- (b) Thomas George be appointed to the Joint Standing Committee on Road Safety in place of Kevin John Humphries, discharged.
- (2) A message be sent informing the Legislative Council.

SHELLEY HANCOCK  
Speaker

Legislative Assembly  
29 March 2017

**The Hon. DON HARWIN:** I move:

That consideration of the Legislative Assembly's message stand as an order of the day for a future day.

**Motion agreed to.***Adjournment Debate***ADJOURNMENT**

**The Hon. DON HARWIN:** I move:

That this House do now adjourn.

**QUAD BIKE SAFETY**

**The Hon. MICK VEITCH (22:04):** I draw the attention of honourable members to the issue of quad bikes, and more specifically injury and death arising from quad bike misadventure. There is a growing number of tragic and one would think preventable deaths as a result of quad bike accidents in New South Wales. It is just unacceptable. A snapshot reveals a growing tragedy being played out: 112 deaths nationally since 2011 and 30, more than a quarter, of those in New South Wales with one in five victims aged 16 years or less. If this was a shark attack at our beaches there would be a summit to identify mechanisms to address these terrible numbers. I believe that we as elected officials cannot, indeed should not, sit back and accept things as they are.

In November 2015 the State Coroner released a report into quad bike deaths. The recommendations covered a range of matters including the need for SafeWork NSW to work with the Commonwealth and other States and Territories to: deliver, implement and support a safety rating system; work with industry stakeholders in developing Australian standards; develop an improved standardised nationally accredited training package; collaborate with the Commonwealth and manufacturers to conduct an independent survey to assess the benefits, risks and efficacy of crush protection devices; and to conduct a media campaign to increase awareness of the risks involved in using quad bikes. The coroner's reports and recommendations are not to be trifled with. They warrant a close, prompt and considered response from Government. This is reflected in the relevant Premier's memorandum 2009-12 which clearly requires agencies and Ministers to report to the Attorney General within six months of receiving a coronial recommendation. Yet seven months after the coroner's report on quad bike deaths I, along with the shadow Attorney General, was stunned to see no response from the Government on such an important matter. If time allows I will touch on the Government's eventual response.

It is interesting to see what has happened in other State jurisdictions. In August 2015 the Queensland Office of State Coroner released its report into nine deaths caused by quad bike accidents. Very similar recommendations were made by the Queensland coroner to those of the NSW State Coroner. In 2016 South Australia's Centre for Automotive Safety Research released its study "Quad Bikes in South Australia", which reviewed quad bike use in the State and the circumstances surrounding incidents that occurred as a result of their use. It made a number of recommendations, primarily to be implemented by Safe Work SA. Looking at what respective State governments are implementing outside the coronial recommendations, the Victorian Government has introduced a \$6 million subsidy scheme for farmers to install rollover protection devices on their quad bikes. In Tasmania in January 2017 the Tasmanian Department of Justice Quad Bike Safety Task Force released its issues paper with submissions closing on 28 February.

In February 2017 the Queensland Government introduced road rule amendments mandating helmet use when riding on roads or road-related areas across the State and also restricted the age of people who can use quad bikes. Whilst welcomed, the New South Wales Government package only scratched the surface of the terms of the coroner's report and what was happening on the ground. It was a first step but it cannot be the only step. The Government's response does nothing to examine the effects of crush protection devices and nothing to help protect younger drivers from the risk of death. A recent Government Information (Public Information) Act [GIPA] request revealed the poor take-up of the Government's package.

As of last month only 410 helmet subsidies had been approved out of 518 applications and astoundingly only two applications were received for the training rebate, but neither of those was approved. The Government's package does nothing for recreational users, of which younger drivers are making up a significant proportion. Whilst there is the workplace safety issue related to the farm fraternity there is a growing rise in quad bike use amongst recreational enthusiasts. In the past four weeks a further four people in New South Wales have died as a result of quad bike accidents. Sadly, two of those fatalities involved a six-year-old boy and a seven-year-old boy. We must put aside political differences and work together to ensure that people can use quad bikes safely so that they are not injured and do not lose their lives.

**TRIBUTE TO FORMER MEMBERS OF THE LEGISLATIVE COUNCIL**

**The Hon. TREVOR KHAN (10:08):** In April 2007 eight people met in a conference room in this building following the general election on 24 March 2007. Those eight people were the Hon. Marie Ficarra, the Hon. John Ajaka, who is now President of the Legislative Council, the Hon. Mick Veitch, the Hon. Lynda Voltz,

the Hon. Helen Westwood, Dr John Kaye, the Hon. Roy Smith and me. In many ways it is hard to look back on this meeting and reflect on what an extraordinary 10 years have passed, but all of us—or at least those of us who have survived—would say to this day that it is an honour and privilege to be members of this place.

