

# LEGISLATIVE COUNCIL

**Wednesday, 21 June 2017**

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

**The PRESIDENT** read the prayers.

## *Bills*

### **FIREARMS AND WEAPONS LEGISLATION AMENDMENT BILL 2017**

#### **Returned**

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

## *Documents*

### **INDEPENDENT COMMISSION AGAINST CORRUPTION**

#### **Reports**

**The PRESIDENT:** According to the Independent Commission Against Corruption Act 1988, I table the report of the Independent Commission Against Corruption, entitled "Investigation into the conduct of a Regional Illegal Dumping squad officer and others", dated June 2017, received out of session and authorised to be made public this day.

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

That the report be printed.

**Motion agreed to.**

### **SMALL BUSINESS COMMISSIONER**

#### **Reports**

**The PRESIDENT:** According to the Small Business Commissioner Act 2013, I table the annual report of the Small Business Commissioner for the year ended 31 December 2016, entitled "Creating change for small business in New South Wales", received out of session and authorised to be made public this day.

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

That the report be printed.

**Motion agreed to.**

## *Commemorations*

### **TENTH ANNIVERSARY**

**The PRESIDENT:** This month we mark the tenth anniversary of the Commonwealth Parliamentary Association's Twinning Program. Under this program, all Australian State and Territory parliaments are twinned with Pacific legislatures. The goal of twinning is to promote collaboration and understanding between twinning partners for the mutual benefit of each parliament. The New South Wales Parliament is twinned with the Autonomous Region of Bougainville House of Representatives and with the National Parliament of the Solomon Islands. Over the past 10 years the members and officers of our three parliaments have collaborated on numerous initiatives to strengthen the capacity of our legislatures to fulfil our legislative, representative and oversight functions. We have learnt from each other and, in doing so, have become firm and trusted friends. I am sure that I speak for all of us in this House when I say how much we value this relationship and hope that it will continue well into the future.

## *Motions*

### **INAUGURAL SPEECH**

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

That on Wednesday 21 June 2017 proceedings be interrupted at approximately 5.00 p.m., but not so as to interrupt a member speaking, to enable the Hon. Taylor Martin to make his first speech without any question before the Chair.

**Motion agreed to.**

### **VALEDICTORY SPEECH**

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

That on Thursday 22 June 2017 proceedings be interrupted at approximately 3.30 p.m., but not so as to interrupt a member speaking, to enable the Hon. Duncan Gay to give his valedictory speech without any question before the Chair.

**Motion agreed to.**

### *Committees*

### **PROCEDURE COMMITTEE**

#### **Extension of Reporting Date**

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

That the reporting date of the Procedure Committee's inquiry into e-petitions be extended until the last sitting day in 2017.

**Motion agreed to.**

### *Motions*

### **COMMEMORATION OF THE BATTLE OF CRETE AND THE GREEK CAMPAIGN**

**The Hon. NATASHA MACLAREN-JONES (11:05):** I move:

- (1) That this House notes that:
  - (a) on Saturday 13 May 2017 the Joint Committee for the Commemoration of the Battle of Crete and the Greek Campaign held a commemorative service to mark the seventy-sixth anniversary of the Battle of Crete and the Greek Campaign at the Sydney Cenotaph in Martin Place;
  - (b) the Battle of Crete and the Greek Campaign took place in April and May 1941, with Australian, New Zealand, and British troops fighting alongside Greek forces to defend Greece from invading German and Italian forces; and
  - (c) the remembrance service and wreath laying ceremony was attended by the Hon. Natasha Maclaren-Jones, MLC, Senator the Hon. Arthur Sinodinos, Ms Sophie Cotsis, MP, and Mr Stephen Kamper, MP.
- (2) That this House acknowledges the support and work undertaken to organise this important event and thanks:
  - (a) the Joint Committee for the Commemoration of the Battle of Crete and the Greek Campaign;
  - (b) President James Jordan, Secretary Nick Andriotakis, and Chief Marshal Dr Bendon; and
  - (c) wreath laying representatives including: Dr Stavros Kyrimis, Consul-General of the Hellenic Republic; Lieutenant General Konstantinos Floros, Deputy Chief of the Hellenic Armed Forces; Mr Michael Ward, Consul General of the United Kingdom; Mr Alf Carpenter of the 2/4th Infantry Battalion Association 6th Division Association; Mr Harry Andrews, President of the Greek RSL Sub-Branch New South Wales; Ms Margaret McInroy of the New Zealand RSL Sub-Branch; Ms Maria Lagoudakis, President of the Cretan Federation of Australia and New Zealand; Mrs Rhonda Vanzella, President of the War Widows Guild of Australia (NSW); and Mr George Moscos of Sydney Legacy.

**Motion agreed to.**

### **TRIBUTE TO MR ANTHONY FOSTER**

**Mr DAVID SHOEBRIDGE (11:06):** I move:

- (1) That this House notes with sadness the tragic death of Anthony Foster.
- (2) That this House acknowledges that:
  - (a) Anthony, who worked as a team with his wife, Chrissie Foster, was an indefatigable advocate for survivors and victims of child sexual abuse;
  - (b) Anthony's selfless commitment to deliver justice for survivors of child sexual abuse came at significant personal cost to him and his family over many years;
  - (c) the passion and strength that he brought to his campaigning was informed by the direct experience of his own family, with his two eldest daughters having been abused by a Catholic priest and the tragedy that encompassed their young lives with one taking her life and the other suffering seriously disabling injuries as a result of their abuse;
  - (d) Anthony's resilience and bravery in facing the Catholic Church, including travelling to Rome to witness Cardinal Pell give evidence before the royal commission, gave voice to the demands and wishes of countless survivors and their families;

- (e) those who knew Anthony mourn a kind and determined man whose love for his family, dignity and grace were an inspiration to many; and
  - (f) the support Anthony and Chrissie Foster have provided to survivors of child sexual abuse is immeasurable and his contribution to achieving the Royal Commission into Institutional Responses to Child Sexual Abuse is widely acknowledged.
- (3) That this House expresses its sincere condolences to Chrissie Foster and her family, and all survivors of abuse who mourn Anthony Foster.

**Motion agreed to.**

### **DUSTYESKY**

**The Hon. BEN FRANKLIN (11:06):** I move:

- (1) That this House notes that:
- (a) Dustyesky is a 28-member male choir from Mullumbimby with a passion for vodka and Russian folk music;
  - (b) the choir has risen in popularity within the Russian music culture, despite not speaking Russian; and
  - (c) Dustyesky's music has recently gleaned a great deal of media attention, culminating with an appearance on Russian national television broadcaster Channel One, with an audience of 250 million people.
- (2) That this House congratulates all the members of Dustyesky on their recent success, including their performance in Brisbane, and wishes them the best for future performances and tours including, potentially, to Russia to coincide with the 2018 Fédération Internationale de Football Association World Cup.

**Motion agreed to.**

### **EID CELEBRATIONS**

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

- (1) That this House notes that:
- (a) Sunday 25 June 2017 is the first day of Eid, a celebration that marks the end of Ramadan, the holiest month of the Islamic year;
  - (b) Ramadan is a month for all Muslims to purify the soul with charity and piety, and a month of worship, mercy and forgiveness; and
  - (c) there are just under two billion Muslims around the globe and nearly half a million in Australia, drawn from more than 60 different ethnic backgrounds, making Islam Australia's fourth-largest religion.
- (2) That this House wish all Muslims and in particular the Australian Muslim community, Eid Mubarak.

**Motion agreed to.**

### **ACT FOR PEACE RATION CHALLENGE**

**Mr DAVID SHOEBRIDGE (11:07):** I move:

- (1) That this House notes that:
- (a) Tuesday 20 June 2017 is World Refugee Day, part of World Refugee Week to commemorate the strength, courage and perseverance of millions of refugees across the globe;
  - (b) as part of World Refugee Week, 10,000 Australians are taking part in the Act for Peace Ration Challenge where they will eat the same rations as a Syrian refugee living in a camp in Jordan—just a small amount of rice, lentils, chickpeas, sardines, oil and kidney beans; and
  - (c) the Act for Peace Ration Challenge has already raised \$2,547,126, which is enough to feed 8,844 refugees for a year.
- (2) That this House commends all of those taking part in, donating to and organising the Act for Peace Ration Challenge.
- (3) That this House states its support for a safe and dignified future for all refugees.

**Motion agreed to.**

### **ASSYRIAN NEW YEAR 6767 FESTIVAL**

**The Hon. DAVID CLARKE (11:08):** I move:

- (1) That this House notes that:
- (a) on Sunday 2 April 2017 the Assyrian New Year 6767 was celebrated at a festival held at the Fairfield Showground and attended by many thousands of members and friends of the Assyrian-Australian community;

- (b) the festival was hosted and organised by the Assyrian Universal Alliance under its World Deputy Secretary, General Mr Hermiz Shahen, together with the Assyrian Australian National Federation under its President Mr David David;
  - (c) those who attended the opening ceremony of the festival included:
    - (i) His Beatitude Mar Meelis Zaia, Metropolitan of the Assyrian Church of the East;
    - (ii) representatives of the Federal Government and Federal Opposition;
    - (iii) representatives of the Government and the Opposition;
    - (iv) numerous Federal and State members of Parliament;
    - (v) leaders and representatives of local government; and
    - (vi) representatives of the Armenian, Coptic, Greek, Jewish, Italian, Mandaean and Vietnamese communities as well as many Assyrian social, cultural and professional organisations.
  - (d) a major theme of the festival was support for an Assyrian homeland and safe haven for Assyrians in Iraq, as well as protection of all minorities in Iraq and Syria from persecution and murder at the hands of terrorist groups.
- (2) That this House extends greetings and best wishes to the Assyrian Australian community on the occasion of the Assyrian New Year 6767.

**Motion agreed to.**

**BOMBER COMMAND COMMEMORATIVE DAY SERVICE**

**The Hon. GREG DONNELLY (11:08): I move:**

- (1) That this House notes that:
- (a) the Royal Air Force Bomber Command played an integral role in assisting Allied Forces secure victory in World War II;
  - (b) a total of 387,416 sorties were flown by Bomber Command;
  - (c) a total of 8,953 aircrafts were lost;
  - (d) 55,573 young men of Bomber Command made the ultimate sacrifice; and
  - (e) of the Australians who served in Bomber Command, 3,486 died on operations and several hundred more were killed in training accidents and other mishaps.
- (2) That this House notes that:
- (a) A Bomber Command Commemorative Day service was conducted at the Cenotaph, Martin Place, on Sunday 11 June 2017;
  - (b) special guests who attended the commemorative day service included:
    - (i) His Excellency General the Hon. David Hurley, AC, DSC, (Ret'd), Governor, on behalf of the people of New South Wales;
    - (ii) the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier, representing the Premier the Hon. Gladys Berejiklian, MP, and the Minister for Veteran Affairs, Mr David Elliot, MP;
    - (iii) the Hon. Greg Donnelly, MLC, representing the Leader of the Opposition, Mr Luke Foley, MP;
    - (iv) Dr Ian Getley, Vice President of RAAFA NSW representing RAAFA NSW and in memory of Group Captain Rex Austin, past President of RAAFA NSW and Bomber Command veteran;
    - (v) Mr Jean-Louis Worobec, President of the Association of French Veterans representing Mr Nicolas Croizer, French Consul;
    - (vi) Dr Ron Houghton, President of the Bomber Command Association in Australia Inc.;
    - (vii) Mr Richard Munro for 460 Squadron Friends and Veterans Group;
    - (viii) Mr Geoff Moss for 466/462 and in memory of Kenneth Murray Moss, DFC;
    - (ix) Mr Don Browning for 463/467 Squadron Association;
    - (x) Ms Ann Lewis, Department of Veterans' Affairs;
    - (xi) Mr Ray James, Vice President, NSW RSL;
    - (xii) Mr Paul Lane, President, Sydney Legacy;
    - (xiii) Ms Barbara Jeanes and Mrs Sandra Griffiths, War Widows Guild;
    - (xiv) Mr Donald Gould on behalf of the families of Bomber Command who lost loved ones and in memory of his father, Francis Bedwin Gould, KIA (22/02/1945);

- (xv) Mrs Diahann Green on behalf of her family and in memory of FLT LT, William John Love, DFC, and Bar;
- (xvi) Mr Bill Nicholson on behalf of the Nicholson Family and in memory of William Nicholson, KIA, (19/11/1944);
- (xvii) Mr Michael Smith on behalf of the Smith Family and in memory of FLT SGT, Keith Smith, KIA, (08/11/1943);
- (xviii) Ms Mary Jane Stannus in memory of Harold "Harry" Richardson Stannus, RAAF; and
- (xix) Ms Emma Wood on behalf of the Braithwaite family in memory of her grandfather, Ken Braithwaite, RAAF.
- (c) the Prayer and Benediction were recited by Reverend Armen Nalbandian, CHAP, (FLT LT), Workplace Chaplain, Multicultural Bible Ministry;
- (d) the Reflection was given by Mr Don Browning Ld'H, President of the 467/463 Squadron Association; and
- (e) music was provided by Knox Grammar School Pipe Band.
- (3) This House expresses its thanks and appreciation to Bomber Command Association in Australia Inc. for all the work it does in organising annually this most important commemorative event. May it continue to do so. Lest we forget.

**Motion agreed to.**

**NATIONAL DAY OF PORTUGAL RECEPTION**

**The Hon. DAVID CLARKE (11:09):** I move:

- (1) That this House notes that:
  - (a) on Saturday 10 June 2017 a reception to celebrate the National Day of Portugal was held at the Sydney Portugal Community Club, Marrickville, attended by several hundred members and friends of the Portuguese Australian community;
  - (b) the reception was jointly hosted by:
    - (i) the Consul-General of Portugal in Sydney, Mr Paulo Domingues;
    - (ii) the President of the Sydney Portugal Community Club, Mr Miguel Vairinhos;
    - (iii) the President of the Portugal Madeira Club, Mr Daniel Gouveia; and
  - (c) those who attended as guests included:
    - (i) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, representing the Hon. Ray Williams, MP, Minister for Multiculturalism and Disability Services;
    - (ii) Ms Jo Haylen, MP, member for Summer Hill, representing the Hon. Luke Foley, MP, Leader of the Opposition and shadow Minister for Western Sydney;
    - (iii) the Hon. Anthony Albanese, MP, Federal member for Grayndler and Federal shadow Minister for Infrastructure, Transport, Cities and Regional Development and shadow Minister for Tourism;
    - (iv) Ms Sophie Cotsis, MP, member for Canterbury and shadow Minister for Women, Ageing, Disability Services and Multiculturalism;
    - (v) Mr Sam Iskander, member of the Inner West Council Implementation Advisory Group;
    - (vi) Mr Jose Menano Pires, member of the Northern Beaches Council Implementation Advisory Group;
    - (vii) Mrs Melissa da Silva, Counsellor of the Portuguese Communities;
    - (viii) Mr Jose Gois, Councillor of the Regional Government of Madeira for the Diaspora; and
    - (ix) Members of the Consular Corps of Sydney and representatives from numerous business and cultural associations in New South Wales.
- (2) That this House extends greetings and best wishes to the nation and people of Portugal, as well as to the Portuguese-Australian community on the occasion of the National Day of Portugal.
- (3) That this House commends the Portuguese-Australian community for its ongoing and positive social, cultural and professional contribution to the State of New South Wales.

**Motion agreed to.**

**NSW STATE EMERGENCY SERVICE LARGE ANIMAL RESCUE SEMINAR**

**The Hon. DAVID CLARKE (11:09):**

- (1) That this House notes that:

- (a) on Saturday 20 May 2017 and Sunday 21 May 2017 the New South Wales State Emergency Service [SES] hosted a large animal rescue seminar at Richmond TAFE, attended by participants from throughout New South Wales, South Australia and New Zealand;
- (b) participating organisations comprised:
- (i) New South Wales SES;
  - (ii) South Australian SES;
  - (iii) Volunteer Rescue Association;
  - (iv) New South Wales RSPCA;
  - (v) New Zealand RSPCA; and
  - (vi) New South Wales Police Rescue.
- (c) the seminar, which was formally opened by the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, on behalf of the Hon. Troy Grant, MP, Minister for Police and Emergency Services, was attended by the following:
- (i) Caroline Forest, New South Wales SES Bathurst;
  - (ii) Selina Cox, New South Wales SES Bathurst;
  - (iii) Phil Hudson, New South Wales SES Port Stephens;
  - (iv) Hayden Atkins, New South Wales SES Port Stephens;
  - (v) John Wall, New South Wales SES Kiama;
  - (vi) Warwick Simpson, New South Wales SES Grenfell;
  - (vii) Phillip Snow, New South Wales SES Parkes;
  - (viii) Ian Gosper, New South Wales SES Peak Hill;
  - (ix) Erin Gadsby, New South Wales SES Tumbarumba;
  - (x) Amanda Lang, New South Wales SES Armidale;
  - (xi) Kevin Jones, New South Wales SES Hawkesbury;
  - (xii) Jeremy Bridges, New South Wales SES Hawkesbury;
  - (xiii) Megan Thomson, New South Wales SES Hawkesbury;
  - (xiv) Jacqui Gibson, South Australian SES;
  - (xv) Ben Birbeck, South Australian SES;
  - (xvi) Richard Walsh, New South Wales Police Rescue;
  - (xvii) Andrew Luke, Volunteer Rescue Association;
  - (xviii) Paul Hampton, Volunteer Rescue Association;
  - (xix) Craig Barlow, Volunteer Rescue Association;
  - (xx) Frankie Walker, New Zealand RSPCA;
  - (xxi) Steve Glasson, New Zealand RSPCA;
  - (xxii) Tyson Hohlein, New South Wales RSPCA;
  - (xxiii) Flett Turner, New South Wales RSPCA;
  - (xxiv) Danny Kerr, Hawkesbury breeder; and
  - (xxv) Julie Fielder, Executive Officer, Horse South Australia.
- (d) those principally involved in the organisation and facilitation of the event, which is the first of its kind ever conducted by the New South Wales SES, comprised:
- (i) Mr Anton Phillips, an internationally recognised animal rescue specialist and training instructor with the British based Hampshire Fire and Rescue Service and the British Animal Rescue and Trauma Association;
  - (ii) Mr Ashley Sullivan, Manager, Operational Capability Branch, New South Wales SES;
  - (iii) Mr Grant McCloy, Capability Coordinator, New South Wales SES;
  - (iv) Mr David King, volunteer and lead trainer, New South Wales SES; and
  - (v) Mr Anthony Hatch, volunteer, New South Wales SES.

- (e) the large animal rescue seminar's purpose was to expand on existing knowledge of New South Wales large animal rescue operations with a focus on hands-on training activities based on current best practice techniques used in Australia, the United Kingdom and New Zealand; and
  - (f) the New South Wales SES has a fine history of service to the people of New South Wales going back to its foundation in 1955, and is comprised of 300 full-staff and 8,000 volunteers who are involved in rescue operations arising from a wide array of natural and man-made disasters.
- (2) That this House:
- (a) congratulates the New South Wales SES on its initiative in holding its first ever large animal rescue seminar and thus expanding its knowledge and abilities in animal rescue operations; and
  - (b) commends the New South Wales SES and its staff, both full time and volunteer, for their outstanding service to the people of New South Wales, which often involves them putting their lives and safety at risk.

**Motion agreed to.**

**NSW FEDERATION OF COMMUNITY LANGUAGE SCHOOLS ANNUAL DINNER**

**The Hon. DAVID CLARKE (11:09):**

- (1) That this House notes that:
- (a) on Saturday 20 May 2017 the NSW Federation of Community Language Schools held its 2017 annual dinner at the Punchbowl Club, Punchbowl, attended by 600 guests;
  - (b) the NSW Federation of Community Language Schools is the peak body for after-hours community language schools servicing more than 230 member schools, teaching 59 languages, representing 32,500 students and more than 2,000 teachers in 451 locations across New South Wales; and
  - (c) those who attended as guests included:
    - (i) the Hon. Gladys Berejiklian, MP, Premier;
    - (ii) the Hon. Ray Williams, MP, Minister for Multiculturalism and Minister for Disability Services and Mrs Wendy Williams;
    - (iii) the Hon. Victor Dominello, MP, Minister for Finance, Services and Property;
    - (iv) Ms Sophie Cotsis, MP, shadow Minister for Women, Disability Services, Multiculturalism and Ageing;
    - (v) Mr Jihad Dib, MP, shadow Minister for Education;
    - (vi) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, and Mrs Marisa Clarke;
    - (vii) Mr Mark Coure, MP, Parliamentary Secretary for Transport and Infrastructure;
    - (viii) Dr Hari Harinath, Chairman of the Multicultural NSW Advisory Board and Mrs Harinath;
    - (ix) Mr Hakan Harman, Multicultural NSW Chief Executive Officer and Mrs Ashley Harman;
    - (x) Mr Albert Vella, OAM, President of the NSW Federation of Community Language Schools;
    - (xi) Mr Michael Christodoulou, AM, Executive Officer of the NSW Federation of Community Language Schools who was the Master of Ceremonies for the event;
    - (xii) Ms Josefa Sobski, Chair, Community Language Schools Board;
    - (xiii) Dr Stepan Kerkyasharian, AO, Chairperson of the Board of Cemeteries and Crematoria NSW;
    - (xiv) His Eminence Archbishop Mor Malatius Malki Malki, Syriac Orthodox Archbishop of Australia and New Zealand;
    - (xv) Reverend Peter Mavromatis, representing His Eminence Archbishop Stylianos of the Greek Orthodox Archdiocese of Australia;
    - (xvi) consular representatives in Sydney for Cyprus, the Russian Federation, the Czech Republic, Egypt, Poland, Peoples' Republic of China, Serbia, Greece, India and Croatia; and
    - (xvii) representatives of numerous religious faith traditions, ethnic, cultural, community organisations and media.
  - (d) winners of the poster competition for the Annual Dinner 2017 for Category 7 to 10 years old comprised:
    - (i) Vivian Miller, Balakairali-Sydney Malayalee Kids Association;
    - (ii) Vlada Tankova, St Nicholas School of the Russian Association; and
    - (iii) Lily Lulchev, Bulgarian Community Language School "Petar Beron".
  - (e) winners of the poster competition for the Annual Dinner 2017 for Category 11 to 13 years old comprised:
    - (i) Chan Jin Yun, Australian Korean School;
    - (ii) Amy Lee, Lindfield Korean School; and

- (iii) Emilia Jurkowska, Polish School of Sydney.
- (f) winners of the poster competition for the Annual Dinner 2017 for Category 14 to 18 years old comprised:
  - (i) Veronica Fania, Co.As.It, the Italian Association of Assistance;
  - (ii) Salomiya Raveendaran, Tamil Study Centre, Homebush; and
  - (iii) Dareen Milman, St Andrew Bogolubsky Russian Ethnic School.
- (g) winners of the poster competition for the Annual Dinner 2017 comprised those who were awarded the Quarter of a Century Community Language School Teachers Award comprised:
  - (i) Mrs Madiana Evanian, Armenian, Hamazkaine Tarkmanchatz School, Willoughby
  - (ii) Mr Howard Wang, Chinese, Sydney Chinese School;
  - (iii) Mr Bill Gonopoulos, Greek, Hellenic Centre for Language and Culture Inc.;
  - (iv) Mrs Mala Mehta, OAM, Hindi, Indo Aust Bal Bharathi Vidyalaya-Hindi School Inc.;
  - (v) Ms Maysia Nowak, Polish, Polish Saturday School in Ashfield;
  - (vi) Mr Joaquim Ferreira Martins, Portuguese, Portuguese Ethnic Schools Association of Australia Inc.;
  - (vii) Mrs Eugenia Sherwood, Russian, St Alexander Nevsky Russian School;
  - (viii) Dr Meenakshi Srinivasan, Sanskrit, Sydney Sanskrit School;
  - (ix) Mrs Shayami Karunaweera, Sinhalese, Blacktown Sinhala School;
  - (x) Mrs Malini Somaskanthan, Tamil, Tamil Study Centre, Homebush;
  - (xi) Mrs Odarka Brecko, Ukrainian, St Andrews Ukrainian School; and
  - (xii) Anh Hoa Nguyen, Vietnamese, Vietnamese Parents and Citizens Association Inc.
- (2) That this House congratulates:
  - (a) all the prize winners of the Poster Competition for the Federation's Annual Dinner 2017; and
  - (b) those who were awarded the Quarter of a Century Community Language School Teacher's Award.
- (3) That this House commends:
  - (a) Mr Albert Vella, OAM, President of the New South Wales Federation of Community Language Schools, together with the Executive Committee and staff for another successful year of activities; and
  - (b) all of those who gave of their time in the past year to organise, teach in or otherwise assist with the 230 member schools of the federation in 451 locations across New South Wales.

**Motion agreed to.**

**SOUTH WEST METROPOLITAN REGION POLICE MEDALS AND AWARDS**

**The Hon. DAVID CLARKE (11:10):**

- (1) That this House notes that:
  - (a) on Wednesday 14 June 2017 the New South Wales Police South West Metropolitan Region Zone 1 medal and awards presentation ceremony was held at the Merrylands RSL Club;
  - (b) those who comprised the official party were:
    - (i) Acting Commissioner Dennis Clifford, APM, New South Wales Police;
    - (ii) Superintendent Scott Whyte, Commander Rosehill Local Area Command [LAC] and host of the event;
    - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for , representing the Hon. Troy Grant, MP, Minister for Police and Emergency Services;
    - (iv) Acting Superintendent Nathan Marzol, Commander, Bankstown LAC;
    - (v) Superintendent Phil Rogerson APM, Commander, Flemington LAC;
    - (vi) Superintendent Mark Jones APM, Commander, Burwood LAC;
    - (vii) Superintendent David Johnson, Commander, Campsie LAC;
    - (viii) Mr Geoff Lee, MP, member for Parramatta, Parliamentary Secretary to the Premier, Western Sydney and Multiculturalism;
    - (ix) Ms Julia Finn, MP, member for Granville;
    - (x) Inspector Karl Stone, Rosehill LAC; and
    - (xi) Senior Chaplain David Riethmuller, New South Wales Police Chaplaincy.



- (c) those who received the National Police Service Medal comprised:
  - (i) Craig Miller, Inspector, Flemington LAC;
  - (ii) Christopher Louis, Senior Sergeant, Campsie LAC;
  - (iii) Anthony Roberts, Sergeant, Bankstown LAC;
  - (iv) Steve Coe, Sergeant, Flemington LAC;
  - (v) John Fleming, Sergeant, Rosehill LAC;
  - (vi) Deborah Peck, Sergeant, Bankstown LAC;
  - (vii) Matthew Warning, Sergeant, Bankstown LAC;
  - (viii) David Laird, Sergeant, Bankstown LAC;
  - (ix) Michael Barnes, Leading Senior Constable, Campsie LAC;
  - (x) Stephen Dodd, Detective Senior Constable, Bankstown LAC; and
  - (xi) Suzanne Cooper, Detective Senior Constable, Bankstown LAC.
- (d) those who received the National Medal comprised:
  - (i) Steve Coe, Sergeant, Flemington LAC;
  - (ii) John Fleming, Sergeant, Rosehill LAC;
  - (iii) Matthew Warning, Sergeant, Bankstown LAC;
  - (iv) Michael Barnes, Leading Senior Constable, Campsie LAC;
- (e) those who received the National Medal Clasps comprised:
  - (i) Eddy Alam, Sergeant, Flemington LAC, 1st clasp; and
  - (ii) Darren Cloey, Sergeant, Rosehill LAC, 1st clasp.
- (f) those who received the New South Wales Police Medal comprised:
  - (i) Leon Payne, Sergeant, Rosehill LAC;
  - (ii) Jeanie Assaf, Leading Senior Constable, Rosehill LAC;
  - (iii) Michael Machado, Leading Senior Constable, Flemington LAC;
  - (iv) Madian Dennaoui, Leading Senior Constable, Marrickville LAC;
  - (v) Matthew Foley, Leading Senior Constable, Campsie LAC;
  - (vi) Kirsten Lalor, Leading Senior Constable, Flemington LAC;
  - (vii) Jennifer McCormack, Senior Constable, Rosehill LAC;
  - (viii) Jessica Mennilli, Senior Constable, Rosehill LAC;
  - (ix) Peter Thomas, Detective Senior Constable, Rosehill LAC;
  - (x) Peter McLaughlin, Detective Senior Constable, Flemington LAC; and
  - (xi) Mark O'Reilly, Detective Senior Constable, Rosehill LAC.
- (g) those who received the New South Wales Police Medal clasps comprised:
  - (i) Craig Miller, Inspector, Flemington LAC, 3rd clasp
  - (ii) Darren Cloey, Sergeant, Rosehill LAC, 1st clasp;
  - (iii) Steve Coe, Sergeant, Flemington LAC, 2nd clasp;
  - (iv) John Fleming, Sergeant, Rosehill LAC, 2nd clasp;
  - (v) John Fleming, Sergeant, Rosehill LAC, 1st clasp;
  - (vi) Meryam Koksai, Sergeant, Rosehill LAC, 1st clasp;
  - (vii) Christopher Vavayis, Detective Sergeant, Flemington LAC, 1st clasp;
  - (viii) Michael Barnes, Leading Senior Constable, Campsie LAC, 1st clasp; and
  - (ix) Angela Moloney, Senior Constable, Rosehill LAC, 1st clasp.
- (h) those who received the New South Wales Police Medallion comprised:
  - (i) Rachael Meehan, unsworn, Rosehill LAC; and
  - (ii) James Burke, unsworn, Flemington LAC.
- (i) those who were recognised by the issue of a Non-Commissioned Officer Warrant of Appointment comprised:

- (i) Christopher Vavayis, Detective Sergeant, Flemington LAC; and
  - (ii) David Nixon, Sergeant, Campsie LAC.
- (2) That this House congratulates all medal and award recipients for their outstanding service to the NSW Police Force and to the people of New South Wales.

**Motion agreed to.**

**HONG KONG PHILHARMONIC ORCHESTRA**

**The Hon. DAVID CLARKE (11:10):**

- (1) That this House notes that:
- (a) on Friday 5 May 2017 the Hong Kong Philharmonic Orchestra under the internationally renowned conductor Japp Van Zweden, as part of its first concert tour of Australia, staged its first ever concert performance in Sydney at the Sydney Opera House Concert Hall to a highly appreciative capacity audience;
  - (b) the principal sponsor of the concert was the Hong Kong Economic and Trade Office Sydney, under its director Mr Arthur Au who also hosted a pre-concert reception attended by 400 guests;
  - (c) those who attended as special guests to the pre-concert reception and then the Hong Kong Philharmonic Orchestra performance included:
    - (i) the Hon. Don Harwin, MLC, Leader of the Government in the Legislative Council, Minister for the Arts, Minister for Resources, Minister for Energy and Utilities;
    - (ii) Ms Jodi McKay, MP, shadow Minister for Transport and shadow Minister for Roads, Maritime and Freight, representing the Leader of the Opposition, Mr Luke Foley, MP;
    - (iii) Senator Sam Dastyari, representing the Leader of the Federal Opposition Mr Bill Shorten, MP;
    - (iv) Mr Lyu Guijun, Acting Consul-General of the People's Republic of China in Sydney;
    - (v) Councillor Robert Kok, representing the Lord Mayor of Sydney, Clover Moore;
    - (vi) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice and Mrs Marisa Clarke;
    - (vii) the Hon. Shaoquett Moselmane, MLC, Opposition Whip in the Legislative Council;
    - (viii) the Hon. Ernest Wong, MLC, shadow Parliamentary Secretary to the Leader of the Opposition;
    - (ix) the Hon. Philip Ruddock, Australian Special Envoy for Human Rights and Special Envoy for Citizenship and Community Engagement;
    - (x) Mr Y. S. Liu, Chairman of the Board of Governors of the Hong Kong Philharmonic Orchestra;
    - (xi) Ms Janice Choi, Vice Chair, Fund Raising Committee of the Hong Kong Philharmonic Orchestra;
    - (xii) Mr Michael MacLeod, Chief Executive of the Hong Kong Philharmonic Orchestra; and
    - (xiii) representatives of numerous community, professional and civic organisations.
  - (d) the Hong Kong Philharmonic Orchestra has gained a worldwide reputation for excellence and presents at least 150 concerts annually.
- (2) That this House:
- (a) warmly welcomes the Hong Kong Philharmonic Orchestra on the occasion of its first concert tour of Australia; and
  - (b) congratulates and commends the Hong Kong Economic and Trade Office Sydney, together with its Director Mr Arthur Au, on their initiative in being the principal sponsor of the Hong Kong Philharmonic Orchestra's first concert tour of Australia.

