



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Sixth Parliament
First Session**

Tuesday, 8 August 2017

Authorised by the Parliament of New South Wales

TABLE OF CONTENTS

Bills	1
Electronic Transactions Legislation Amendment (Government Transactions) Bill 2017	1
Firearms and Weapons Legislation Amendment Bill 2017	1
Mining and Petroleum Legislation Amendment Bill 2017	1
Home Building Amendment (Compensation Reform) Bill 2017	1
Crimes Amendment (Intimate Images) Bill 2017	1
Appropriation Bill 2017	1
Appropriation (Parliament) Bill 2017	1
Emergency Services Levy Bill 2017	1
State Revenue and Other Legislation Amendment (Budget Measures) Bill 2017	1
Transport Administration Amendment (Closure of Railway Line Between Rosewood and Tumbarumba) Bill 2017	1
Assent	1
Governor	1
Administration of the Government	1
Administration of the Government	1
Members	2
Legislative Council Vacancy	2
Legislative Council Vacancy	2
Bills	2
Justice Legislation Amendment Bill 2017	2
First Reading	2
State Revenue and Other Legislation Amendment (Budget Measures) Bill 2017	3
Messages	3
Commemorations	3
Centenary of First World War	3
Documents	3
Inspector of Custodial Services	3
Reports	3
Independent Commission Against Corruption	3
Reports	3
Ombudsman	3
Reports	3
NSW Child Death Review Team	4
Reports	4
Independent Commission Against Corruption	4
Reports	4
Mental Health Commission	4
Reports	4
Announcements	4

TABLE OF CONTENTS—*continuing*

Presiding Officers and Clerks Conference.....	4
Motions	4
Portuguese Ethnographic Museum of Australia	4
Indian Support Center Second Anniversary	5
Greater Western Sydney Netball Team	6
International Day of Yoga Third Anniversary.....	6
Tribute to Mrs Vera Wiltshire, OAM	7
Fifth Annual Serbian Festival of Sydney.....	7
Greek Independence Day	8
Future Movement Sydney Chapter Ramadan Iftar Dinner	9
Tribute to Dr Reena Mehta	9
Sri Guru Gobind Singh Ji Celebration and Festival of Vaisakhi	10
Indo-Australian Bal Bharathi Vidyalaya Hindi School Inc. Dinner	11
Documents	12
Tabled Papers not Ordered to be Printed	12
Committees	12
Legislation Review Committee.....	12
Report: Legislation Review Digest No. 41/56	12
Documents	12
Tabling of Papers	12
Auditor-General's Report	13
Committees	13
Legislation Review Committee.....	13
Report: Legislation Review Digest No. 40/56	13
Documents	13
2017-2018 Budget.....	13
Return to Order	13
2017-2018 Budget Finances	13
Return to Order	13
Claim of Privilege	13
Petitions.....	13
Responses to Petitions.....	13
Documents	13
Expert Panel on Political Donations	13
Reports	13
Committees.....	13
Portfolio Committee No. 2 – Health and Community Services.....	13
Membership	13
Portfolio Committee No. 3 – Education	14
Membership	14
Portfolio Committee No. 5 – Industry and Transport	14
Membership	14

TABLE OF CONTENTS—*continuing*

Portfolio Committee No. 6 – Planning and Environment.....	14
Membership	14
Committee on the Health Care Complaints Commission	14
Membership	14
Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission	14
Membership	14
Business of the House	14
Suspension of Standing and Sessional Orders: Order of Business	14
Bills	18
Justice Legislation Amendment Bill 2017	18
Second Reading	18
Questions Without Notice.....	21
Murray-Darling Basin Plan.....	21
Energy Prices	22
Murray-Darling Basin Plan.....	22
Energy Prices	23
Commercial Fishing Industry	24
Whale Watching.....	25
Murray-Darling Basin Plan and Mr Gavin Hanlon.....	25
Aboriginal Communities.....	26
Crown Land Occupation	27
Barwon-Darling Valley Floodplain Management Plan	27
Western Sydney Arts and Culture.....	29
Barwon-Darling Valley Floodplain Management Plan	29
Barwon-Darling Valley Floodplain Management Plan	30
Murray-Darling Basin Plan and Mr Hanlon	31
Deferred Answers	31
Sydney Harbour Bridge Cycleway	31
Older Drivers	32
Logie Awards.....	32
Registered Nurses in Nursing Homes	32
Gas Pipelines.....	32
Creek Contamination	32
Native Wildlife Control	33
Broken Hill Lead Poisoning.....	33
Vehicle Registration Fees	33
Gas Safety	33
Law Enforcement Conduct Commission	34
Dolphin Marine Magic.....	34
Newcastle Industrial Relations Commission Registry Closure	34
Fire and Emergency Services Levy	34

TABLE OF CONTENTS—*continuing*

Centennial Park and Moore Park Trust.....	34
Fire and Emergency Services Levy	34
Ice Epidemic	34
Renewable Energy	35
Land Clearing.....	35
Coal Industry.....	36
Hospitals Privatisation	36
General Post Office Sale.....	36
NSW Police Force.....	36
Hospital Parking Fees	36
F6 Freeway.....	36
Munibung Road Project.....	37
Puppy Farms	37
Local Government Amalgamations	38
Windsor Bridge.....	38
Active Kids Rebate	38
Coal Industry Workers Compensation.....	38
New South Wales State Library.....	38
Greyhound Muzzling	39
Container Deposit Scheme.....	39
Electricity Prices	39
Committees	40
General purpose standing committee no. 2.....	40
Report: Child Protection	40
Select Committee on off-protocol prescribing of chemotherapy in NSW.....	43
Report: Off-Protocol Prescribing of Chemotherapy in New South Wales	43
Bills	45
Justice Legislation Amendment Bill 2017	45
Second Reading	45
Third Reading	53
Environmental Planning and Assessment Amendment (Staged Development Applications) Bill 2017	53
Coal Mine Subsidence Compensation Bill 2017	53
First Reading.....	53
Environmental Planning and Assessment Amendment (Staged Development Applications) Bill 2017	53
Second Reading	53
Third Reading	62
Coal Mine Subsidence Compensation Bill 2017	62
Second Reading	62
In Committee	69
Adoption of Report	72
Third Reading	72

TABLE OF CONTENTS—*continuing*

Transport Legislation Amendment (Automated Vehicle Trials and Innovation) Bill 2017	73
First Reading.....	73
Adjournment Debate.....	73
Adjournment	73
Wage Rates	73
Electricity Prices	74
Pilliga Saving Our Species Project	75
Defamation Law.....	76
Coal-Fired Power Stations	76
Crown Land Occupation	77

LEGISLATIVE COUNCIL

Tuesday, 8 August 2017

The PRESIDENT (The Hon. John George Ajaka) took the chair at 14:30.