Sadly, only four of us remain as sitting members of this place. Two of those people who met in the conference room have passed from us. We attended the memorial services of two fine people. First, in 2010, following the death of Roy Smith on 31 July 2010, we attended his memorial service. His death was a surprise to all of us, to say the least. He was a true gentleman and the strength of his intellect only became known to me after a while when his canny intelligence came through, particularly during the inquiry of the Select Committee on the NSW Taxi Industry. During the inquiry he showed tremendous insight into many of the problems existing in that industry. Roy made a significant contribution to this place, and his passing leaves us all the poorer.

The other memorial service I attended followed the death of Dr John Kaye in May 2016. As some in this place know, John had been pressing me for over a year to get something done about my hips. He made a variety of suggestions about what I should do, but sadly it was during an investigation of his own physical problems that the discovery was made of the cancer that riddled his body. He was an honourable man, and as I said at the time I will always miss him. He made many substantial contributions in this place, and for me his most significant contribution was during the inquiry into the use of cannabis for medical purposes when he showed not only his intellect but his capacity to work with members across parties to get a good result for the people of New South Wales.

The other two former members of this place are the Hon. Marie Ficarra and the Hon. Helen Westwood. Both made significant contributions as members of this place. The Hon. Marie Ficarra worked throughout her time in this place on the Standing Committee on Social Issues. While she and I did not agree on many things, she had a tremendous heart and passion for politics and what she believed was right. I have to say that the Hon. Helen Westwood and I also did not always agree, but nevertheless I acknowledge that she believed passionately in a number of things. Her stand against domestic violence will always stay with me.

The Hon. Helen Westwood contributed significantly to our endeavours in that field. Her work on the Provocation Committee's inquiry into the partial defence of provocation was exceptional. She was constantly irritated by all the lawyers and the squabbles that we had, but she should be justly proud of her common sense, her grounding and her desire to see an outcome during all the time that she served in this place. She should look back on that time as a shining part of her career and her life. I congratulate her for that. I have no idea how much longer I will be in this place. As I have said to many there are extraordinary frustrations at times, but nothing can detract from the highlights. I thank all members for their contributions to this place.

### **RIVERSDALE MASTER PLAN**

**The Hon. PAUL GREEN (22:13):** Tonight I speak about the master plan for Riversdale. This is a priority project on the South Coast of New South Wales that has great potential for our region. It will bring great economic benefit to the Shoalhaven in particular, and will deliver fantastic arts outcomes. Bundanon Trust, one of the nation's cultural institutions, thrived in the Shoalhaven since its establishment 23 years ago. It is the legacy of the late Australian artist Arthur Boyd, whose 1993 gift to the people of Australia was the largest act of philanthropy in the arts in the country at the time and one of the largest ever made nationally. Boyd gave the people of Australia 1,100 hectares of bush and farmland, colonial and contemporary buildings and nearly 4,000 artworks—now worth \$37.5 million. The property was to be used for creative arts, public enjoyment and as a wildlife refuge.

Bundanon Trust now supports around 6,000 schoolchildren each year in its day and residential programs, hosts more than 300 artists-in-residence from all over the world and shares its properties—Bundanon and Riversdale—with thousands of visitors at open days, concerts and events. The trust is now planning a sustainable development to support more schoolchildren, to better house its collection, to extend its residency program for artists and to open the properties for greater public visitation. A magnificent art gallery with cafe and auditorium are at the heart of the proposal, with additional accommodation of 64 beds for schoolchildren to stay and learn on site. The new mix of infrastructure will allow for conferences and events out of school term, greatly complementing existing regional facilities. Economic modelling demonstrates that the project will bring greater visitation and jobs to the region as well as providing a spectacular platform for the magnificent Boyd art collection.

In the year of construction, the Riversdale development will deliver \$23.5 million in direct spending and 142 jobs. Overall, 59 new, ongoing jobs will be created in the Shoalhaven. The project will return an additional \$6 million in direct spending and \$4.4 million in additional spending per annum to the region. The project is estimated to cost \$28.5 million, with contributions being sought from all levels of government and the private sector. The local State member, Gareth Ward; the member for South Coast, Shelley Hancock; and Shoalhaven

City Council, led by Mayor Amanda Findley, are all behind the project, along with local business leaders, community, education and arts providers.