**Motion agreed to.**

**BOSNIAN MUSLIM COMMUNITY IFTAR DINNER**

**The Hon. DAVID CLARKE (11:10):**

- (1) That this House notes that:
- (a) on Tuesday 30 May 2017 an Iftar Dinner to mark the Muslim Holy Month of Ramadan was held at Parliament House, attended by over 200 members and friends of the Bosnian Muslim Community;
  - (b) the event was hosted jointly by Mrs Demila Gabriel, Honorary Consul for Bosnia and Herzegovina in New South Wales together with her husband Mr Chris Gabriel and the Hon. David Clarke, MLC, Parliamentary Secretary for Justice; and
  - (c) those who attended as guests included:
    - (i) the Hon. Gladys Berejiklian, MP, Premier;
    - (ii) His Excellency Mr Mirza Hajric, incoming Ambassador for Bosnia and Herzegovina;

- (iii) Mrs Demila Gabriel, Honorary Consul for Bosnia-Herzegovina in New South Wales and Mr Chris Gabriel;
  - (iv) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice and Mrs Marisa Clarke;
  - (v) Ms Sophie Cotsis, MP, member for Canterbury, shadow Minister for Women, Ageing, Multiculturalism and Disability Services;
  - (vi) Mr Mark Coure, MP, member for Oatley, Parliamentary Secretary for Transport and Infrastructure;
  - (vii) Dr Hugh McDermott, MP, member for Prospect;
  - (viii) Ms Julia Finn, MP, member for Granville;
  - (ix) Mr Hrvoje Petrusic, Consul-General of Croatia in Sydney;
  - (x) Mr Momo Sevarika, Bosnia and Herzegovina Embassy;
  - (xi) Mr Melih Karalar, Consul-General of Turkey in Sydney;
  - (xii) Mr Mark Stariha, Treasurer, Slovenian Australian Chamber of Commerce;
  - (xiii) Imam Jasmin Bekric, Head Bosnian Imam in Australia and Mrs Bekric;
  - (xiv) Imam Ensar Cutahija;
  - (xv) Reverend Father Ivo Tadic, representing Wollongong Croatian Catholic Church community;
  - (xvi) Reverend Father Josip Kesina, representing Blacktown Croatian Catholic Church community;
  - (xvii) Mr Gavin Dengate, Detective Superintendent, Commander NSW Police State Planning Unit;
  - (xviii) Professor Eddie Custovic, Latrobe University;
  - (xix) Mr Jeremy Jones, Australian-Israel Jewish Affairs Council;
  - (xx) Mr Christopher Maxwell, NSW Acting Senior Crown Prosecutor;
  - (xxi) Mrs Margaret Cunneen, SC, NSW Deputy Senior Crown Prosecutor;
  - (xxii) Mr Alex Morris, Crown Prosecutor;
  - (xxiii) Mr Tarik Abdulhak, Prosecutor;
  - (xxiv) Ms Nelune Rajapakse, Founder of the Nelune Foundation;
  - (xxv) Mr Mohammad Quadan, Founder and CEO of Deenfit;
  - (xxvi) Mr Amir Bukic, SBS Radio;
  - (xxvii) Ms Jane Jeffes, ABC; and
  - (xxviii) leaders and members of the Bosnian Islamic Association of Australia and the Australian Bosnia Herzegovina Cultural Association.
- (2) That this House extends greetings and best wishes to the members of the Bosnian Australian Islamic community at this time of their observance of the Muslim Holy Month of Ramadan.
- (3) That this House commends the Bosnian-Herzegovinian Australian community for its ongoing contribution to Australia and the State of New South Wales.

**Motion agreed to.**

*Business of the House*

**POSTPONEMENT OF BUSINESS**

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

That Government Business Order of the Day No. 1 on the *Notice Paper* be postponed until a later hour of the sitting.

**Motion agreed to.**

*Budget*

**BUDGET ESTIMATES AND RELATED PAPERS 2017-2018**

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

- (1) That upon tabling, the Budget Estimates and related papers for the financial year 2017-2018 presenting the amounts to be appropriated from the Consolidated Fund be referred to the Portfolio Committees for inquiry and report.
- (2) That the initial hearings be scheduled as follows:

**Day One: Thursday 31 August 2017**

PC 3 Early Childhood Education, Aboriginal Affairs, Assistant Minister for Education 1.45 p.m.—3.45 p.m.

|      |                                      |                     |
|------|--------------------------------------|---------------------|
| PC 3 | Skills, Regional NSW, Small Business | 4.00 p.m.—6.00 p.m. |
| PC 4 | Police, Emergency Services           | 2.00 p.m.—6.00 p.m. |

**Day Two: Friday 1 September 2017**

|      |  |                     |
|------|--|---------------------|
| PC 5 | Primary Industries, Regional Water, Trade and Industry | 9.00 a.m.—1.00 p.m. |
| PC 6 | Environment, Heritage, Local Government                | 9.00 a.m.—1.00 p.m. |
| PC 5 | Transport and Infrastructure                           | 2.00 p.m.—6.00 p.m. |
| PC 6 | Resources, Energy and Utilities, Arts                  | 2.00 p.m.—5.00 p.m. |

**Day Three: Monday 4 September 2017**

|      |   |                      |
|------|---|----------------------|
| PC 1 | Finance, Services and Property                          | 9.00 a.m.—12.00 p.m. |
| PC 1 | The Legislature   | 12.15 p.m.—1.15 p.m. |
| PC 1 | Innovation and Better Regulation                        | 1.45 p.m.—3.45 p.m.  |
| PC 3 | Tourism and Major Events, Assistant Minister for Skills | 4.00 p.m.—6.00 p.m.  |

**Day Four: Tuesday 5 September 2017**

|      |  |                      |
|------|--|----------------------|
| PC 2 | Family and Community Services, Social Housing,<br>Prevention of Domestic Violence and Sexual Assault | 9.00 a.m.—12.00 p.m. |
| PC 4 | Corrections, Counter Terrorism, Veterans Affairs   | 9.00 a.m.—12.00 p.m. |
| PC 2 | Mental Health, Women, Ageing   | 2.00 p.m.—5.00 p.m.  |
| PC 3 | Education  | 2.00 p.m.—6.00 p.m.  |

**Day Five: Wednesday 6 September 2017**

|      |                                   |                      |
|------|-----------------------------------|----------------------|
| PC 1 | Treasury, Industrial Relations    | 9.00 a.m.—1.00 p.m.  |
| PC 5 | Western Sydney, WestConnex, Sport | 9.00 a.m.—11.00 a.m. |
| PC 5 | Lands and Forestry, Racing        | 11.15 a.m.—1.15 p.m. |
| PC 2 | Health, Medical Research          | 2.00 p.m.—6.00 p.m.  |
| PC 5 | Roads, Maritime and Freight       | 2.00 p.m.—6.00 p.m.  |

**Day Six: Thursday 7 September 2017**

|      |                                       |                     |
|------|---------------------------------------|---------------------|
| PC 1 | Premier                               | 2.00 p.m.—6.00 p.m. |
| PC 2 | Disability Services, Multiculturalism | 2.00 p.m.—5.00 p.m. |

**Day Seven: Friday 8 September 2017**

|      |  |                     |
|------|--|---------------------|
| PC 6 | Planning, Housing, Special Minister of State | 9.00 a.m.—1.00 p.m. |
| PC 4 | Attorney General                             | 2.00 p.m.—4.00 p.m. |

- (3) That supplementary hearings be scheduled during the week of 3 to 6 October 2017.
- (4) That each scheduled day for the initial round of hearings will begin not earlier than 9 a.m. and conclude by 6 p.m.
- (5) That the committees must hear evidence in public.
- (6) That the committees may ask for explanations from ministers, or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure.
- (7) That ministers may not make an opening statement before the committee commences questions.
- (8) That the committees are to present a final report to the House by 15 December 2017.
- (9) That members may lodge supplementary questions with the committee clerk by 5 p.m., within two days, excluding Saturday and Sunday, following the hearing.
- (10) That answers to questions on notice and supplementary questions be published, except those answers for which confidentiality is requested, after these answers have been circulated to committee members.

**Motion agreed to.**

*Bills*

**TRANSPORT ADMINISTRATION AMENDMENT (CLOSURE OF RAILWAY LINE BETWEEN ROSEWOOD AND TUMBARUMBA) BILL 2017**

**Second Reading**

**Debate resumed from 23 May 2017.**

**The Hon. MICK VEITCH (11:30):** As I stated the last time that this bill was before the Chamber, I lead for the Opposition in debate on the Transport Administration Amendment (Closure of Railway Line between Rosewood and Tumbarumba) Bill 2017. In New South Wales there are hundreds of kilometres of unused but preserved rail line corridors that tell the story of a local area—its history and its heritage. They meander through breathtakingly beautiful parts of the State, and in some cases areas that are hidden away and rarely explored. These unused corridors connect communities and are often framed by historic buildings and rail infrastructure that can be renewed and re-used. Rail trails are a window to the past, to a time when railways played an important role in opening up remote and inaccessible areas of New South Wales.

**The Hon. Penny Sharpe:** Point of order: I cannot hear what the Hon. Mick Veitch is saying. I ask you to call the House to order.

**The PRESIDENT:** I uphold the point of order. I was about to make the same comment. I cannot hear either, so I am absolutely certain Hansard cannot hear. If honourable members wish to hold conversations, they should do so at a very low level or take them outside.

**The Hon. MICK VEITCH:** They are valuable corridors that have tourism and recreational potential. We on this side of the House have been active and vocal advocates for rail trails and we commend the Government for taking action to support rail trails in New South Wales through this legislation. Rail Trails for NSW was launched in the New South Wales Parliament in March 2014. At that time I had introduced a bill in the Legislative Council that would give effect to rail trails in this State. The Tumbarumba to Rosewood trail was used as an example of a rail trail that was ready to go and could be one of the first trails in New South Wales. Together with my colleague the Hon. Penny Sharpe, I inspected the Tumbarumba rail trail corridor and could see immediately the potential of the corridor to attract tourists and locals.

I thank Labor Party members for their leadership in shaping our policy on rail trails. For those reasons, the Labor Party believes it is ideal that the Tumbarumba to Rosewood trail become New South Wales' first rail trail, but there are some concerns that need to be addressed. In speaking to my bill at the time, I indicated that it was critical that two aspects are satisfied in supporting the closure of a rail line for the purpose of establishing a rail trail; that is, there is protection that allows the corridor to be converted back to a working rail line if it is needed at any time, and that the corridor remains Crown land, protected in legislation. This bill gives no such protection in its current form. In setting out the provisions authorising closure of the rail line, the bill states—and I suggest members read part 1:

- (1) For the purposes of section 99A, the rail infrastructure owner is authorised to close the whole or any part of the railway line that runs from McEachern Lane, Rosewood to Tumbarumba.
- (2) Accordingly, the rail infrastructure owner authorised under subclause (1) may sell or otherwise dispose of the land concerned and remove the railway tracks and other works concerned.

It is this provision that the Labor Party cannot support and will seek to amend by declaring these corridors to be dedicated Crown land. As the Minister mentioned in his second reading speech in the other place, this is historic legislation because it establishes the first rail trail in New South Wales. It is critical that we get this right from the start, because this bill is not just about the conversion of the Rosewood to Tumbarumba corridor to a rail trail; it can be expected that this legislation will be the legislative model for all rail trails in New South Wales in future.

**The Hon. Penny Sharpe:** Point of order: The Hon. Duncan Gay will have an opportunity to speak in this debate, rather than persistently interjecting. I ask that he be called to order.

**The PRESIDENT:** I noted the interjections. I ask the Hon. Duncan Gay to cease interjecting. I remind members that interjections are disorderly at all times.

**The Hon. MICK VEITCH:** It goes to follow that any legislation looking to develop a rail trail must reflect the community's expectations of all rail trails; that is, that once closed the rail corridor remains owned by government. It can be land vested to a council or a community trust, but it must remain Crown land. Our amendment will reflect this approach; it is a sensible protection and we urge the Government to support what is a critical change to this bill. We will propose that the land is dedicated Crown land, that is, it is offered a high level of protection and cannot be sold at the whim of any government. While the Government seems to suggest the best way forward on closure is a reserve trust model—ironically something they are now hoping to do away with in the Crown lands reforms—we cannot simply trust this Government, or trust what a future Liberal Government would do.

There is certainly a significant discrepancy between what the Minister says and what is contained in the bill. Those on the other side who support rail trails in their communities beyond this rail trail in Tumbarumba should be deeply concerned about the current drafting of the bill. We ask them to do the right thing by their communities and ensure the land remains in the ownership of the Crown and that this seminal legislation is right and proper and meets the expectations of communities who will be asked to support rail trails in future. I know there are different opinions in the Tumbarumba area about whether this line should become a rail trail, but I believe even those who adamantly support the proposal—and the conversations I have had indicate that support—would be concerned with the way this bill is drafted. It is also important to note that there are adjacent landholders who have concerns about this rail trail. I urge the proponents of the rail trail to continue communicating with those landholders to have their views accommodated in the development of this rail trail.

The amendment we propose and ask the Government to support gives effect to the Minister's commitment in the other place to keep the corridor in public ownership. By keeping the land in public ownership, we retain an

ability to shape the outcome—to have a place at the table. The trail may not and, I know, cannot in many cases take the same alignment as the old rail line, but common sense will hopefully prevail, and a land swap could retain farmers' control over agricultural land while another corridor could be looked at as an alternative.

Until such time as a concrete proposal is signed and sealed, the sale of an old line should not be considered. I am concerned this could be a pea and thimble trick from the Government to deliver the sale of land. This legislation cannot be a Trojan horse for future rail corridor land sales. I understand that many stakeholders are unhappy with the way in which the Government has drafted this bill, and our amendment will attempt to address those concerns. The amendment sets up a model of operation for rail trails that the community can support. It ensures that no government—Liberal-Nationals Government or Labor Party—can sell or dispose of the corridor without notification and without the support of Parliament. It is the right thing to do, and we urge the Government to support our amendment and ensure that the Rosewood to Tumbarumba line remains Crown land, dedicated under the Act.

This means that to revoke any future dedication as a rail trail, the Minister of the day would have to lay on the table of each House notice of his intention to revoke the dedication. It would give rail trail corridors that have closed the protection of parliamentary scrutiny. New South Wales has lagged behind other States in establishing rail trails. There are more than 25 rail trails in Victoria alone. The move to establish and support rail trails is welcomed by the Labor Party. It is hoped that this will be the first of many in New South Wales. The Labor Party supports community involvement in the establishment of each rail trail, and the model outlined by the Minister and adopted by the Government in Albury seems to be a sensible approach. We acknowledge that the requirement for each local area will be different.

In closing, I urge the Minister to enshrine in legislation the commitments that he made in his second reading speech in the other place. This is about ensuring that this Government, or indeed any future government, does the right thing in progressing the establishment and operation of rail trails. This is historic legislation and the Government needs to get it right; we are genuinely trying to help get it right. I ask the Minister to work with us to ensure that the legislation gives effect to his promises. We ask the Government to support our amendment so that we can be sure that the Tumbarumba community, and communities across New South Wales, achieve the best possible outcome and the protection they expect in order to preserve rail corridors as Crown land for rail trails. Let us work together to do the right thing by communities across New South Wales. Let us make this seminal legislation the best it can be.

**Dr MEHREEN FARUQI (11:43):** I speak for The Greens on the Transport Administration Amendment (Closure of Railway Line between Rosewood and Tumbarumba) Bill 2017. This bill seeks to close the railway line between Rosewood and Tumbarumba in the Riverina and in doing so, it also allows the rail infrastructure owner to sell or otherwise dispose of the associated land, railway tracks and other works. It is this part of the bill that allows the sale of the rail corridor, which is a precious piece of public land, and this has me worried. This is why my colleagues in the Lower House opposed it in its current form; but I will come to that aspect of the bill a little bit later.

The Greens' position on rail trails is very clear. New South Wales has some of the highest levels of protections for all rail corridors. Section 99A of the Transport Administration Act 1998 requires that the New South Wales Parliament has to pass legislation to close a railway line. We strongly support this provision. Obviously there will be cases where rail trails are appropriate. In those instances our position is that each rail trail should be considered on a case-by-case basis to ensure that future public transport and/or rail freight needs are not compromised; that there has been extensive and proactive local community consultation to ensure that there is support for rail trail proposals; that detailed feasibility studies have been undertaken as part of the integrated public transport needs for regional communities; and that genuine and public business cases that transparently and accurately demonstrate the benefits over the costs are also a must.

Rail trails can provide reasonable development opportunities and in certain circumstances they can be great for recreation and tourism purposes, but not at the expense of essential regional public transport and freight needs. That is why the question of rail trails replacing rail lines is a vexed one. However, the retention of publicly owned corridors is paramount. The Greens are opposed to the privatisation or sale of rail corridors. I understand that much of the Rosewood to Tumbarumba line was damaged by floods in the 1970s and that it has not operated for a number of decades. The connection of this line with Wagga Wagga has also been cut off by the construction of the RAAF base at Forest Hill, and the Hume Highway also cuts through it at Tarcutta. It is unlikely that a train will ever run on this corridor again or that there will be a foreseeable freight and public transport need for it. I agree that if other feasibility and community criteria are met, and there are clear provisions that this land cannot be sold off, then there should be a rail trail from Rosewood to Tumbarumba.

The bill will provide a template for future rail trails and it needs to be watertight to make sure that public land is protected in every case. However, I make it clear that the Rosewood to Tumbarumba rail trail being

considered today is very different from the proposal for a rail trail in the Northern Rivers district. That rail trail would consume the precious rail corridor up north where the community is crying out for the Liberals and The Nationals to fulfil their election promise, made consistently over many years, to reinstate rail services on the Casino to Murwillumbah line. The community rightfully wants commuter transport that connects Lismore, one of the largest regional centres in northern New South Wales, to other cities and towns.

A rail service in this area would be used by thousands of students, commuters and tourists alike, which is a far greater necessity than converting the line into a rail trail. Rail trails cannot be a replacement for public transport. Building a rail trail there will ensure that the promised railway line will never have a train on it. I am concerned about the safeguards in this bill to protect public land from being sold off. The Government does not have a good track record in closing rail lines and keeping transport in public hands. In fact, it has an abysmal record—we only have to look at the disastrous rail line closure at Newcastle.

**The PRESIDENT:** Order! Members will cease interjecting. The member will be heard in silence.

**Dr MEHREEN FARUQI:** That was a flawed process. Millions of dollars were wasted in ripping up a perfectly good intercity rail connection. The appetite of this Government for privatisation is completely insatiable. In his second reading speech the Minister for Transport and Infrastructure clarified the intention of the bill—to facilitate the establishment of a rail trail between Rosewood and Tumbarumba. Both the Minister's second reading speech and the subsequent discussions I have had with his office have confirmed that the land will be transferred to the Department of Lands to be held in public trust and administered by the Snowy Valleys Council. It is disappointing that is not made clear in the bill; it leaves the door open to selling off this corridor.

There is no further information about how this trust and rail trail will operate. Who will be responsible for construction and maintenance? Will there be a commercial operator? Will there be a fee for using the rail trail? It is my understanding that these details have not been decided. Why was this process not completed before introducing this bill? If the Government wants this pilot project to be successful then all the loose ends should have been tied up before introducing this legislation. It also appears that there is no plan to evaluate this pilot before embarking on further rail trails, which is completely at odds with the concept of a pilot project.

I have been contacted by landholders and locals in the area who have taken issue with the Minister, stating that "it must be acknowledged that certain individual landholders have not been as keen on this project as others". It is fair to say that some people are not at all supportive of this project. They have pointed out that this railway land was acquired to be a rail corridor, not a rail trail. They are also concerned that it will affect their operations. In at least one case, grazing animals will be cut off from a creek on the property. This raises further red flags as to process of community consultation undertaken on this pilot project. In his second reading speech the Minister referred to the operation of section 99A of the Transport Administration Act 1998, closure and disposal of railway lines. Section 99A (1) states:

A rail infrastructure owner must not, unless authorised by an Act of Parliament ... close a railway line.

In his speech the Minister said:

We have literally thousands of kilometres of disused rail infrastructure across this State because of an archaic provision in the Act. It is ironic that, as Minister for Transport, I can close a rail service but I cannot order the lifting of rail lines. To do so, I must ask for the approval of this Parliament.

Thank God for section 99A of that Act. What the Minister considers to be disused rail infrastructure ripe to flog off for a quick buck, in many parts of this State is the future of rail and freight needs for rural and regional communities. I note that the Opposition will be moving an amendment to safeguard the public rail corridor, which I hope the Government will agree to. I also hope that the Government will provide more details on the operation of the rail trail and the community consultation that has been undertaken so that we can move towards establishing the first rail trail in New South Wales. The Greens will not be opposing the bill at the second reading stage to allow the bill to go to the Committee stage, so that we can make sure this public land remains in public hands. Only then will we vote for the bill.

**The Hon. WALT SECORD (11:46):** As shadow Minister for the North Coast and Deputy Leader of the Opposition, I make a brief contribution to the Transport Administration Amendment (Closure of Railway Line Between Rosewood and Tumbarumba) Bill 2017. The bill will amend the Transport Administration Act 1988 to authorise rail infrastructure ownership to close the railway that runs between McEachern Lane, Rosewood, to Tumbarumba in order to create a rail trail for walking and bicycle use. Section 99A of the Transport Administration Act 1988 provides that a rail infrastructure owner may close a railway line outside the greater metropolitan area only after it is authorised by an Act of Parliament.

By way of background, the rail line is 22 kilometres long and it has not been in operation since 1974. I understand the State Government has promised to develop a rail trail along the existing rail corridor as a way to

encourage tourism in the Albury region. The Rosewood to Tumbarumba rail trail project was announced in June 2015 as a pilot, with funding of \$4.8 million from the Restart NSW Regional Tourism Infrastructure Fund. Upon completion, it will be the first rail trail established in New South Wales. It is a precedent-setting rail trail. Labor has indicated that we will be supporting the bill but we have concerns.

Earlier today the Hon. Mick Veitch flagged that Labor will be moving an amendment to limit the land being dedicated under the Crown lands legislation as a rail trail for recreational use. In short, we want to see that the rail corridor is designated as Crown land so that it cannot be sold off by the Liberals and The Nationals. We fear that they will use the rail trail legislation as a backdoor privatisation. They want to flog off everything. Indeed, recent calculations show that the sale of New South Wales publicly owned assets now exceeds \$52 billion. The amendment foreshadowed by the Hon. Mick Veitch is important not only to the Albury region but also to so many other regions because it will become a template for future rail trails. This legislation has a sense of déjà vu—we have all been here before.

In August 2014, the Hon. Mick Veitch introduced the Transport Administration Amendment (Rail Trails Community Management) Bill 2014 to create rail trails in New South Wales. At the time I spoke in favour of the bill and detailed an interesting project on the North Coast involving a rail trail. Admittedly, the Hon. Mick Veitch's legislation is better than the legislation we are debating today as his model would have ensured that the land remained in public hands as Crown land. Therefore, I hope that the amendment he will put forward today succeeds as it is similar to the original legislation.

Rail trails are shared-use paths along unused rail corridors. Usually, the tracks are removed and replaced with road base, gravel or a sealed surface to be used for walking, cycling and, in some cases, horseriding. Their wide and level routes—essential for their original purpose—will make them excellent paths for tourists of all ages and abilities. Rail trails have been around in the United States of America since the mid 1960s. In Australia they are a relatively new concept. However, the Victorian Government has been very supportive and is leading the nation on rail trails. The Victorian Government has assisted with the creation of almost 30 separate rail trails in that State. It is estimated that the Victorian rail trails attract more than 40,000 people a year.

In his second reading speech on 2 May, the Minister for Transport, Andrew Constance, cited a 2009 study of the Murray to Mountains Rail Trail in northern Victoria, which revealed that tourists visiting the trail spent, on average, \$244 per day each at local businesses. That brings us to where we are today. Labor has been advocating rail trails for tourism and job generation in rural and regional New South Wales for some time, stretching back to the Hon. Mick Veitch's legislation four years ago.

Personally, I have supported the development of the Northern Rivers rail trail, particularly the Murwillumbah section. Tweed Shire Council wants to build a 2.5 kilometre trail connecting the Tweed River Regional Art Gallery, which is home to the Margaret Olley Art Centre, to the Murwillumbah town centre. This would be an important project for a community that was hit by devastating floods and did not receive any assistance in yesterday's budget. The Federal Labor member for Richmond, Justine Elliot, and Tweed Shire Labor Councillor Reece Byrnes are also strong supporters of the rail trail concept, particularly the Northern Rivers rail trail.

Tweed Shire Council, State Labor and Federal Labor are united in their support for rail trails, particularly for the Northern Rivers rail trail. We all recognise their importance to tourism on the North Coast, especially as the area is recovering from devastating floods. However, it is very disappointing that members of the National Party are not totally on board with rail trails. The member for Tweed, Geoff Provest, and the member for Lismore, Thomas George, have been reluctant to voice their support for rail trails; at best, one could describe their support as lukewarm. Unfortunately, when faced with a choice between new jobs, additional tourism and spending additional funds on the North Coast or watching metal rust, The Nationals prefer watching metal rust. Meanwhile, rail trails make great economic sense—that is, to most of us they make great economic sense. Through the re-purposing of old infrastructure, rail trails attract high-spending tourists and they should be supported across the State.

In early June 2014, the State Government's own study, entitled "Casino to Murwillumbah Rail Trail Study, Final Report", reported that the rail trail could attract more than 88,000 visitors and could pay for itself in five years. I also note that in the 2 June edition of the *Tweed Daily News* former Australian champion cyclist and triple winner of the Tour de France Robbie McEwen publicly stated his support for the Northern Rivers rail trail. He compared it to the Otago Rail Trail on the south island of New Zealand, which attracts people from around the world. I am very disappointed to see that the North Coast Nationals again did not provide any funding support for the Northern Rivers rail trail in the State budget.

**The Hon. Catherine Cusack:** Point of order: Tumbarumba is not on the North Coast and I ask you to draw the member back to the leave of the bill. It is difficult enough to listen to this rubbish being spouted by the



party that closed our treasured railway line in the first place and I ask that he at least be drawn back to the legislation.

**The PRESIDENT:** Order! All members will resume their seats. The point of order started off very well, but then it deteriorated. I therefore do not uphold the point of order.

**The Hon. WALT SECORD:** I believe it is time to have a rail trail on the North Coast. The transport Minister himself said:

The Rosewood to Tumbarumba Rail Trail is being progressed as a pilot initiative.

While the Rosewood to Tumbarumba rail trail looks like it will be the State's first official rail trail, I would like to see the Northern Rivers rail trail become the second one, and I issue this challenge in the Chamber: Ms Cusack, do you support the Northern Rivers rail trail and jobs and investment on the North Coast?

**The Hon. Robert Brown:** Point of order: It is disorderly for members to address other members across the Chamber when they are making a substantive speech. All comments should be made through the Chair.

**The PRESIDENT:** Order! I uphold the point of order. The Hon. Walt Secord will use the proper titles when referring to all members.

**The Hon. WALT SECORD:** I apologise. That was an oversight on my part. I should have said the Hon. Catherine Cusack. I hope that this legislation is the first step in the North Coast getting its rail trail and I hope that the Northern Rivers rail trail becomes the second rail trail in New South Wales. I urge the North Coast Nationals to start listening to the community. The State Government, the Premier, the tourism Minister and the Parliamentary Secretary for Northern NSW can all look to the Northern Rivers rail trail where a willing community and an easy decision await them.

Finally, unfortunately, the response to the Northern Rivers rail trail in yesterday's budget typifies how The Nationals respond to issues on the North Coast.

**The Hon. Catherine Cusack:** Point of order: Tumbarumba is not on the North Coast and I ask you to draw the member back to the leave of the bill.

**The Hon. Penny Sharpe:** To the point of order: This is a second reading speech and we generally have quite wide latitude. Most speakers, including the Minister in his second reading speech, have spoken about rail trails in different areas of the State and I believe that is entirely in order.

**The PRESIDENT:** Order! A former ruling of President Harwin states:

This Chamber has always allowed wide latitude to members making speeches on the second reading of bills, but comments should generally be within the leave of the long title of the bill.

I believe that the member has been generally relevant to the long title of the bill. The member will conclude.

**The Hon. WALT SECORD:** As the Hon. Mick Veitch has indicated, and as the Minister for Transport himself indicated, the Rosewood to Tumbarumba rail line is important. It is a pilot, and I believe it is completely appropriate that I discuss the Northern Rivers rail trail. I am very disappointed that the Parliamentary Secretary to the Premier, who lives on the North Coast—

**The Hon. Natasha Maclaren-Jones:** Point of order: The member is flouting your ruling.

**The PRESIDENT:** Order! The Hon. Natasha Maclaren-Jones is correct. I uphold the point of order. I ask the Hon. Walt Secord to proceed with his contribution and to not return to an issue on which I have ruled, especially when I have ruled in the member's favour.

**The Hon. WALT SECORD:** In conclusion, I urge the Government, particularly National Party members from the North Coast, to support the Hon. Mick Veitch's amendment, which is a sensible amendment, and to note in their consideration that the Rosewood to Tumbarumba Rail Trail will be a pilot. I hope and pray that the second rail trail in New South Wales occurs on the North Coast. I thank members for their attention.

**The Hon. ROBERT BROWN (11:57):** In my contribution to the Transport Administration Amendment (Closure of Railway Line Between Rosewood and Tumbarumba)—which is in the south of the State—Bill 2017, I foreshadow that even though we will be very lonely, my colleague the Hon. Robert Borsak and I will vote against the third reading of the bill. We will support the second reading of the bill because I want to hear the Labor amendment regarding the long-term future of this strip of land, particularly given that so many statements have been made that this is to be a pilot. However, as I said, we will vote against the third reading of the bill and I will now present our reasons for doing so. The Shooters, Fishers and Farmers Party supports rail trails except where

those rail trails cross private property, particularly production land, and approval of the rail trail crossing that land has not been gained from the property owner.

I have visited the five or six primary production operations in the area of this corridor, properties that are bisected by the rail trail. This morning a previous speaker in the debate raised the access for livestock to a creek for drinking water. But it goes further than that. I doubt whether many members of this House have visited the site. Were this rail trail to be diverted to run along the road corridor the bill would have the support of the Shooters, Fishers and Farmers Party. The problems created by this rail trail allowing 1,000 to 2,000 people per month to cross through private property and production lands will be enormous. First, we have the security and safety of the residences, workshops, storage sheds and machinery sheds located in the immediate vicinity of the rail trail. Secondly, who will be responsible for the biosecurity of the corridor? I assume it will be the trustee. Most of the properties affected by this corridor are mixed farms of cropping and livestock.

Thirdly, is workplace health and safety. As it currently stands these corridors are not used. It is Crown land and listed as a rail corridor in old legislation. The movement of machinery and stock to and from either side of the corridor is carried out without risk to persons other than the farmer, his family and employees. The corridor will have to be fenced to minimise the public liability risk to people moving onto active farming land. When you fence that corridor you then place a burden on the farmer to install gates to move equipment and stock, which will limit stock accessing drinking water. Stock do not drink at set times such as four o'clock in the afternoon or two o'clock in the morning, they go to water when they need it. There is an additional issue of privacy and security. How many of the members in this House would tolerate 1,000 people a week walking across a rail trail 20 or 30 metres from their back door?

**The Hon. Catherine Cusack:** I wouldn't.

**The Hon. ROBERT BROWN:** I acknowledge that interjection. I have a wife at home and I do not like the idea. Then there is equity. The proposed rail trail at Gilmore is not supported by the Hon. Mick Veitch nor the Hon. Robert Brown. In that circumstance the Government has agreed that it is not a good idea. Exactly the same circumstances arise when more than a dozen similar properties are transected by the old rail corridor. In those cases the distance between some of the rail corridors and the residents' houses were the distance from me to the Chair. I had a complaint from one farmer whose wife and children were on the property when somebody thought there was a rail corridor and camped at the back of their house on Crown land. As I understand it there are restrictions as to who can and cannot access rail corridors.

For all of those reasons, I gave assurances to those five landholders—back towards Rosewood with smaller blocks—that I would oppose this legislation. There are issues of privacy, security, biosecurity, work place health and safety, and public liability. Those reasons alone should have been enough for this Government to ensure the support of every private landholder across whose property this rail corridor runs despite ideological differences such as "it is not their land" and "they are not entitled to use it". As a rail corridor, even when the railway was working, there was a train running up and down at known times. There will now be 24/7 access without restriction. It will be a matter of good will that people do not leave the rail corridor, do not steal, do not harass the families, and do not place themselves at risk during farming operations. A farmer cannot stop a cropping or harvesting operation out of the blue.

The practical difficulties of working a farm with a rail trail running through private property is enormous. If members had to undertake the same difficulties to do their daily job in this place there would be complaints. For those reasons the Shooters, Fishers and Farmers Party will support the second reading of the bill and the commonsense Labor amendment, which does not solve the problem of alienation, and safety and security issues for the private property across which the rail corridor runs. If this is a pilot, the same problem will be repeated a hundredfold across the country.

**The Hon. PAUL GREEN (12:06):** I lead on behalf Christian Democratic Party on the Transport Administration Amendment (Closure of Railway Line Between Rosewood and Tumbarumba) Bill 2017. The object of this bill is to amend the Transport Administration Act 1988 to authorise the rail infrastructure owner to close the railway line that runs from Rosewood to Tumbarumba, a distance of 23 kilometres, to create a rail trail for walking and biking. I do not dispute the fact that rail trails provide great community value as they can be accessed easily for walking, horseriding and cycling, thus creating natural recreational areas for future generations. They provide regional economic growth for small business along the route. I have always been an avid supporter of regional growth. I support rail trails in most cases, particularly those that run along road verges. Rail Trails Australia defines a rail trail as:

... a shared-use path recycled from abandoned railway corridors. They can be used for walking, cycling and horseriding. Apart from being great places to walk, cycle or horseride, rail trails are linear conservation corridors protecting native plants and animals. They often link remnant vegetation in farming areas and contain valuable flora and fauna habitat.