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

Bills

**ELECTRONIC TRANSACTIONS LEGISLATION AMENDMENT (GOVERNMENT
TRANSACTIONS) BILL 2017**

FIREARMS AND WEAPONS LEGISLATION AMENDMENT BILL 2017

MINING AND PETROLEUM LEGISLATION AMENDMENT BILL 2017

HOME BUILDING AMENDMENT (COMPENSATION REFORM) BILL 2017

CRIMES AMENDMENT (INTIMATE IMAGES) BILL 2017

APPROPRIATION BILL 2017

APPROPRIATION (PARLIAMENT) BILL 2017

EMERGENCY SERVICES LEVY BILL 2017

STATE REVENUE AND OTHER LEGISLATION AMENDMENT (BUDGET MEASURES) BILL 2017

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

Assent

The PRESIDENT: I report the receipt of messages from the Governor notifying His Excellency's assent to the abovementioned bills.

Governor

ADMINISTRATION OF THE GOVERNMENT

The PRESIDENT: I report the receipt of the following message from His Excellency the Hon. Thomas Frederick Bathurst, AC, Lieutenant-Governor of the State of New South Wales:

GOVERNMENT HOUSE
SYDNEY

T Bathurst
LIEUTENANT-GOVERNOR

The Honourable Thomas Frederick Bathurst AC, Lieutenant-Governor of the State of New South Wales, has the honour to inform the Legislative Council that, consequent on the Governor of New South Wales, His Excellency General The Honourable David Hurley AC DSC (Ret'd), being absent from the State, he has assumed the administration of the Government of the State.

Saturday, 1 July 2017

ADMINISTRATION OF THE GOVERNMENT

The PRESIDENT: I report the receipt of the following message from His Excellency the Governor:

GOVERNMENT HOUSE
SYDNEY

David Hurley
GOVERNOR

General David Hurley AC DSC (Ret'd), Governor of New South Wales has the honour to inform the Legislative Council that he has re-assumed the administration of the Government of the State.

Sunday, 23 July 2017

*Members***LEGISLATIVE COUNCIL VACANCY**

The PRESIDENT: I report the receipt of the following communication from His Excellency the Governor:

GOVERNMENT HOUSE
SYDNEY

Monday, 31 July 2017

The Honourable John Ajaka MLC
President of the Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear President,

I have the honour to inform you that I have received a letter dated 31 July 2017 from The Honourable Duncan Gay MLC tendering his resignation as a Member of the Legislative Council of New South Wales, effective immediately.

The Official Secretary to the Governor has acknowledged receipt of the letter from Mr Gay, on my behalf, and has informed him that you have been advised of his resignation.

Yours sincerely

General the Honourable David Hurley AC DSC (Ret'd)
Governor of New South Wales

I have acknowledged His Excellency's communication and the resignation has been entered in the Register of Members of the Legislative Council.

LEGISLATIVE COUNCIL VACANCY

The PRESIDENT: I report the receipt of the following message from His Excellency the Governor:

DAVID HURLEY
Governor

MESSAGE

I, General The Honourable DAVID HURLEY, AC, DSC, (Ret'd), in pursuance of the power and authority vested in me as Governor of the State of New South Wales, do hereby convene a joint sitting of the Members of the Legislative Council and the Legislative Assembly for the purpose of the election of a person to fill the seat in the Legislative Council vacated by Mr Duncan Gay, and I do hereby announce and declare that such Members shall assemble for such purpose on Wednesday the 9th day of August 2017 at 3.45 p.m. in the building known as the Legislative Council Chamber situated in Macquarie Street in the City of Sydney; and the Members of the Legislative Council and the Members of the Legislative Assembly are hereby required to give their attendance at the said time and place accordingly.

In order that the Members of both Houses of Parliament may be duly informed of the convening of the joint sitting, I have this day addressed a like message to the Speaker of the Legislative Assembly.

Government House
Sydney, 2 August 2017

*Bills***JUSTICE LEGISLATION AMENDMENT BILL 2017****First Reading**

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

The Hon. DON HARWIN: I move:

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

Motion agreed to.

The Hon. DON HARWIN: I move:

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

Motion agreed to.

STATE REVENUE AND OTHER LEGISLATION AMENDMENT (BUDGET MEASURES) BILL 2017**Messages**

The PRESIDENT: I report receipt of a message from the Legislative Assembly agreeing to the Legislative Council's amendment to the abovementioned bill.

*Commemorations***CENTENARY OF FIRST WORLD WAR**

The PRESIDENT (14:35): In August 1917 General Sir William Birdwood, commander of the 1st Anzac Corps, wrote to four women advising them they would be awarded the Military Medal. The women were army nurses and they were the first Australian recipients of the highest Imperial award for which women were eligible during the First World War. The previous month, the No. 2 Australian Casualty Clearing Station had been relocated to Trois Arbres in France in preparation for the upcoming third battle of Ypres. Positioned perilously close to the front line, the nurses worked in makeshift triage stations and operating theatres that were little more than hastily erected canvas tents. At 10.25 p.m. on 22 July 1917, a low-flying German plane dropped two bombs on the clearing station.

One of four small marquees used to treat pneumonia patients was destroyed and the others damaged. Two patients and two orderlies were killed. With no regard for their own safety, Dorothy Cawood, Clare Deacon, Mary Jane Derrer and Alice Ross King ran into the burning tents to rescue their patients. Ignoring the injured men's pleas that they seek shelter in nearby dugouts, the nurses carried their patients to safety or shifted tables and other objects in order to protect those wounded who could not be moved from the flames and falling debris. The four nurses were accorded the Military Medal for their "coolness and devotion to duty" that night. They received their medals from King George V personally. Cawood, Deacon, Derrer and Ross King were four of only eight Australian women awarded the Military Medal during the war. Lest we forget.

*Documents***INSPECTOR OF CUSTODIAL SERVICES****Reports**

The PRESIDENT: According to the Inspector of Custodial Services Act 2012, I table a report of the Inspector of Custodial Services entitled "Prison Greens: The clothing and bedding of inmates in NSW", dated June 2017, received out of session and authorised to be made public on 29 June 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

INDEPENDENT COMMISSION AGAINST CORRUPTION**Reports**

The PRESIDENT: According to the Independent Commission Against Corruption Act 1988, I table a report of the Acting Inspector of the Independent Commission Against Corruption entitled "Report Pursuant to Sections 57B and 77A Independent Commission Against Corruption Act 1988: Operation 'Vesta': Andrew Kelly, Charif Kazal and Jamie Brown Complaints", dated June 2017, including an erratum, received out of session and authorised to be made public on 29 June 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

OMBUDSMAN**Reports**

The PRESIDENT: According to the Community Services (Complaints, Reviews and Monitoring) Act 1993 and the Ombudsman Act 1974, I table a report of the Acting Ombudsman entitled "Report of Reviewable Deaths in 2014 and 2015—Child Deaths: Volume 1", dated June 2017, received out of session and authorised to be made public on 29 June 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

NSW CHILD DEATH REVIEW TEAM

Reports

The PRESIDENT: According to the Community Services (Complaints, Reviews and Monitoring) Act 1993, I table a report of the NSW Child Death Review Team entitled "Reporting of fatal neglect in NSW", dated May 2016, received out of session and authorised to be made public on 29 June 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The PRESIDENT: According to the Independent Commission Against Corruption Act 1988, I table the following reports of the Independent Commission Against Corruption:

- (1) Report entitled "Investigation into the conduct of the former City of Botany Bay Council chief financial officer and others", dated July 2017, received out of session and authorised to be made public on 26 July 2017.
- (2) Report entitled "Investigation into the conduct of a former NSW Department of Justice officer and others", dated August 2017, received out of session and authorised to be made public on 3 August 2017.
- (3) Report entitled "Investigation into dealings between Australian Water Holdings Pty Ltd and Sydney Water Corporation and related matters", dated August 2017, received out of session and authorised to be made public on 3 August 2017.