We need a world-class visitor attraction in our region to complement our magnificent beach and bush environment—our clean, green, pristine environment. Arthur Boyd has put the Shoalhaven landscape on the world stage—his tapestry of the Shoalhaven bush is the backdrop at Parliament House in Canberra. The artworks Boyd made deserve a better home and should be seen in situ as he always intended. With the right support, the development at Riversdale will become the jewel in the crown of the Shoalhaven. As a complementary tourist venue it would be absolutely awesome. We have seen many artists go there and grow in their arts practice. A lot of songs and music have been written at Riversdale and a lot of artists-in-residence take time out to replenish their artistic and creative juices. They have produced some wonderful artworks that have become significant in their relevant artistic fields.

Also in the Shoalhaven are many wineries: Yarrowa Estate, Roselea Vineyard, Crooked River Wines, Silos Estate and Wileys Creek, Mountain Ridge Wines, Coolangatta Estate, Two Figs Winery, Cambewarra Estate, Cupitt's Winery and Bawley Vale Estate. If people want to complement a winery tour to Bundanoon we have some cheesemakers in the Shoalhaven: South Coast Cheese, Unicorn Cheese, Nowra Cheese and Flinders Estate Cheese. If people want to go all out they can go out to Cupitt's Winery, which produces its own cheese. People can go to Bundanoon and enjoy some slow foods such as oysters—

**The Hon. Mick Veitch:** Proudly supported and sponsored by Shoalhaven.

**The Hon. PAUL GREEN:** Sponsored by Shoalhaven and one of its ambassadors. If members have not been to Bundanoon they should go there soon. [*Time expired.*]

### INDIGENOUS INCARCERATION RATES

**The Hon. SHAOQUETT MOSELMANE (22:19):** I speak this evening on the alarming rate of imprisonment amongst indigenous Australians. The latest news reports that the imprisonment rate for Indigenous Australians in New South Wales has further increased since this Government came to power in 2011. A terrible tragedy continues to unfold before our very eyes and little, it seems, is being done about it. Incarceration comes with enormous social, health and economic costs. The present Indigenous incarceration rate is reaching a crisis point. It is unacceptable for the Aboriginal community to be so over-represented in our prisons and it is unacceptable to any self-respecting people to have such an appalling state of affairs.

One in four prisoners jailed in New South Wales is an Indigenous Australian, a rate that has risen by around 35 per cent since the Liberal-Nationals came to power in 2011. To put it into perspective, this means that members of the Indigenous community are being imprisoned at 11.3 times the rate of the rest of the population. It also represents an incarceration rate that is higher than that which existed at the time of the Royal Commission into Aboriginal Deaths in Custody almost 30 years ago. How and why has this been allowed to happen? The Aboriginal Legal Service and the Bureau of Crime Statistics and Research have made the following observations:

Many of these recent convictions for Indigenous Australians are for minor offences rather than dangerous violent crimes that pose a risk to public safety, or community law and order.

Many of the Indigenous prisoners currently in the New South Wales system are serving sentences of less than two years.

One of the factors for this growth is in the rate of conviction for breaches in community-based orders or licence offences imposed following a previous regulatory driving offence.

What we are seeing is a slow drift to the mass incarceration models that are not working in the United States, where too many people in the community are being locked up for relatively minor offences, and then being given no support or chance for treatment or rehabilitation. It is clear that when dealing with a minor crime incidence and sentencing, Indigenous communities end up with harsher results such as imprisonment—noting that these are communities that are often lacking in economic opportunities, health and treatment services, as well as limited legal representation. While the Government wants to pour \$3.8 billion into building more and more prison beds, it can barely muster the necessary money to invest in reoffending reduction programs.

More than half of the children in prison are Aboriginal. It costs thousands of dollars to keep them incarcerated and they have a 70 per cent chance of reoffending. So why is the Government not doing more to address their needs? Take the best example represented by the Custody Notification Service offered by the Aboriginal Legal Service, established after the Aboriginal Deaths in Custody Royal Commission. Taking 300 calls per week, it helps an estimated 15,000 Indigenous men, women and children, 24 hours a day, seven days a week. Its operational costs are barely \$500,000 per year, but it barely gets by on Commonwealth funding alone. Worse still, the former Attorney General, the Hon. Gabrielle Upton, and the Government refused to even share the cost of this statewide service. I quote the Federal Minister for Indigenous Affairs, Senator the Hon. Nigel Scullion:

Given the NSW Government is responsible for the criminal justice system and welfare and safety of any person taken into custody in that state, it staggers me that the NSW Attorney General can ignore her government's statutory obligation to provide this service.