In addition, rail trails benefit the community in numerous ways, such as creating healthy recreation and transportation opportunities by providing people of all ages with an attractive, safe, accessible and low- or no-cost place to cycle, walk, hike, jog or skate. They also provide a seamless link between urban and regional multimodal transportation systems. They act as tools for ecology and conservation. Greenways and trails help preserve important natural landscapes, provide needed links between fragmented habitats, and offer tremendous opportunities for protecting plant and animal species. They also increase economic benefits, such as regional tourism and growth. This is the hope of many members in this House. Rail trails exist in New South Wales, but are limited to a few short trails in the Blue Mountains and Newcastle areas. The trails in the Blue Mountains are suitable for walking only. Closed and unused rail lines in the State require an Act of Parliament to be closed officially and removed for other purposes. Hence, the reason we are debating this bill in the House today.

In June 2015, the Government proposed a pilot rail trail program in which Tumbarumba Shire Council put forward a firm application for \$5 million for the Tumbarumba to Rosewood rail trail. The Minister at the time, the Hon. John Barilaro, MP, advised that Tumbarumba council had demonstrated an effective plan for community consultation, a viable operating model, and potential to generate economic and tourism benefits for the region. The local member, Mr Greg Aplin, MP, was also very supportive. There is not a one-size-fits-all approach to rail trails. We must weigh up the regional growth benefits with the impact on landowners and farmers in New South Wales, which the Hon. Robert Brown has noted. I do not generally support rail trails that pass through people's functioning land and working farms. I note that adjacent landowners to the Tumbarumba to Rosewood line are still opposed to the rail trail.

On September 2016, together with the Minister at the time, the Hon. John Barilaro, MP; the local member, Mr Greg Aplin; and the NSW Farmers Association, I travelled to Tumbarumba to meet with the opponents of rail trails. We must respect a farmer's right to farm. I am not completely satisfied that we have support from all the stakeholders involved in this proposed rail trail. There are approximately 23 landowners along the 23 kilometres. Some landowners along the rail line have expressed concerns regarding open corridors and biosecurity risks; bushfire dangers; flood plan issues; farm safety, including the protection of stock; ongoing responsibility of fencing and gates; the possible restriction of their stock roaming for food and water; camping on their lands by the general public; 24-hour-a-day accessibility; and privacy.

On many occasions I have seen tourists driving on roads among farmland, stopping to observe a cow calving, which is amazing to witness. They think the cow is distressed and in all sorts of bother, so they turn to their phones and social media, or they knock on a farmer's door, which disrupts the daily management of their farm. The tourists do not realise that a cow calving is natural and it will take care of itself. However, those occurrences disrupt farmers and their daily activities. Although it is a small issue, it happens regularly.

**Mr Jeremy Buckingham:** Roads too, though.

**The Hon. PAUL GREEN:** That is right, people do it from the roads.

**Mr Jeremy Buckingham:** They should ban roads.

**The Hon. PAUL GREEN:** I will leave that to The Greens, because The Greens are into banning everything. In its 2015-16 annual report, the NSW Farmers Association stated:

NSW Farmers have been working with NSW Farmers' members from southern NSW as the NSW Government and Tumbarumba Council seek to progress a rail trail between Tumbarumba and Rosewood...

Members in the area are strongly opposed to the proposed rail trail, as are members located around a number of other mooted rail trails in the broader region, including Tumut, Wagga Wagga and Gundagai. NSW Farmers has voiced concerns around key issues such as biosecurity, privacy and the right to farm as well as how the Government will seek to proceed when a majority of adjoining landholders in an area are opposed.

In a letter to Minister Constance, dated 3 August 2016, the NSW Farmers Association stated:

The Association opposes the construction of rail trails on disused rail corridors unless it can be demonstrated that the majority of adjoining landowners fully understand and support the proposal ... As you may be aware, there is overwhelming opposition from adjoining landholders to the proposed Tumbarumba to Rosewood pilot trail. Minister Barilaro's office has received signed declarations from the individual landholders adjoining the proposed pilot trail substantiating this ... for farmers, concerns about biosecurity, rural crime, privacy, and also potentially about land use planning (the right to farm) are paramount.

I spoke with Minister Constance and he advised that there has been lengthy consultation with the NSW Farmers Association regarding the proposed rail trails. The NSW Farmers Association seeks the inclusion of a provision that ensures that a rail line cannot be closed, that transfer of ownership or management cannot be to rail trail proponents, and that construction for the purposes of a rail trail cannot commence unless there is support from the majority of adjoining landowners along the entire length of the proposed corridor. It is important to discuss that the bill proposes onselling the corridor. The only positive to this proposal would be to close the disused line and sell the land to adjoining landholders to safeguard the future of agriculture.

The Government has advised it is highly unlikely that selling the corridor would have any commercial viability and probably would never happen, hence I do not see a problem supporting Labor's amendment to ensure that this rail trail is not sold. I was contacted recently by the biggest landowner along the Tumbarumba to Rosewood line who expressed sincere support for the rail trail. The Christian Democratic Party [CDP] and I fully support rail trails and their potential for increased economic growth, so long as we have support from landowners. This bill could have been passed two weeks ago, but there was a bit of work to do. I appreciate the Government has tried to bring all members on board. The CDP drafted an amendment dealing with the sale of land, but the Labor Party still could not concur with the removal of that amendment. I met with Minister Constance and encouraged him that the way forward was to support the amendment of the Hon. Mick Veitch.

I spoke with the people of Rosewood and they have strong concerns about their corridor, the rail trail and how it affects their community. I have always said in this Chamber that communities have a right to be individual and unique. They see themselves that way and they function that way. They have a right to say no to ventures that may affect their local area. I am torn by this bill. I love the idea of rail trails, but when the majority of a community says, "No, thanks, that is not for us", we must also appreciate that. For a number of years Reverend the Hon. Fred Nile has held the balance of power and this bill will be passed if the amendment is agreed to by the Government. We noted the strong concerns of both the NSW Farmers Association and the Rosewood community, and we have put some of those concerns on record, but, more than likely, the bill will be passed. At the end of the day, we work in a democracy. This bill is good for regional economies and jobs, and for increasing the 2020 regional tourism goals of New South Wales. We will debate the amendments at the Committee stage. The CDP is of the view that this bill will benefit the whole of New South Wales and it is right to vote for the bill. We commend the bill to the House.

**The Hon. JOHN GRAHAM (12:18):** I support the Transport Administration Amendment (Closure of Railway Line Between Rosewood and Tumbarumba) Bill 2017. I am happy to be on the record as a supporter of rail trails in general. I recognise the work of the Hon. Mick Veitch and the Hon. Penny Sharpe, and support their approach to this issue over time. I also recognise the matters raised by the Hon. Paul Green and the Hon. Robert Brown in relation to landholder concerns. On balance I believe these changes deliver a net community benefit, which is why I am happy to support this bill, provided assurances are given about the land remaining in public hands, which is fundamental to my approach. I have a strong view on this matter because in my experience there was nowhere for me to go in New South Wales to ride on a rail trail with my children. Unbelievably, my family had to travel overseas to New Zealand to Otago Central to ride on a rail trail, which was a fantastic experience. It was about a 150-kilometre long very flat path. My seven-year-old son could ride along almost all of the trail, but unfortunately he got sick.

A train cannot be run up more than a one to 50 gradient in these sorts of environments and as a result it is a fantastic place to ride a bike, to have a look around the country in a safe way and to explore regional areas. The rail trail supports many jobs, not big tourism jobs, but jobs for mums and dads who run businesses along the length of the trail. They could hire out bikes, provide food or accommodation, or work together and share the economic benefits. That fact impacted on me. One of the bizarre things that happened to me in New Zealand when I was riding was that I was filmed being interviewed by supporters of the Northern Rivers Rail Trail, to which the Hon. Walt Secord referred. Unfortunately, to date we have not been able to get that trail up and running in New South Wales, but this bill seeks to address that. Although I do not have a good sense of balance, I survived riding and being interviewed at the same time, but I put on the record that it was not easy.

**The Hon. Dr Peter Phelps:** You kept leaning to the left?

**The Hon. JOHN GRAHAM:** Indeed, I acknowledge the interjection.

**The Hon. Greg Donnelly:** A very balanced man, the honourable member.

**The Hon. JOHN GRAHAM:** Balance was not my thing, but I survived the experience. I support the bill because it will create regional jobs. I also support a broader recreational agenda for New South Wales. We must do better to generate recreational tourism and nature tourism in New South Wales—we are not doing it well enough. There is no greater way to support regional tourism in this area of the State than by getting that right. This is the first step, but it is not good enough. In the committee work of the House we have talked about where the future employment for regional New South Wales might stand. Nature tourism and broader recreation agenda stand out as a way to get good jobs into regional New South Wales. The amendment foreshadowed by the Opposition deals with privatisation and will ensure strong protection and assurances to guarantee that these corridors stay in public hands. I believe those assurances are fundamental to public confidence in pursuing this agenda.

The debate has highlighted mixed views, but fundamental to being able drive a consensus are assurances that the land will remain in the public hands. If we can assure communities that the legislation is not a smokescreen

to privatise the land, we will keep communities on board that might have aspirations to run a train down these lines in the future. Those assurances are difficult to provide if they are not in the legislation given that, according to the Minister for Transport, all transport will be in private hands over 10 to 15 years. In that context the amendment foreshadowed by the Opposition about ensuring that this land will remain public land is even more important. I support the bill and the amendment foreshadowed by the Opposition.

**Mr JEREMY BUCKINGHAM (12:25):** I make a brief contribution on behalf of The Greens, together with my colleague, Dr Mehreen Faruqi, on the Transport Administration Amendment (Closure of Railway Line Between Rosewood and Tumbarumba) Bill 2017. Dr Mehreen Faruqi has given caveats and cautionary contributions, and I will welcome the passing of this bill. As Dr Mehreen Faruqi outlined, The Greens will support the amendment foreshadowed by the Opposition that will put in place the protection of public ownership. It is important to put on the record the experience in other jurisdictions in relation to agriculture, which seems to be the principal concern. Privacy and proximity to houses are real concerns and must be properly managed. The experience of other jurisdictions shows that in relation to the right to farm, biosecurity and interaction between the community and agriculture, only time will show whether they are beneficial to agriculture.

Visitors who may not know a lot about agriculture see it up close and personal on a rail trail and come to respect it and the landscape. In the past they could drive past the farms at 100 kilometres an hour without having a sense of what was going on. A place similar to Tumbarumba is Otago in New Zealand, which is criss-crossed with rail trails that are well used by tourists from all over the world, and from other places in New Zealand. The farmers love the visitors because they interact with them and it has been a massive boom for businesses in their area. Rail trails bring people into the districts that are sometimes in remote areas, and businesses such as farm stay, Paddock to Plate, niche restaurants, woofing and other farm experiences begin to flourish. One thousand flowers bloom from these rail trails and they have revitalised these areas. I acknowledge that there is no doubt that some of these rail lines will never open again. It is incumbent upon us to respect the work of the people who, in many instances, paid with their lives to build the rail and find a new use for them.

We only need look at the rail line between Dorriggo and Coffs Harbour to realise that it will probably never open again. Some people in that area are keen to see it opened up for tourism. The past community spent good money building rail lines, bridges, tunnels and undertaking clearing and earthworks. People dedicated their lives to creating that infrastructure and we should find a use for it. Those people might be long gone but we should welcome finding a way to respect their work by revitalising and re-using it. I support the bill.

**The Hon. PENNY SHARPE (12:29):** I have listened closely to the debate on the Transport Administration Amendment (Closure of Railway Line Between Rosewood and Tumbarumba) Bill 2017. In 2014 the Hon. Mick Veitch brought forward a bill similar to this to establish rail trails in New South Wales. I acknowledge his work on that and his passion for this matter. He has travelled all over this State and met with landowners and locals who are seeking to use past rail trails and re-imagine them for the future. In 2011, I travelled with the Hon. Mick Veitch to visit several rail trails in the south-west of the State including the Rosewood to Tumbarumba, the Coolac to Tumblong and the Lady Smith to Wagga rail trails. We should not underestimate the passion of those communities for rail trails and the benefits they can bring. I have long been frustrated that New South Wales has fallen so far behind on this.

Rail trails are great for our communities. They promote healthy lifestyles and are good for riders and walkers. They do make a difference. We should not underestimate the importance of the cycling tourism revenue that New South Wales is missing out on every day because we are failing to set up a rail trails framework. Rail trails are excellent for tourism. Members have spoken at length about things that are happening in other States and the small amount of work happening in New South Wales. We know rail trails often bring people to areas where they have not been. It would take 20 minutes to drive past a rail corridor in a car. Meandering along one for a couple of hundred kilometres would involve a two- or three-day trip. Visitors and their children spend hundreds of dollars each day on rail trail holidays. We can no longer ignore the opportunities rail trails create for regions, including the establishment of micro-businesses to serve the needs of visitors. This bill is actually about regional economies and jobs.

I acknowledge the concerns about landowners, but the proof is in the pudding and it can be seen from what has happened in other States. Interstate rail trails have overcome all of those issues and business is booming. We must not continue to fail to acknowledge that we can work through the issues associated with landowners and make rail trails happen. In preparation for this debate I looked up some cycling and tourism websites about rail trails, one of which listed the five best rail trails in Australia. None of them are in New South Wales. The Murray to the Mountains is in Victoria and is 116 kilometres long.

The Riesling and Rattler Trail is in South Australia. I have not done that one but I am looking forward to it. I know that people absolutely love it and it is bringing new tourist to the vineyards. They are stopping, eating lunch and doing a range of things that are creating a boon for landowners who are building accommodation along

that trail. There are huge opportunities in that area. The Great Southern Rail Trail, the Great Victorian Rail Trail and the High Country Rail Trail are in Victoria. Everywhere we look Victoria is beating us. As a New South Wales person I never want that to happen. Frankly, the creation of rail trails is a must. We have been too far behind on this. I believe that we can work through the issues and make this happen.

Finally, I need to comment on the way in which the Government has brought this bill to the House. The bill contains a tricky little clause that the community—and it seems the rest of the House—do not trust the Government on, which is that it is public land that has been dedicated for rail lines. We are seeking to re-imagine this public land to bring jobs, opportunities and tourists to some beautiful places in New South Wales that people currently do not get to see. This bill should not contain some sort of Trojan Horse to allow the sell-off of yet more public land. My friend and colleague the Hon. Mick Veitch will move an amendment in the Committee stage that I will put my support behind. I think every member has said that they are not against rail trails. In fact, most of us are extremely enthusiastic about them and think their time has come. This bill is important because it will set a precedent for the future. Let us get on with it and begin creating rail trails in New South Wales while also ensuring that we do not give the Government a sneaky backdoor way to sell off public land.

**The Hon. NATASHA MACLAREN-JONES (12:34):** I support the Transport Administration Amendment (Closure of Railway Line Between Rosewood and Tumbarumba) Bill 2017, which amends the Transport Administration Act 1988 to authorise the closure of the disused railway line that runs from McEachern Lane, Rosewood, to Tumbarumba in order to create a rail trail. A lot has been said about the benefits of rail trails. I will not reiterate those comments because I will make my contribution brief. I will say that this is an historic move for the New South Wales Government. Rail trails are not new in Australia and have been successfully established and operated in other States around the country. I have had the opportunity to visit rail trails in Western Australia. That State has quite a number of trails, as does South Australia and Victoria. They form part of the tourism plans of those States and provide exceptional benefits for local businesses. A Victorian study showed that thousands of people visited a particular trail each year and over one weekend the trail generated a spend of around \$244 per visitor each day. Rail trails provide great benefits to local business owners. They also provide health benefits and promote tourism.

The introduction of this rail trail will serve as a pilot for the establishment of further rail trails across New South Wales. The Rosewood to Tumbarumba railway line has not seen a train since 1974. Since then the infrastructure has deteriorated and in some cases been removed altogether. To their credit, the local community saw an opportunity to drive tourism to their area by creating a space that is open and accessible to many. Their positive vision is what led to the concept of the rail trail on the Rosewood to Tumbarumba line. I acknowledge the Tumbarumba Shire Rail Trail Steering Committee and others who generated support from the local community as well as local businesses and tourism operators.

In 2013-14, I chaired an inquiry into tourism in local communities. One recommendation from the inquiry was that the New South Wales Government examine the potential for disused rail corridors to be restored to provide rail-based tourism in regional areas and establish a rail trail tourism sector. I am glad to see that was carried through. In 2015 the Government called for expressions of interest for the pilot rail trail project using funds from the Restart NSW Fund. Following this, a \$4.8 million grant was provided to develop the Rosewood to Tumbarumba pilot rail trail. The benefits to regional communities are obvious and include the flow of economic benefits from increased regional tourism, employment opportunities arising from projects, environmental benefits, social benefits arising from greater recreational choice and also the corresponding benefits to health.

Local landowners adjacent to the track have raised some concerns. I note those concerns, as have others. I also note that the Government commissioned the Murray Local Land Services to undertake strategic risk assessments of the proposed rail trail project. The assessment gauged a number of economic, environmental and social issues and concluded that the risks can be managed through a range of mitigation measures. These challenges and concerns are not unique; they have been raised previously. Also, as has been mentioned, they have been addressed in other States and other countries. As I said, this is an historic bill to introduce the Rosewood to Tumbarumba rail trail. I hope it will facilitate the creation of more rail trails that will support regional communities and boost tourism, employment opportunities and the economies of our towns. I commend the bill to the House.

**Mr SCOT MacDONALD (12:38):** On behalf of the Hon. Don Harwin: In reply: We seem to be in furious agreement on the principle in this bill. I thank the Hon. Mick Veitch, Dr Mehreen Faruqi, the Hon. Walt Secord, the Hon. Robert Brown, the Hon. Paul Green, the Hon. John Graham, Mr Jeremy Buckingham, the Hon. Penny Sharpe and the Hon. Natasha Maclaren-Jones for their contributions to the debate. The New South Wales Government is committed to growing the visitor economy in regional New South Wales and to driving broader economic development. The visitor economy is an important economic driver, with a regional share of more than 46 per cent, or \$14.3 billion, of total domestic and international visitor expenditure in New South Wales to the year ending June 2016. Regional New South Wales also accounts for approximately 50 per cent of all

tourism employment in this State. Rail trails can contribute to statewide economic development due to the multiplier effects associated with visitor expenditure.

Investing in local infrastructure such as rail trails to develop attractions is a key lever for the Government to support growth of the visitor economy in regional New South Wales. Promoting growth in the retail, accommodation and food services sectors with a key focus on small business will lead to further regional job creation. To this end, in January 2015 the Government announced funding of up to \$50 million for the development of a pilot rail trail project from the Restart NSW Regional Tourism Infrastructure Fund. A competitive expression of interest process was open for councils, businesses and community groups to submit rail trail proposals along non-operational railway corridors.

In June 2015 the Rosewood to Tumbarumba rail trail project was announced as the first pilot rail trail to be selected for funding. An allocation of \$4.8 million was made to deliver the project subject to further work being undertaken, including closure of the rail line. The Government selected the Rosewood to Tumbarumba rail trail proposal as it satisfied a number of key criteria, including evidence of significant support within the community for the proposal; an effective plan for further consultation with the community; a viable operating model; and the potential to generate immediate economic benefits for the region. Significant community consultation has been conducted for the Rosewood to Tumbarumba rail trail project and an assessment of the strategic risks has been completed by Murray Local Land Services. The assessment found that the risks—mainly biosecurity—will be managed through implementation of appropriate mitigation measures.

In December 2016 the Rosewood to Tumbarumba Rail Trail Steering Committee conducted an invitation-only information forum to present the risk assessment and identified mitigations to adjoining landholders. While the proposed Rosewood to Tumbarumba rail trail will be the first of its kind in New South Wales, rail trails are well recognised nationally as an alternative adaptive use of rail lines. South Australia, Western Australia, Queensland, Tasmania and Victoria all have operational rail trails—with some established more than 30 years ago. The Victorian rail trail program in particular comprises more than 25 active trails. In addition to boosting tourism and generating business and job opportunities, rail trails have been proven to benefit the local community and residents in many other ways. Studies of rail trails have shown they improve community health and wellbeing by encouraging regular physical activity, protect the natural environment, offer a "greener" way of commuting, foster social cohesion and increase community pride.

I am advised that more than 3,139 kilometres of non-operational rail lines exist across the State and included in this figure is the Rosewood to Tumbarumba rail line, which last operated as a rail service in 1974. The 22 kilometres of non-operational rail line along this disused section of rail corridor will be put to much better use as a visitor attraction to support and grow the region's economy. Accordingly, the Transport Administration Amendment (Closure of Railway Line between Rosewood and Tumbarumba) Bill 2017 is required to authorise the closure of the proposed railway lines under section 99A of the Transport Administration Act 1988, which provides that a rail infrastructure owner must not, unless authorised by an Act of Parliament, close a railway line.

Closure of this disused rail line is required before the rail infrastructure can be removed to develop the trails for walking and cycling. However, the rail corridor would continue to remain in government ownership following closure of the rail lines. Further, the corridor would only be used to establish the rail trail on the basis that these lands could be reacquired without cost, in the unlikely event it is required for transport services in the future. I commend the member for Albury for his leadership in regional development. He has listened to the diverse views of his community and advocated for this economic tourism opportunity. I commend the bill to the House.

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

**Motion agreed to.**

#### **In Committee**

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** There being no objection, the Committee will deal with the bill as a whole.

**The Hon. MICK VEITCH (12:44):** I move Opposition amendment No. 1 on sheet C2017-031B:

No. 1      **Dedication of land as rail trail**

Page 2, lines 16–18. Omit all words on those lines. Insert instead:

- (2)      The authorisation of the rail infrastructure owner under subclause (1) in relation to the disposal of the land concerned is limited to the land being dedicated under the Crown lands legislation as a rail trail for recreational use.

When the Legislation Review Committee looked at this bill it talked about certainty. I quote from Legislation Review Digest No. 36/56:

The Committee notes that the bill empowers the rail infrastructure owner to close the whole or any part of the railway line. It is not clear to the Committee whether the rail infrastructure owner may only close the railway line in order to achieve the objective of this Bill, being the development of a rail trail. The Committee draws this lack of certainty to the attention of Parliament.

In addition to those comments, the Opposition has other concerns about the potential to sell the rail corridor detailed in this bill. Members have spoken about the potential sale of the rail corridor and adjacent landholders being able to purchase their sections of it, but they should also consider the option of the rail corridor being sold in its entirety to someone else. That would result in a separate private owner owning the rail corridor through several properties. Labor contends that the corridor should remain in public hands and that it should be managed by community trust with similar arrangements to those in the Crown Lands Act. We are moving this amendment to tidy up the bill.

**Dr MEHREEN FARUQI (12:46):** I support Opposition amendment No. 1. This amendment would ensure that the owner of the land, which is currently publicly owned, could only dispose of the corridor by dedicating it under Crown lands legislation to be used as a rail trail for recreational use. The Greens will support this bill if this tight safeguard is agreed to. This kind of amendment sets an important precedent for protecting public land, especially as this is being touted as pilot legislation, when we are considering the appropriateness or otherwise of other rail trail proposals in the future. The Greens support the amendment.

**Reverend the Hon. FRED NILE (12:47):** The Christian Democratic Party supports Opposition amendment No. 1 and this legislation. I place on record our appreciation of the hard work of Lieutenant Colonel John Moore, the coordinator of rail trails in New South Wales for recreational use.

**The Hon. ROBERT BROWN (12:48):** The Shooters, Fishers and Farmers Party support Opposition amendment No. 1. We think it is essential for the bill to go through. I have a sense that the Government will not be opposing this amendment and that the bill will proceed to its third reading. I foreshadow that the Hon. Robert Borsak and I will be voting against the bill.

**Mr SCOT MacDONALD (12:48):** The Government does not support the amendment moved by the Opposition.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The Hon. Mick Veitch has moved Opposition amendment No. 1 on sheet C2107-031B. The question is that the amendment be agreed to.

**Amendment agreed to.**

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The question is that the bill as amended be agreed to.

**Motion agreed to.**

**Mr SCOT MacDONALD:** I move:

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

**Motion agreed to.**

### **Adoption of Report**

**Mr SCOT MacDONALD:** On behalf of the Hon. Don Harwin: I move:

That the report be adopted.

**Motion agreed to.**

### **Third Reading**

**Mr SCOT MacDONALD:** On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

**The House divided.**

Ayes .....37  
Noes .....2  
Majority.....35

AYES

Amato, Mr L

Blair, Mr N

Buckingham, Mr J



## AYES

Clarke, Mr D  
Donnelly, Mr G  
Field, Mr J  
Graham, Mr J  
Khan, Mr T

Mallard, Mr S  
Mookhey, Mr D  
Pearce, Mr G  
Primrose, Mr P  
Sharpe, Ms P  
Veitch, Mr M  
Wong, Mr E

Colless, Mr R  
Farlow, Mr S  
Franklin, Mr B (teller)  
Green, Mr P  
MacDonald, Mr S

Martin, Mr T  
Moselmane, Mr S  
Pearson, Mr M  
Searle, Mr A  
Shoebridge, Mr D  
Voltz, Ms L

Cusack, Ms C  
Faruqi, Dr M  
Gay, Mr D  
Harwin, Mr D  
Maclaren-Jones, Ms N  
(teller)  
Mitchell, Ms S  
Nile, Reverend F  
Phelps, Dr P  
Secord, Mr W  
Taylor, Ms B  
Walker, Ms D

## NOES

Borsak, Mr R (teller)

Brown, Mr R (teller)

**Motion agreed to.****TERRORISM LEGISLATION AMENDMENT (POLICE POWERS AND PAROLE) 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:** According to sessional order, I declare the bill to be an urgent bill.

**The PRESIDENT:** The question is that the bill be considered an urgent bill.

Ayes .....34  
Noes .....5  
Majority.....29

## AYES

Amato, Mr L  
Brown, Mr R  
Cusack, Ms C  
Franklin, Mr B (teller)  
Green, Mr P  
MacDonald, Mr S

Martin, Mr T  
Moselmane, Mr S  
Pearson, Mr M  
Searle, Mr A  
Taylor, Ms B  
Wong, Mr E

Blair, Mr N  
Clarke, Mr D  
Donnelly, Mr G  
Gay, Mr D  
Harwin, Mr D  
Maclaren-Jones, Ms N  
(teller)

Mitchell, Ms S  
Nile, Reverend F  
Phelps, Dr P  
Secord, Mr W  
Veitch, Mr M

Borsak, Mr R  
Colless, Mr R  
Farlow, Mr S  
Graham, Mr J  
Khan, Mr T  
Mallard, Mr S

Mookhey, Mr D  
Pearce, Mr G  
Primrose, Mr P  
Sharpe, Ms P  
Voltz, Ms L

## NOES

Buckingham, Mr J  
(teller)  
Shoebridge, Mr D  
(teller)

Faruqi, Dr M  
Walker, Ms D

Field, Mr J

**Declaration of urgency agreed to.**

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

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

**Motion agreed to.**

**The PRESIDENT:** I will now leave the chair. The House will resume at 2.30 p.m.

*Questions Without Notice*

#### **SYDNEY METRO WEST**

**The Hon. ADAM SEARLE (14:30):** My question is directed to the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts in all of those capacities. Given the Premier's announcement of the Northern Beaches Tunnel and the Western Metro before the recent by-elections, which project will be completed first? Why was there not a single dollar for the Western Metro in yesterday's budget?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:30):** I am happy to refer the question to the Premier to obtain an answer.

#### **ENERGY BILLS**

**Mr SCOT MacDONALD (14:30):** My question is addressed to the Minister for Energy and Utilities. Will the Minister update the House on what the Government is doing to assist families who are struggling to pay their gas and electricity bills?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:30):** Since I became Minister I have warned against the looming threat to our energy security and affordability due to a broken national market. As acknowledged by the Prime Minister and energy Minister in the Federal Government, there is too much uncertainty in national energy policy that is reducing investment and driving up prices. I am disappointed that households are under pressure due to national issues and that is why all members in this place need to come together with a sensible plan from the Finkel review. Nobody will be entirely happy with the plan. There will be elements each of us would prefer to be different but we cannot let the perfect be the enemy of the good. We need to take the politics out of energy and deliver pragmatic results, not slogans, ideology or scare campaigns.

The Government is taking steps to help customers in New South Wales with their energy bills. The Liberal-Nationals Government understands that many low income households need help. In 2017-18 the Government has allocated more than \$250 million to provide financial assistance to energy customers. This is a budget increase of more than 50 per cent from the 2010-11 year. We are well on the way to providing more than \$1 billion in assistance over four years. This year I focussed on those doing it toughest. The amount allocated for the Life Support Rebate has been increased again. This rebate directly supports customers who need to use approved medical equipment at home. This includes people using home dialysis and ventilators that are required to keep them alive.

At the same time we have increased the support available through the Energy Accounts Payment Assistance Scheme. This means help to keep the lights on and to maintain hot water for approximately 55,000 customers each year. The average amount of assistance from emergency vouchers can be between \$200 and \$250 per bill. Customers can get help from approximately 350 community groups across the State. As the Energy and Water Ombudsman has said, expanding this program is critical as it also helps connect those seeking emergency assistance on energy with other emergency assistance they may need. Our suite of rebates will continue to provide support to low income and vulnerable households. That includes the \$235 Low Income Household Rebate.

This Government introduced the Low Income Household Rebate and made it a higher payment than the rebate it replaced. Since then we have expanded the range of low-income and vulnerable customers who are eligible for the rebate. We are continuing to provide this help to low-income customers who rely on liquefied petroleum gas [LPG] for household needs, something that is particularly important in regional New South Wales. I am advised that approximately 900,000 low income households could receive some form of assistance with energy bills during this financial year. While network costs have fallen, national wholesale prices are up. There is no easy fix. It requires the hard work of reform, and we owe it to the people of the New South Wales to deliver.

#### **HOSPITAL PARKING FEES**

**The Hon. WALT SECORD (14:34):** My question is directed to the Minister for Resources. On 31 March the Premier, in response to an online hospital parking petition by 14-year-old blood disorder sufferer

Gidon Goodman, promised to cut parking charges on 1 July 2017 by up to \$200 a week for patients and their families. Why did the Premier not deliver on that promise in yesterday's budget?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:35):** That is a specific question of detail that I will refer to the Premier. Although the Hon. Walt Secord said the Premier made that commitment, I am not aware of it. I would prefer to refer the question to the Premier to obtain an answer that I will provide to the House.

**The Hon. Walt Secord:** Point of order: To assist the Minister I will provide the Premier's press release.

**The Hon. DON HARWIN:** That is not a point of order and the honourable member should know that.

**The PRESIDENT:** Order! I remind the Hon. Walt Secord that to the best of my recollection he is already on one call to order. All members will come to order. There is no point of order.

#### F6 FREEWAY

**Dr MEHREEN FARUQI (14:36):** I direct my question to the Minister for Resources, representing the Minister for the Environment. Was the decision of the Government not to proceed with nominating the Royal National Park for World Heritage Listing influenced by planning for the F6 which may include removing 60 hectares from Australia's oldest national park?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:37):** What an extraordinarily silly question. Nevertheless, I will ask the Minister for the Environment to provide the specific information and I will provide it to the honourable member at the earliest possible opportunity.

**The PRESIDENT:** Order! It is very difficult to give a member the call when members from all sides are talking.

#### STATE BUDGET

**The Hon. GREG PEARCE (14:37):** My question is addressed to the Minister for Primary Industries. Will the Minister update the House on the response to yesterday's budget?

**The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:38):** Good news—the 2017-18 budget leaves no stone unturned in our efforts to support world-leading businesses in New South Wales, businesses that are exporting or attracting international investment into this State. In this year's budget I announced a 57 per cent increase in funding for Study NSW. Since Study NSW was established, international student enrolments in New South Wales have increased by more than 10 per cent each year. This additional funding will allow them to build on their excellent work. I am also pleased to confirm the Government's re-commitment of \$10 million to support wider trade and investment activities, including our offshore network in our 10 priority markets and the network of export advisers across regional New South Wales.

The coming year's budget also provides \$10 million for industry development programs, including the establishment of Defence NSW, and work to develop the aerospace and defence precinct adjacent to the new Western Sydney airport. The NSW Business Chamber said yesterday that there is no better place in Australia to run or establish a business than in New South Wales. When the NSW Farmers Association welcomed record funding in our budget, they must have been talking about the \$182 million we have provided to Local Land Services and the extra \$20 million to support our biodiversity reforms. I said in the Chamber yesterday, that this year is the year Local Land Services will receive more funding and support than ever before; real cash, making this year, the year for Local Land Services.

But here we have a weak and lazy Opposition that said it took a bit of a look at the budget yesterday and did not find much for regional New South Wales at all. Someone did not read the budget papers properly. What about a \$23 million boost to Local Land Services funding to support land management, biodiversity and biosecurity reforms? What about our \$2 billion investment to grow the State's primary industries, and secure safe and reliable water supplies in our regions? What about our \$1.3 billion regional growth fund to deliver the infrastructure regional economies need to grow, with new and upgraded facilities that improve the quality of life?