The Hon. DON HARWIN: I move:

That the reports be printed.

Motion agreed to.

MENTAL HEALTH COMMISSION

Reports

The PRESIDENT: According to the Mental Health Commission Act 2012, I table the report of the Mental Health Commission entitled "Towards a just system—Mental illness and cognitive impairment in the criminal justice system: Directions for action", dated July 2017, received out of session and authorised to be made public on 26 July 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

Announcements

PRESIDING OFFICERS AND CLERKS CONFERENCE

The PRESIDENT (14:41): During the parliamentary break the New South Wales Parliament acted as the host of the Forty-eighth Presiding Officers and Clerks Conference. This event brings together Presiding Officers and Clerks from every Australian parliament and most of the Pacific parliaments, and does much to promote the development of parliamentary practice across the region. This was the first time since 1998 that the event had been held in Sydney. A great deal of work went into the event from all three departments of the Parliament and the result was a great success, as everyone who attended agreed. It is particularly notable that this was the first time the new Preston Stanley Room was used for a conference, and it proved to be an excellent venue. I can announce that the papers for the conference are now publicly available on the Parliament's website, as are many colourful photographs, including of the spectacular opening to the conference and the session celebrating the tenth anniversary of the twinning relationships between Australian and Pacific parliaments. I congratulate everyone associated with the event.

Motions

PORTUGUESE ETHNOGRAPHIC MUSEUM OF AUSTRALIA

The Hon. NATASHA MACLAREN-JONES (14:42): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
- (a) on Saturday 17 June 2017, at the Albert Palais Function Centre Leichhardt, the President, Mrs Cidalia Redeiro, and the Executive of the Portuguese Ethnographic Museum of Australia located in Camperdown hosted a celebratory dinner attended by several hundred members and friends of the Portuguese-Australian community to mark the twentieth anniversary of the founding of the museum;
 - (b) those who attended as guests included:
 - (i) the Consul-General for Portugal in Sydney Dr Paulo Guedes Domingues and Mrs Domingues;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice representing the Hon. Ray Williams, MP, Minister for Multiculturalism and Minister for Disability Services, and Mrs Marisa Clarke;
 - (iii) Mr Barry Cotter, former Mayor of Marrickville Council;
 - (iv) Ms Susanna Teixeira Pinto, coordinator of Portuguese language classes in Australia; and
 - (v) representatives of various Portuguese-Australian community organisations.
 - (c) the Portuguese Ethnographic Museum of Australia was opened on 10 June 1997 to promote Portuguese history, culture and traditions and is run by volunteers from the Portuguese-Australian community; and
 - (d) the Executive of the museum comprises:
 - (i) Mrs Cidalia Rendairo, President;
 - (ii) Mr Acacio Antunes, Vice-President;
 - (iii) Mrs Alizira Martins, Secretary;
 - (iv) Mr Tony Martins, Treasurer;
 - (v) Ms Jacqueline Jacinto, Director;
 - (vi) Mr Adelio Cabrita, Director;
 - (vii) Ms Maria Joao Lima, Director; and
 - (viii) Ms Margarida Alves, Director.
- (2) That this House:
- (a) congratulates the Portuguese Ethnographic Museum of Australia on the occasion of the twentieth anniversary of its foundation, which occurred on 10 June 1997; and
 - (b) commends the Executive Committee of the museum and its many volunteers from the Portuguese-Australian community for their fine efforts in helping to make the museum the outstanding success it is.

Motion agreed to.

INDIAN SUPPORT CENTER SECOND ANNIVERSARY

The Hon. NATASHA MACLAREN-JONES (14:42): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
- (a) on Sunday 4 June 2017 the Indian Support Center under its President Mr Suba Rao Variond celebrated its second anniversary with a fundraiser event at the Parramatta Town Hall, attended by several hundred members and friends of the Indian-Australian community;
 - (b) those who attended as special guests included:
 - (i) Mr S. K. Verma, Consul of India in Sydney;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice representing the Hon. Gladys Berejiklian, MP, Premier, and Mrs Marisa Clarke;
 - (iii) Dr Hugh McDermott, MP, member for Prospect representing Mr Luke Foley, MP, Leader of the Opposition;
 - (iv) Mr Mark Taylor, MP, member for Seven Hills representing the Hon. Ray Williams, MP, Minister for Minister for Multiculturalism, and Minister for Disability Services;
 - (v) Councillor Susai Benjamin, Blacktown City Council;
 - (vi) Mr Moit Kumar, President of the Council of Indian Australians;
 - (vii) Mr John Kennedy, President of the United Indian Associations;
 - (viii) representatives of numerous Indian-Australian cultural and community organisations; and
 - (ix) representatives of the Indian-Australian media.

- (c) since its formation two years ago the Indian Support Center has gained a well-deserved reputation for service to the Indian-Australian community, particularly through its support programs for new settlers, job seekers and victims of domestic violence.
- (2) That this House congratulates the Indian Support Center on the occasion of the second anniversary of its ongoing service to the Indian-Australian community.

Motion agreed to.

GREATER WESTERN SYDNEY NETBALL TEAM

The Hon. NATASHA MACLAREN-JONES (14:43): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
 - (a) in 2017 the inaugural Suncorp National Netball League was founded with New South Wales entering a new team, Greater Western Sydney [GWS], coached by Ms Julie Fitzgerald and sponsored by the GWS Giants AFL Club;
 - (b) for the first time in netball's history, the competition was televised by a major television network, Channel 9, and players and coaching personnel were paid a professional wage;
 - (c) despite GWS being in its first year of operation and losing its Captain Kimberlee Green due to injury, the team had an exceptional season and made the grand final which was televised live on Channel 9 on Saturday 17 June 2017;
 - (d) the GWS team were runners up in the grand final being defeated by Sunshine Coast Lightning; and
 - (e) the grand final of the Suncorp National Netball League was umpired by Michelle Phippard and Joshua Bowring with Mark Henning acting as reserve.
- (2) That this House:
 - (a) congratulates and commends the success of the GWS netball team that consisted of Toni Anderson, Kristina Brice, Rebecca Bulley, Taylah Davies, Kimberlee Green, Serena Guthrie, Kristiana Manu'a, Joe Harten, Susan Pettitt, Sam Poolmam, Jamie-Lee Price, and Sarah Wall;
 - (b) commends Ms Julie Fitzgerald, who returned to Australia to be Head Coach of GWS;
 - (c) acknowledges and commends the outstanding support of the team by GWS Giants Chairman, Joseph Carrozzi; the board of GWS; Netball New South Wales' President, Wendy Archer, AM; Chief Executive Officer, Carolyn Campbell; and the board of Netball New South Wales; and
 - (d) acknowledges the sponsors of GWS, Suncorp, HCF, Bing Lee, Nissan, CBR Canberra; FDC Construction and Fitout, Hawaiian Airlines, National Storage, Samsung; Brokenwood, Castlereigh Imaging, Coast2Coast, Darrell Lea, Elastoplast, Gilbert, Mount Franklin, Skins Clothing, Sydney Olympic Park, Western Sydney University, Channel 9 Network, Nova 96.9, and Telstra, whose contribution and generosity has enabled this historic inaugural National Netball League to take place and fostered the professionalisation of these outstanding elite female athletes.