...

It is not acceptable for the NSW Government to wipe its hands of its responsibility.

An economic analysis by Deloitte Access Economics found that \$110,000 can be saved per year per offender if non-violent Indigenous offenders with substance problems were diverted into treatment instead of prison. I sincerely hope this rate does not keep climbing. I ask the Government to join Labor in committing to justice reinvestment programs instead of locking up our Indigenous community out of sight and out of mind.

### INDIGENOUS INCARCERATION RATES

**Mr DAVID SHOEBRIDGE (22:23):** Just last week the Minister for Corrections, the Hon. David Elliott, said that "incarceration rates should not be necessarily things that we need to look at through the prism of the colour of someone's skin or their religion" and that having anybody incarcerated was a tragedy. The real tragedy is that the Minister refuses to acknowledge that the New South Wales criminal justice system is systematically failing our first peoples. When the Coalition Government was elected in 2011, there were 2,269 people in New South Wales custody who identified as Aboriginal Australians. Today there are 3,059. Any Government that oversees a criminal justice system that puts 35 per cent more Aboriginal people in jail than when it came into office needs to take a good hard look at itself.

Not only has the absolute number of Aboriginal people in jail increased; so has the proportion of Aboriginal people in jail. Now nearly one-quarter of all adult prisoners in New South Wales identify as Aboriginal. In the juvenile justice system the situation is even worse, with more than 53 per cent of those detainees in the juvenile justice system identifying as Aboriginal. When the Indigenous population of Australia is only 2.5 per cent of the overall population, it is impossible not to recognise that this is an issue of race. Our justice system is currently imprisoning adult Aboriginal people at more than 11 times the rate of non-Aboriginal people. Aboriginal people are more likely to be recognised as offenders, more likely to be convicted and more likely to serve a custodial sentence than their non-Aboriginal counterparts.

This pattern of undeniable racial prejudice in New South Wales has been fostered by successive Governments, both Labor and Coalition. The overrepresentation of Aboriginal people in the prison system is not just a factor of this Government. Indeed when we look at the period between 2006 and 2016, a period of both Labor and Coalition Governments, we see that the prison population as a whole grew by 13 per cent, but the Aboriginal prison population grew by 31 per cent. There are multiple reasons for this: aggressive and discretionary policing, higher sentencing rates and a higher rate of bail refusal for Aboriginal people. An expansion of police discretionary powers, alongside more aggressive policing, has removed many of the safeguards in our criminal justice system.

Supported by a legislative trust in gut-instinct policing, New South Wales police are targeting and arresting Aboriginal Australians at a rate far above that of their non-Aboriginal counterparts. We know that once an Aboriginal Australian enters the criminal justice system they are more likely to be convicted, they are more likely to be given a custodial sentence, their custodial sentence is likely to be longer than those given to their non-Aboriginal counterparts and they are far more likely to be refused bail. Yet the New South Wales Government, and the Minister in particular, remains in denial and is determined to stand by that denial of racism in the system.

Justice reinvestment—the redirection of money spent on prisons to community-based initiatives, which aims to address the underlying causes of crime—is being touted around the world as a viable and effective solution to traditional prison management strategies. But in New South Wales diversionary options remain extremely limited, especially in regional and remote areas that are home to many Indigenous communities. As we know, convictions for minor offences are rising, with 95 per cent of Aboriginal prisoners serving sentences of fewer than two years. A pilot program of justice reinvestment is being implemented at Bourke in north-west New South Wales where there is a focus on the prevention of crime through education and social services funding, and it is community directed. But a one-off pilot project will not fix this issue; it needs a consistent two-pronged approach that winds back discretionary police powers and stops making mistakes—like the \$3.8 billion committed to additional jail cells and some 7,000 new prison beds, which is the Government's only response to the issue.

This is a cycle that is worsening, and if the New South Wales justice system keeps doing what it is doing and continues a business-as-usual approach then we will lose another generation of Aboriginal Australians. This becomes crushingly obvious when we turn our gaze to the juvenile justice system—where young Aboriginal Australians represent some 53 per cent of those in detention. Our first peoples need a Minister for Corrective Services who understands the issues facing their community. Minister Elliott says that he will ensure that everyone

will "get every opportunity to be rehabilitated". But what that seems to include is an appalling opportunity for too many Aboriginal Australians to be in jail in the first place when they need rehabilitation.

With the focus perpetually set on jail and punishment, at the cost of crucial preventative measures, the Coalition is entrenching Aboriginal overrepresentation in our criminal justice system. Fixing this requires a fundamental change in the Government's approach to criminal justice. But we will never get to that point or even approach it when we have a Minister who stubbornly refuses to see the undeniable fact of racial bias in our criminal justice system against our first peoples.