What about \$4.8 billion to build new roads, rail and bridges in the bush, half a billion dollars for regional and rural hospitals and health facilities, \$100 million to build and upgrade arts and culture facilities across rural New South Wales, and \$40 million to promote jobs, support exporters and attract investment. What about our \$1.6 billion in tax cuts, that will ease costs for families looking to buy their first home and hand \$330 million in savings to 600,000 farmers and New South Wales small businesses?

Before the Labor Party's budget reply speech tomorrow, I will remind this House that ahead of the 2015 election, the Labor Party put regional New South Wales last. It planned to fund its metropolitan election promises by deferring \$5 billion in business tax cuts and slashing \$4.9 billion in funding we had already allocated to projects across regional New South Wales. In tomorrow's budget reply, I will expect the Labor Party to lay out a clear policy vision for supporting our regional communities. Tell us what you are going to do. Tell us what you are going to build, but, more importantly, tell us how you are going to pay for it, because you have stood in the way of this Government. It is your chance; the ball is in your court. Stand up and show us what you've got.

### LED STREETLIGHTING

**Mr JEREMY BUCKINGHAM (14:42):** My question without notice is directed to the Hon. Don Harwin in his role as Minister for Energy. Given the benefits in terms of reduced electricity consumption, why are only 7 per cent of New South Wales' street lights LEDs compared to 16 per cent in Victoria? What is the New South Wales Government doing to improve this and will the Government amend the NSW Public Lighting Code to make LED a default lighting type for all new installations or replacements?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:43):** It is a very good question and I thank the Hon. Jeremy Buckingham for his question. The matters that he refers to are of great interest to me. I particularly highlight to the Hon. Jeremy Buckingham the \$1.4 billion allocation that is in the budget for the Climate Change Fund and the draft plan to save energy and money that was released by the New South Wales Government last year. A range of actions to save energy was released for public comment at that point as part of the consultation on the draft plan to save energy and money. In fact, all of the consultations on the Climate Change Fund have concluded the specific issue. We want to change the street lights in New South Wales. Part of this involves updating the code and specific initiatives that are being finalised and will be announced soon.

**The Hon. Peter Primrose:** The budget was yesterday. It was part of the budget submission.

**The Hon. DON HARWIN:** I hear what the honourable member says and if he looked at the budget papers he would see that there is a \$1.4 billion allocation for the Climate Change Fund.

**The Hon. Peter Primrose:** You do not know the answer, do you?

**The Hon. DON HARWIN:** I absolutely do know the answer. I told the House that this is a matter that has been consulted upon specifically as part of our determination of what our final actions under the climate change will be. I also just told the House—in case the Hon. Peter Primrose did not hear—that consultations were being finalised at the moment. The Government will be considering it.

**The Hon. Peter Primrose:** The budget was yesterday.

**The Hon. DON HARWIN:** Just because there is an allocation—

**The Hon. Peter Primrose:** Yes, it is made up of things.

**The Hon. DON HARWIN:** That is exactly right, and the final composition of what that money will be spent on is being determined and will be announced shortly.

### PARLIAMENTARY DINING ROOM RESERVED SEATING

**The Hon. GREG DONNELLY (14:47):** I have a non-operational question.

**The PRESIDENT:** And I will give you a non-operational call when members come to order.

**The Hon. GREG DONNELLY:** My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts, and Leader of the Government. As the Minister and as Leader of the Government, will he detail which agency is carrying the additional cost incurred by his demand for a reserved seat in the parliamentary dining room and at official functions—even when he does not attend?

**The PRESIDENT:** Any aspect relating to the parliamentary dining room is under my jurisdiction and the question should be directed to me. I will allow the Minister to answer what part of the remaining question, if any, he wishes to answer. If he does not, I will rule the question out of order.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:48):** I have had a look at the question that was asked of me. In terms of what is being suggested, I have absolutely no idea what the honourable member is referring to. I have never demanded a reserved seat in the parliamentary dining room or at official functions during the period that I have held ministerial office. It is just a completely ridiculous allegation.

## STATE BUDGET AND ABORIGINAL COMMUNITIES

**The Hon. TREVOR KHAN (14:49):** My question is addressed to the Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Can the Minister update the House on how the New South Wales Government is investing in the State's Aboriginal communities as part of this year's budget?

**The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (14:49):** I thank the honourable member for his question. As part of the budget announced yesterday, I am proud that the New South Wales Government is investing \$49 million to enable further progress on a range of Aboriginal Affairs initiatives. Collectively, these initiatives demonstrate that this Government is determined to work hand-in-hand with Aboriginal communities to support our State's first peoples to achieve their aspirations for intergenerational healing, cultural revival and economic prosperity. This budget will ensure that Aboriginal communities remain at the heart of decision-making.

The first initiative is to support the implementation of the Stolen Generations Reparations Scheme. As part of a \$73 million package, the scheme offers ex gratia payments to survivors of up to \$75,000 for the act of removal or committal of Aboriginal children by the Aborigines Welfare Board, in recognition of the trauma and detriment caused. The scheme will remain operational for up to five years. Payments to persons who participated in the Stolen Generations group action, and who have already provided sufficient documentation of their removal, have already been fast-tracked. I can advise the House that a number of these payments have already been approved. It is anticipated that payments of more than \$7.3 million will be made in the 2016-17 financial year, before the scheme officially opens on 1 July. In addition, the package provides for a healing fund to address intergenerational trauma, as well as direct financial support for survivor groups.

The New South Wales Government is also continuing to invest in Opportunity, Choice, Healing, Responsibility, Empowerment [OCHRE], our community-focused plan for Aboriginal affairs. This plan was developed with input from more than 3,000 Aboriginal people and its implementation and evaluation continue to be driven by Aboriginal communities in New South Wales. Funding of \$4.5 million is distributed across multiple government agencies to support the major initiatives under OCHRE. OCHRE is groundbreaking; it was the first government policy in Australia to recognise the importance of healing. The plan also rejects traditional top-down, deficit approaches and embraces a strengths-based approach supporting government and communities to come together and work as partners. Not only have Aboriginal people been in the driver's seat of OCHRE's implementation but in another "first", Aboriginal people participating in OCHRE initiatives are being supported to drive the evaluation, including determining what success looks like.

The New South Wales Government is also investing \$1.3 million to deliver Local Decision Making—a formal process to support regional agreement-making between community and government, as well as industry-based agreements to support government and private sector collaboration. OCHRE also commits to promoting Aboriginal economic development and the Government's Growing NSW's First Economy sets clear targets to support Aboriginal people's participation in our State economy. Opportunity hubs are delivered through the Department of Industry, and Aboriginal language and culture nests through the Aboriginal education and community engagement within the Department of Education.

The 2017-18 State budget also supports the establishment of the Western Sydney Aboriginal Centre for Excellence, with a total investment of \$20 million. A consultation process was undertaken with the Aboriginal communities of Western Sydney and other relevant stakeholders in late 2015 and throughout 2016 to help shape and define the concept of the centre and to stimulate interest and support. The information gathered from the consultations was used to inform the development of the specifications for the centre's two-staged procurement process. A request for proposals closed in February this year. Since this time, Aboriginal Affairs has been working with a tender evaluation team to undertake a rigorous assessment of the submitted proposals to ensure that the successful provider will be the right fit for this unique and complex project. As the Minister for Aboriginal Affairs I am proud that this budget invests and supports our Aboriginal communities. In conclusion, I acknowledge Glen Crump from Moree who is seated in the gallery. He is very much a leader in his community and we are very happy to see him here.

## SHARK MANAGEMENT STRATEGY

**Mr JUSTIN FIELD (14:53):** I direct my question without notice to the Minister for Primary Industries. Given the Government's plans to rollout smart drum lines across the State, can the Minister inform the House whether the Government will consider replacing the existing netting program across the Sydney coastline with smart drum lines? If not, why not?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:54):** This Government has a strong record in making sure that our decisions on this issue are based on a number of solid principles. First, our decisions are based on the scientific advice of our experts in the Department of Primary Industries and, just as importantly, those decisions are made in consultation with those communities that will be affected by them. We have seen this particularly on the North Coast where this issue has been a challenge for that community and the way forward has proved to be divisive. The Government has made sure that the North Coast community has been taken along with us on that journey and that our decisions are based on science.

Secondly, we have made sure that we can fund the decisions that we make. We understand the implications of this and in this year's budget we have backed up those decisions. We are doing things in New South Wales to address shark interactions with beachgoers that are not being done anywhere else in the world. Going to the beach is part of the culture and way of life in this State. Indeed, it is one of the things that not only defines but also attracts local communities to coastal communities. It is also big business for those communities. People love going to these communities to enjoy our world-class beaches.

The Government understands all the things that need to be considered when we make decisions in this area, and that is what we have done. That is why New South Wales has invested in the smart drum lines. It was those on this side of the House who held the shark summit. We were the ones first informed about the smart drum line technology of the Reunion Island and we decided to invest in a trial of that technology in New South Wales. We then refined that technology for the types of species and conditions in this State. This Government has now added smart drum lines to the toolbox of measures to address this issue for all our communities. Mr Field is questioning the science behind this, which means that he is not looking at the results from the use of these smart drum lines. More sharks are being caught and tagged. We are then tracking their movements to enable us to make informed decisions about where they are and the patterns—

**Mr Justin Field:** Point of order. My point of order relates to relevance. My question was specifically about the shark meshing program on the Sydney coastline. The Minister has not mentioned that program once in his answer.

**The PRESIDENT:** Order! The Minister was being generally relevant. The Minister has the call.

**The Hon. NIALL BLAIR:** We govern for the entire 2,000 kilometres of coastline in this State and make our decisions based on the science. We will continue to take the community along with us. What does the member want us to do? Does he want us to put in the same drum lines they have in Queensland? The meshing program has been in place between Newcastle and Wollongong since the 1930s, but we are not resting on that. We are introducing new technologies and a new way of thinking. I repeat, we will continue to take the community along with us. We are doing everything that we can do in this space.

#### MAYOR OF WAVERLEY

**The Hon. PENNY SHARPE (14:58):** My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Given the Minister told a parliamentary inquiry into museums and galleries on 6 June in relation to Waverley mayor Sally Betts that "I think Sally was a former employee of mine. I would not describe Sally as a close friend", what is the Minister's response to her official online biography that states that she worked for the Minister for six years. Why is the Minister now distancing himself from the mayor?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:00):** I am astounded that the day after the budget being handed down I am asked a question about Sally Betts, for goodness sake. There is no inconsistency between what I said at the inquiry and what is online. She is a former employee; she worked for me for six years. It is entirely consistent.

#### REGIONAL CULTURAL FUND

**The Hon. LOU AMATO (14:59):** My question is addressed to the Minister for the Arts. Will the Minister update the House on the Regional Cultural Fund and how this fund will support arts and culture in regional New South Wales?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:00):** Of course, the truth as to why we are not getting any questions on the budget from the Opposition today is—

**The Hon. Trevor Khan:** They haven't read it.

**The Hon. DON HARWIN:** That may well be so, they may not have read it. But we are not getting any questions on the budget because there is so much good news, and this is one item in the budget for which there is excellent news. I pay tribute in particular to the Deputy Premier and Minister for Regional New South Wales who is responsible for some truly fantastic outcomes in this budget, and I give him the credit for the Regional Cultural Fund. This fund is a great initiative. Mr David Shoebridge is not in the Chamber, but at the inquiry that the Hon. Penny Sharpe just referred to he asked me what was being done to support small regional galleries and museums that need upgrades. I was sorely tempted but could not, given budget protocols, blurt it out then. I absolutely will now.

The Regional Cultural Fund represents the largest-ever investment in arts and culture in the history of regional New South Wales. Regional New South Wales is the largest and most significant regional economy of any Australian State. Its diverse communities make up one-third of the State's population. Australia's most extensive network of art galleries and public libraries, and many dynamic performing arts and screen organisations, are located in regional New South Wales because art and culture are at the heart of every regional community. We all know that many local organisations run on the time and passion of generous volunteers in facilities that struggle to meet the expectations of their community. That is why I am so very pleased to advise, through the new Regional Cultural Fund, that the New South Wales Government is investing \$100 million into regional towns and cities to develop new and existing arts and culture projects.

The Regional Cultural Fund will help to attract major cultural productions to regional New South Wales by investing in projects that often miss out on funding which goes to metropolitan areas. The fund is an important initiative to ensure the State's towns, villages and smaller cities remain exciting and vibrant places to live, work and visit by increasing the reach of arts and culture. The Regional Cultural Fund will invest in new arts and cultural facilities and can be used to upgrade existing spaces including galleries, performance spaces, libraries, museums and halls. As well as building and refurbishing facilities, the fund can be used to support projects that take exhibitions on tour and provide easy viewing access, no matter where people live.

This commitment recognises the social and economic contribution these organisations make by investing real money in improving their infrastructure and future viability. The Regional Cultural Fund will help facilitate bold and exciting arts and cultural experiences that reflect the rich diversity of New South Wales, ensuring that communities across the State remain exciting and vibrant places to live, work and visit. The Regional Cultural Fund will be provided in four categories, ensuring all projects, big and small, will have an opportunity to secure funding, from small-scale projects of up to \$60,000 to a large-scale grant of between \$1 million and \$5 million. It is an exciting initiative which has tremendous support and I congratulate the Minister for Regional New South Wales for supporting it.

### MUNIBUNG ROAD PROJECT

**The Hon. PAUL GREEN (15:04):** My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry, representing the Minister for Roads, Maritime and Freight. The Munibung Road project has recently been brought to my attention. It will provide an important transport link between Glendale and Cardiff in the Lake Macquarie region. The Munibung Road project will deliver significant benefits to the community in terms of savings in travel time, improved road safety and economic uplift within the second-largest employment area in the Hunter. What is the New South Wales Government doing to ensure that this vital piece of infrastructure and the missing link will be built for the people of Lake Macquarie?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:05):** I thank the member for his question on something I know he is very interested in. I know that the member is a very strong advocate for regional roads. Just recently I had the opportunity, in between meetings and the busy schedule that I have looking after my ministerial portfolio, to get onto social media and I saw that the Hon. Paul Green had participated in a walk on a new section of road that had been opened on the South Coast—the Berry bypass. Although I do not normally get the opportunity to have some downtime like that, I was able to get onto social media and see that the member has a strong interest in regional roads.

Usually, the member's interest is confined to areas on the South Coast for which he is such a passionate advocate in this Chamber, particularly for the Shoalhaven. But we know that with the Hon. Paul Green it is not all about the Shoalhaven, and this is a question in relation to roads in the Hunter area. He has directed the question to my ministerial colleague in the other House and I know that she too, after delivering a fantastic budget for roads, is absolutely committed to regional roads. She has large shoes to fill because we know the No. 1 champion for regional roads has been the Hon. Duncan Gay.

**The Hon. Lynda Voltz:** Point of order: We are two minutes into the Minister's response to I do not know what. The question was specifically about a road in Lake Macquarie and the Minister has not once referred to the road in question.

**The PRESIDENT:** Order! The Minister was being generally relevant up until about 10 seconds ago. I thought the Minister was going to come to the answer or take the question on notice. Does the Minister have any more to contribute?

**The Hon. NIAL BLAIR:** I had better take it on notice. I thank the member for his question. As I have outlined, he is very passionate about this issue, as too is the Minister, and I am sure that after taking this question on notice and referring it to the Minister she will have great interest in the question but will have just as much interest in the answer for the member. I will take the question on notice and I will refer it to the Minister for Roads for a detailed response in due course.

### REGIONAL ELECTRICITY PRICES

**The Hon. MICK VEITCH (15:08):** My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Given recently announced electricity price increases will result in significant cost increases for farmers, what specific assistance is the Government providing to New South Wales farmers and rural businesses whose livelihoods are affected by these dramatic electricity price increases?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:08):** I thank Hon. Mick Veitch for the question. The situation that is facing farmers is the same as that facing large and small businesses and households. The reason for rising electricity prices is the broken electricity market which is placing enormous pressure on wholesale prices. Due to the actions that this Government has taken network prices, as a proportion of bills in New South Wales, are falling. As a result of the actions that this Government has taken network prices are due to be lower in 2019 than they were in 2014.

**The Hon. Shayne Mallard:** Lower.

**The Hon. DON HARWIN:** I acknowledge that interjection. They will be lower in 2019 than they were in 2014. Wholesale electricity prices are a significant problem for farmers, large industrial users and small businesses. Until there is a sensible national plan that deals with the difficulties facing the national electricity market there will not be an adequate solution. There is nothing I have to add to previous answers I have given, except to say that I can assure the House that every day my focus is on how to achieve a sensible national plan. I am working with my Federal colleagues and speaking with the energy Ministers in other States. We are working towards a sensible national plan.

I welcome the fact that yesterday the Federal Government announced that the Liberal-Nationals joint parliamentary party has decided to accept 49 of the 50 recommendations of the Finkel review. That is a huge step forward. They have indicated that the fiftieth recommendation is under consideration. They will be talking to the Council of Australian Governments energy Ministers council to progress the fiftieth recommendation. We are moving towards achieving a sensible national plan that will deal with wholesale electricity prices. The importance of that has been conceded by the peak organisation of farmers, by every peak business organisation in the country, the Australian Council of Trade Unions, and consumer groups. Everyone is singing from the same song sheet. To achieve relief on wholesale electricity prices there must be a sensible national plan. The New South Wales Government is part of that process and is determined to achieve that goal.

### STATE BUDGET AND PRIMARY INDUSTRIES

**The Hon. BRONNIE TAYLOR (15:12):** I direct a question to the Minister for Primary Industries, and Minister for Lands and Water. Will the Minister inform the House how this week's budget will support a \$14 billion primary industry sector?

**The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:12):** I thank the honourable member for her question. I will take the House back in time to the 1920s. World War I had ended and the Australian people were eager to leave the hardships of the war behind them. Automobiles, wireless radios, toasters, washing machines and the new trend of modern day swimsuits were changing the way that people lived and interacted with each other. In 1923 tenders were called for the construction of an arch or cantilever bridge to join the City of Sydney with the North Shore.

Less than 10 years later the Sydney Harbour Bridge opened as the largest single span steel arch bridge in the world. It stands as an icon and reminds us of a time when decision makers were thinking ahead of their time. They were planning for the future. That is precisely what this Government has done with this budget. The 2017-18 budget delivers the primary industries a plan for now and into the future. We are committing funding for



projects such as: \$65 million for research and development agreements; \$34 million for the irrigated farm modernisation program, which may help reduce energy costs to the farmers; \$13 million to remove stamp duty on crop and stock insurance; \$6 million for the young farmer business project; and \$2 million for medicinal cannabis research.

This budget is about sustainable use and access to natural resources through investment, including: \$36 million for the basin pipe project; \$14 million for fisheries compliance and enforcement measures; and \$95,000 for new laboratory facilities at the Narrandera Fisheries Centre. The 2017-18 budget is about managing risks for natural resources, farming and food by investing \$36 million towards biosecurity measures, \$9 million towards shark mitigation, including the New South Wales shark management strategy, and \$4 million to ensure safe and responsible game hunting in New South Wales.

The budget reflects the Government's goal to increase the value of primary industries by 30 per cent by 2020. The future planning does not stop there. In a major win for primary producers stamp duties on crop and livestock insurance will be abolished, saving farmers \$12 million over the next four years. That is \$12 million that will remain in regional and rural areas. There is an unprecedented level of spending in regional New South Wales. This budget lays the foundations for growing the regions through upgraded hospitals, schools, roads and other vital services. The Broken Hill pipeline will have as great an impact on that city as the road and public transport projects happening here in Sydney. It will end the uncertainty around safe and secure water.

The regions have long deserved improved infrastructure and this Liberal-Nationals Government is delivering. It is a \$2 billion budget for primary industries and I cannot wait to see the benefits to rural and regional towns, to hardworking farmers and their families and the New South Wales economy. My colleagues will agree when I say, bring on this bright future, it is going to be one of a kind just like our bridge. This Government is thinking ahead, building for the future and our farmers deserve such a Government. That is what we have in New South Wales.

### GOODS AND SERVICES TAX

**Reverend the Hon. FRED NILE (15:17):** I ask a question of the Leader of the Government, representing the Premier. Is it a fact that the following goods and services tax amounts will flow out of New South Wales to other States this year: South Australia, \$1 billion; Queensland, \$1.5 billion; and Tasmania, \$600 million? That is a \$14.7 billion goods and services tax shortfall for New South Wales over four years. Because of the goods and services tax shortfall New South Wales is virtually paying the wages bill for the Queensland Labor Government's public service. Will the Minister inform the House what urgent action the Government is taking to ensure goods and services tax justice for New South Wales taxpayers, and what steps will the Government take in this regard?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:18):** Reverend the Hon. Fred Nile, as he often does, has well and truly done his research. He is right on the money. He is spot on. The figures that the member cited in his question describe the nature of the problem. It exactly outlines the problem New South Wales has. The member asks what the New South Wales Government is doing.

**The Hon. Dr Peter Phelps:** Secession.

**The Hon. DON HARWIN:** It has often been said that federation was a conspiracy against New South Wales. I think that the interjection by the Hon. Dr Peter Phelps to secede is extreme.

**The Hon. Lynda Voltz:** Point of order: While I appreciate the Minister and the Hon. Dr Phelps would like to have a conversation, the Minister should address his remarks through the chair.

**The PRESIDENT:** Order! I uphold the point of order. A member speaking does not have to look at the Chair but at the very least the member should address the Chair.

**The Hon. DON HARWIN:** I apologise if I gave the impression that I was not addressing the Chair. The New South Wales Government certainly welcomes the fact that a Productivity Commission review is underway into how the goods and services tax is distributed amongst the States. This is an important first step in rectifying a goods and services tax regime that weakens incentives for productive reforms and penalises States that deliver more efficient service delivery. New South Wales has long argued that the current system of horizontal fiscal equalisation is flawed. Among its problems is that it is complex and non-transparent, backward-looking, produces unpredictable and volatile outcomes, promises false precision in equalisation, provides untied funding for serious disabilities, and blunts incentives for reform. New South Wales will engage in a robust discussion for a better and fairer approach to goods and services tax distribution.

Due to its relative economic strength, New South Wales is facing a period of falling horizontal fiscal equalisation relativities and flat goods and services tax revenue growth. The latest forecast GST revenue is \$71 billion for the four years to 2020-21. This was based on relativities of 0.88 in 2017-18, falling to 0.79 in 2020-21. If goods and services tax were distributed on a consumption share, New South Wales would receive an extra \$19.1 billion in goods and services tax revenue over the forward estimates. If goods and services tax were distributed on an equal per capita basis, New South Wales would have an extra \$14.7 billion in goods and services tax revenue over the forward estimates, which is why many people feel that not only is this Government having to fix the problems of the former Labor New South Wales Government; it is also having to fix the problems of Labor governments in Queensland and South Australia.

### TELEGRAPH POINT CHILDREN'S CENTRE

**The Hon. JOHN GRAHAM (15:22):** My question without notice is directed to the Minister for Early Childhood Education, and Assistant Minister for Education. Given that the Telegraph Point Children's Centre is due to close this Friday, why did the Minister's Government not put the centre out to tender when the current tenant advised it was not going to renew its lease six months ago and what is her advice to families who have no local child care options?

**The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:23):** I thank the Hon. John Graham for his question. I am aware of the Telegraph Point Children's Centre closure. I inform the House that the Telegraph Point Children's Centre operates on the grounds of the Telegraph Point Public School. Due to contractual and compliance issues, the current provider of the centre is not able to continue to operate it. The existing lease between the Department of Education and Jaaiwood Pty Limited expires on 23 June 2017. The service provider did not exercise the option to renew its lease under the terms of the contract but has asked for the lease to be transferred to a new provider. Under Government procurement guidelines, any new preschool service on the school site would need to be tendered. The Department of Education is not able to retender the service until the current provider has confirmed its intentions concerning the building, which is its property.

Once the current approved provider advises its intention regarding the building, the Department of Education will immediately move to tender the early childhood education site at the Telegraph Point school to find a suitable operator. The Department of Education has and will continue to engage with the local community to identify suitable short- and long-term options for local families. This Government takes the health, safety and wellbeing of children seriously and this must always be of paramount concern. A new provider will need to meet the requirements of the national law and regulations, including the enhanced approval process for becoming an approved provider. I recommend that any families who are impacted by the closure of this service contact the Department of Education for assistance in identifying alternative early childhood education services.

### STATE BUDGET AND EDUCATION INFRASTRUCTURE

**The Hon. CATHERINE CUSACK (15:25):** My question 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 historic funds to build vital school infrastructure in regional New South Wales as part of the 2017-18 budget and other measures?

**The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:27):** On Monday I had the great pleasure of joining Deputy Premier John Barilaro at Queanbeyan East Public School to announce that regional New South Wales will have its share of a historic \$4.2 billion State Government investment to upgrade and build new schools as part of the 2017-18 State budget over the next four years. Country kids deserve the best education and this investment is a turning point in how we deliver the high-quality learning facilities our children deserve. From Queanbeyan to Old Bar to Terrigal, this Government is investing in education infrastructure because regional New South Wales deserves nothing less. We can see the infrastructure and economic boom across this State. This historic investment in education capitalises on that and delivers back to families in regional New South Wales.

It is vital that we prepare for the huge influx of students expected in our schools over the next decade. New schools will be built at Warnervale and in the Tweed region, and a range of upgrades will go ahead. More than 36 existing schools over the next four years will have increased capacity and provide improved environments for learning and teaching, including at Wauchope Public School and Yass High School. This is not only an investment in bricks and mortar; it is also an investment in the next generation and the generations to come. Construction on new or upgraded schools worth \$2.2 billion will commence during 2017-18 and 2018-19 as part of the Government's total \$4.2 billion investment in new schools and existing capital school works over the next four years. New South Wales government schools face soaring enrolments in the years ahead, with a 21 per cent

increase by 2031, which amounts to approximately 164,000 new students. This budget measure will go a long way to addressing the issue of increased enrolments.

The Hon. Catherine Cusack also asked about other measures in the budget. I am pleased to provide information to the House about the Connected Communities strategy, which is also supported in this budget. It aims to address the educational and social needs and aspirations of Aboriginal and young people in 15 schools in 11 of the most complex and vulnerable communities in New South Wales. It ensures that the needs of those students are met from the early years through to further learning and employment by actively engaging with parents, the community and agencies. Personalised learning pathways for each Aboriginal student aims to lift literacy and numeracy levels, improve attendance, integrate cultural and language learning, and assists them in realising their aspirations.

The Connected Communities healing and wellbeing model aims to address trauma-related issues in rural and remote Aboriginal communities. Under this budget, the New South Wales Government will also continue to collaborate with the Clontarf Foundation to implement its mentoring program that supports Aboriginal male secondary students at risk of not attending school to re-engage and complete year 12 and plan their future pathways. Similarly, the Girls Academy program, which is also aimed at providing mentoring services for Aboriginal female students at risk of disengaging from school, has been allocated up to \$6 million between 2017 and 2019.

This Government is also continuing to provide a range of teacher incentives and retention strategies to attract and retain teachers in all areas of the State, including regional locations. Scholarships, cadetships and internships are specifically available to attract talented teachers in rural locations. Each scholarship provides a \$6,000 study grant per academic year of study for a maximum of five years, a \$5,000 study completion grant, and a guaranteed permanent teaching position in a rural or remote location on completion of university studies.

I am proud that this budget will continue to contribute to the development of positive educational outcomes for students in schools across this State. Students and parents across New South Wales deserve this kind of support.

**The Hon. DON HARWIN:** If members have further questions I invite them to place them on notice.

#### **SYDNEY METRO WEST**

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:29):** Earlier in question time the Hon. Adam Searle asked me a question about the Sydney Metro West project. I am happy to provide that answer now. Sydney is experiencing an unrivalled public transport boom. The additional of a metro line in Western Sydney will transform the way in which we get around our city forever. The Sydney Metro West will provide a direct connection between the central business districts of Parramatta and Sydney, serving growing communities along the route and a booming region for generations to come. The Government is pleased to announce that industry consultation on this game-changing project will begin next week. This is the first step. We have identified the need for the project, we are committing the Government to delivering it and today we are beginning the work to bring metro rail to Western Sydney.

#### *Documents*

#### **DEPARTMENT OF PREMIER AND CABINET**

#### **Reports**

**The Hon. SCOTT FARLOW:** According to the Lobbying of Government Officials Act 2011, I table a report, entitled "Statutory Review of the Lobbying of Government Officials Act 2011", dated June 2012.

I move:

That the report be printed.

**Motion agreed to.**

#### *Bills*

#### **TERRORISM LEGISLATION AMENDMENT (POLICE POWERS AND PAROLE) BILL 2017**

#### **Second Reading**

**The Hon. DAVID CLARKE (15:31):** On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

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

**Leave granted.**

Australia will never forget the tragedy that unfolded in Martin Place on 15 and 16 December 2014. The Lindt Cafe siege brought the evil and violence of terrorism to the heart of Sydney, just minutes from this Chamber. Tragically, when the siege ended, only 16 of the 18 hostages had escaped alive. We continue to mourn the loss of Tori Johnson and Katrina Dawson—Australians with friends and families who loved them, and full lives ahead of them. The hostages had their lives scarred for no other reason than they happened to be there at that time, on that day. In circumstances that most of us can barely imagine, they showed incredible resolve and bravery.

We again pay tribute to the courage of the police who responded to a complex, difficult situation. The officers that day went in not knowing whether they would come home alive. Their actions reinforce our determination to equip the Police Commissioner with the powers he or she needs to combat terrorism. The events of Lindt siege are foremost in our mind today. And so too are the attacks in Melbourne and around the world over the past 12 months—London, Manchester, Orlando, Istanbul, and many more. Just in the past few days, planned attacks in Paris and Brussels have been stopped by brave police action. What we have seen again and again is that terrorists are evolving their methods—becoming bolder and more self-sufficient. These global events are powerful reminders that we can never be complacent in Australia. As a Government, the safety and security of the community is always our highest priority. And with this bill, we ensure that New South Wales will continue to have not just the strongest counterterrorism laws in Australia, but some of the strongest laws anywhere in the world.

First and foremost, this bill responds to the key recommendations of the State Coroner's report on the Lindt Cafe siege, released on 24 May 2017. As members would recall, on 8 June 2017, we announced that the Government had accepted and supported all 45 of the Coroner's recommendations. We also committed to immediately legislate to provide certainty to New South Wales police when required to use force—including lethal force—during terrorist incidents. While police do have existing powers to use force where the public is in danger, the Coroner's report found that there was some doubt among officers about the legal position they were in during the Lindt Cafe siege. To remove that uncertainty, the bill allows the Commissioner of Police to authorise the use of force, including lethal force, that is reasonably necessary to defend anyone threatened by a terrorist incident—or to secure the release of hostages, where planned and coordinated police action is required. Police officers who use force in these circumstances will not incur criminal liability where they act in good faith.

The bill does not affect existing police powers to respond to emergency situations or to apprehend offenders. In addition to amending the law on use of force, this bill also further strengthens parole laws in New South Wales—by creating a presumption against parole for anyone with demonstrated support for, or links to, terrorism. That presumption will apply to offenders with links to terrorism irrespective of the offence for which they are in custody. These changes build on the Government's announcement in May 2017 that radicalisation would now be considered as part of parole decisions in New South Wales. And it was the leadership of New South Wales on this issue that was recognised at the recent Council of Australian Governments meeting in Hobart, where first Ministers agreed to adopt our approach as part of a coordinated national response. It is a reminder that when it comes to policing and security, New South Wales is setting the standard for Australia. And it is a standard we intend to maintain. Since the Lindt Cafe siege, the Government and the NSW Police Force have taken comprehensive action to respond to the changing security environment, moving to strengthen the legal frameworks behind counterterrorism — including tightening bail laws and reforming firearms regulation. This legislation is the next step in that ongoing response.

I now turn to the detail of the bill. The bill before the House seeks to amend the Terrorism (Police Powers) Act 2002 and the Crimes (Administration of Sentences) Act 1999. The Terrorism (Police Powers) Act 2002 affords the NSW Police Force special powers to manage terrorism threats as they emerge. As it stands, the legislation permits certain special powers to be conferred on police to prevent a terrorist attack, and other powers to be enlivened for the purposes of an investigation in the immediate aftermath of an attack. The bill clarifies the ability of police officers to use force, including lethal force, in terrorist situations. The amendments to the Terrorism (Police Powers) Act 2002 are set out in schedule 1 to the bill. Clause 1 in schedule 1 inserts a new part 2AAA into the Act. The new section 24A makes provision for the Commissioner of Police to make a declaration where satisfied that an incident police are responding to is, or is likely to be, a terrorist act and where planned and coordinated police action is required to defend people threatened by the terrorist act, or to terminate their unlawful deprivation of liberty.

New section 24A also establishes the procedures by which the powers are to be activated. It requires that the Commissioner notify the police officer in charge of the officers responding that a declaration has been made. The Commissioner must also notify the Minister for Police, before or as soon as practicable after, a declaration is made. Where the Commissioner is not available, a Deputy Commissioner can make a declaration. The Commissioner must revoke the declaration if no further police response is required at the location of concern. Clause 1 also inserts a new provision, section 24B, relating to the use of force by those police responding to a terrorist act that has been declared by the Commissioner. Where a declaration is made, the police action that is authorised in responding to the terrorist act is the authorisation, direction or use of force, including lethal force, that is reasonably necessary, in the circumstances as the police officer perceives them, to defend persons threatened by the incident or to prevent or terminate their unlawful deprivation of liberty.