Motion agreed to.

The Hon. Don Harwin: Point of order: This would move more quickly if there were a limit to the number of interjections made when members are moving motions.

The PRESIDENT: Order! I remind all members that interjections are disorderly at all times. As the Leader of the Government says, it would be quicker if we were to proceed without interjections.

INTERNATIONAL DAY OF YOGA THIRD ANNIVERSARY

The Hon. NATASHA MACLAREN-JONES (14:44): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
 - (a) pursuant to a unanimous resolution of the United Nations General Assembly passed on 11 December 2014, 21 June of each year has been designated the International Day of Yoga;
 - (b) to celebrate the third International Day of Yoga, the Consul-General of India in Sydney Mr B. Vanlalvawna, on Thursday 8 June 2017 hosted at the Indian Cultural Centre of the Indian Consulate General Sydney a presentation titled "Yoga: Inner Power, Inner Peace" comprising yoga dance, meditation talks, and musical performances, which was attended by members and friends of the Indian-Australian community as well as enthusiasts of yoga;
 - (c) the presentation was conducted by the Australian branch of Brahma Kumaris, an organisation formed in India in 1936 to promote the principles and practices of a meditative life in which the practice of yoga forms a major part;
 - (d) those who spoke at the presentation comprised:
 - (i) Mr B. Vanlalvawna, the Consul-General for India in Sydney;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;

- (iii) Mr Charlie Hogg, National Director of Brahma Kumaris; and
- (iv) Mr R. B. Karjee from the Indian Cultural Centre.
- (e) yoga was originally developed in India for therapeutic purposes and is based on harmonising body, mind, and spirit to promote mental, physical, and spiritual wellbeing.
- (2) That on the occasion of this year's observance of the International Day of Yoga this House extends greetings and best wishes to all practitioners and enthusiasts of the ancient practice of yoga.

Motion agreed to.

TRIBUTE TO MRS VERA WILTSHIRE, OAM

The Hon. NATASHA MACLAREN-JONES (14:44): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
 - (a) netball legend Mrs Vera Wiltshire, OAM, who devoted more than 60 years of her life to netball in New South Wales, passed away peacefully on Monday 12 June 2017;
 - (b) Mrs Wiltshire became involved in what was then women's basketball, now netball, through the Queenscliff Netball Club in the 1960s;
 - (c) Mrs Wiltshire held countless positions within the Manly Warringah Netball Association serving on its Executive Committee as Junior Vice President from 1980 to 1989 and as Minute Secretary in 1979, as well as a representative coach, selector and canteen convenor;
 - (d) Mrs Wiltshire coached several elite netballers including world-famous former Australian Captain Anne Sargeant, OAM; and
 - (e) in honour of Mrs Wiltshire's outstanding volunteer service to the New South Wales community, she was recognised with the Medal of the Order of Australia in 2013, the Beryl Gartner Outstanding Service to Coaching Award in 2003, the Warringah Council Outstanding Community Service Award in 2002, Life Membership of Manly Warringah Netball Association in 1985, and the Anne Clark, BEM, Service Award in 2002—Netball NSW's highest accolade.
- (2) That this House acknowledges the outstanding service Mrs Vera Wiltshire, OAM, gave for more than 60 years to the New South Wales community and extends its sympathy to family, loved ones and friends.

Motion agreed to.

FIFTH ANNUAL SERBIAN FESTIVAL OF SYDNEY

The Hon. NATASHA MACLAREN-JONES (14:45): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
 - (a) on Saturday 4 February and Sunday 5 February 2017 the fifth annual Serbian Festival of Sydney was held at Tumbalong Park, Darling Harbour, Sydney, attended by several thousand members and friends of the Serbian-Australian community;
 - (b) those who attended the official opening of the festival included:
 - (i) the Very Reverend Presbyterian Branko Bosancic representing His Grace the Right Reverend Silvan, Serbian Orthodox Church Bishop of Australia and New Zealand;
 - (ii) His Excellency Mr Miroljub Petrovic, Ambassador of the Republic of Serbia;
 - (iii) Mr Branko Radosevic, Consul-General of the Republic of Serbia in Sydney;
 - (iv) Mr Branislav Grbic, Consul of the Republic of Serbia;
 - (v) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (vi) Mr Paul Lynch, MP, member for Liverpool, shadow Attorney General;
 - (vii) Mr John Jeremic, Treasurer of the Serbian Orthodox Youth Association representing Mr Ilija Perac, President of the Serbian Orthodox Youth Association;
 - (viii) Mr Stevan Sipka, Vice President of Air Serbia for Asia Pacific; and
 - (ix) representatives of numerous Serbian-Australian community, religious and cultural organisations.
 - (c) those who comprised the Serbian Festival of Sydney Organising Committee were:
 - (i) Mr Dimitrije Grasar, Festival Director and State Coordinator;
 - (ii) Ms Tanja Stancevic, State Secretary;
 - (iii) Ms Aleksandra Stancevic, State and Festival Treasurer;
 - (iv) Mr Radoje Mijatovic, Festival Operations Coordinator; and
 - (v) Ms Jovana Zelenbaba, Festival Official Ceremony Coordinator.

- (2) That this House congratulates the Serbian Festival of Sydney Organising Committee and volunteers on the successful Serbian Festival of Sydney 2017.
- (3) That this House commends the Serbian-Australian community for its ongoing contribution to the cultural life of the State of New South Wales.

Motion agreed to.