### GOSFORD HOSPITAL REDEVELOPMENT

**Mr SCOT MacDONALD (22:28):** The community of Gosford have a world-class health service and will soon have a world-class new hospital. This week Premier Gladys Berejiklian; the Minister for Health, the Hon. Brad Hazzard; the member for Terrigal, Mr Adam Crouch; the Liberal candidate for Gosford, Ms Jilly Pilon, and I inspected the progress of the \$348 million redevelopment. It is outstanding, it is on budget and it is on time. Great patient care follows on from the best health infrastructure, and that is exactly what the people of Gosford will have when work is completed in 2019.

This was a commitment from the Liberal Government following 16 years of Labor neglect. I saw the conditions in which NSW Labor left the hospital when it was rightly kicked out of office for ignoring regions such as the Central Coast. In spite of the best endeavours of the staff, they were wrestling with wards and facilities that had not been fit for purpose for close to two decades. Inevitably that meant poorer health service delivery under Labor. In 2010, under Labor, 91 per cent of patients got their elective surgery on time. That figure is now 97 per cent. Under Labor 49 per cent of patients left the emergency department in under four hours. That figure is now 68 per cent. In the intervening six years under the Liberal-Nationals Government there has been a massive jump in presentations and utilisation of the Gosford Hospital. In other words, the staff are better resourced and healthcare turn-around is faster despite a growing population.

The rebuilt Gosford Hospital has a new car park with 800 extra spaces and a medical research centre dedicated to the Central Coast that will be the envy of the State and nation. It will include: a new nuclear medicine facility; a state-of-the-art emergency department; an enhanced operating theatre capacity; new cardiovascular services; new maternity services, including a new birthing unit plus special care nursery and inpatient beds; expanded paediatric services; a new coronary care unit and inpatient beds; a new psychiatric care centre; and extra cancer services.

It is worth noting a few facts about this major project. To date over 15,000 cubic metres of concrete have been poured and the workforce peaked at 350 and now has 250 people on site. Lend Lease is close to its target of 8 per cent of its workforce being Indigenous. The Bara Barang Aboriginal Corporation is operating the Coolamon canteen at the construction offices. Lend Lease reports it is utilising as much Coastie trade and services as possible. Jilly Pilon met workers who were very relieved to be working on a local site rather than commuting to Sydney.

The Gosford and wider Central Coast community is universally proud of the hospital development. I am receiving positive feedback about the 800 extra car spaces. The only group that is not supportive of the new health infrastructure and health workers is the Australian Labor Party. The Opposition's health spokesperson has publicly questioned the clinical staff and clinical plans. Labor's health spokesperson has a record of casting doubt on the health system and is on a warning from the Australian Medical Association [AMA] to stop ambulance chasing and undermining the New South Wales public health system.

The AMA has also rejected Opposition Leader Luke Foley's proposed nurse walk-in centres in Gosford. Staff at Gosford Hospital report to me extensive planning has gone into the new clinical plans and capital works around the rebuilt hospital. It would be extremely disruptive and expensive to attempt to bolt on a nurse walk-in centre somewhere in Gosford. Inevitably Labor's plans would delay the completion of Gosford Hospital. Why does everything Labor touch turn into a disaster? The losers of Labor's plans would be the Central Coast community who use the public health system and the taxpayers of New South Wales.

I want to say a few words about the Central Coast Medical School Research Institute. What a coup for Coasties. The credit must attach to Lucy Wicks, MP, for her vision. The Commonwealth has contributed \$32.5 million and the New South Wales Liberal-Nationals Government and the University of Newcastle have each contributed \$20 million. This is an international-scale institute to be located on the Gosford Hospital campus. Besides driving health science innovation, research and medical education, the institute's goal is to improve the Central Coast community's wellbeing.

The Gosford Hospital rebuild is an exciting, landmark development. The only cloud on the horizon is the potential election of Labor in Gosford and the State. There is an opportunity to get behind a genuine community champion in Jilly Pilon on 8 April. She will ensure we stay the course and deliver the best public health care at a

world class health campus in Gosford. I place on record my gratitude and admiration for all the staff of the Central Coast Local Health District. At all levels they are a credit to themselves, their community and their professions. They deserve our ongoing support.

**The PRESIDENT:** The question is that this House do now adjourn.

**Motion agreed to.**

**The House adjourned at 22:34 until Thursday 30 March 2017 at 10:00.**