Police officers taking that action will not incur criminal liability where they act for the purposes of a police action plan and in good faith. It should be noted that police officers that act in good faith in reliance on the Commissioner's declaration are also to be protected from criminal liability even if that declaration is later found to have been invalid or is revoked in circumstances where the officer, acting reasonably, is unaware of the revocation. As I stated previously, the bill does not affect existing police powers to respond to emergency situations or to apprehend offenders. The parole changes amend the Crimes (Administration of Sentences) Act 1999 to insert a new division 3A in part 6 of the Act, and are set out in schedule 2 to the bill.

The new section 159B establishes that the new provisions apply to offenders with links to terrorism or violent extremism. This includes those serving a sentence for terrorism offences and those who have previously been convicted of, or charged with, terrorism offences. It also extends to offenders subject to a control order made under part 5.3 of the Commonwealth Criminal Code, being those who have advocated or supported terrorist acts, and those who have associations or affiliations with supporters of terrorist acts or violent extremism.

Under new section 159C, the State Parole Authority must not make a parole order for a terrorism offender unless satisfied that the offender will not engage in, or incite or assist others to engage in, terrorist acts or violent extremism. In making such a determination, new section 159D, requires the parole authority to: have regard to any credible information it has on the risk that the offender may engage in, or incite or assist others to engage in, terrorist acts or violent extremism under the terms of the proposed parole order and in the future, and have regard in particular to whether the nature of any associations or affiliation that the offender has with any persons or groups advocating support for terrorist acts or violent extremism gives rise to any such risk.

The amendments also introduce new powers to revoke or suspend parole orders for terrorism offenders if the State Parole Authority becomes aware that the offender may engage in, or incite or assist others to engage in, terrorist acts or violent extremism. By clarifying the powers available to the Police Commissioner to use lethal force when responding to terrorist acts, and strengthening parole laws to keep potential terrorists off the street, this bill protects communities across our State. With these new measures, New South Wales will have the strongest counter terror laws in Australia, and some of the strongest anywhere in the world. I commend the bill to the House.

**The Hon. LYNDA VOLTZ (15:32):** I support the Terrorism Legislation Amendment (Police Powers and Parole) Bill 2017, which aims to provide the appropriate safeguards for New South Wales police officers who may be required to act in the event of a terrorist incident. Further, the bill will provide the necessary provisions with regards to parole conditions for a terrorist or terrorist suspect to ensure the safety of our community. I note from the outset that this legislation has been brought to this House with a little over 12 hours notice; however, the intent of the bill stems from Council of Australian Governments discussions and an agreed upon approach from Ministers throughout the Commonwealth. It is disappointing that the Government has waited until the last minute to drop this bill on the table. The appropriate information concerning the legislation has not been disseminated to all members in a timely manner to allow for a thorough understanding of this bill or for appropriate discussions to occur.

Our hardworking and dedicated police officers deserve nothing short of our utmost support and respect. Members on this side of the House stand behind our brave police officers and will support them in every endeavour to ensure that they have the legislation to do their job. Legislation that will enable our police to successfully and confidently protect the public during a terrorist incident is legislation we need to stand behind. The inception of this legislation will clarify the ability of police officers to use force, including lethal force, during a terrorist incident. This force, however, is subject to the Commissioner of Police making a declaration. The declaration can be made in the event that an incident which police are responding to is, or is likely to be, a terrorist act and where planned and coordinated police action is required to defend the safety of the public or to secure the release of hostages. Should the commissioner be unavailable, a deputy commissioner will have the authority to make the declaration. In the event a declaration is made, the Minister for Police and the police officer in charge of the responding police officers must be notified as soon as practicable.

The Government has advised that this content has been shaped following recommendations set out in the Lindt Cafe siege inquest. Following a declaration by the police commissioner, an action plan must subsequently be developed which sets out the aims and objectives for the officers. Once this is in place, a police officer responding to an incident will have the appropriate legal protections in the event they must discharge their firearm while neutralising a terrorist threat. In responding to a terrorist incident, the police officer may authorise, direct and use force, including lethal force, that is reasonably necessary if the police officer perceives there to be a need while defending people or when securing the release of hostages. These safeguards will essentially protect our police from unfair persecution in the event of a terrorist incident when they are simply trying to save lives of innocent members of the public.

Police officers who are taking action will not incur criminal liability where they act in good faith in accordance with the planned and coordinated police action plan which has been set out. The proposed changes will have no impact on existing police powers when responding to emergency situations. This legislation will also amend parole laws by introducing a presumption against parole for terrorism-related offenders. Further, this will cover people who are serving a sentence for a terrorism offence, who are the subject of a terrorism control order under the Commonwealth Criminal Code, who have made statements or carried out activities advocating support for terrorist acts or violent extremism and/or who have associations or affiliations with persons or groups who support terrorist acts or violent extremism.

This bill provides that the State Parole Authority must not make a parole order for a terrorism offender unless satisfied that the offender will not engage in, or incite or assist others to engage in terrorist acts of violent extremism. New powers have also been introduced to revoke or suspend parole orders for terrorism offenders if the authority is made aware that the offender may engage in the aforementioned activities. The Government has indicated that the scope and intention of this provision is to protect the State against individuals with real links and ties to terrorism-related groups, individuals or activities. There is no intent to target individuals who, through no involvement of their own, unfortunately have a brother or cousin who has links to any such terrorism groups or activities as these bonds are impossible to break.

Legislation that provides our police with the clarity and safeguards they need to do their jobs and protect our community during a terrorist incident is long overdue. I find it hard to believe that anyone would wish a police officer to be prosecuted for giving their all to protect the public when responding to a terrorism-related incident. If the Government does not amend this bill today I hope it will later consider the anonymity of police officers called before tribunals such as the Coroner's tribunal. That important protection should be included in this legislation to ensure that police who may have been involved in taking action during a terrorist incident are not

identified. That principle is applied in other nations. Members may have noticed that during terrorist incidents overseas police often wear masks. That is important because of the nature of the threat they face and because police are often the targets of terrorist incidents. I seek clarification from the Government in regards to that matter. The Opposition supports this bill because it reinforces existing legislation in this State. This Parliament has spent time dealing with terrorism legislation in the past. In light of the Lindt Cafe siege, this bill will clarify the powers of the police and when they can take action. It also clarifies the protections police officers have when they take those actions. I commend the bill to the House.

**The Hon. PAUL GREEN (15:39):** On behalf of the Christian Democratic Party I make a short contribution to debate on the Terrorism Legislation Amendment (Police Powers and Parole) Bill 2017. In the wake of the London Bridge attacks on 4 June 2017, British Prime Minister Theresa May, stated:

As terrorism breeds terrorism and perpetrators are inspired to attack, not only on the basis of carefully constructed plots after years of planning and training, and not even as lone attackers radicalised online, but by copying one another and often using the crudest of means of attack. We cannot and must not pretend that things can continue as they are. Things need to change.

Today we are making a change to allow our police to use force, including lethal force, during a terrorist attack and to increase powers to the State Parole Authority to ensure a terrorism offender is not released or paroled unless satisfied they will not engage in, incite, or assist others to engage in terrorist acts. The Christian Democratic Party recognises the significant growing reality of terrorism and ideological extremism worldwide. We do not promote, condone or excuse present or future threats to our national security or the operation of our country. It is essential to allow the Commissioner of Police to make a declaration that an incident police are responding to is, or is likely to be, a terrorist act in order to defend people threatened by that incident.

It is equally important to ensure the State Parole Authority not make a parole order for a terrorism offender unless satisfied that the offender will not engage in, incite or assist others to engage in terrorist acts or violent extremism. Whilst I understand protocol and best practice, it seems unreasonable to not let a police officer act in their best judgement to protect people. We should never underestimate threats and should make it our top priority to empower our police force to protect us, not prevent them from doing so. It is timely to recall the Australian citizenship pledge, which states:

From this time forward, under God, I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect, and whose laws I will uphold and obey.

It is important for all citizens to understand our responsibilities and what it means to be a citizen, whether we are Australian by birth, by choice or by circumstance. It is a critical part of building our nation. In New South Wales, Australia and worldwide the threat of terrorism has become a terrible fact of life that we must do all in our power to counter. In the past, we have given those who might be a threat to our country the benefit of the doubt. This legislation is about assessing the threat and dealing with it responsibly. It is long overdue and we emphatically support the bill.

As I have said time and again, long after we have gone to bed those people in blue are looking after us and our neighbourhoods so that we can stay safe and sleep soundly. They risk their lives day in, day out and their safety is further compromised by the threat of terrorism. I put on record the view of the Christian Democratic Party that it is often when people sit back in their comfortable chairs and critique serious events after the fact to judge what went right or wrong. It is good to evaluate matters, but our police have to make crucial calls with sometimes only half the information necessary to work out where situations are headed. We must get behind our police. We must be 100 per cent behind them. There must be no part of this legislation that does not protect their actions and intel and value their contributions in dealing with terrorist acts. We want them to go home safe to their families just as we expect to go home to ours. In my view we must support this bill unanimously. I commend the bill to the House.

**Mr DAVID SHOEBRIDGE (15:44):** On behalf of The Greens I oppose the Terrorism Legislation Amendment (Police Powers and Parole) Bill 2017. This is the so-called "shoot to kill" bill that the Government has introduced and that will clearly receive the support of both the Labor Party and the conservative crossbench. The Greens are not willing to surrender to the politics of fear and simply sign on to additional police powers in view of two things. The first is these laws are not required. The police already have more than adequate powers to deal with terrorism-related offences under the general law. Secondly, we oppose these laws because we oppose the politics of fear.

Sydney, New South Wales, Australia is one of the safest, most secure and successful multicultural societies on the planet. We are not made safer by the politics of fear, by engendering division or by providing powers to our police force powers that are not consistent with the open, tolerant and liberal society that The Greens believe Australia is and should remain. The bill proposes to do two things. The first is to amend the Terrorism (Police Powers) Act 2002 to provide the shoot to kill powers. In the words of the explanatory memorandum:

It amends the Terrorism (Police Powers) Act 2002 to enable the Commissioner of Police to declare an incident to which police officers are responding to be a terrorist act requiring planned and coordinated police action, and thereby authorise the use of force (including lethal force) that is reasonably necessary to defend any persons threatened by the terrorist act or to prevent or terminate their unlawful deprivation of liberty.

What the bill in fact does is allow the Commissioner of Police to declare an incident a terrorist act and it then provide that any force, lethal or otherwise, that is used by the police in accordance with what is said in the bill to be a police plan—although that is an undefined term—for any force whether lethal or otherwise cannot be the subject of any criminal action against the police. Once the commissioner makes the declaration, any action that is consistent with a police plan and that kills a person—regardless of whether they are a terrorist, hostage or innocent bystander—will result in no criminal liability lying with the police.

This bill also amends the Crimes (Administration of Sentences) Act to provide that terrorism-related offenders—and that has an extraordinarily broad definition in this bill—are not to be released on parole unless the parole authority is satisfied of a negative. That is, the parole authority is satisfied that the offender will not engage in, incite or assist others to engage in terrorist acts or violent extremism. The changes to the parole laws are misconceived. First, their coverage is too wide. Secondly, in a number of critical cases they will work against what I think is the Government's intention—that is, ensuring community safety—because they will prohibit the parole authority from releasing certain offenders into the community on detailed and extended supervision orders. Offenders will only be able to be released at the end of their sentence and will not be subject to the ongoing requirements of parole. That will not necessarily make New South Wales safer. We know that this bill has come about as a result of the Coroner's report on the Lindt siege.

Members of this Parliament and many members of the community followed with great interest the coronial inquiry into the Lindt cafe siege. No doubt many who watched the two *4Corners* episodes were deeply distressed by what they saw. We were distressed because people who were taken hostage in an appalling terrorist situation lost their lives because of the actions of a terrorist seeking to advance a political cause who did not care what he did to those around him. They were shameful acts. But many people were also concerned about the nature of the police response. First of all, I indicate that those police who went in on that night have an extremely hard job. They did not know what they were going to face when they entered the café but potentially they were going to face an individual with a bomb. We know that he had a gun and earlier he had clearly shown the intent to kill. It was a deeply frightening situation and those police officers acted with extraordinary courage and bravery. However, they were not helped by their training or by the command and control systems in place that day.

On any view, there is a lot of work to be done in the New South Wales Police Force to ensure that future events are handled in a much better way. The Greens, like the New South Wales Government, endorse the State Coroner's recommendations. However, the Coroner did not say that New South Wales needs shoot-to-kill powers; he said that the police snipers and those other frontline officers had not been adequately trained in the law as it currently applies to the use of lethal force. He said it was the view of those officers that they could not use lethal force unless there was a short-term, imminent threat to someone's life or safety. But that is not the way the law has operated in the use of reasonable force to protect somebody else from either death or serious injury. The threat does not have to be imminent but it must be real, and the force that is used in response to that real threat must be reasonable and proportionate. The fact that the police at the scene had not been adequately trained in the existing law is a fundamental failure not of the law, but of the police hierarchy and the training given to those individuals of the New South Wales Police Force who were sent to respond to that terrorism incident.

The law in New South Wales already says that police can use lethal force if such force is reasonable and necessary to protect lives or prevent injury to others—that applies to terrorism, domestic violence and other criminal incidents across the spectrum in this State. We know that is the law because on many occasions police in this State have used lethal force and, in the past where lethal force has been used in New South Wales, police have had to justify the use of that lethal force in a coronial investigation as being reasonable and proportionate in the circumstances. Often they also need to justify it in a criminal incident investigation, although I note that those critical incident investigations are normally investigations where police investigate themselves. Under these laws there will no longer be a need for police to justify the use of lethal force because they will be exonerated from any criminal liability regardless of whether or not the response would otherwise under the general law be seen as reasonable and proportionate. The key provision in the bill is new section 24B in the appallingly named part 2AAA, police use of force—ongoing terrorists acts. New section 24B states:

- (1) The police action that is authorised by this section when police officers respond to any incident that is declared to be a terrorist act to which this Part applies is authorising, directing or using force (including lethal force) that is reasonably necessary, in the circumstances as the police officer perceives them, to defend any persons threatened by the terrorist act or to prevent or terminate their unlawful deprivation of liberty.
- (2) A police officer does not incur any criminal liability for taking any such police action for the purposes of a police action plan of the police officer in charge of the police officers responding to the terrorist act.

What does that say? It says that once the Commissioner of Police or Deputy Commissioner of Police declares that an incident is a terrorist act—and that declaration happens under new section 24A—the police are authorised to use force, including lethal force. Whatever force the police believe is reasonably necessary in the circumstances provided that it is consistent with a police plan and any criminal liability for the use of that force disappears. Police have no criminal liability for the use of that force. Two things need to be said about that. First, that authorises police to use lethal force not only against the alleged terrorist but also against anybody at the incident. The Greens do not understand why the drafters of the bill decided to expand the use of "lethal force" to not only the terrorist but also the hostages and other persons at a terrorist incident.

We do not understand the rationale of the drafters of this bill in deciding that lethal force can be used against anybody provided that it is consistent with a police plan and that it will not incur any criminal liability. Effectively these shoot-to-kill powers do not relate solely to a terrorist; police are authorised to allow shoot-to-kill powers to be used against anybody at a terrorist incident. Now there may be circumstances where police believe that certain individuals apart from a terrorist need to have their lives seriously threatened or imperilled in a police operation to save the greater good, but why remove any potential criminal liability in this blanket way? Before police have criminal liability removed for the potential killing of people other than terrorists—hostages and the like—why not require police to justify their actions under the existing law? Why not rely upon the current law that requires the force to be reasonable and proportionate and related to the saving of lives?

A terrorist act is not just a hostage incident. This bill picks up the definition of "terrorist act" under the Commonwealth criminal code, which goes well beyond hostage incidents. It can include cyber attacks and other acts of violence quite distinct from a terrorist act. Indeed, it can include threats of violence quite distinct from a terrorist act. These shoot-to-kill powers go well beyond what is required for the New South Wales Police Force. The State Coroner said that the New South Wales Government needs to look at this issue. He said that it needs to look at the fact that the police were not adequately trained and did not know the extent of their existing powers. He also said that the Government should look at the problem identified in the Lindt cafe siege. What the Coroner did not say was that this Government should introduce shoot-to-kill powers that potentially empower police to kill not only the terrorists but also anybody else at the incident who gets in the way of a police action plan. What is a police action plan as referenced in new section 24B (2)? I quote:

- (2) A police officer does not incur any criminal liability for taking any such police action for the purposes of a police action plan...

What is a police action plan, one might say? Where is that defined in the bill? It is not. It is simply some administrative provision that the police apparently have. Is it a written plan, is it an oral plan, is it an email plan? We do not know; it is not defined in the bill and, to be quite frank, I do not believe the Government knows the extent of a police action plan. But anything that is authorising a police plan—whether it is written, emailed, telephoned—any action, including lethal force, does not incur any criminal liability. One would think the parameters of the authorisation would need to be very clearly stated. But we do not know what a police plan is; it is not defined in the bill.

I move to the parole provisions. I am quite certain that if one asked pretty much anybody on the street they would say that a prisoner's parole should be refused if the parole authorities have a concern that a prisoner upon release will engage in terrorism-related activities. In fact, that is the way the law currently operates. If the Parole Authority has concerns that a prisoner on release may engage in, participate in or encourage terrorism-related activities their parole should be refused. That is the way the law works currently and The Greens believe that that is an appropriate test. But this bill goes much, much further than that. This bill says:

The Parole Authority must not make a parole order directing the release of an offender who is known to the Parole Authority to be a terrorism related offender unless:

- (a) the Parole Authority is satisfied that the offender will not engage in, or incite or assist others to engage in, terrorist acts or violent extremism, and
- (b) the offender is otherwise eligible under this Act to be released on parole.

Rather there being any evidentiary basis for the Parole Authority to believe that somebody may intend to engage in terrorism-related activities, the Parole Authority needs to be satisfied the offender will not engage in, or incite or assist others to engage in, terrorist acts. It is proving the negative. The offender needs to disprove the negative—an almost impossible job. One might think that if we are talking about somebody who has been convicted of a terrorist offence maybe that is okay, and The Greens think that would be okay. If somebody has been convicted of a terrorism offence they probably should have to prove to the Parole Authority before they are released that they will not engage in any kind of terrorist act. We understand the rationale for that and we would support a law that said that.



But the definition of an offender to whom this division applies includes anybody who has any associations or affiliation with any persons or groups advocating support for terrorist acts or violent extremism. As it is written, this law would apply to somebody whose workmate was in a terrorist organisation or whose friend was in a terrorist organisation, or whose cousin, child or sibling was in a terrorist organisation. They may be in jail for unrelated offences, but any association or affiliation with any persons or groups advocating support for terrorist acts is enough for somebody to be caught up by these changes in the parole laws and then somebody has to disprove the negative before they are released on parole.

The drafting of this bill is so broad and has so little regard to civil liabilities and to the basic rule of law that The Greens cannot support it. The Greens acknowledge that the police will, on occasion, be required to use lethal force to deal with appalling crimes of violence or threatened violence, whether it is terrorism or other violent acts. But the potential criminal liability for police should not be removed upfront through legislation. Where the police believe that lethal force is required and that they have the evidence to show that lethal force is required before they kill a potential criminal or a terrorist or an innocent bystander, they need to have very good grounds for doing that. The police need to satisfy the community and if tested in court, the courts, that their action was reasonable, proportionate and appropriate in the circumstances and necessary to save lives. This bill takes us a long way away from those protections. It takes us a long way down the path of becoming a police state in New South Wales and The Greens oppose the bill.

**Reverend the Hon. FRED NILE (16:04):** The Christian Democratic Party supports the Terrorism Legislation Amendment (Police Powers and Parole) Bill 2017. However, I have some questions about the legislation that have been raised with me by the NSW Police Association, who also fully support the bill. As members know, the need for this legislation arose out of the events occurring in the Lindt cafe siege. Police snipers involved in the response to the Lindt cafe siege believed that at certain stages of the siege they did not have lawful authority to shoot because there was not an imminent or immediate danger to the hostages and, as such, the threshold justifying lethal force was not reached.

The Coroner made no critical findings of the police officers who took that view. The Coroner appreciated why individual police officers would adopt this interpretation of their powers, given their careers and even their own liberty could hinge on the later concurrence by others in the criminal justice system that their resort to deadly force was justified. The purpose of schedule 1 to the bill is to rectify this situation to ensure officers have the confidence that the lawful authority to use force is consistent with the operational imperatives to save innocent lives, and to assure officers that the law has kept up with the grave demands the community makes on officers to take such action.

The Christian Democratic Party fully supports the intent of the bill. However, we have two concerns regarding the adequacy of schedule 1 to achieve its purpose. I therefore seek assurances from the Government of the intended meaning behind certain provisions and the adequacy of their wording to protect the brave men and women of the NSW Police Force who will have to make decisions that we can never appreciate the full weight of. We can never appreciate the pressure they are under in some of those situations. First, does the drafting of new section 24B (2) adequately protect those decision-makers, such as the forward commander, who are involved in authorising a police action plan, such as an emergency action plan or a direct action plan? The drafting of subsection (2) is ambiguous and it is not clear what action is encompassed by the words "action for the purposes of a police action plan of the police officer in charge of the police officers responding to the terrorist act".

Secondly, the interaction between subsections 24B (1) and (2) is potentially inadequate to cover the entirely plausible scenario where a police sniper fires on the authorisation of a superior. A police sniper may have an extremely narrow view of the incident unfolding. They may, therefore, rely on a superior, who has access to more holistic information about the events at the scene, to make an assessment that the use of lethal force is reasonably necessary under the criteria set out in subsection (1). As such, a sniper may need to use lethal force with little information other than the authorisation of their superior. In order to do so, as identified by the Coroner, they must have absolute confidence that their careers and liberty are not at risk.

I ask the Minister, is a sniper protected under new section 24B if they use force on the authorisation of a superior when it is subsequently found that it was not reasonably necessary under subsection (1) for the superior to give that authorisation? Is there sufficient certainty for the sniper to rely on the fact they received the authorisation for them to show the use of force was reasonably necessary in the circumstances as the sniper perceived them to defend persons threatened by the terrorist act or to prevent or terminate unlawful deprivation of liberty? If not, this bill will not rectify the deficiency identified by the Coroner. On behalf of the Christian Democratic Party and the NSW Police Association I seek the assurance of the Government that the bill has sufficient clarity to give such officers certainty. I ask the Minister to consider that matter.

**The Hon. DAVID CLARKE (16:10):** On behalf of the Hon. Don Harwin: In reply: I thank honourable members for their contribution to this debate and for their recognition of the urgency of bringing this bill forward.

I thank the Hon. Lynda Voltz, the Hon. Paul Green, Mr David Shoebridge and Reverend the Hon. Fred Nile. As I have indicated, this bill responds to a key recommendation of the State Coroner's report on the Lindt cafe siege by providing certainty to New South Wales police officers when required to use force, including lethal force, during terrorist incidents.

This bill seeks to ensure New South Wales police have the clarity they need to respond to the threat of terrorism in the strongest terms possible. In addition to amending the law on the use of force this bill further strengthens New South Wales parole laws by creating a presumption against parole for anyone with demonstrated support for, or links to, terrorism. That presumption will apply to offenders with links to terrorism irrespective of the offence for which they are in custody. Some members have raised concerns about the bill being rushed through the House. I reiterate that the Government's primary concern is the safety of the community, and the urgency of the bill is driven by that overarching concern.

It should be clear that the amendments in the bill in relation to police powers clarify the legal position for police in dealing with certain types of terrorist acts. The State Coroner's report into the deaths arising from the Lindt cafe siege identified some operational uncertainty amongst police officers regarding the use of lethal force during the siege. The evidence before the Coroner established that snipers and police commanders did not believe they had lawful authority to shoot the perpetrator. The Coroner recommended consideration be given to whether the Terrorism (Police Powers) Act 2002 should be amended to ensure that police officers have sufficient legal protection to respond to terrorist incidents in a manner most likely to minimise the risk to members of the public. That was contained in recommendation 24. This bill implements that recommendation.

The Government has accepted and will support all 45 recommendations made by the Coroner. The bill focuses on the purpose for which the force may be used, which is to defend threatened persons. It does not focus on terrorist offenders as the object of that force. It is preferable for police to use force for the defence of persons rather than for deliberately targeting an offender. The bill adopts the same test for the use of force as used in relation to self-defence, including the defence of others. This has the advantage of being familiar to police and the courts. The test of self-defence requires an assessment of proportionality.

Self-defence is available when the person believes that the use of force was necessary in order to defend himself or others and the person believes that what he or she did was a reasonable response in the circumstances as he or she perceived them to be. These provisions will ensure that police can act to ensure that the threat to the safety of the community is removed. The Coroner's power to hold an inquest after violent and unnatural deaths remains in place. Where a person dies as a result of or in the course of police operations the Coroner will continue to have jurisdiction and there will continue to be a requirement to hold an inquest. Importantly, the Coroner will continue to have the ability to make recommendations which can be directed at public safety. This is an important safeguard to ensure there is a proper investigation following a death. This ensures the Coroner will continue to protect lives and the well-being of our community through the Coroner's ability to bring to the notice of relevant authorities practices, policies and laws which may need to be changed.

The Law Enforcement Conduct Commission [LECC] commences operation on 1 July 2017. It has been given specific responsibility to oversight critical incident investigations conducted by the NSW Police Force. Critical incident investigations are conducted wherever a death or serious injury arises from a serious operation. The LECC will be notified when a critical incident is declared and will be able to monitor all stages of the investigation. The LECC will be able to attend the scene of a critical incident, view recordings or transcripts of witness interviews and liaise with senior investigators. If any issues with the conduct of a critical incident investigation are identified the LECC will be able to bring this to the attention of the Commissioner of Police and, where applicable, the Coroner. It should be noted that the LECC has the power to independently detect, investigate and expose serious misconduct.

The Government's number one concern is the safety of the community. The proposed changes create a presumption against, but do not shut the door, to parole. Where prisoners who are serving sentences for serious terrorism offences make no effort to rehabilitate and pose an ongoing risk the Government has supported the introduction of a national post-sentence detention scheme. The scheme covers high-risk terrorist offenders, was enacted by the Commonwealth Government in December 2016, and commenced in June of this year. It provides for the continuing detention of offenders found guilty of Commonwealth terrorism offences with a maximum penalty of seven years or more who are determined to present an unacceptable risk to the community at the conclusion of their sentence.

To address the concerns of the NSW Police Association with regard to new section 24B (1), I indicate that a terrorist act will only be declared under this legislation if the Commissioner of Police is satisfied that planned and coordinated police action is required. The bill has been drafted to reflect police operational arrangements and recognises the need for planned action in addressing certain types of terrorist actions. In accordance with the

request of the police commissioner the Coroner recognised the need to provide clarity for police commanders when planning for and authorising action to bring to an end a terrorist incident.

It should be clear that these provisions clarify that a police commander can authorise the use of force, including lethal force, that is reasonably necessary as part of a planned response. This is part of providing certainty and clarity for the brave police officers charged with keeping the community safe when they plan for, authorise and use force, including lethal force, where a declaration is made. Suppression and non-publication orders are governed in New South Wales by the Court Suppression and Non-publication Orders Act 2010. Orders can be made to protect the safety of any person, amongst other reasons.

Additionally, the Coroners Act gives the Coroner power to make orders relating to disclosure of information. The Coroner can make orders to prevent publication of information that extends to publication in newspapers, on radio, television or the internet. The Coroner made suppression and non-publication orders in the inquest into the deaths arising from the Lindt café siege. This included making orders that suppressed the names of some of the police officers responding to that incident. The suppression of names will continue to be an option available to the coroner and other judicial officers under this legislation. Police officers are not above the law. This legislation has been carefully designed to ensure that it provides the clarity police need to protect the community from terrorist threats while ensuring appropriate oversights remain in place. I thank those opposite for their support of the bill. I commend the bill to the House.

**The DEPUTY PRESIDENT (The Hon. Trevor Khan):** The question is that this bill be now read a second time.

**The House divided.**

Ayes .....33  
 Noes .....6  
 Majority.....27

**AYES**

|                         |                      |               |
|-------------------------|----------------------|---------------|
| Amato, Mr L             | Blair, Mr N          | Borsak, Mr R  |
| Brown, Mr R             | Clarke, Mr D         | Colless, Mr R |
| Cusack, Ms C            | Donnelly, Mr G       | Farlow, Mr S  |
| Franklin, Mr B (teller) | Gay, Mr D            | Graham, Mr J  |
| Green, Mr P             | Harwin, Mr D         | Khan, Mr T    |
| MacDonald, Mr S         | Maclaren-Jones, Ms N | Mallard, Mr S |
|                         | (teller)             |               |
| Martin, Mr T            | Mitchell, Ms S       | Mookhey, Mr D |
| Moselmane, Mr S         | Nile, Reverend F     | Pearce, Mr G  |
| Phelps, Dr P            | Primrose, Mr P       | Searle, Mr A  |
| Secord, Mr W            | Sharpe, Ms P         | Taylor, Ms B  |
| Veitch, Mr M            | Voltz, Ms L          | Wong, Mr E    |

**NOES**

|                  |                       |                       |
|------------------|-----------------------|-----------------------|
| Buckingham, Mr J | Faruqi, Dr M (teller) | Field, Mr J           |
| Pearson, Mr M    | Shoebridge, Mr D      | Walker, Ms D (teller) |

**Motion agreed to.**

**In Committee**

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** There being no objection, the Committee will deal with the bill as a whole.

**Mr DAVID SHOEBRIDGE (16:28):** I move The Greens amendment No. 1 on sheet C2017-056A:

No. 1      **Liability for police action**

Page 3, Schedule 1, proposed section 24B. Insert after line 44:

- (3)      Subsection (2) applies only to criminal liability for causing the death of or injury to a person who is committing or is likely to commit the terrorist act that is the subject of the declaration under this Part.

This amendment will insert an additional provision into new section 24B, which currently is the key trigger for the shoot-to-kill powers. Section 24B as it is currently drafted states:

**24B Use of force in relation to declared terrorist act**

- (1) The police action that is authorised by this section when police officers respond to any incident that is declared to be a terrorist act to which this Part applies is authorising, directing or using force (including lethal force) that is reasonably necessary, in the circumstances as the police officer perceives them, to defend any persons threatened by the terrorist act or to prevent or terminate their unlawful deprivation of liberty.
- (2) A police officer does not incur any criminal liability for taking any such police action for the purposes of a police action plan ...

Government and Opposition members have spoken in support of this bill, and have said that force and lethal force are appropriate in the circumstances proposed in this bill. They also said that lethal force against terrorists can sometimes be necessary, something which The Greens understand and accept. One would hope that it is not necessary, and that siege events and other terrorist events can be de-escalated and that nobody has to be killed. When lethal force is imposed by the police, not just on terrorists but on other individuals who may be present at the incident, their lives are inevitably put at risk. Legal and police procedures should be in place to prevent lethal force being used. In the Lindt siege we saw that the use of lethal force by the police led not only to the death of Man Monis but also to the tragic deaths of hostages.

The current law states that if the police use lethal force against people they need to be able to justify that force as being reasonable and proportionate in the circumstances and the force has to be directed to saving the lives of people at the incident, or preventing serious injury. This law proposes to remove the requirement that the lethal force has to be for the purpose of preventing injury, but worse it states that lethal force can be used not just against the terrorist but against anybody at the incident provided it is consistent with the police plan. Why does the Government propose to extend the law to allow the use of lethal force against not just the terrorists but also the hostage and other people at the incident in the way that it is proposed? The Greens cannot see the justification for expanding the law in that way. In relation to these provisions that remove criminal liability for the lethal force, The Greens cannot see a justification for allowing the application of that force against persons other than the terrorist or alleged terrorist. The Greens amendment, which has been circulated, proposes to add a new subsection (3). It will limit subsection (2), which is that the removal of criminal liability, and states:

Subsection (2) applies only to criminal liability for causing the death of or injury to a person who is committing or is likely to commit the terrorist act that is the subject of the declaration under this Part.

The bill will remove criminal liability to the extent that the death or the serious injury is to the terrorist and the potential criminal liability for deaths or injury to persons other than the terrorist. As I said in my contribution to the second reading debate, it may well be that there are very extenuating circumstances and real reasons why the use of force by the police in a terrorist event or other hostage and siege event may tragically result in the death not just of the criminal or the terrorist but also of other individuals at the scene. In that case the police should be willing and able to prove that the force they used was reasonable and necessary, and it was used to protect the lives of persons other than the criminal.

Why would we remove those century old protections for our civil liberties in the way the Government is proposing and in a bill that was introduced in the Legislative Assembly only a matter of five or six hours ago. The proposed amendment of The Greens may not be the best solution, but we think it is an important solution that protects individual hostages and others at sites at which there are declared terrorist acts from the over-reach of the Government's bill. As the New South Wales Council for Civil Liberties said, why rush this legislation? It is deeply disturbed that the proposed legislation expanding police powers to use lethal force is being rushed through Parliament today with gross disregard for proper and careful consideration of the bill by the Parliament and the community, and I endorse those comments. It also says that without this detailed consideration from Parliament, the legal community and indeed the public the bill is likely to have unintended consequences and may lead to less, rather than improved, community safety.