GREEK INDEPENDENCE DAY

The Hon. NATASHA MACLAREN-JONES (14:45): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
 - (a) on Friday 24 March 2017 the Independence Day of Greece was celebrated by several hundred members and friends of the Greek Australian community at a reception hosted by the Consul-General of Greece, Dr Stavros Kyrimis at the Australian National Maritime Museum, Darling Harbour, Sydney;
 - (b) those who attended as guests included:
 - (i) the Hon. Ray Williams, MP, Minister for Multiculturalism, and Minister for Disability Services, representing the Premier, the Hon. Gladys Berejiklian, MP;
 - (ii) Ms Sophie Cotsis, MP, representing the Leader of the Opposition, the Hon. Luke Foley, MP;
 - (iii) Senator the Hon. Arthur Sinodinos, AO, Federal Minister for Industry, Innovation and Science;
 - (iv) the Hon. David Elliott, MP, Minister for Counter Terrorism, Minister for Corrections, and Minister for Veteran Affairs;
 - (v) Mr Jack Passaris, OAM, representing His Eminence Archbishop Stylianos of the Greek Orthodox Church of Australia;
 - (vi) the Hon. Craig Laundy, MP, Federal Assistant Minister for Industry, Innovation and Science;
 - (vii) Mr Peter Dexter, AM, Chairman of the Australian National Maritime Museum, who acted as master of ceremonies;
 - (viii) the Hon. Matt Thistlethwaite, MP;
 - (ix) Senator Brian Burston;
 - (x) Mr Mark Coure, MP, Parliamentary Secretary for Transport and Infrastructure;
 - (xi) Mr Michael Daley, MP, Deputy Leader of the Opposition;
 - (xii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (xiii) Mr John Sidoti, MP, Parliamentary Secretary to Cabinet;
 - (xiv) the Hon. Michael Gallacher, MLC;
 - (xv) the Hon. Shoaquett Moselmane, MLC, Opposition Whip in the Legislative Council;
 - (xvi) the Hon. John Graham, MLC;
 - (xvii) the Hon. Robert Brown, MLC;
 - (xviii) Ms Eleni Petinos, MP, member for Miranda;
 - (xix) Mr Harry Danalis, President of the Greek Orthodox Community of NSW;
 - (xx) Reverend the Hon. Fred Nile, MLC, Assistant President;
 - (xxi) His Honour District Court Judge John Hatzistergos;
 - (xxii) Ms Olivia Simpson on behalf of Mr David Coleman, MP;
 - (xxiii) Mr Nicholas Varvaris, former Federal member for Barton, and Mrs Varvaris;
 - (xxiv) Captain John Stavridis representing Rear Admiral Stuart Mayer;
 - (xxv) councillors from Georges River, Strathfield, Waverley, Woollahra, Bayside, Parramatta, Inner West, and the City of Sydney councils;
 - (xxvi) representatives from the Australian History Teachers Association, the Red Cross, and the Ethnic Affairs Commission;
 - (xxvii) representatives of Jewish and Assyrian communities;
 - (xxviii) professors from the University of Sydney, the University of New South Wales, Macquarie University, Western Sydney University and the University of Technology Sydney, as well as student representatives from the various student organisations; and
 - (xxix) presidents and representatives from all corners of Hellenism, including Macedonia, Thrace, Thessaly, Peloponesos, Ionian and Aegean Islands, Crete and Cyprus.

- (c) the Hellenic organisations which assisted in making the event successful included:
 - (i) the Hellenic Lyceum, Sydney;
 - (ii) Australian Hellenic Educational Progressive Association [AHEPA] NSW;
 - (iii) the Pan-Arcadian Association;
 - (iv) the Joint Committee for the Battle of Crete and the Greek Campaign; and
 - (v) the Lemnian Association.
- (2) That this House extends greetings and best wishes to the Greek nation and to the Greek-Australian community on the occasion of Greek Independence Day.

Motion agreed to.

FUTURE MOVEMENT SYDNEY CHAPTER RAMADAN IFTAR DINNER

The Hon. NATASHA MACLAREN-JONES (14:46): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
 - (a) on Sunday 11 June 2017 the Future Movement Sydney Chapter under the patronage of His Excellency Saad Rafic Hariri, Prime Minister of Lebanon and President of the Future Movement, hosted its annual Ramadan Iftar Dinner 2017 at the White Castle Reception Lounge, Lakemba, attended by several hundred members and friends of the Future Movement and the Lebanese-Australian community;
 - (b) those who attended as guests included:
 - (i) Mr Jihad Dib, MP, member for Lakemba, and shadow Minister for Education, representing Mr Luke Foley, MP, Leader of the Opposition;
 - (ii) Mr Mark Coure, MP, member for Oatley, and Parliamentary Secretary for Transport and Infrastructure;
 - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iv) Dr Geoff Lee, MP, member for Parramatta, and Parliamentary Secretary to the Premier, Western Sydney and Multiculturalism;
 - (v) Ms Julia Finn, MP, member for Granville;
 - (vi) Elcheikh Abdel Ghafar Zougbi;
 - (vii) Father Superior Dr Louis El Ferekh, St Charbel's Monastery and Maronite Order of Monks;
 - (viii) Elcheikh Fawaz Qamez;
 - (ix) Elcheikh Khaled Taleb;
 - (x) Elcheikh Khaled Zreika;
 - (xi) Elcheikh Malek Zayden;
 - (xii) Elcheikh Melhem Assaf;
 - (xiii) Elcheikh Moussaab Laga;
 - (xiv) Elcheikh Nabil Sukariah;
 - (xv) Elcheikh Yehya Safi;
 - (xvi) current and past councillors of local government; and
 - (xvii) representatives of numerous Lebanese political parties and Lebanese-Australian community organisations.
 - (c) the Ramadan Iftar event was coordinated by Mr Khaled Elcheickh of the Future Movement's Sydney Business Sector and the master of ceremonies was Mr Hassan Rahman.
- (2) That this House extends greetings and best wishes to members and friends of the Future Movement Sydney Chapter and to the wider Lebanese-Australian Muslim community on the occasion of the Muslim Holy Month of Ramadan.

Motion agreed to.

TRIBUTE TO DR REENA MEHTA

The Hon. NATASHA MACLAREN-JONES (14:46): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
 - (a) on Saturday 27 May 2017, at the Delhi Heights Restaurant and Function Centre, the India Club hosted a congratulatory dinner in honour of rising singing star Dr Reena Mehta, which was attended by members and friends of the Indian-Australian community;

- (b) Dr Reena Mehta, a member of the Indian-Australian community, is a self-taught amateur singer who donates her time and talent for charity and Indian community functions;
- (c) Dr Reena Mehta has gained an illustrious reputation because of her unique style and recently was contracted to appear in a number of Bollywood productions to be filmed in India;
- (d) those who attended the celebratory function included:
 - (i) Dr Shubha Kumar, President of the India Club;
 - (ii) Mr Aksheya Kumar, Chairman of the India Club;
 - (iii) Mr Vinod Rajput;
 - (iv) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, and Mrs Marisa Clarke;
 - (v) Mr Dilip Bhawe; and
 - (vi) representatives of various Indian-Australian cultural, professional and community organisations.
- (2) That this House:
 - (a) congratulates Dr Reena Mehta on her recent success in being contracted to appear in a number of Bollywood productions to be filmed in India; and
 - (b) commends Dr Reena Mehta for her past and ongoing service in the entertainment field to the Indian-Australian community and to charitable causes generally.

Motion agreed to.