The Greens believe that this is one very clear unintended consequence—that the shoot-to-kill powers apply not only in relation to the terrorists but also to everybody at the incident—is a substantial over-reach. The Government did not explain that provision in the second reading speech or in contributions to this House. The Greens have moved this amendment to limit the shoot-to-kill powers to be applied only to the alleged terrorist at the incident, the person contributing to the violence. The Greens cannot understand why both the Government and the Opposition are joining to push through such extended shoot-to-kill powers that are contrary to all of our legal traditions with less than 24 hours' notice, literally hot off the photocopier, rushed through the lower House and minutes later introduced in this Chamber and rushed through with fewer than two hours of debate. We commend the amendment to the Committee.

**The Hon. LYNDIA VOLTZ (16:37):** The Opposition opposes The Greens amendment No. 1. To some extent this bill clarifies the powers that have been put in place in legislation, as Mr David Shoebridge said, to give police powers to act. The coronial inquiry into the Lindt café siege did not look to de-escalation as part of the process, but was critical that action was not taken sooner. The idea for de-escalation in a terrorist incident stands in complete contradiction to terrorist incidents and what we already know about them. This bill is urgent because the Parliament is about to have its winter break and in the meantime the police need surety to act in a terrorist incident. We may or not accept all of Samuel Huntington's theories, but if we accept that terrorism is the weapon of the week and that ISIS is further weakened within Syria and parts of Iraq then on his theory we have seen an escalation of terrorism incidents, particularly in Western countries that have been involved in the conflict within those scenarios, and Australia is not immune from that.

There is some urgency at this point in having clarification, because of that escalation. It is not just the Lindt café where we saw people injured who were not the offenders, who were not the criminals, who were the terrorists being charged; we also saw that in the London Bridge incident. When police respond, they have a split second to make a decision. If you were a sniper who was placed at the building and given an instruction by an officer in charge, you would not necessarily have the full picture. There is no way of knowing what all the actions are, but you are relying on the overall knowledge of the officer in charge for your actions. The intent of those actions is to save lives. The reality is that not all terrorism incidents involve people with a weapon such as a gun or a knife; they may involve explosives or they may involve vehicles. You may have an incident where a large number of people are at risk and you need to make a snap decision.

It is not unknown that other people are injured; whether there is any intent by the police in terms of criminal liability, the answer would have to be no. That is why, when the police are asked to take action, the second part of 24B states that they do not incur criminal liability for their action when trying to defend persons threatened by the terrorist act or to prevent or terminate the unlawful deprivation of liberty. It is that clear-cut. I am not sure why Mr David Shoebridge cannot accept the evidence of what has happened around the world, but that is the reality. To narrow it down in this way seems a bit extraordinary, but certainly we will be rejecting it.

**The Hon. MARK PEARSON (16:41):** The Animal Justice Party will support this amendment to the Terrorism Legislation (Police Powers and Parole) Bill 2017. I think it goes to removing this notion of collateral damage, which we all find very disturbing in war, and it is never accepted. There are always attempts to try to absolutely minimise, if not remove, the collateral damage that occurs when we are at war. That provision in the bill is actually showing utter disrespect to the police force and its capacity. When a police officer of the appropriate rank is at peak performance and well informed, we must respect that that officer will make the best decision in using lethal force to kill only the terrorist. If any other person who is not linked to that terrorism activity is killed, injured or harmed in any way, the statutes are already in place to argue that it was reasonable and justifiable—not avoidable—in the execution of the police officer's responsibility and duty at the time.

It is dangerous to have such a provision with no question, no investigation into any death other than the terrorist involved, and for that death to be put aside and considered collateral damage. That is not acceptable to the community. The question has to be asked, and very seriously, as to whether that police officer acted in the right way and did everything he or she could to prevent harm from being occasioned to other people. For that reason, the Animal Justice Party will support this amendment. It is an appropriate and ethical amendment to protect those innocent people who are in the vicinity of where terrorist activity is occurring. I commend this amendment to the Committee.

**The Hon. DAVID CLARKE (16:44):** The Government does not support this amendment moved by The Greens because it will not achieve the operational certainty that the bill seeks to achieve in accordance with the evidence before the Coroner in the Lindt café siege inquest. The bill focuses on the purpose for which the force may be used, which is to defend threatened persons. It does not focus on terrorist offenders as the object of that force. It is preferable for police to use force for the defence of persons rather than to deliberately target an offender. The bill adopts the same test for the use of force as is used for self-defence, including the defence of others. This has the advantage of being familiar to police and the courts. The test of self-defence requires an assessment of proportionality.

Self-defence is available when the person believes that the use of force was necessary to defend himself or others and the person believes that what he did was a reasonable response in the circumstances as he perceived them to be. These provisions will ensure that police can act to ensure that the threat to the safety of the community is removed. Mr David Shoebridge raised concerns that the bill permits indiscriminate use of force by the police. This is not the case. The use of force must be part of a police action plan that is reasonably necessary to defend persons from a terrorist attack or release hostages. The immunity will apply only to actions taken in good faith.

**Mr DAVID SHOEBRIDGE (16:46):** I appreciate the contributions by both the Labor Party and the Government, but implicit in the criticism of The Green's amendment is that somehow the courts take a very

technical, armchair distant view when they are determining criminal liability about police use of force and that this blanket exemption is required because you do not want police having their actions picked over in the cold light of day, blind to the realities of the pressures, the violence, the anxiety and the danger of the situation. But that criticism is grossly misinformed and misunderstands how the law currently applies. Much of the criticism against our courts, whether it is made by Federal members of Parliament or by State members of Parliament, is grossly misinformed. The law as it currently stands is this, and it was set out by the Coroner when he referred to a quote from a Court of Appeal decision in *Woodley v Boyd* [2001] NSWCA 35:

In evaluating the reasonableness of the use of force by police it is essential to have regard to the real world context. The question must be judged by reference to 'the pressure of events and the agony of the moment, and not by reference to hindsight'.

That is the way the law currently works. It has worked extremely well for centuries, to hold authorities to account and to ensure that we do not empower police inappropriately to use lethal force, because ultimately the police are there to protect us and to protect everybody involved at a terrorist incident, especially the hostages and innocent bystanders whom this bill will cover under the shoot-to-kill provisions. We commend the amendment to the Committee.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The question is that The Greens amendment No. 1 on sheet C2017-056A be agreed to.

**The Committee divided.**

Ayes .....6  
Noes .....33  
Majority.....27

#### AYES

Buckingham, Mr J  
Pearson, Mr M

Faruqi, Dr M (teller)  
Shoebridge, Mr D

Field, Mr J (teller)  
Walker, Ms D

#### NOES

Ajaka, Mr J  
Borsak, Mr R  
Colless, Mr R  
Farlow, Mr S  
Graham, Mr J  
Khan, Mr T  
  
Martin, Mr T  
Moselmane, Mr S  
(teller)  
Phelps, Dr P  
Secord, Mr W  
Veitch, Mr M

Amato, Mr L  
Brown, Mr R  
Cusack, Ms C  
Franklin, Mr B  
Green, Mr P  
MacDonald, Mr S  
  
Mitchell, Ms S  
Nile, Reverend F  
  
Primrose, Mr P  
Sharpe, Ms P  
Voltz, Ms L

Blair, Mr N  
Clarke, Mr D  
Donnelly, Mr G  
Gay, Mr D  
Harwin, Mr D  
Maclaren-Jones, Ms N  
(teller)  
Mookhey, Mr D  
Pearce, Mr G  
  
Searle, Mr A  
Taylor, Ms B  
Wong, Mr E

**Amendment negatived.**

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The question is that the bill as read be agreed to.

**Motion agreed to.**

**The Hon. DAVID CLARKE:** 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. 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.**

*Members*

### INAUGURAL SPEECH

**The PRESIDENT:** The Hon. Taylor Martin is about to make his first speech in this place. I ask members to extend to him the usual courtesies. On behalf of all members I welcome to the gallery members of the Hon. Taylor Martin's family. They include his mother, Mrs Karen Martin, his father, Mr Bruce Martin, and his grandmother, Mrs Anne Martin. I also acknowledge the presence of a number of Ministers and members of the other place. I understand the Premier will also be joining us.

**The Hon. TAYLOR MARTIN (17:00):** I begin by accepting the weight of the responsibility that has been bestowed upon me in becoming the 875th member of the New South Wales Legislative Council, in Australia's oldest Parliament and in our nation's first State. I pledge to ensure that I will use my time here to work towards the betterment of our great State—the first State—and to continue the tradition we have in western society of aspiring to leave more for those that come after us. I make that pledge here tonight in front of many of my friends and family in the gallery. Many of them will have driven here along the F3—or the M1, as Sydneysiders call it. Not only was that vital piece of infrastructure crucial in opening up the Hunter and Central Coast to greater trade and employment opportunities for those already living there; it also opened up the region to families from Sydney like mine, beginning when both sets of my grandparents moved to the Central Coast from Sydney's western suburbs around 60 years ago.

My father's father, Gordon Martin, known to all as Bruce, spent years working away excavating along the rock face of what would become the F3 on his Caterpillar D9. He moved the family to Springfield, which is just east of Gosford, to a Housing Commission home with his seven children and his wife, Anne, a nurse at Gosford hospital. She is here tonight despite being a Labor voter all her life. I am sure that Nan will be a Liberal voter now, if only because we are the ones who have delivered the \$348 million rebuild of Gosford Hospital.

While my grandfather took part in the hard work of building the F3 he also built a life for our family on the Central Coast. He passed on to my father not only his name but also his work ethic. Having left Gosford High School in year 10, well before it became a selective school, my father, Bruce, did his apprenticeship and subsequently began his own kitchen manufacturing business while still in his early twenties and with two young boys under his care. More than a decade later, my mum would meet and marry my dad and become an integral part of our family business—basically running the whole show.

My earliest memories are of spending days on the factory floor, watching my dad and my older brothers, Miles and Tristin, at work. Every night our family dinner time was more like a staff meeting. I remember seeing the workplace grow and shrink month to month as demand varied and our local economy fluctuated through good times and bad during the 1990s. Since before I started school, when I would spend days playing in the office of our family's factory, I had a keen interest in how this world of ours worked: how people spent their days at work and their weekends at play in different ways; how some seemed to have a lot and some seemed to have just a little. When I saw my mum hand out the cheques on pay day, I would wonder why it would seem there was a lot to go around for those who worked on the factory floor but when it came time to pay the mortgage she was stressed and struggling.

I would wonder why there would seem to be dozens of tradesmen coming to work some weeks and other weeks there would just be my brothers and a few others on the shop floor, and why my friends would talk of their families' overseas trips but the furthest that we would get was Anna Bay caravan park, and on to Nelson Bay for fish and chips. This keen curiosity led me to choose to study finance, commerce and economics at my local university, the University of Newcastle. I was the first from either side of my family to attend university. I was also the first and only to go to a private high school. Having been harassed, bullied and physically assaulted to a point where I had one side of my face smashed in and swollen to an extreme extent at my local high school, there was no way I could continue to attend that school. That was an extremely traumatic experience for any 12-year-old to face, and it prompted years of intense anxiety and depression.

Bullying is a dreadful scourge that changes children's lives, steals their potential to contribute to our society and leads to the development of mental health issues amongst our youth. In this place we need to take a stand against bullying in schools. That is why I was glad to see in yesterday's budget the announcement of a \$6 million broad-based anti-bullying program. The unpopular Safe Schools program was only targeted at one

group of students, but all students deserve protection against this behaviour. I look forward to working with Minister for Education Rob Stokes in designing the program and ensuring that we put an end to bullying and support our kids at school. My experience of bullying has stayed with me every single day since it happened. It is why I will stand against violence and intimidation of any kind in any place—in schools especially, but just as importantly in the workplace, in politics, in Parliament and also in the home. No-one should be made to feel worthless and helpless in any environment.

Domestic violence hits a nerve with just about everyone in our State. As we are seeing reported incidents on the rise and more and more people taking a stand, I am certain every family has at least one story to tell close to home. I know I do amongst my friends and family. I will be an advocate amongst young men. I participate in the annual in White Ribbon Day walk. I invite my friends and colleagues every year to join in, and I would like to see this initiative taken into all our schools. We need to ensure that young boys who will become young men get the mentoring needed to teach and emphasise the value of respect in all relationships even if—indeed especially when—it is not modelled in their home.

I believe that I was gifted a keen sense of what is right and wrong from my mother, who in turn learnt from her parents, Jack and Ruth Stone. Jack worked on the floor at James Hardie in Sydney's western suburbs, the second generation of Stones to work on the factory floor there, with his father—my great grandfather—having died in that factory while at work. We are all now well aware of the dangers of asbestos but during those days few knew the damage those building materials could do to one's health. Jack was one of the first in a long line to call it out and advocate for action to protect his fellow western suburbs workers and the families they went home to. The trouble he would face as a result of speaking up was of no concern to him—he knew what was right, and he would not desist, even if it cost him his job. In the end, Poppy Jack passed away at just 59, with fibres of asbestos in his lungs.

Those who went before us, like my grandfathers and many others, literally built this country into what it is today—driven by a need and a desire to give their families a better tomorrow than the yesterday that they experienced. All the while, they inherently knew what was right and what was wrong. They stood their ground without yielding when the time came. In those days it may have been the unions and the Labor Party that focused on the needs of workers, but, as we have seen through the Royal Commission into Trade Union Governance and Corruption and the example of union leader Craig Thomson being parachuted into the Central Coast seat of Dobell, Labor and the unions are not standing up for the workers—they are picking their pockets.

It is clear that today it is the Liberal party who are on the side of the workers. We are the ones who back those families—families like mine. We want them to succeed, we want them to contribute and we want them to thrive. We should be unashamed as Liberals, as conservatives, to stand up for the values and traditions that made New South Wales and Australia into the place that we know and love today.

It is telling that today's Australia is an accepting and tolerant nation. However, those of us who identify as conservatives and traditionalists are pressured to feel ashamed and to conform to a perceived majority that is a construct of the Left. The political debate has been changing and it is still changing. The rate of change is quickening. With more than 25 years of uninterrupted economic growth, the strong economic message from the Liberal Party, and our side of politics, has slipped the minds of those in the electorates. We see the Left—The Greens and Labor—shifting the political debate towards one of social injustices and away from building the future of our economy and society.

I enter politics at a time when the debate has made a permanent shift. Previously the Right and Left of politics has sought to improve material standards of living for the population by differing means. The Right encouraged individual freedom, harnessing the power of incentives, and encouraging reward for effort, while the Left focused on the equality of outcomes backed up by the big hand of government. This debate has shifted and evolved with the exacerbation of identity politics and the rise of a victim culture. As Menzies said in his Forgotten People speech, "In Australia the class war must be a false war". Similarly—and with apologies to the great man himself—in Australia the identity war must be a false war.

Those who speak up for ideals and values that do not fit the narrative of the less-identity ideology are increasingly finding themselves told that they and their ideas are no longer needed or heard. Scaring people into submission is not the same as winning the debate. Silencing your opponents is not leadership. It will serve those in pursuit of power to create and exacerbate this division through tribal politics, identity politics and cultural conflicts. In creating and emphasising a victim culture I fear that we risk raising a generation of dependants with more leaners than lifters. We should continue to foster the great Australian culture of resilience, enterprise and ingenuity.

Our Parliament should reflect the values of the families we are here to represent and the individuals whose lives our legislation impacts and affects. The Westminster system should continue to channel society's



values into the laws that we make. I fear we are seeing an increased situation where those who are involved in the process of law making are imposing their political will to reshape the values of our Australian society as they see fit. Increasingly, we hear views espoused by those in positions of influence which would be unfathomable at family dinner tables around our country. Likewise, there are conversations and concerns raised at Sunday backyard barbecues across the State and nation which would be unwelcome and shut down if raised with most of the new political class who are, ironically, in a position to address those concerns.

Instead of people having their concerns heard and addressed we see people involved in the media and Left wing politics impose their priorities on the national debate. There is a top-down approach that has pervaded and taken root in politics in western society. It should therefore be of little surprise that Australians are moving their votes to independents and minor parties in search of the restoration of a bottom-up approach to the public debate. People do not want to keep hearing that they will be told what they can and cannot discuss and debate. They want to tell our elected representatives what should and should not be prioritised for debate. They expect the issues to be addressed and not ignored because they might offend a certain group, or because it is not considered politically correct, it does not fit with the political agenda of the day or the issue is too hot to touch.

These people are the majority in suburban Australia. They are once again the forgotten people. I believe it is the Liberal Party who is listening to them and seeking to represent them. I am proud to be here as a member of the Liberal Party and a member of a government that listens and respond to the concerns, ideals and aspirations of households around our great State. In listening to their hopes and dreams it is a Liberal Government that has ensured that our State is in a financial position to undertake a much-needed, once-in-a-generation infrastructure program to make record investment into schools, hospitals and roads and to address the critical issue of housing affordability. All of this is done without the need for increased taxes or increased debt.

I believe our political debate needs to once again focus on improving the standard of living for all the people we are here to represent and serve regardless of a their gender, skin colour, sexual preference, religion or birthplace. We should be focused on allowing for improvement in the lives of all citizens. To do that there needs to be opportunities for everyone. I have outlined how I see our body politic changing. We are witnessing a change in the economy. It is one that should be embraced and its opportunities seized. My generation will be the ones to deal with the challenges and benefit from the opportunities that will be brought by the increasingly fast-paced world.

In the 2019 Parliament members in this Chamber will be regulating for jobs and industries that we have not thought of and do not exist yet. When my predecessor, the Hon. Michael Gallacher, entered Parliament in 1996 email was a new thing. Google would not exist for another two years. Apple products had not yet found their way into homes let alone into the pockets of most of the community. Uber, and the handheld smart phone needed to access such a service, had not been conceived. The opportunities created by the next wave of capitalism will be enormous. We can see the beginning of this movement with the advent of Uber, Airtasker and Airbnb. We will see the removal of barriers to entry as people can transact on a peer-to-peer basis. That will remove the middlemen that currently handle business and free up resources for other areas of our economy. That, in turn, will allow other industries to flourish. In the long run it will provide more for all of us.

Deloitte Access Economics estimates that last year 92,000 people in New South Wales drew an income from involvement in peer-to-peer small businesses. That number had doubled from the previous year. Included in it are my semiretired parents and their Airbnb business that supplements their superannuation while providing for tourists who visit the Central Coast. It provides a material benefit to local businesses, shops and tourist attractions. I know the advent of new technology and new ways of doing business will place regional New South Wales in a better position to assert its economic prowess—especially in the Hunter and Central Coast regions that I have been selected to represent for the Liberal Party. My time at the University of Newcastle has taught me it is through the proliferation of technological change that cities such as Newcastle and Gosford, and the people who call them home, will be in a position to have the successful future they deserve.

The city of Newcastle is going through a massive change from the old days of BHP to a future transformed by the culmination of the dreams and initiatives of those who choose to make it their home. It will be shaped by alumni who, like me, intend to live, work and invest in the region. My vision for the Central Coast, the Hunter and the State is one in which we as individuals, families, communities and as a society build upon the opportunities gifted to us by our parents and grandparents through hard work. We must pick up the baton and continue to build. We owe it to them to continue the tradition of leaving behind more than we found when we came.

There will always be families such as mine who moved to the regions from Sydney to build a better life. Many of my fellow Central Coast residents commute two hours each way to Sydney in their quest to build a better life for their families. More than 30,000 residents from the Gosford end of the coast make the trip each day by

road or rail. At the time I decided to enter politics I was one of those commuters travelling to and from Sydney, working at Mercer in the financial advice business.

I did not believe that we had to accept the way things were on the coast: that we cannot make it on our own, and that we have to resolve ourselves to the fact that upon finishing school and/or university one must leave the place in which they were born, grew up and loved, and leave their family and friends to be able to find work and buy a home.

It was during one of those early commutes that I met my local Liberal candidate for Robertson who was meeting commuters at 5.30 a.m. at Gosford station. In just one meeting with Lucy Wicks I knew that she was the real deal, so to speak, and as we got to talking about what our region could and should become, I then and there decided to become a part of this team because they shared our vision for our local region, which would bring more opportunity, and back-in local businesses—like my family's cabinet manufacturing business—to grow and transform our region into one of abundance and opportunity for locals.

Those of us who were recently on the campaign trail for the Gosford by-election saw the stark difference between the Right and the Left, as we saw Labor announce a \$100 million subsidy plan to give the coast a sugar hit with taxpayers' money. They would take \$100 million away from local schools that need an upgrade, schools that need real classrooms instead of demountables, which is a common problem that this Government is addressing after 16 years of Labor's neglect. They would take \$100 million away from local roads that are in a state of disrepair on the Central Coast and the Hunter from Avoca to Anna Bay and out past Abernethy.

Labor, The Greens, and those on the Left want the Government to be the solution. They want to extract \$100 million from those who are working hard and pick out some winners that they will subsidise. As Margaret Thatcher said, "The problem with socialism is that you eventually run out of other people's money." Sixteen years of a Labor government in New South Wales showed that and left our State in a mess. Time and again they want to tell the electorate just how much money they are willing to dole out. They want to feed that sense of economic dependency, but we know that what is needed is a hand up, not a handout. I know instinctively that that is what those in my region believe in too.

This is the spirit that my grandfather had when he moved the family up to the Central Coast from the western suburbs in the 1960s. It is the spirit my dad had when he ventured out on his own as a young man, having not finished his studies at school, to start his own business as a cabinetmaker, which would underpin our family for almost 40 years. It is the spirit in which I followed when I worked from the age of 14 washing cars in a West Gosford car yard and washing dishes at the Terrigal Bowling Club, saving up to be the first one in my family to go to university. I am a product of my region. It is the experiences that I have had and the people that I have encountered to the north of the Hawkesbury that have shaped the views and the priorities which I now bring to this Chamber as the youngest member in the first and oldest Parliament in the country.

To my extended Liberal family, I am picking up the baton in this relay, doing my part as others have done before me, particularly the Hon. Mike Gallacher, to advance the Liberal cause and preserve our values well into the future. We truly belong to a formidable team. I particularly give thanks to those who have led our local campaign efforts on the ground in my patch: Andrew Clark, Chris Wicks, Todd Kirby, Kristy Higgins, Harvey Thompson, Jack Wilson, Liam Covi, Bianca Collazos, Charlie Bowcock, Laine Edwards, Stella Shepherd, Bec Johnstone, Rhiannon Beckers, Rebecca Gale-Collins, Wendy Masula, Jessie Gale, and Tim, Karen and Lydia Sowden, the formidable Karen Macnamara, Sally Halliday, Teena McQueen, David Watts and Sharon Ani-Watts, Sam Giddings, Theresa Giddings, Jeff Strickson, Deanna Bocking, Elizabeth Reynolds, Godfrey Franz, Michelle Moffatt, Colin Marchant, Bev Ferrier, Pam Collins and Joy Burrows. You are integral longstanding stalwarts of the party who have always provided assistance and guidance to me.

Team Terrigal is headed up by the effective Adam Crouch, MP. He is a champion of the Liberal cause and our local community, along with Jill Donald, Kerryanne Delaney, Donna Golightly, Ben Sheath, John Barton and Anne McKay. I thank the whole Pilon family—Jilly, Mic, Fletch, Gabi and Banjo—for their support, friendship and tireless advocacy for our community. Banjo's skate park is just the first of many achievements that I know we will have as a team. I thank Bob Mudge, Richard Keogh and Bruce Macdonald, the former member for Kirribilli and former leader of the Liberals in this Parliament, for their mentorship and guidance and their unwavering support for conservative values.

To those that have gone before me on the conservative side of politics, I must thank the Hon. Scott Farlow for his guidance as I enter this place and replace him as the youngest member on this side of the Chamber. I thank the Hon. Alex Hawke, MP, for his full and frank advice; Hollie Hughes, Penny Fisher, Chantelle Fornari-Orsmond, Ben Shields, and Simon Fontana for your support and counsel. Nick Campbell, thank you for backing me from the start, imparting your wisdom to me, and challenging me time and again. Taylor Gramoski,

thank you for your dedication to preserving and emphasising the grassroots nature of our party, and your keen sense of justice, which sets a good example for all young Liberals.

To my Mercer family—Justin Pratt, Bronwen Batty, Caroline Douglass, Chris Jurukovski, Hilary Anthony-Benson and of course Nataliya Dikovskaya, thank you for all that you did for me during my time in Sydney in the corporate world of finance before I was taken in by politics. To Lucy, your vision for our region gave me hope and got me involved. Your ability to gather and inspire those close to you has made me and many others become disciples in turning this vision into a reality. I am forever in your debt for the mentoring and encouragement you have provided at every step of my journey from being a constituent of yours to becoming a colleague. As we build our region together, bit by bit, to see that it can become all that we know it can, with a Liberal dose of hope, reward and opportunity, I know that Mollie-Joy and Oscar will be able to live out the vision that we share for young Coasties, and fulfil the potential that our region has to offer. Lucy, like Esther, you were born for such a time as this. I will take your advice, and the advice of Max and Mary Warren, as was given to Jeremiah, not to say, "I am but a youth."

To my family—our own Central Coast Brady Bunch—my brothers Miles and Tristin, my sisters Peta and Georgia, as different as we all may be and as far flung as we may be, spread out across the country and as far as the United Kingdom, you should know I will always be here for you, as I know you have always been here for me. To my mum and dad, Bruce and Karen, for all that you have sacrificed for almost half a century since my brothers came into the world in order to give us the opportunities that were well out of reach to you, I know all five of us will make your hard work worthwhile.

To my colleagues, to my party, to my community, to my generation, we owe it to those who came before us and it is our duty to those who come after us, by birth or by choice, to leave this great State a better place than when we came to it. I pledge to continue that tradition and work towards that goal every day I am here to enable aspirations, and opportunities. This will be reflected in the decisions I make and the positions I take during my time in this place. Thank you.

#### *Visitors*

#### **VISITORS**

**The PRESIDENT:** I welcome to the public gallery the Hon. Margaret Davis, Liberal MLC in this place from 1967 to 1978. Welcome back.

#### *Bills*

#### **CRIMES AMENDMENT (INTIMATE IMAGES) BILL 2017**

#### **Second Reading**

**The Hon. BRONNIE TAYLOR (17:32):** On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes Amendment (Intimate Images) Bill 2017. The bill implements the Government's commitment to reforms that address the non-consensual sharing of intimate images. I was privileged to sit on the Committee chaired by the Hon. Natasha Maclaren-Jones that looked into many of these issues. I point out that fantastic work emanates from the Legislative Council committees and everything is done by a team and every team requires very good leadership. The leadership provided by the Hon. Natasha Maclaren-Jones when she chaired this inquiry has resulted in this legislation; it has come from a very thorough and good process. I seek leave to incorporate the remainder of the second reading speech in *Hansard*.

#### **Leave granted.**

The non-consensual sharing of intimate images—also known as "revenge porn" or alternatively image-based abuse—involves a person distributing an intimate or sexual image of a person without that person's consent. These include images emailed or texted to others, posted online on platforms like Facebook, or even forwarded to the victim's family or employer.

Technological advances have facilitated a rise in this type of behaviour and may exponentially increase the extent to which an image is distributed and viewed. Images can "go viral" with long lasting consequences for the person in the image. A recent report by Dr Nicola Henry, Dr Anastasia Powell and Dr Asher Flynn from RMIT found that one in five survey respondents reported being victims of some kind of image-based abuse.

Non-consensual sharing of intimate images is a serious invasion and violation of a person's privacy. It can have severe impacts on the victim, causing the victim shame, embarrassment and humiliation and potentially having adverse consequences for the victim's reputation, family, friends and employment.

Parliamentary inquiries in both New South Wales and at the Commonwealth level have expressed concern about the harm done to victims through non-consensual sharing of intimate images, and the lack of an effective criminal law response to date.

In particular, these inquiries have highlighted the prevalence of this behaviour in the context of domestic violence and abuse and controlling relationships.

The Government takes these concerns seriously and strongly condemns the non-consensual sharing of intimate images.

On 19 May 2017 the Law, Crime and Community Safety Council, representing the Commonwealth and each State and Territory, agreed to the national statement of principles relating to the criminalisation of the non-consensual sharing of intimate images. The statement sets out non-binding best practice principles for nationally consistent criminal offences relating to non-consensual sharing of intimate images in each jurisdiction. The new offences proposed in this bill are consistent with those principles.

This bill introduces new offences to deter and punish the non-consensual sharing of intimate images, and ensure that victims are adequately protected under the criminal law. The new offences are indictable offences and will carry maximum penalties of three years imprisonment to reflect the seriousness of the conduct and the potential harm done to the victim.

The bill reflects the Government's commitment to strengthen this area of the law and to provide a clear remedy for such a serious invasion of privacy. Overall, the reforms will send a strong message that this behaviour is unacceptable in our society.

I will now outline the details of the bill and the new offences it will introduce.

The first offence introduced by the bill is the new offence of recording an intimate image without consent, in section 91P.

The offence will apply if a person intentionally records an intimate image of another person while knowing that the person did not consent, or being reckless as to whether the person consented to the recording. Because "intimate image" is defined to include still or moving images, the new offence will apply to both taking photos and recording a video of a person.

New section 91O specifies how consent is to be understood for the purposes of this offence. It provides that consenting to a recording of an intimate image means that the person freely and voluntarily agrees to the recording. Consent can be express or implied. A person cannot consent if they are under the age of 16 years or otherwise do not have the cognitive capacity to consent, or if they are unconscious or asleep, or if they have only consented because of threats of force or terror, or if they have only consented because they have been unlawfully detained.

Section 91O also specifies that consenting to the recording of an image on a particular occasion does not, by reason only of that fact, mean that the person has consented to the recording of an image on another occasion. This recognises that a person is entitled to make decisions about their own privacy, including allowing a specific intimate image to be recorded on one occasion, without losing the protections under the law that prohibit other intimate images from being recorded without their consent.

It will be an exception to the new offence of recording an intimate image without consent if the conduct was done for a genuine medical or scientific purpose, by a law enforcement officer for a genuine law enforcement purpose, or was required by a court or reasonably necessary for the purpose of legal proceedings. It will also be an exception to the offence if a reasonable person would consider the person's conduct acceptable, having regard to relevant factors including the nature and content of the image, the circumstances in which the image was recorded and the degree to which the recording affected the privacy of the person depicted in the image.

This "reasonable person" exception will ensure that the new offence does not criminalise socially acceptable activities.

The new offence will be punishable by a maximum penalty of imprisonment for three years, or a fine of 100 penalty units, or both.

The new offence in section 91P is similar in some ways to the existing unlawful filming offences in sections 91K and 91L of the Crimes Act 1900. These offences criminalise filming a person who is engaged in a private act and filming a person's private parts without the person's consent. However, the offences in sections 91K and 91L are narrower offences that only apply if the filming is done for the purposes of sexual arousal or sexual gratification.

Research published by RMIT University has confirmed that image-based abuse can occur for a diverse range of motivations. These existing offences do not protect victims where the non-consensual recording of the intimate image was done with motives of revenge, or to embarrass and humiliate the victim, or to attempt to control their behaviour. The new offence in section 91P will address this gap in the law.

The second offence introduced by the bill is the new offence of distributing an intimate image without consent, in the proposed section 91Q.

The offence will apply if a person intentionally distributes an intimate image of another person while knowing that the person did not consent, or being reckless as to whether the person consented to the distribution. "Distribute" is defined broadly to include sending, supplying, transmitting, communicating or making available for viewing or access by another person whether in person or by electronic, digital or any other means.

The offence uses the same meaning of consent as the recording offence. Again, section 91O specifies that consenting to an image being distributed on a particular occasion does not, by reason only of that fact, mean that the person has consented to it being distributed on another occasion. Similarly, a person consenting to an image being distributed to a particular person or in a particular way does not, by reason only of that fact, mean the person has consented to the distribution of that image or another image to another person or in another way. Section 91O also provides that the fact that a person has distributed an intimate image of themselves does not necessarily mean that they have consented to any other distribution of the image.

The "reasonable person" exception will also apply to the offence in section 91Q. A person's actions will not be an offence if a reasonable person would consider their conduct acceptable having regard to relevant factors. Again, this is to ensure the offence does not capture socially acceptable activities.

The new distribution offence will be punishable by the same maximum penalty as the recording offence—that is, a maximum penalty of imprisonment for three years, or a fine of 100 penalty units, or both.

The third offence introduced by the bill is a new offence of threatening to record or distribute an intimate image without consent. This offence in the proposed section 91R is particularly directed at domestic violence contexts, where threats to record or distribute intimate images may be used to control a victim's behaviour or prevent them from leaving an abusive relationship.

The offence will apply if the person intends to cause the victim to fear that the threat will be carried out. The offence will apply to threats to distribute intimate images whether or not the images actually exist, as often the victim may not know whether or not an image in fact exists.

The threat offence will carry a maximum penalty of imprisonment for three years, or a fine of 100 penalty units, or both.

Section 91N sets out the definitions that apply to the new offences.

An image is defined as a still or moving image, whether or not altered. "Intimate image" is defined as an image of a person's private parts or of a person engaged in a private act. It also includes an image that has been altered to appear to show a person's private parts or a person engaged in a private act. This would, for example, cover photo-shopping of person A's face with the private parts of person B in a way to suggest that the composite image is truly an image of person A.

The terms "private parts" and "engaged in a private act" are already used in the Crimes Act 1900 in the context of the existing unlawful filming offences in division 15B.

In the bill, a person's "private parts" is defined to include a person's genital or anal area (whether bare or covered by underwear) or breasts, including the breasts of a transgender or intersex person identifying as female. The bill also introduces this new definition of private parts into the existing unlawful filming offences, to modernise the way this term is understood for these offences.

In the bill, "engaged in a private act" is defined to mean in a state of undress, using the toilet, showering or bathing, or engaged in a sexual act of a kind not ordinarily done in public or any other like activity. This is the same definition as is already in place for the existing unlawful filming offences.

For the purpose of the new offences, to fall within the definition of an "intimate image", the image must depict a person in circumstances where a reasonable person would reasonably expect to be afforded privacy. This requirement will give the new offences the appropriate scope and is similar to the requirement that is already part of the unlawful filming offences. Images depicting activities that may otherwise fall within the definition of "intimate image" will not be captured, if the activities are commonly done without a reasonable expectation of privacy.

The three new offences introduced by the bill will apply to children and young people as well as adults. This recognises that children can be victims, and perpetrators, of the non-consensual sharing of intimate images.

As previously stated, a person under the age of 16 years will not be able to consent to the recording or distribution of an intimate image. This is consistent with the general principle that a person under the age of 16 years cannot consent to sexual activity.

However, the bill has been drafted so the proposed offences in sections 91P and 91Q do not apply to a young person who records and distributes an intimate image of their own body, as the offences only apply when the image is of another person.

The approval of the Director of Public Prosecutions will be required for prosecutions of children under the age of 16 years. This is to ensure the new offences do not inappropriately criminalise activity by, or between, children. Applicable diversionary measures under the Young Offenders Act 1997 will also be available for a young person who is charged with an offence.

Lastly, the bill introduces a new power for courts to order a person convicted of recording or distributing an intimate image without consent to take reasonable actions within a specified time period to remove, retract, recover, delete or destroy an intimate image the person unlawfully recorded or distributed.

It will be an offence for a person to contravene such an order without reasonable excuse, punishable by imprisonment for two years, or a fine of 50 penalty units, or both.

This power will offer victims a remedy and greater peace of mind, although I acknowledge that for many victims, it will not repair the harm they have experienced as a result of the perpetrator's actions.

This bill is the product of detailed consultation with stakeholders on the appropriate form and scope for the new offences. Consultation included the release of a public discussion paper in late 2016 and submissions from members of the community, Government, non-government and legal stakeholders. Almost all submissions expressed strong support for new offences to ensure victims are protected.

Dr Nicola Henry of RMIT University, an expert in image-based abuse, has commented that the Government's bill "is an excellent model that can serve as an inspiration for other jurisdictions both in Australia and internationally".

Women's Legal Service NSW has commented: By introducing these laws the New South Wales Government is showing its commitment to addressing domestic and family violence and sexual violence in all its forms".

Maria Le Breton, the director of the Women's Domestic Violence Court Advocacy Service NSW Inc. has commented: "This bill identifies the very damaging and criminal nature of these acts and provides greater protection to victims of domestic violence and our community as a whole. This bill enables the justice system to better keep astride of and respond to the evolving techniques employed by perpetrators of violence".

The distress caused to victims by intimate image abuse is palpable, but their passion and perseverance to achieve reform is inspiring. I would like to extend the Government's thanks to the victims and advocates who have worked tirelessly to bring about reform in this area.

I would like to particularly acknowledge the brave efforts of Ms Noelle Martin and Ms Briana Rose (to whom I have referred by a pseudonym) in advocating reform. I also acknowledge the former Attorney General, the Hon. Gabrielle Upton, MP, for her leadership in the reform.

Overall, the reforms in this bill will make sure the criminal law can respond appropriately to such violations of privacy, and remedy at least some of the harm done to the victim.

**The Hon. ADAM SEARLE (17:33):** I lead for the Opposition in debate on the Crimes Amendment (Intimate Images) Bill 2017. The Opposition does not oppose the bill. The object of the bill is to amend the Crimes

Act to create new offences in relation to the non-consensual sharing of intimate images. The non-consensual distribution of intimate images—also commonly called revenge porn and in some contexts called image-based sexual abuse—has increased substantially in line with technological developments. Images can be distributed frequently and easily, granted the availability of online platforms. There is broad agreement about the significant harm that can result for the victims of this behaviour; it is widespread particularly in generations younger than me.

In a submission on the Government's discussion paper, Dr Nicola Henry, Dr Anastasia Howell and Dr Asher Flynn referred to their Australian survey on online abuse and harassment, which had almost 3,000 adult Australian respondents. The survey found that one in 10 Australians had a nude or semi-nude image of them distributed online or sent to others without their permission. This type of behaviour is often associated with domestic violence. The submission from the Eastern Suburbs Domestic Violence Network specifically notes an increase in the use of technology to perpetrate domestic violence. There is a wide range of motivations and intentions involved, however. And as the Government has noted previously, what constitutes an intimate image can vary according to community standards.

There is currently no clear, dedicated criminal offence to deal simply with the non-consensual sharing of intimate images. There are several provisions that in some circumstances cover some of those situations. In the case of section 578C of the Crimes Act, Publishing Indecent Articles, a person needs to do some conceptual damage to make it fit these circumstances—if the image was created consensually it seems odd to regard it as indecent, and rely upon its nature to found a prosecution and only regard it as indecent when it is distributed. The Commonwealth Senate Legal and Constitutional Committee in a report released on 25 February 2016 recommended the introduction by States of a criminal offence directed at this behaviour.

The Legislative Council Standing Committee on Law and Justice released a report in March 2016 entitled "Remedies for the serious invasion of privacy in New South Wales". The report was restricted to civil remedies but did suggest that the State Government consider the Senate committee's recommendations. The former Attorney General eventually released a discussion paper in September last year. Public submissions closed in October 2016. The Opposition thought the Government was unduly delaying taking action on the issue and the member for Liverpool, the shadow Attorney General in the Legislative Assembly, placed a question on notice on 9 May asking what legislative action was proposed. I do not know whether that was the catalyst for the Attorney General announcing new laws on 21 May in a Sunday newspaper.

I also commend the committee for its work and for producing unanimous recommendations but the inquiry did take a bit of pushing and shoving to get off the ground. I remember my colleague, the Hon. Mick Veitch, had read some articles in the newspapers and was most concerned about the phenomenon of what was called revenge porn. He said to me, "It does not seem right and we should do something about it." He placed a motion on the notice paper where it languished for quite some time although it was the subject of discussion between various members and parties in this place, which I will not go into in detail. But it did take some insistence on the part of the Opposition to create a situation where eventually this Chamber unanimously adopted the referral. I pay tribute to the concern and foresight of the Hon. Mick Veitch for putting forward a motion to deal with this issue and also to all members for eventually embracing the need for the inquiry. This matter transcends parties and geography and even the most casual observer would recognise that there is a definite problem that needs to be addressed.

The Hon. Mick Veitch and I did some research and we could find only two cases in Australia that dealt with the phenomenon in very different ways, neither of which was terribly satisfactory. Whether the criminal law is the only way or the best way in which to address the phenomenon remains to be seen. In the Legislative Assembly the Opposition proposed a bill that sought to implement the recommendations of the committee's report in a civil way, particularly the civil take-down orders to be reposed in the Office of the Privacy Commissioner, and I have given notice of that bill in this place. I look forward to the same cross-party consensus for the need for action overwhelming us in this Chamber as it is in relation to this bill now before the House.

It seems to the Opposition the most problematic area concerning the sharing of intimate images is the practice by children and young persons of sexting, the consensual creation and sharing of sexually explicit images or messages. The submission on the discussion paper by the Advocate for Children and Young People quotes research to show that consensual sexting is commonplace among young people and children. The research quoted said that of those aged 13 to 15 years, 38 per cent had sent a sexual picture or video and 62 per cent had received one. Of those aged 16 to 18, 50 per cent had sent one and 70 per cent had received one. Of those aged 19 and older, a quite staggering 59 per cent had sent one and 68 per cent had received one.

A black letter law approach to this part of the issue in this debate is to say that because such sexting is consensual, it is not caught by this bill; but it is more complicated than that. If the recipient of a sexting image shows it to someone else without consent, then that certainly is going to be caught by the legislation before this

House. Additionally, child abuse material offences continue to apply to consensual sexting. In turn, that might have had implications for sex offenders registration and Working with Children checks, but we understand that the Department of Justice is conducting a review of child sexual assault laws presently and we assume that that review arose from the recommendations of the Joint Select Committee on Sentencing of Child Sexual Assault Offenders, which was chaired by Troy Grant and of which the shadow Attorney, Mr Lynch, was a member. We understand that sexting was considered in that review. There is clearly an intersection between this bill and the matters being considered by that review.

Several new criminal offences are created by the bill. It is appropriate to note as recommended by the Bar Association that these are new offences and not simply amendments of the provisions of existing laws, such as sections 91K and 91L of the Crimes Act. New section 91P provides that a person who intentionally records an intimate image of another person without that person's consent, or being reckless as to whether the person consented, is guilty of an offence. New section 91Q provides that a person who intentionally distributes an intimate image of another without that person's consent or being reckless as to consent, is also guilty of an offence.

New section 91R criminalises the behaviour of threatening to record or distribute an intimate image. The penalties for all of these offences are 100 penalty units or imprisonment for three years, or both. These are indictable offences. The amendment made by this bill to the Criminal Procedure Act also makes these four offences table 2 offences. This is consistent with the submissions from the Office of the Director of Public Prosecutions and also the Legal Aid Commission. It means that they can be dealt with summarily, unless the prosecution or defence objects. The maximum penalty in such cases is two years. Making them indictable avoids time limitation problems that might otherwise arise, a point I note that the Privacy Commissioner mentioned in her submission.

All of these offences are subject to a proviso that the prosecution of a person under 16 years of age cannot be commenced without the approval of the Director of Public Prosecutions. This reflects how these laws intersect with the behaviour of children and young people. Once upon a time, this would probably have been a provision that prosecution not occur without the Attorney General's consent. Indeed, that proposal was made in a submission by Kingsford Legal Centre. As a matter of practicality, those times have probably passed and in any case, the provision about the Director of Public Prosecutions is probably a preferable option to having consent resting with the Attorney General, who is, of course, a politician and a member of Cabinet, not only the first law officer of the State. As I understand it, successive Attorneys General have delegated such functions under other legislation to the Director of Public Prosecutions in any event.

New section 91S allows a court to order a defendant to take reasonable actions to remove, retract, recover, delete or destroy any intimate image recorded or distributed. It is important to note what this does and what it does not do. It operates only upon conviction, so no pre-conviction take-down order can be made—and we think that is far too late. It is only directed at the defendant, not at any other body or organisation or person. Failure to comply with the order is a criminal offence. The maximum penalty is 50 penalty units or imprisonment for two years or both and that is a summary offence. Comparatively complex definitions are provided in the bill. In the circumstances, that makes sense. "Intimate image" is defined in a way that is based upon the terms "private parts" and "engaged in a private act"; and they are, in turn, defined with some precision.

I note the Attorney General in the other place in his reply dealt with the issue of the take-down orders and said that in the context of a criminal statute which is proposed, the limitation was appropriate, but what that really does is to underscore that whatever the benefits of this legislation, the effective redress for a victim of this behaviour is not some criminal prosecution months or perhaps even some years after the event, but very soon after he—or more usually she—becomes aware and there is an effective redress through the power to take down the images swiftly, and that is what is not provided for in the bill, probably because it cannot be, given the nature of the bill.

But it is a call to arms to all of us in this Chamber to not let that issue rest, because I think what we are all about here is justice for people who are the victims of this terrible behaviour and effective justice is to make the victimisation, the offending, end, and as long as the non-consensual intimate images are at large, the victim continues to be attacked by any offender. We must return to that and we should do so swiftly. As I indicated earlier, that mechanism is before this Chamber—the power to remedy that issue is in our hands and we can do it swiftly if the bill progresses. "Intimate image" is also defined to mean an image that has been altered to appear to show a person's private parts or a person engaged in a private act in circumstances in which a reasonable person would reasonably expect to be afforded privacy; and that is an important thing because one of the other victimisations is people's faces being grafted onto images of other persons and made to look as if they are engaged in that activity, which is completely unacceptable.

New section 91O has detailed provisions as to the meaning of consent and, once again, that seems to be entirely sensible in this legislation. New section 91T provides a number of exceptions to offences under section

91P and section 91Q. They include if it was done for a genuine medical or scientific purpose; if it was done by a law enforcement officer for a genuine law enforcement purpose; if it was done for the purpose of legal proceedings; and if a reasonable person would have regarded the conduct as acceptable, bearing in mind a number of factors.

It is an interesting provision and seems, in relation to the latter part, to adopt the reasoning of the submission of Children's Court President Judge Peter Johnstone, who argued against the use of a community standards component in the defence such as exists in Victoria. He argued that this was too vague a description and it might be difficult for a judicial officer to be sure of its meaning. The notion of reasonableness, as provided in this bill, is one with which judicial officers are quite familiar. That might not be quite so with the term "acceptable", which is also in the bill. I note that the Attorney General in the other place, in his reply speech, explicitly acknowledged that the legislation adopted the submission of Judge Peter Johnstone. I think that is important in terms of the way in which this legislation may be applied and construed by the courts into the future.

Turning specifically to the submissions on the discussion paper, the Attorney General in the other place was invited to address two issues in reply. The first related to the proposal by the Director of Public Prosecutions that the penalty for the offences be five years maximum imprisonment, consistent with the provisions of section 13 of the Crimes (Domestic and Personal Violence) Act 2007. That was because it was appropriate that there be an explanation of why the three years maximum penalty was adopted in this bill rather than the five years maximum that the Director of Public Prosecutions proposed. In reply, the Attorney General in the other place indicated that consideration was given to like provisions in Victoria, where the punishment was two years and in South Australia where the punishment was two years or four years if the victim was under 17. It was thought here that the provisions of section 13 of the Crimes (Domestic and Personal Violence) Act 2007 were of a higher level of culpability than the offending caught by this Act, such that the lower penalty of three years rather than five years was appropriate.

I understand the reasoning but we are not necessarily convinced that it is right and we think it should be reviewed within a reasonable period of time. The second issue about which the Attorney General was asked to respond came from the submission by Legal Aid New South Wales, and other submissions, that the prescribed orders for apprehended violence orders be reviewed to include a provision that prohibits the threatened or actual distribution of intimate images without consent. It is my understanding that the Attorney General indicated that that would be reviewed. It would be good if that could be confirmed; if not we will pursue it in another way.

As we have indicated, the troublesome part of the bill is the inadequate regime for offending images to be removed. New section 91S limits rectification to orders only after conviction. However, although this is an important measure, it will not give justice to victims because of the very long time lapses involved in criminal prosecutions. If the Government does not revisit this, we will do it. I note the support for the approach recommended by the Standing Committee on Law and Justice, and embraced by the Opposition, in the submission from the Kingsford Legal Centre and the Law Society of New South Wales—not a radical bunch of leftists. This is a more expeditious, simple and effective way of dealing with these sorts of images being uploaded and distributed. A civil regime of the kind envisaged in the Opposition's bill would work neatly in tandem with this criminal statute. With those observations, as I indicated at the outset, we will not be opposing this legislation and hope that it has a swift passage.

**Mr DAVID SHOEBRIDGE (17:51):** On behalf of The Greens I indicate our party's support of the Crimes Amendment (Intimate Images) Bill 2017. This bill is at least some partial acknowledgement that our laws, both criminal and civil, are currently failing people in this State, most often women, when it comes to image-based sexual exploitation. Our laws are fundamentally flawed, and the way in which we go about enforcing them, both through the police and our civil remedies, is also fundamentally flawed. Something needs to be done. This bill seeks to amend the Crimes Act 1900 to create specific offences relating to the non-consensual recording and distributing of intimate images. In this debate this often has been called "revenge porn", but I prefer to use the term "image-based sexual exploitation", which was the term used by a number of advocates in the inquiry into the remedies for the serious invasion of privacy in New South Wales.

Often this offence goes well beyond, and is quite separate to, the concept of pornography. Images taken without any sense of being used in a pornographic way are often being misused against the victims. That is why many advocates in the area shy away from the use of the term "revenge porn", although that is how to explain it to the general public, and prefer the use of the phrase "image-based sexual exploitation". The bill creates an offence of intentionally recording or distributing, or threatening to record or distribute, an intimate image of another person without that person's consent. The maximum penalty for such an offence is imprisonment for three years, or 100 penalty units, or both. A threat to record or distribute an intimate image without consent is also an offence with, quite appropriately, the same maximum penalty.



An image is defined to include an image of a person's private parts or a person engaged in a private act—the bill is not as prudent as I am; it clearly states what a person's private parts are—in circumstances in which a reasonable person would reasonably expect to be afforded privacy. Indeed, that reasonable expectation is essential if this law is going to work. Digitally or otherwise altered images are also included. A person's consent to the recording of an intimate image must be freely and voluntarily given. Likewise, people consent to distribution of an image only if they freely and voluntarily choose to do so. People who are under 16, unconscious or asleep, threatened by force or detained cannot consent. Consent on previous occasions is not considered to be consent for any other occasion. Likewise, consent to the distribution to one particular person or to a group cannot be used to assume consent to distribute to any other person or more broadly.

Importantly, the conditions set out do not limit the grounds upon which it may be established that a person did not consent. Prosecutions for the offences of recording and distributing of images where the person to be prosecuted is under 16 years, requires the approval of the Director of Public Prosecutions. Indeed, there has been much discussion about whether that particular provision adequately protects minors. The age of criminal responsibility in New South Wales can be as low as 10 years, and this law can apply to children as young as 10 years. Where the court finds a person guilty of an offence it may order the person to take reasonable actions to remove or destroy any images recorded or distributed, and to take them down from a digital platform. Failure to do so without reasonable excuse is an offence with a maximum penalty of two years imprisonment, or 50 penalty units, or both.

Exceptions to the offence exist if the conduct was done for a general medical or scientific purpose, was done by a law enforcement officer for general purpose, was required by a court, or where a reasonable person would consider the conduct of the accused to be acceptable given the nature of the image, the circumstances, the age and intellectual capacity or vulnerability of the person depicted, the degree to which the accused person's actions affects the privacy of the person depicted, the degree to which the accused person's actions affects the privacy of the person, and the relationship of the accused and the person in the image.

These decisions can be very complex. For example, the sharing of an image of a child in a bathtub can have quite a different context if it is shared by a parent with an uncle, aunty or grandparent to being shared with a person who is unrelated to that child. It is well known that there is a very real problem with this concept of revenge pornography or image-based sexual exploitation. The report of the Standing Committee on Law and Justice into the remedies for the serious invasion of privacy in New South Wales contained a number of findings that detailed the extent of the problem. I quote from that report:

The typical "revenge pornography" scenario is one where a person has an intimate or sexually explicit image or video of themselves posted online by their ex-partner without their consent. In some instances, the material is published to a revenge porn website. It has been reported that at least 3000 websites "feature the revenge genre."

As it is described. The report also stated:

Recently published research by criminal audiologists and socio-legal academics Dr Nicola Henry, Dr Anastasia Powell and Dr Asher Flynn suggests that one in ten Australians aged between 18 and 55 years have had a nude or semi-nude image of them sent to others without their permission.

This is not an issue on the margins; this is a substantial and real issue on which all of us have a collective obligation to take action. That is why The Greens support this bill. Although the bill is not a direct recommendation of the inquiry, it is consistent with the work done by the inquiry and goes some way to address a serious issue raised in many of the submissions and in evidence given at the hearings. The inquiry looked at the more direct route to justice that would allow victims of image-based sexual exploitation to bring their own proceedings against those who had exploited them by sharing their images. I quote from the Chair's foreword in that report:

The committee heard evidence from individuals, academics, legal experts, media and arts representatives, as well as from privacy experts including the NSW Privacy Commissioner, with the vast majority of stakeholders arguing strongly for the introduction of a statutory cause of action on the basis that existing legal remedies were inadequate. The bulk of evidence was that the available civil remedies, in particular the equitable action for breach of confidence, was inaccessible, offered a 'poor fit', and failed to offer appropriate remedy to people who suffered a serious invasion of privacy.

The committee also made a direct recommendation in relation to the NSW Police Force. Recommendation 1 stated:

That the NSW Police Force:

- a) ensure that its officers receive training in the harms associated with technology-facilitated stalking, abuse and harassment; and
- b) that the training incorporate education about how existing offences and other orders, such as apprehended violence orders, could be used in respect of allegations of that nature.

The reason the inquiry made those two recommendations was as follows. Many, many stakeholders and individuals who gave evidence to the inquiry made it clear that there are already a number of laws that should be

used by the police to protect people from stalking and intimidation, particularly women, who come to the police to make a complaint about being harassed and intimidated—particularly online on platforms such as Facebook—and they found the police either had a rudimentary knowledge of how the technology worked or did not understand the way the existing legal framework operated.

The inquiry received a number of submissions from legal organisations, such as the Women's Legal Service NSW and others, that made it clear that the existing powers, for example in apprehended domestic violence orders, that allow for a broad array of orders, which could include take down orders, were not well understood by police and were not being used by police. A number of women said that when they made a complaint to the police nothing ever came of it; that they did not get any satisfaction. That is why the committee recommended that the victims themselves be empowered and have the right to bring a civil action. That is why the committee also recommended that the police get substantial additional training on the harm that is caused by this kind of action and about the powers the police already have to take action to prevent ongoing abuse.

The Government's response has been largely this legislation, which provides another criminal provision that can only be enforced by the police. I have every hope that it will make a real difference. I have every hope that the police will have seen the recommendation from the committee about further training, and I have every hope that the police will recognise the importance that the Parliament and the community places upon these new legal provisions and will work actively with women in particular to ensure that the laws are enforced and that people who abuse what is often a position of trust are held to account through these new laws. But I join with the comments of the Hon. Adam Searle in saying that this is just the first step—a good first step, but just the first step.

The behaviour that this bill seeks to target should not be minimised. It is an extreme form of privacy invasion and, as I said earlier, most often has women as its target. The inquiry received compelling evidence that this unauthorised sharing of images can be a particular issue for women who are victims of domestic violence, who often also face technology-facilitated stalking and abuse. In some broken relationships there seems to be no way of getting away from the person who is intimidating them—no way of getting away from the violence and the stalking and the harassment. Even when women are physically removed and physically protected from these perpetrators of violence they continue to perpetrate the violence online, and that is one part of what this bill is looking at.

The Women's Legal Service NSW reported that 98 per cent of domestic violence workers have clients who have been victims of online harassment. Even when women can gain the protection of an apprehended domestic violence order that prohibits their former partner from physically assaulting or intimidating them, the Women's Legal Service noted that vindictive former partners then turn to online intimidation by spreading intimate details and images on social media. The reality is that more and more of our private lives are being filmed, photographed and recorded by our friends, partners and families. Often this produces material that we are all happy to share, but it can also produce deeply personal images or information that is shared only with an intimate partner, or information that is taken in an innocent atmosphere but which can be exploited and misused in a different environment.

In most cases the only thing that prevents the widespread sharing of intimate or personal material is the personal integrity of the people who hold that material. When relationships break down, those personal constraints are too often lost, and that is when the law needs to step in and provide a remedy. The ability for courts to require material to be taken down is a recommendation of the inquiry and it is clearly necessary. I join the Hon. Adam Searle in saying that if that power is triggered only after a criminal conviction has been recorded, it may well be months or years after the harm was occasioned and we must ensure that there are adequate remedies for its upfront removal, either through the laying of charges or the apprehended domestic violence order regime. Waiting six to 12 months after a conviction to get a takedown order may well defeat the utility of the takedown order.

The Greens will monitor the implementation of this scheme closely. I note that my colleague Dr Mehreen Faruqi will also make a contribution to this debate. In particular we note the need for the training of police across New South Wales in how to deal with people, particularly women, who approach them to report this kind of abuse. Clearly, there are also resourcing issues that should be watched closely. A remedy that is taken to an already overworked police force that does not have adequately trained officers to deal with it will not be much of a remedy. During the inquiry, Liz Snell from the Women's Legal Service NSW gave evidence that the service had seen, and I quote from the report:

A significant increase in technology-facilitated stalking and abuse ... in particular, we are seeing a concerning trend of technology being regularly used against women by perpetrators as a tactic within the wider context of domestic violence.

It is time that ended. Let us hope that this bill is a very real tool in addressing that and ending it. But it should not end here and it will not end here. We have an obligation to ensure that all holes in our law are fully closed, and that we pass laws that protect victims and hold perpetrators to account. The Greens commend the bill to the House.

**The DEPUTY PRESIDENT (The Hon. Paul Green):** I welcome to the public gallery the Legal Profession Admission Board's Diploma in Law first-year students from the University of Sydney.

**The Hon. NATASHA MACLAREN-JONES (18:07):** I speak in support of the Crimes Amendment (Intimate Images) Bill 2017, which addresses the non-consensual sharing of intimate images—also known as revenge porn. This act involves a person distributing an intimate or sexual image of a person without that person's consent. In my capacity as Chair of the Standing Committee on Law and Justice, I have spoken previously in this Chamber about the serious invasion and violation of a person's privacy, and I acknowledge the comments of the Leader of the Opposition about the process of establishing this inquiry. I note the work done by the Hon. Mick Veitch and I also note the work of all the committee members. It is testament to the committee process in this Chamber that the committee worked together to establish an agreement on the terms of reference and also, more importantly, to reveal the existing laws and to put together a unanimous report.

**Mr David Shoebridge:** It was very well chaired.

**The Hon. NATASHA MACLAREN-JONES:** Thank you very much. I note that interjection. What is most beneficial is seeing legislative changes made as a result of an inquiry in this Parliament. I thank everyone involved in the inquiry. Two years ago we commenced the inquiry to examine serious invasions of privacy, which included the sharing of intimate images without consent. I am glad the Government has brought forward these reforms, as these acts are becoming increasingly common with the rapid growth of social media and the use of online forums, as well as affordable surveillance and communication technologies. I agree with the comments of Mr David Shoebridge that the term "revenge pornography" is terrible terminology and effectively blames the victim, who is not at fault in any way. Revenge pornography is a scenario in which a person has an intimate or sexually explicit image or video of themselves posted online, sometimes by an ex-partner without the individual's consent. In some instances, the material is published on a revenge porn website.

It has been reported that at least 3,000 "revenge porn" websites are operating internationally. These websites are dedicated to posting and distributing this material. Recently published research by criminologists and socio-legal academics Dr Nicola Henry, Dr Anastasia Powell and Dr Asher Flynn of Royal Melbourne Institute of Technology [RMIT] University suggests that one in five respondents has had a nude or semi-nude image of them sent to others without their permission. Non-consensual recording or distributing of intimate images without consent is a serious invasion of privacy that can have severe and long lasting impacts on the victim. Not only are victims made to feel shame, embarrassment and humiliation, there can also be consequences for their reputation, social and familial relationships, and their work life. Sometimes these crimes occur in the context of domestic violence, abuse and controlling relationships.

The proliferation of social media in modern society has greatly increased the potential impact of these crimes. Once images have been shared online they can be disseminated quickly and it may be difficult to remove them completely or delete them from the internet. During the inquiry we heard from a witness who, while she was sedated and undergoing a medical procedure, had had a nude image taken of her by a nurse. The witness contacted the police and her solicitor. The police investigated the incident, but determined that the available criminal offences could not be proven as there was no evidence that the motivation was sexual in nature. As a result of the incident the witness advised the committee that she has had to take leave from her job, and is afraid that the image will surface one day and impact her or her child's life.

Following the tabling of the Law and Justice Committee report entitled "Remedies for serious invasion of privacy in New South Wales", the Department of Justice released a public discussion paper seeking submissions on the design of the new offences. Key stakeholders were also consulted on the appropriate form and scope for the new offences. All of this was taken into consideration when drafting the Crimes Amendment (Intimate Images) Bill 2017. The bill proposes to amend the Crimes Act 1900 and make recording, distributing, or threatening to record or distribute intimate images without consent, a crime. If found guilty these offences will carry a maximum penalty of three years imprisonment, or a fine of 100 penalty units, \$11,000, or both.

Equally important is the enforceable takedown power in the bill that allows the court to order a person convicted of recording or distributing an intimate image without consent to remove, retract, recover, delete or destroy the images in question. Failure to comply with the court order will be an offence carrying a maximum penalty of two years imprisonment, or a fine of 50 penalty units, \$5,500, or both. The bill follows the example of other jurisdictions that have criminalised revenge pornography, including in Commonwealth countries such as the United Kingdom, Canada, and New Zealand. The Government is committed to strengthening this area of our laws to provide a clear remedy for such a serious invasion of privacy. This bill includes measures to safeguard children and young people, and to remedy some of the harm done to victims. But, most importantly, the bill serves as a clear condemnation of the non-consensual recording and sharing of intimate images. It sends a message that this sort of conduct is not to be tolerated. I commend the bill to the House.

**The Hon. PENNY SHARPE (18:12):** I speak in favour of the Crimes Amendment (Intimate Images) Bill 2017. In doing so I thank the members of the upper House committee who inquired into a difficult issue and produced a unanimous report. I acknowledge that the initial idea came from the Hon. Mick Veitch, who said we should be doing something about this and suggested using the committee system to inquire into the issue. I acknowledge the feminist academics and lawyers who are working in this space every day and bringing to the attention of legislators the impact that this behaviour is having on women in their everyday lives.

Young women in our community are suffering from challenging issues when it comes to the way in which we consume and use online technology. I am a fan, but it has brought a range of new problems that this place is struggling to address. I am happy that this bill is framed to reflect the crime as one of sexual violence. It is a sexual offence and not a gross breach of privacy. Different jurisdictions around the world have chosen to legislate through a privacy framework, and I believe that is incorrect. The community needs to understand that it is gender inequality. The types of behaviours that you see with domestic violence are the same types of behaviours that women find themselves facing when their images are shared on the internet without their consent. This is about attitudes towards women in relation to entitlement, power and control.

This is not a privacy issue, it is a violence issue. It is right that the bill is drafted in that frame. I wish to comment on the lack of action on takedown orders. This bill shows that the Parliament is taking these issues seriously, but once the picture has been posted on the internet the damage is done. As a victim the only thing you want to happen is for that picture to go away as fast as possible. This bill does not address that issue. It may take six months or a year before a takedown order is issued. During that time the image could have been shared thousands of times and appeared on revenge pornography websites. The damage is done and the consequences of the crime have occurred by the time the person is held to account and the victim has some form of remedy. I make the point that all people in New South Wales need to know that this Parliament has their back and does not accept that this is reasonable behaviour. Tonight it becomes a crime.

The Parliament must do more. It must look for ways in which takedown orders can be expedited. I call on internet service providers and particularly social media platforms to continue the discussion about what is reasonable to share. I am not anti free speech, but there are real issues around gender and what is acceptable on Twitter and platforms such as Facebook. I ask those social media platforms to voluntarily remove an image as quickly as possible without cost to the victim. In this way it will be recognised as a gender violence activity and not a trivial breach of privacy. I commend the bill to the House.

**Reverend the Hon. FRED NILE (18:17):** On behalf of the Christian Democratic Party I speak in support of the Crimes Amendment (Intimate Images) Bill 2017, which will amend the Crimes Act 1900 to introduce new criminal offences for recording, distributing or threatening to record or distribute intimate images without consent and failing to comply with a court order or to take reasonable actions to remove or destroy intimate images recorded or distributed without consent. I fully support the legislation. The Hon. Penny Sharpe touched on the issue in her speech, but I am puzzled by the definition of "intimate". Division 15C clause 91N (1) states:

- (a) in a state of undress, or
- (b) using the toilet, showering or bathing, or
- (c) engaged in a sexual act of a kind not ordinarily done in public, or
- (d) engaged in any other like activity.

The bill goes on to give further details that "private part" means:

- (a) a person's genital area or anal area, whether bare or covered by underwear, or
- (b) the breasts of a female person, or transgender or intersex person identifying as a female.

The bill emphasises that those images should not be distributed without the consent of the person, but I question whether they should be distributed publicly even if the person in them is quite happy for other people to see them. That is a change in how our pornography laws operate. If a certain area of the law is broken, then it should be a crime to distribute an image; it does not matter if the person in the images has given consent or not. It seems to me we have created a loophole with the emphasis on privacy and we have missed the point of the problem—that is, should this material be distributed in any case, even if a porn star is happy for exclusive images to be distributed because he or she has been paid for them? Is our society happy for those images to be distributed? I am not happy about that and I do not think the majority of people would be happy either. Further consideration must be given in due course to the strong emphasis in this legislation on "without that person's consent". Should images be distributed with or without a person's consent? In my opinion, even if a person consents, a case could be made that images should not be distributed and shown to other persons.

I congratulate the Government on its attention in this area, which is a challenging one. I have made it more challenging by my comments. The Government has attempted to provide legislation for this issue. I believe

it is only a small step in the right direction. More thought must be given to the impact of the legislation and whether it is indirectly permitting certain things that should not be permitted in the public arena. We must protect children and impressionable teenagers in our society. The Christian Democratic Party is happy to support the legislation as it stands, with those reservations, but we must give further thought to the approach we take to the whole matter.