SRI GURU GOBIND SINGH JI CELEBRATION AND FESTIVAL OF VAISAKHI

The Hon. NATASHA MACLAREN-JONES (14:47): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
 - (a) on Wednesday 31 May 2017 the 350th birth anniversary celebration of Sri Guru Gobind Singh Ji and Festival of Vaisakhi celebration was held at Parliament House, attended by several hundred members and friends of the Indian-Australian community;
 - (b) the celebratory function was organised by the Federation of Indian Associations of NSW under the Presidency of Dr Yadu Singh;
 - (c) those who attended as guests included:
 - (i) the Hon. Matt Kean, MP, Minister for Innovation and Better Regulation;
 - (ii) the Hon. Ray Williams, MP, Minister for Multiculturalism, and Minister for Disability Services;
 - (iii) the Hon. Victor Dominello, MP, Minister for Finance, Services and Property;
 - (iv) Ms Jodi McKay, MP, shadow Minister for Transport, and shadow Minister for Roads, Maritime and Freight;
 - (v) Ms Sophie Cotsis, MP, shadow Minister for Women, shadow Minister for Ageing, shadow Minister for Multiculturalism, and shadow Minister for Disability Services;
 - (vi) Dr Geoff Lee, MP, Parliamentary Secretary to the Premier, Western Sydney and Multiculturalism;
 - (vii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (viii) Mr Kevin Conolly, MP, member for Riverstone;
 - (ix) Mr Mark Taylor, MP, member for Seven Hills;
 - (x) Dr Hugh McDermott, MP, member for Prospect;
 - (xi) Mr Frank Zumbo representing Mr Craig Kelly, MP, Federal member for Hughes;
 - (xii) Captain Sarjinder Singh (Ret. Indian Army), President of Glenwood Gurdwara Sikh Temple;
 - (xiii) Councillor Gurdeep Singh, Hornsby Shire Council;
 - (xiv) Councillor Raj Datta, Strathfield Municipal Council;
 - (xv) representatives from the Chinese, Egyptian and Italian communities; and
 - (xvi) representatives of various Indian-Australian community, cultural and professional organisations.
- (2) That this House congratulates and commends Dr Yadu Singh, President, and the Executive Committee of the Federation of the Indian Associations of NSW for their fine efforts in organising the 350th birth anniversary celebration of Sri Guru Gobind Singh Ji and Festival of Vaisakhi celebration held on 31 May 2017.
- (3) That this House extends greetings and best wishes to the Indian-Australian community on the occasion of the Festival of Vaisakhi.

Motion agreed to.

INDO-AUSTRALIAN BAL BHARATHI VIDYALAYA HINDI SCHOOL INC. DINNER

The Hon. NATASHA MACLAREN-JONES (14:47): On behalf of the Hon. David Clarke: I move:

- (1) That this House notes that:
- (a) on Saturday 10 June 2017 the Indo-Australian Bal Bharathi Vidyalaya [IABBV] Hindi School Inc. held a thirtieth anniversary dinner and dance attended by several hundred members and friends of the Indian-Australian community at the Hornsby Function Centre Hornsby RSL Club;
 - (b) the event was held not only to celebrate 30 years of teaching the Hindi language but also to raise awareness in the community about homelessness and domestic violence and the impact it has on women and their families and to raise funds for the Hornsby Ku-ring-gai Women's Shelter;
 - (c) those who attended as guests included:
 - (i) the Hon. Ray Williams, MP, Minister for Multiculturalism, and Minister for Disability Services;
 - (ii) Mr B. Vanlalvawna, Consul-General of India in Sydney;
 - (iii) Dr Geoff Lee, MP, member for Parramatta, and Parliamentary Secretary to the Premier, Western Sydney and Multiculturalism;
 - (iv) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (v) Mr Damien Tudehope, MP, member for Epping, and Mrs Tudehope;
 - (vi) Kamahl, AM, recording artist, singer and entertainer;
 - (vii) Mr Harry Anderson, Vice President of Hornsby RSL Club;
 - (viii) Mr Albert Vella, OAM, President of NSW Federation of Community Languages School;
 - (ix) Councillor Gurdeep Singh, Hornsby Shire Council;
 - (x) Councillor Raj Dutta, Strathfield Municipal Council;
 - (xi) Ms Melissa Monteiro, Executive Director of the Community Migrant Resource Centre;
 - (xii) Dr Phil Lambert, PSM, Ambassador for White Ribbon;
 - (xiii) Ms Annabelle Daniel, founder of Hornsby Ku-ring-gai Women's Shelter;
 - (xiv) Ms Meherlyn Jussawalla, Director, Diplomatic and Network Relations, University of New South Wales Sydney;
 - (xv) Mr Neville Roach, AO;
 - (xvi) Ms Sheba Nandkeolyar, National Chair, Australia India Business Council [AIBC];
 - (xvii) Gambhir Watts, OAM, President of Bharatiya Vidya Bhavan Australia; and
 - (xviii) representatives of Indian ethnic media.
 - (d) the IABBV Hindi School, which was established in June 1987, is a non-profit organisation run entirely by volunteers and is the first structured Hindi language institution in Sydney;
 - (e) the school is part of the Department of Education and Communities Community Languages School Program, with more than 200 students in centres at Thornleigh West Public School, John Purchase Public School, Waitara Public School and Epping Public School;
 - (f) the school's executive committee comprises:
 - (i) Mrs Mala Mehta, OAM, President and Honorary Founder of the school;
 - (ii) Mr Vipin Virmani, Vice President, IABBV Hindi School P&C;
 - (iii) Ms Preeti Thadani, Secretary, IABBV Hindi School P&C;
 - (iv) Aditi Janveja, Volunteer Graphic Designer;
 - (v) Rubleet Singh Walia, alumni P&C;
 - (vi) Sakshi Sethi, alumni APRA;
 - (vii) Saloni Sharma, alumni; and
 - (viii) Saheba Walia, alumni.
 - (g) the IABBV Hindi School teachers as at 2017 comprised: Sunita Anand, Madhu Arora, Sheetal Bansal, Anita Bassi, Darshan Behl, Neerja Badhwar, Seema Bhardwaj, Ekta Chanana, Ria Chanana, Archana Chaudhry, Jagdish Chaudhry, Kusum Chaudhry, Varsha Daithankar, Swati Doshi, Bijinder Duggal, Savita Gupta, Dipti Jani, Kulwinder Kaur, Mala Mehta, OAM, Saroj Paul, Vinod Rajput, Rekha Rajvanshi, Taran Sahdeva, Shelja Sahgal, Pushpa Saini, Monica Sharma, Shobha Sharma, Daulat Singhi, Saral Somaiya, Alka Sood, Mr Ram Swamy, Manisha Virmani, Shantha Viswanathan;