**Dr MEHREEN FARUQI (18:22):** On behalf of The Greens I speak in debate on the Crimes Amendment (Intimate Images) Bill 2017 and support the comments by my colleague Mr David Shoebridge. The Greens support this bill that amends the NSW Crimes Act 1900 to create specific offences that address the non-consensual recording and distribution of intimate images or, as it is commonly known, revenge porn. The use of this term can be misleading and also, perhaps, trivialising. Researchers have pointed out that not all perpetrators are motivated by revenge and not all images can be described as pornography. I believe the term "image-based abuse" that has been used by some academics is more accurate. Image-based abuse has been a big problem not only in New South Wales but also across the country and the world. There has been widespread concern from the community for some time that image-based abuse has been growing significantly along with the growing use of social media and as more messaging apps are flooding the market. Legislatures have been slow in catching up to this widespread phenomenon. Victoria, South Australia and, to some extent, Western Australia have already addressed the issue through legislation. I therefore welcome the bill before us today.

The Women's Services Network, together with the Women's Legal Service NSW, conducted a national survey on technology-facilitated abuse. The findings were extremely concerning. The survey found that out of those surveyed, 98 per cent of domestic violence workers reported that they had clients who had experienced abuse and stalking facilitated by technological means. Women's Legal Service NSW reported to an inquiry in this Parliament in 2015 that there had been a significant rise in this kind of stalking and abuse. In particular, it said that there was a concerning trend that technology was being used regularly against women by perpetrators as a tactic in the wider context of domestic violence. This, of course, is also extremely concerning.

The bill addresses the need to have criminal provisions for the dissemination of intimate images without consent and enables courts to require that materials be taken off the internet immediately and that efforts be made to destroy the materials. It is important to remember that image-based abuse comes in many forms. A person's face can be photoshopped onto the image of a different person—who is most often naked and engaged in sexual acts—to create a pornographic image. Such was the case for Noelle Martin. Her photos were stolen from her social media and used on pornographic websites. However, Noelle was turned away by the police and left to contact the image hosting websites on her own.

I will talk briefly about the underlying attitudes that lead to instances of image-based abuse not being taken seriously enough and the narrative of victim-blaming, which is often associated with these scenarios. Women are most often the targets of image-based abuse, and police officers and people working within the legal system need to be trained on how they respond to those victims. The New South Wales Standing Committee on Law and Justice inquiry into remedies for the serious invasion of privacy in New South Wales recommended that the NSW Police Force ensure that its officers receive training in the harms associated with technology-facilitated stalking, abuse and harassment, and that the training incorporate education about how existing offences and other orders such as apprehended violence orders could be used in respect of allegations of that nature. I congratulate the members of the Standing Committee on Law and Justice on the fantastic work they did.

While this legislation is an important first step in challenging the victim-blaming narrative by recognising the actions of perpetrators as criminal offences, its effectiveness will depend on the proper training of police and those in the justice system to challenge a culture that blames victims—most often women—for the actions of their perpetrators. Paloma Brierley Newton, her friends and family suffered serious threats and abuse online. The police were ill-informed on the legislation and ill-equipped to deal with those issues of online harassment. Investments in resources must be made to ensure that women reporting cases of online abuse and threats of violence are taken seriously and that law enforcement authorities are able to understand and handle those threats. Work must also be done to shape community attitudes and social norms away from misogynistic notions of victim blaming.

One aspect of sharing intimate images is the serious invasion of privacy. The right of privacy has been recognised in the Universal Declaration of Human Rights since World War II, which is when privacy attained the legal and cultural status of a fundamental right. In an ideal world, the same rules that apply to privacy in real world interactions would apply to online ones too, but, as we know, online communications are a completely different story. As well as its countless social benefits, the internet has also offered up new opportunities to attack another person with unprecedented venom and impunity. Many of us have experienced cyberbullying, online threats and harassment or know people who have. In addition to this bill, measures must be taken to enable law enforcement officials to take appropriate actions when online abuse, harassment and threats of sexual violence such as rape are experienced. I thank all the courageous women who have spoken out about their horrific experiences.

I congratulate all the advocates of this reform, the many researchers, Women's Legal Service NSW, and the Women's Services Network on their incredible work in bringing the seriousness of this issue into the limelight and to the Government on taking action on this serious issue. The Greens support the bill.

**The Hon. ERNEST WONG (18:29):** My contribution to the debate on the Crimes Amendment (Intimate Images) Bill 2017 will be brief. As has been noted in previous contributions to this debate, the Opposition does not oppose this bill. I will not go into significant detail regarding the provisions of the bill as my colleague in the other place Paul Lynch has provided an excellent overview of the bill including Labor's questions for the Attorney General to address in his reply. I thank my colleague for his leadership on this issue.

I will make some comments on why I think this bill is timely and warrants our support. I believe some of the terminology in this debate gives us a good idea as to why this legislation is needed now. The object of the bill is to amend the Crimes Act 1900 to create new offences to address the non-consensual sharing of intimate images. I note, as have others, that such acts have often been referred to in the media and by the general public as "revenge porn". As other speakers have also noted, many experts in the field of child and online protection, such as the National Children's eSafety Commissioner, Julie Inman Grant, have been encouraging Australians to drop this term in favour of the term "image-based abuse". I strongly support that aim and I want to say why, as this goes to the heart of clarifying what these acts are and are not about.

Calling the unapproved sharing of intimate images revenge porn has numerous problems. First, it implies that something was done on the part of the victim that warranted vengeance. That is a classic "blame the victim" strategy, and we should call it out for what it is. No matter what may or may not have occurred in a present or prior relationship, there are no grounds for this unethical and soon to be illegal publication of intimate images. If any Australians are clinging to the idea that a relationship gone sour or a rejection could justify the publication of images of this nature my advice to them is that they should grow up. Secondly, the use of the term "revenge porn" implies some kind of consent or participation on behalf of the victim that, again, has been designed to shift the blame from the publisher to the victim. The logic is that they participated in the original image—which is often not the case but we will set that aside for now—and therefore should share the blame for the circulation of that image.

We all know that this is nonsense. Even if—and I stress the word "if"—the subject of an intimate image consented to the original image being taken, that does not grant consent for circulation of that image in another context. We can look to a longstanding system of rules in this regard. In an intimate and confidential conversation, context is everything, and our laws respect this through breach of confidentiality and the like. If I give someone information or an opinion that is clearly confidential in nature and damaging to me if it is revealed, the law protects my rights. Why then in an age when many of our conversations are visual and done by electronic devices would we expect that the same principle should not apply to visual images that are clearly confidential in nature?

I turn now to the preferred term "image-based abuse". Here we get to the nub of the issue; it is not revenge but abuse. Like all forms of abuse, it has little to do with sex or sexuality; rather it has a lot to do with abuse of power and attempting to intimidate a person—often a person who is relatively vulnerable compared to the abuser. If anyone is in doubt about the fact that this sort of publication is about abusing and intimidation of vulnerable people, I draw their attention to recent research by Monash University and RMIT. This research concluded that one in five Australians have been victims of image-based abuse. This alone is a shocking figure, but even more shocking and telling is how this figure rises in more vulnerable sectors of our communities. For Indigenous Australians, the figure rises to a chance of one in two. For an Australian with a disability, the figure again is one in two. For an Australian under 20 years of age, the figure is one in three. For a gay, lesbian or bisexual Australian, the figure is one in three.

These figures all demonstrate that people in our society who for various reasons may be less empowered to fight back against a threat of image-based abuse are those most likely to be a victim—in other words, it fits the classic profile of coercive intimate abuse. I point this out to those who may say that the abuse is not as bad as all that, it is just lads mucking around or it is just youths being foolish. No, it is not; it is abuse. As other contributors to this debate have noted, this abuse has real victims and causes real harm. People who are victims of this abuse or who could be victims of this abuse deserve the protection of our State's laws. As both a parliamentarian and a parent, I am not only pleased but also proud to support the bill.

**The Hon. MICK VEITCH (18:34):** I make a brief contribution to the second reading debate on the Crimes Amendment (Intimate Images) Bill 2017. When members of Parliament visit schools we are often asked, "Why are you a member of Parliament?" This bill is a good example of why I am a member. In 2014, I read a couple of newspaper articles—members of Parliament do a lot of reading—which related to so-called revenge porn in other jurisdictions. When I read those articles I was concerned about whether or not the New South Wales legislative framework would provide the protection that is required for individuals. I had a lengthy conversation

with my colleague the Hon. Adam Searle about my concerns and a possible way forward. For the record, the Hon. Adam Searle has also made a couple of adjournment speeches about this matter.

I pulled together a draft terms of reference for an inquiry and spoke to the clerks at the table about the wording. I express my appreciation to the clerks, particularly Beverly Duffy, who worked with me in drafting the terms of reference for that inquiry. Members would know that I am not a member of the Law and Justice Committee, and I have been asked why I would pursue an inquiry which I would not be involved in. It is because I have utmost faith in the capacity of the committee system of the Legislative Council to deliver results for the people of New South Wales. I had to be a little bit patient and may have had to agitate a little bit.

**The Hon. Adam Searle:** A little bit?

**The Hon. MICK VEITCH:** I acknowledge the interjection. It did take a little bit of time to get people on board. Having said that, I also acknowledge the efforts of the Hon. Trevor Khan. Once I had given notice of the terms of reference for the inquiry into this issue I sought out the Hon. Trevor Khan to assist me in lobbying and agitating with those on the other side of the Chamber. I wanted the House to adopt those terms of reference unanimously. In my view that was the correct way for this Chamber to deal with this issue. I did not think that we needed a vote; I thought we needed to agree to do something about it. I appreciate that the Hon. Trevor Khan was able to assist in that matter.

I had faith in the Law and Justice Committee because by looking at the work of the members of that Committee from all sides of this Chamber it is clear it does extremely good work on behalf of the people of New South Wales. I had the utmost confidence that the committee would be able to explore this issue and come up with a positive framework for us to consider. That is what they did and that is why I have faith in our committee system in this Chamber. Part of the Government's response to the work of that committee was this legislation, and that was heartening. My initial concern that the legislative framework in New South Wales did not stand up has been substantiated by the fact that we are now debating legislation arising from that committee's work. There is a long way still to go. This is a first step; it is not the only step. As other members have said in this debate, there are still some concerns.

This is a very big issue for teenagers, among who the use of social media and smart phones is prevalent. Those of us who have had or still have teenage children, and those of us who are about to have teenage grandchildren, are quite concerned about the way that teenagers in our society use the technology that is available to them. More importantly, I am concerned about their lack of understanding of the repercussions of their actions

We need to do a lot of work with generations coming through about what may happen with a photo taken in a moment of intimacy and seem like a bit of a lark. In the longer term it could finish up being quite a serious matter.

My other fear is similar to that of my colleague the Hon. Penny Sharpe and relates to the take-down orders that are required. We cannot have a situation where someone is guilty of this offence but the images remain posted to whatever platform they are on. That just does not make sense. We have to pursue rectification around take-down orders. I would urge the Government to make this the next step in the journey. Having said that, I express my appreciation to everyone involved from the beginning of this process to the end. As I said at the outset, it is why I am a member of Parliament. We can do good work when we trust the mechanisms available to us. I express my appreciation to the members of the Law and Justice Committee at the time. They did good work and justified my instinct to let them have carriage of the matter. I commend the bill to the House.

**The Hon. BRONNIE TAYLOR (18:40):** On behalf of the Hon. Don Harwin: In reply: This has been a great debate and I thank all members who made a contribution. Firstly, I thank Leader of the Opposition the Hon. Adam Searle. His comments about all members wanting justice for these victims summed the situation up concisely. I thank Mr David Shoebridge for his contribution and the Hon. Natasha Maclaren-Jones, the Hon. Penny Sharpe, Reverend the Hon. Fred Nile, Dr Mehreen Faruqi, the Hon. Ernest Wong and the Hon. Mick Veitch—who I learnt today was one of the initial drivers of the committee of which I have been a member. I am pleased that I was able to hear his contribution and I congratulate him on it. It must be very rewarding for the Hon. Mick Veitch to be watching the process work. Great things are done in the Legislative Council. Today we can all stand proudly because this bill shows what can happen when we work together.

I will address some particular matters that members raised in the debate. I note the suggestion of the Hon. Adam Searle that the Government somehow delayed the introduction of the bill. The bill is a result of extensive consultation. It also was announced after the Law, Crime and Community Safety Council agreed to the national principles relating to the criminalisation of the non-consensual sharing of intimate images on 19 May 2017. The bill is consistent with these principles. I also note the Hon. Adam Searle's comments about a statutory course of action. The Government considers that amending the criminal law is a more effective way to address the harm caused by non-consensual sharing of intimate images than introducing a statutory cause of action for

serious invasions of privacy. The bill reflects the Government's commitment to strengthen this area of the law and provide a clear remedy for victims. Despite the reforms in this bill, the Government recognises that there remains concern about serious invasions of privacy, with support for a specific cause of action and the Government takes the view that a national approach to this issue is necessary.

The Hon. Adam Searle also referred to the Legal Aid submission and to the discussion paper in relation to the offence of threatening to record or distribute an intimate image. As the Attorney General confirmed, the bill adopts the suggestion by Legal Aid and introduces a new offence in relation to threatening to report or distribute an intimate image. The conclusion is that no review is needed at this time in this regard. The new threat offence is a key aspect of the bill to address the way in which threats of imaged-based abuse can be used to control and humiliate victims, particularly in domestic violence contexts.

The Hon. Adam Searle, Mr David Shoebridge, the Hon. Penny Sharpe and the Hon. Mick Veitch also noted the need for swift take-down powers. The Government agrees with these concerns; however, as the Attorney General raised in the other place, New South Wales is a State and the Commonwealth is the best jurisdiction to deal with the cross-jurisdictional issues associated with regulating internet service providers or content hosts. The Commonwealth Government is currently looking at this issue and consulting on a proposed civil penalty regime with take-down powers.

This bill strengthens the criminal law to protect people against the serious violations of their privacy that can happen through the non-consensual sharing of intimate images. It gives effect to the commitment now made by all States and Territories to make sure that offences are in place to criminalise and deter this behaviour. The bill has been carefully drafted so that the offences it introduces capture unacceptable behaviour but do not cast too wide a net. It includes safeguards for children and young people and was developed through a detailed public consultation process. Most importantly, the bill provides a clear condemnation of the non-consensual sharing of intimate images and sends the message that this sort of conduct should not be tolerated.

Before I conclude, I acknowledge the contribution of one person who I understand is watching tonight's debate from home. Ms Brieana Rose gave evidence to the Standing Committee on Law and Justice as Witness A. Her bravery in coming forward and advocating for this change is inspiring and should be commended. I had the opportunity to speak with her after this bill was introduced in the other place. She truly is a remarkable woman. I know this is unusual but I will also give a shout out to Mary Klein in the Minister's office, who has worked so hard on this bill. As members of Parliament we have the privilege of working with really good people. I acknowledge Mary's commitment and passion to see this through and congratulate her on that. I commend the bill to the House.

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

**Motion agreed to.**

### **Third Reading**

**The Hon. BRONNIE TAYLOR:** On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

**Motion agreed to.**

### *Adjournment Debate*

### **ADJOURNMENT**

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

That this House do now adjourn.

### **STATE BUDGET AND REGIONAL NEW SOUTH WALES**

**The Hon. MICK VEITCH (18:46):** Tonight I touch on some aspects of the budget that have been missed in the commentary over the past couple of days but will lead to a big problem arising for both sides of the Chamber. Once we cut through the hubris and rhetoric of Government members on this matter and read the budget papers closely we realise it has some fundamental problems. One of those is a looming revenue issue that is clearly shown in the budget statement in Budget Paper No. 1. The problem is that by 2021 revenue streams will be extremely low. That is because the revenue streams have been sold.

Another issue that needs to be looked at closely relates to jobs growth. I urge members to read the budget papers and not just the press releases to get away from the rhetoric and hubris. The budget papers show that the Government is projecting jobs growth of 1 per cent. What does that mean for regional New South Wales? The 1per cent is a statewide figure. I can tell the House it is not a good number for the regions. It will in fact lead to



negative jobs growth in some parts of this State. When members hear Ministers trying to sell the budget I again urge them to have a close look at the budget papers for themselves because they contain some fundamental problems that need to be addressed in the longer term. If the Government keeps selling community assets that provide revenue it will not have any revenue. That is a fundamental problem.

One problem in relation to jobs growth is that the Government has programs but never looks at the net benefit for some of the regions. A business in south-western Sydney wants to move to Goulburn and bring with it 500 jobs.

In this case, the Goulburn Mulwaree Council approaches the State Government for some assistance to move those 500 jobs to Goulburn. I believe everyone would agree that moving 500 jobs to Goulburn is a good thing, but in this case Treasury says, "No, there is no net gain for the State of New South Wales." As a result, where does that business move to? It goes to Victoria, and so New South Wales loses 500 jobs. That is a terrible result for Goulburn and for New South Wales.

Members must do more than just read press releases about the budget. They must say to Ministers, "It looks great, but what does it really mean?" What does the budget mean for people who live west of the Great Dividing Range? We have heard that 30 per cent of the State's budget has been allocated to regional New South Wales, but people who live west of the Dividing Range are not seeing the benefits of the budget allocation. I have spoken to the people of Western New South Wales and the issue they bring up with me most is what is happening in Sydney, which really annoys them. They have told me that when they come to Sydney they see George Street being torn up for the light rail line and the construction of WestConnex. When they drive home they think, "Where is our benefit from the budget?" They are not benefiting from the State's budget spending as just 10 per cent of this year's Roads budget is being spent west of the Dividing Range. We must ask Ministers: What do the budget papers really mean?

**The Hon. Robert Borsak:** Short sheeting the bush.

**The Hon. MICK VEITCH:** I acknowledge the interjection of the Hon. Robert Borsak; they are absolutely short sheeting the bush. One of the problems for everyone in politics is that we must look closely at projects funded in the budget. The Muswellbrook bypass is a good example. Last year \$2 million was allocated for the Muswellbrook bypass. How much was spent? I made an inquiry under the Government Information (Public Access) Act—GIPA—and found out that just \$130,000 was spent. Why? I was told that it does not meet Treasury's benefit-cost ratio. Treasury dictates where the money goes, not members of the Government, members of the Opposition or members of the crossbench. The reality is that we put forward projects, but Treasury dictates whether they will go ahead. Until this fundamental issue is fixed, all members in this place will have a problem getting projects up and people who live west of the Dividing Range will continue to be deprived of the infrastructure they need. We need to address Treasury's involvement in decision-making about the budget and its negative impact on projects that would benefit us all, particularly those who live west of the Dividing Range.

### STATE FORESTS

**Ms DAWN WALKER (18:51):** I bring to the attention of the House some of the most precious resources in New South Wales, our State forests. They are a fundamental part of the landscape in this country, from the iconic eucalypts that give the Blue Mountains their name to the rainforests of my home town in the Tweed. State forests and national parks provide us with immense social, cultural, environmental and economic benefits. It is time to recognise that the greatest values of our public native forests come from preserving them, not logging them. With this in mind, I have been asking questions in this House since I got here about the destructive logging practices going on every day in our State forests; the plight of our koalas, whose numbers are plummeting; our growing list of threatened species; and our displaced forest creatures, including the cruel death of wombats who are suffocated in crushed burrows. Yet I rarely get a straight answer. In fact, once I was told to put away my violin.

So I have gone to the forests to see for myself what is going on at the hands of this Government. It is confronting—actually, it is shocking. Away from the public's gaze, often hidden by road buffers, is the systematic destruction of these precious places. Sustainable logging looks like a moonscape of undergrowth crushed by heavy logging equipment with solitary trees dotted over the landscape. This heavy-handed approach brings the noxious weed *lantana* into our forests, which is strangling other plants and creating an environment for bell miner associated dieback, which is slowly killing our remaining forests. Community audits of State native forests have revealed a pattern of systemic non-compliance with environmental laws in our public native forests. I have witnessed clearly marked endangered ecological communities being cut to the ground and tossed in a pile and ancient rainforest trees knocked and damaged by logging equipment, taking years off their life.

The community has a strong and legitimate interest in ensuring that the management of our native forests is both lawful and sustainable. As such, I have given notice of my intention to introduce the Forestry Amendment (Public Enforcement Rights) Bill 2017, which will enable the public to take legal action to prosecute breaches of forestry laws where currently only the Environment Protection Authority [EPA] or a Minister can bring legal proceedings against the Forestry Corporation of NSW.

But it now appears that this Government is planning to legalise current breaches by drawing up new logging rules that will convert much of the State's public forests into "quasi-plantations", industrialising our State forests and making it easier to take out the last of the big trees to sell as part of the contracts it has signed with big timber and paper suppliers.

Leaked documents reveal that the proposed rules remove the need for the most basic protections for our threatened plants and animals. The Forestry Corporation of NSW will no longer be required to undertake scat surveys to identify koala high-use areas, and headwater buffers will be reduced from a thin 10 metres to just five metres—although scientific evidence suggests that they should be a minimum of 30 metres wide. Eden-style clear-felling practices will be expanded into the North Coast, removing the requirement to retain 60 per cent of tree coverage and extending the areas available to this intensive logging technique. The scale of this loss of forest is difficult to comprehend—and it is even more difficult to think it may be sanctioned by this Government.

After decades of protest against destructive logging in public native forests, the agreements reached between industry, government and the community in the late 1990s were supposed to ensure the long-term survival of our forests with "no erosion of environmental values" through logging. This was done in good faith and the Minister for the Environment, Gabrielle Upton, should honour this agreement by conducting a genuine independent review of the proposed logging rules. I call on the Government to make a commitment to preserve our native forests before the damage is irreversible.

### STATE BUDGET

**The Hon. CATHERINE CUSACK (18:56):** What a remarkable week it has been for this Parliament and for the people of New South Wales. This afternoon my colleague the Hon. Shayne Mallard reminded me that it was 12 months ago to the day that then Treasurer Gladys Berejiklian delivered the 2016-17 budget, which predicted a surplus of \$3.7 billion. That budget included fabulous initiatives like \$1 billion in extra funding for schools to increase our investment in education to \$13.7 billion, and another \$1 billion injection for new trains. Many records were smashed in that wonderful budget a year ago, but the budget delivered yesterday well and truly exceeded the wildest dreams of our hardworking members of Parliament who are delivering real outcomes for their communities.

This week the Government has moved forward in keeping its promises made in the 2015 election under then Premier Mike Baird's bold vision. Delivering the benefits of asset management reform has been a complete game changer for the New South Wales economy. The people of this State craved good governance after 16 corrupt, wasteful and wasted years of Labor Government. Indeed, in the past 12 months we have been over achievers—exceeding the net projected returns on the 51 per cent lease of poles and wires by more than \$2 billion. Yesterday we learned that our efforts in leveraging assets to generate new public investment has our State on track to be worth a jaw-dropping quarter of a trillion dollars in the next year. The 2017-18 New South Wales budget has rightly been acclaimed as the envy of the Western World.

As a newly minted member of Parliament, I witnessed the last eight years of Labor deficit budgets—gut-wrenching deficits that were always billions of dollars worse than initially projected due to Labor's inability to control public sector wages growth. This week the exact reverse has occurred: The New South Wales Government surplus predicted last year to be \$3.7 billion is, in fact, \$4.5 billion. What a contrast in fiscal performance. We are now in a situation where our economy leads the nation, with 3.5 per cent economic growth. Indeed, we are now contributing 90 per cent of Australia's growth, with business investment, public infrastructure spending and construction activity lifting State employment to record levels. Tourism, international education and exports are bringing record sums into New South Wales, which continues to thrive with low interest rates, a low Australian dollar and growing consumption. They will all continue to drive growth in the future.

This year's budget made the most of these gains, with a once-in-a-generation infrastructure program, including an extra \$2.2 billion over five years that will transform our schools, and health infrastructure funding of \$7.7 billion for new and upgraded hospitals that will deliver world-class health facilities across this State.

It is a budget that truly has soul, with \$100 million for palliative care, 17,000 more patients to get dental care, a \$100 cash rebate to help families meet the costs of children's sport, and a housing affordability package for first home buyers that, combined with the recent Federal Government initiative whereby young people can access their superannuation for savings purposes, has been a game changer. I have sat down and done the sums with young

people, including my sons, who initially were uncertain about the benefits. By the time we worked it through, there was excitement and hope that they could get the deposits they need and benefit through the wonderful stamp duties exemption.

This is a Liberal hand up, not a Labor handout. It is responsible to taxpayers and it richly rewards the efforts of those who want to have a go. This week overflowed with highlights: tens of thousands of road, rail, health and education projects. The true scale of yesterday's announcement will take months to be fully understood. Compare this to 16 years of Labor where all we got were white elephants like the desalination unit and no major infrastructure at all. That period saw many Labor identities whose greed and stupidity made us a laughing stock jailed for their crimes. Michael Williamson, Eddie Obeid, Ian Macdonald and John Maitland have all joined Milton Orkopoulos in prison. It is a staggering and shameful Labor legacy. This week former Carr Minister and premiership aspirant Carl Scully is publishing his memoirs, ruing Labor's 16 wasted years and warning his party not to gloss over the disgusting criminal behaviour of their own members of Parliament and Ministers during those long hard years. This week we passed the nation's strongest anti-terrorism legislation and new laws to criminalise revenge porn on social media. Today, a new member of Parliament, the Hon. Taylor Martin, delivered a brilliant inaugural speech— *[Time expired.]*

### STATE BUDGET AND LOCAL GOVERNMENT

**The Hon. PETER PRIMROSE (19:01):** On Tuesday the New South Wales Government formally released its budget, large chunks of which had already been leaked over the previous fortnight. But Premier Berejiklian failed to leak the fact that most of the hospital projects would not be finished until the middle of next decade, nor how little of the budget will be spent in rural and regional New South Wales. TAFE continues to be decimated with further cuts in this budget. Since 2012 there have been 63,000 fewer enrolments in our TAFE colleges, while 5,689 teachers and support staff have been sacked over the same period. One can see how little the Liberals and Nationals value TAFE when one looks at the recurrent and capital spending. In this budget, TAFE funding for its day-to-day operations is cut by more than \$105 million, and funding for the maintenance of campuses is cut by \$30.4 million.

The Liberals and Nationals have offered no relief in the budget for people suffering from soaring power prices, unaffordable road tolls or flat wages growth. They totally fail to acknowledge how people are suffering under the cost of living pressures that their policies are creating. Of concern for local government in this State, the Premier also did not leak the 1.1 per cent cut that is being made to the budget of the Office of Local Government. This will make it even harder for the community to obtain information and have complaints dealt with and for that agency to undertake its important monitoring role. Little wonder that under Premier Berejiklian the sector now refers to the agency as the "Cupboard of Local Government".

The former Premier made a commitment last October to significantly increase funding for local libraries so they can fulfil their important social role in the community, but now we see they will receive only \$28.8 million, a pittance of an increase of only around 1.8 per cent. Once again this Government shows how little it values such important institutions. Just as concerning, neither Local Government NSW nor I have been able to locate any mention of the Far West Initiative or an ongoing Local Government Improvement Fund in the budget. I will have a lot more to say about these and other budget issues over the next few weeks, but tonight I want to focus on another announcement that may hold out some hope for local government and the communities they serve.

On the same day the New South Wales Liberals and Nationals were congratulating themselves for raising money by selling off most of the State's public assets, the Federal Leader of the Opposition, Bill Shorten, addressed the National General Assembly of Local Government in Canberra.

He reaffirmed that the next Federal Labor Government would show local government the respect and certainty it deserves by including local government in the Australian Constitution. The Constitution is supposed to describe how the nation functions, but for 116 years a whole level of government has been invisible. To quote Bill Shorten directly:

Fixing this omission would be a powerful message—not just about the status of local government, but the relevance of local government.

I also think it would help stop state and territory governments from rolling over the top of local governments and local communities on things like heavy handed council amalgamations.

The last Federal Labor Government passed the necessary legislation through both Houses to hold a constitutional referendum to recognise local government, but since their election the Federal Liberals and Nationals have refused to implement it and hold such a referendum. In New South Wales local communities have been hit hard by the forced amalgamations imposed by the Liberals and Nationals here. Many communities have suffered, and others continue to live under the threat of forced mergers and rule by the Premier's handpicked administrators.

The next New South Wales Labor Government will legislate to give forcibly merged communities the opportunity to democratically decide for themselves whether or not they will voluntarily demerge. We do not support forced mergers nor forced demergers. This should be a decision for local communities, not Macquarie Street. Recognition of local government in the Australian Constitution would add further protection for local communities to decide their own future and help ensure that the travesty, expense and disruption caused by forced council mergers is never again imposed by any future government.

### FIREARMS LAWS

**The Hon. ROBERT BORSAK (19:06):** It seems that the Federal member for Calare, Andrew Gee, is intent on taking cheap political pot shots without bothering to check what he says is true. The people of Calare deserve better than that from their elected representative. In a recent issue of *Orange City Life*, Mr Gee wrote a piece under the heading "U.S. Style Gun Laws Don't Make Our Communities Safer", in which he accused the Shooters, Fishers and Farmers Party of undermining the National Firearms Agreement. The truth is that the Shooters, Fishers and Farmers Party was moving amendments to a New South Wales bill to remove some of the oppressive red tape from John Howard's gun laws that continue to hamstring and criminalise licensed and law-abiding firearm owners.

In their bloody-mindedness, the New South Wales Nationals even voted against our sensible amendment which called for firearm licences to be collected in person, rather than being mailed out, which poses the very real risk of licences being mailed to incorrect addresses. Mr Gee's claim that the National Firearms Agreement has greatly reduced the instances of firearm deaths is simply not correct. He might wish it was true, but the fact is, it is not. In 2006, the Director of the NSW Bureau of Crime Statistics and Research, Dr Don Weatherburn, wrote an opinion piece in which he acknowledged that the gun buyback did not affect the rate of firearm homicide. In 2008, researchers at the University of Melbourne, using an array of statistical tests to analyse the data, also concluded that the National Firearms Agreement did not have any great effect on reducing firearm homicide or suicide rates.

Finally, in a rigorous systematic review published last year, a researcher at Griffith University found none of the five studies that were analysed found statistical evidence of any significant impact of the 1996 legislative changes on firearm homicide rates. Mr Gee then claims there has not been a mass shooting in Australia since Port Arthur. Again, this is not true. The accepted definition of "mass shooting" is four or more victims, and the tragic loss of five members of the Hunt family at Lockhart in southern New South Wales in 2015 is a graphic and regrettable testament to the failure of the National Firearms Agreement to prevent mass shootings. Finally, Mr Gee imagines that if our amendments were adopted it would allow anyone in New South Wales to own a firearm if they state the reason is personal protection and property protection. Again, not true.

Nothing in our proposed amendments called for removal of the strict background checks by police. Our party continues to support police background checks before firearms licences are issued. On his claim that our party wanted to remove restrictions on the availability of "silencers", Mr Gee is correct. Mr Gee, they are not silencers; they are suppressors or moderators—they do not silence anything. There is no rational reason why licensed firearm owners should not be able to access these devices. Suppressors do not "silence" firearms; they simply reduce the noise from a gun from around 160 decibels to less than 140 decibels.

There is no rational reason that licensed firearms owners should not be able to access these devices. Suppressors do not silence firearms; they simply reduce the noise from a gun from around 160 decibels [dB] to less than 140dB. They are vastly superior to either earplugs or earmuffs for protecting the hearing of firearms users, and there is no evidence that they are used in crime. If I could offer any advice to Mr Gee, it would be this: rather than believe the mythical Hollywood stereotype, he would better serve the thousands of firearms owners in his electorate by supporting the Shooters, Fishers and Farmers Party's calls for easier access to firearms suppressors. He might find this is something firearms owners in Calare actually want.

On a lighter note, my party colleague and member for Orange, Philip Donato, could not pass up an opportunity to attend the hastily arranged Pollies in the Pub drinks event in Orange organised by The Nationals. No-one I have spoken to can ever remember a Deputy Premier and an entourage of five Nationals Ministers and a Nationals Parliamentary Secretary being in Orange at the same time to hear people's grievances. Rural people are concerned about complacency, inactivity, neglect, arrogance, and an utter loss of trust and disconnect between what they want and expect and what The Nationals are not prepared to fight for on their behalf with their Coalition partners, the Liberals. The Deputy Premier even cheekily suggested at this hastily arranged Pollies in the Pub drinks event that The Nationals deliver not only at election time but all the time. If this were true, Philip Donato would not have been elected.

The former member for Orange, Andrew Gee, was a notable absentee. The Deputy Premier or his office may have forgotten to send him an invitation. However, I suspect it was a deliberate snub to the person they blame for losing the seat and whose popularity in the electorate must be quickly dropping to single digit numbers. The

Shooters, Fishers and Farmers Party welcomes the attention that the electorate of Orange is finally receiving from The Nationals. Who would be against bags of government money being thrown their way? If anyone knows how to pork-barrel an electorate it is The Nationals. Our party is very proud of what Philip Donato has been able to achieve for the people of Orange in the limited time he has been in office. He has put his community at the very top of the Government's agenda.

**The PRESIDENT:** The question is that this House do now adjourn.

**Motion agreed to.**

**The House adjourned at 19:12 until Thursday 22 June 2017 at 10:00.**