- (h) the IABBV Hindi School volunteers as at 2017 comprised: Saba Abdi, Sharad Basin, Darshan Behl, Sasi Bhatt, Rakhi Birla, Ravi Chanana, Archana Chaudhry, Jagdish Chaudhry, Late Kamlesh Chaudhry, Anisha Chauhan, Jagdish Chawla, Bhim Dev, Bapi Dey, Ankur Dhar, Rakesh Giananey, Charu Gohil, Aakash Gulati, Rajendra Gupta, Cheshta Hooda, Varun Kapoor, Padma Kashyap, Rakesh Kaul, Satish Kaushal, Sunil Kumar, Pawan Luthra, Radhika Mathur, Mehgnad, Mala Mehta, OAM, Glen Pereira, Saroj Paul, Vinod Rajput, Yitul Rawat, Sadhna Risbud, Ankita Sachdeva, Kamal Saini, Pallav Saxena, Sakshi Sethi, Swati Singh Sethi, Surinder Singh, Hardeep Sodhi, Saral Somaiya, Sandhya Sunil, Vani Suri, Ram Swami, Preeti Thadani, Balasubramaniam Venkatraman, Rajesh Virmani, Shanta Viswanathan, Chiranjiv Walia, Mahtab Walia, Rubleet Singh Walia, Saheba Kaur Walia; and
- (i) those who provided the entertainment for the event comprised: Greg Simms, Welcome to Country, Shri Maharshi Raval, Tabla and Gumroy, didgeridoo, students of Ruchi Sanghi Dance School, Fashion Show—Rakhi Birla, alumni, Swati Singh, alumni, Ankur Dhar; alumni and parent, Priya Chopra, alumni, Shilpa Arora, alumni, Anisha Arora, alumni; Prachi Nagrath, alumni, Rubal Walia, alumni, Cheshta Hooda, alumni, Rachna Garg; volunteer, Akriti Redhu, student, Neha Saini, student, Vedant Virmani, student, Aditi Janveja, volunteer, Maya Stempien, singer with IABBV students, Ankita Sachdeva; alumni Bollywood playback singer, Lalit Mehra, volunteer singer, Gul Hora, alumni Bollywood playback singer, Preeti Kanwar of Nachle Bollywood Dance Group and the bhangra dance by Rakhi Birla, alumni, Swati Singh, alumni, Rubal Walia alumni; Cheshta Hooda, alumni, Saloni Sharma, alumni.
- (2) That this House congratulates and commends the IABBV Hindi School together with its executive, teachers and volunteers for their outstanding work in promoting the Hindi language and Indian culture to the wider Australian community, and also for its charitable work including worthy causes such as the Hornsby Ku-ring-gai Women's Shelter.

Motion agreed to.

Documents

TABLED PAPERS NOT ORDERED TO BE PRINTED

The Hon. SCOTT FARLOW: According to Standing Order 59, I table a list of papers tabled and not ordered to be printed since 1 June 2017.

Committees

LEGISLATION REVIEW COMMITTEE

Report: Legislation Review Digest No. 41/56

The Hon. GREG PEARCE: I table the report of the Legislation Review Committee entitled "Legislation Review Digest No. 41/56", dated 8 August 2017. I move:

That the report be printed.

Motion agreed to.

Documents

TABLING OF PAPERS

The CLERK: I announce receipt of the following reports presented since the last sitting of the House:

- (1) Barangaroo Delivery Authority Act 2009—Report of the statutory review of the Barangaroo Delivery Authority Act 2009, dated June 2017
- (2) Gaming Machine Tax Act 2001—Notice of publication of ClubGRANTS Guidelines, dated 13 July 2017
- (3) Independent Pricing and Regulatory Tribunal Act 1992—
 - (a) Report of Independent Pricing Regulatory Tribunal entitled "Prices for wholesale water and sewerage services: Sydney Water Corporation and Hunter Water Corporation: Final Report Water", dated June 2017
 - (b) Report of Independent Pricing Regulatory Tribunal entitled "Sydney Desalination Plant Pty Ltd: Review of prices from 1 July 2017 to 30 June 2022: Final Report Water", dated June 2017
- (4) Infrastructure NSW Act 2011—Report on the Statutory Review of the Infrastructure NSW Act 2011, dated May 2017
- (5) Transport Administration Act 1998 and Passenger Transport Act 1990—
 - (a) Report of the Office of Transport Safety Investigations entitled "Engine room fire on board Fantasea Spirit Kissing Point Sydney Harbour 8 May 2016"
 - (b) Report of the Office of Transport Safety Investigations entitled "Passenger injury—Train amalgamation Central Station Sydney 10 August 2016"
- (6) Water NSW Act 2014—Report of Alluvium Consulting entitled "2016 Audit of the Sydney Drinking Water Catchment", dated June 2017

Ordered that the reports be printed.

AUDITOR-GENERAL'S REPORT

The CLERK: According to the Public Finance and Audit Act 1983, I announce receipt of a performance audit report of the Auditor-General entitled "ICT in schools for teaching and learning: New South Wales Department of Education", dated July 2017, received this day and authorised to be printed on 6 July 2017.

*Committees***LEGISLATION REVIEW COMMITTEE****Report: Legislation Review Digest No. 40/56**

The CLERK: According to the Legislation Review Act 1987, I announce receipt of a report of the Legislation Review Committee entitled "Legislation Review Digest No. 40/56", dated August 2017, received out of session and authorised to be printed on 3 August 2017.

*Documents***2017-2018 BUDGET****Return to Order**

The CLERK: According to the resolution of the House of 22 June 2017, I table documents relating to an order for papers regarding the 2017-2018 budget, received on 13 July 2017 from the Acting Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

2017-2018 BUDGET FINANCES**Return to Order**

The CLERK: According to the resolution of the House of 22 June 2017, I table documents relating to an order for papers regarding the 2017-2018 budget finances, received on 13 July 2017 from the Acting Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Claim of Privilege

The CLERK: I table a return identifying documents received on 13 July 2017 which are considered to be privileged and should not be made public or tabled. According to the standing order, the documents are available for inspection by members of the Legislative Council only.

*Petitions***RESPONSES TO PETITIONS****Abortion Law Reform**

The CLERK: According to sessional order, I announce receipt of the following response to a petition signed by more than 500 persons:

- (1) Response from the Hon. Mark Speakman, MP, Attorney General, to a petition presented by the Hon. Greg Donnelly on 23 May 2017 concerning opposition to abortion law reform bills, received out of session and authorised to be printed on 27 June 2017.

*Documents***EXPERT PANEL ON POLITICAL DONATIONS****Reports**

The PRESIDENT: I table correspondence dated 27 June 2017 from the Premier, the Hon. Gladys Berejiklian, relating to the final report of the Expert Panel on Political Donations, chaired by Dr Kerry Schott.

*Committees***PORTFOLIO COMMITTEE NO. 2 – HEALTH AND COMMUNITY SERVICES****Membership**

The PRESIDENT: I inform the House that on 20 July 2017 the Clerk received advice from the Leader of the Opposition of the following change in membership of Portfolio Committee No. 2 – Health and Community Services:

Mrs Houssos in place of Mr Graham.

PORTFOLIO COMMITTEE NO. 3 – EDUCATION**Membership**

The PRESIDENT: I inform the House that on 20 July 2017 the Clerk received advice from the Leader of the Opposition of the following change in membership of Portfolio Committee No. 3 – Education:

Mr Graham in place Mrs Houssos.

PORTFOLIO COMMITTEE NO. 5 – INDUSTRY AND TRANSPORT**Membership**

The PRESIDENT: I inform the House that on 20 July 2017 the Clerk received advice from the Leader of the Opposition of the following change in membership of Portfolio Committee No. 5 – Industry and Transport:

Mr Mookhey in place of Ms Sharpe.

PORTFOLIO COMMITTEE NO. 6 – PLANNING AND ENVIRONMENT**Membership**

The PRESIDENT: I inform the House that on 20 July 2017 the Clerk received advice from the Leader of the Opposition of the following change in membership of Portfolio Committee No. 6 – Planning and Environment:

Ms Sharpe in place of Mr Mookhey.

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION**Membership**

The Hon. DON HARWIN: I seek leave to move a motion without notice that the Hon. Mark Pearson be appointed to the Committee on the Health Care Complaints Commission.

Leave granted.

The Hon. DON HARWIN: I move:

That Mr Pearson be appointed to the Committee on the Health Care Complaints Commission in place of Ms Jan Barham.

Motion agreed to.

The Hon. DON HARWIN: I move:

That a message be forwarded to the Legislative Assembly advising it of the change in membership of the committee.

Motion agreed to.

**COMMITTEE ON THE OMBUDSMAN, THE LAW ENFORCEMENT CONDUCT COMMISSION
AND THE CRIME COMMISSION****Membership**

The Hon. DON HARWIN: I move:

That Mr Amato be discharged from the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission and Mr Martin be appointed as a member of the committee.

Motion agreed to.

The Hon. DON HARWIN: I move:

That a message be forwarded to the Legislative Assembly advising it of the change in membership of the committee.

Motion agreed to.

*Business of the House***SUSPENSION OF STANDING AND SESSIONAL ORDERS: ORDER OF BUSINESS**

Mr JEREMY BUCKINGHAM (15:24): I move:

That standing and sessional orders be suspended to allow Private Member's Business item No. 1267 Outside the Order of Precedence relating to the Environmental Planning and Assessment Amendment (Waste Incinerator Facilities—Residential Exclusion Zones) Bill to be called on forthwith.

It is incredibly important that the Environmental Planning and Assessment (Waste Incinerator Facilities—Residential Exclusion Zones) Bill 2017 be debated today so that the people of Western Sydney can get the

certainty they need relating to the proposed incinerator. The purpose of the bill is to ban waste-to-energy incinerators within 15 kilometres of a residential zone in New South Wales and, specifically, to ensure that the proposed Next Generation energy-from-waste facility at Eastern Creek, which is strongly opposed by residents of Western Sydney, does not go ahead. The singular purpose of this bill is to give that community the certainty that the facility will not go ahead, and to do that now.

I call on the Government to end this proposal now before anyone else has to go through the stress and uncertainty of the campaign to stop the world's biggest waste incinerator from being built in the backyards of hundreds of thousands of people in Western Sydney. This is an urgent matter and I have moved this motion after a lot of consideration. I know that the parties in this House have an agreement not to suspend the sessional order, but I think this is a very serious issue that requires a debate and a decision today. On 13 April 2017 at a packed meeting with hundreds of residents of Western Sydney, including Minister for Mental Health, Minister for Women, and Minister for Ageing, Tanya Davies, the following motion was passed unanimously:

That this meeting calls on the Government and the New South Wales Parliament to act now to stop this incinerator.

This motion was called although people of the community are not used to this type of community campaign. They feel that they are taking on a Goliath, a billionaire ramming a toxic waste incinerator quite literally down their lungs. They want the Government to end it now. Last night on *Four Corners* we saw a community coming together to say no to the biggest waste incinerator in the world. The incinerator will take in feedstock and burn that feedstock in an unprecedented way in an area surrounded by scores of schools. The incinerator will be in four or five local government areas covering quite a lot of electorates, but most importantly it will affect, quite literally, a million people. These people are facing the prospect of the impacts of this incinerator already. This development is inexorably moving through the planning system, and the community wants certainty and wants it now.

The motion was supported by the shadow Treasurer and Federal member for McMahon, Chris Bowen, the Federal member for Lindsay, Emma Husar, Blacktown mayor Stephen Bali and councillor Peter Camilleri as well as Penrith city councillors Todd Carney, Ben Price, Bernard Bratusa, Mark Davies and Tricia Hitchen. While I appreciate there is an ongoing upper House inquiry into waste to energy, the committee is unlikely to report before the end of the year. With the proposal currently progressing through the planning system, the people of Western Sydney currently face the very real prospect of the Eastern Creek incinerator being approved before the committee makes its recommendations. For this reason, I am seeking to introduce this bill and I hope that I can count on the support of the House so that we can stop the Eastern Creek incinerator before it gets planning approval.

The bill is designed to deal specifically with the building of this type of incinerator in residential areas so as to give communities the certainty that they do not have to fundraise to oppose such facilities. The bullying of community groups by the proponent of the incinerator has to stop. These groups are made up of housewives, and mum and dad campaigners who have been receiving letters from lawyers threatening them with defamation charges for just standing up for their community at public meetings. They have said that they do not want a toxic incinerator, and the proponent, billionaire Mr Ian Malouf, is threatening those people with defamation action. It is an absolute outrage. I believe the majority of people in New South Wales would find it abhorrent that Mr Malouf would throw his weight around and threaten those people with legal action. They are terrified. They want the certainty that this—

The PRESIDENT: Order! I remind the honourable member that he should address why the item of business is more important than the other items when seeking a suspension of standing and sessional orders. The honourable member is, in a sense, going into a second reading debate. He has 13 seconds left.

Mr JEREMY BUCKINGHAM: I conclude by saying they want the certainty today that this incinerator will not ruin the lives of the people of Western Sydney.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:30): The honourable member has quite clearly stated in his contribution exactly why the matter is not urgent and why the House should not proceed to debate a second reading of this bill this afternoon. The matter was sufficiently important that a committee of this House established a parliamentary inquiry to look at it in more detail. To bring on a bill to discuss the issue this afternoon entirely pre-empts the work of the parliamentary inquiry into energy from waste technology, which was established on 6 April. The inquiry will examine the industry in New South Wales and will explore the role of the technology in meeting the State's waste disposal needs. The consideration of the Next Generation proposal at Eastern Creek is four-square within the terms of reference of this inquiry.

This inquiry report is so significant that an Opposition member of the House gave notice earlier to broaden its scope to consider matters. Submissions have closed for the inquiry, and 383 were received, so it is obviously a matter of great significance. There have also been several questions to me in the House. I am aware

of the significance of the matter and of the community concern, both of which Mr Jeremy Buckingham referred to in his remarks. Public hearings for the committee were held in June and in early August.

The Hon. Matthew Mason-Cox: And yesterday.

The Hon. DON HARWIN: There were public hearings yesterday, and further hearings are scheduled to be held at Parliament House on 17 August. This is a matter that is receiving the close attention of this House. This is a matter where we can expect the committee, under the chairmanship of the Hon. Paul Green, to make recommendations, about the policy issue generally—

The Hon. Walt Secord: After it is built.

The Hon. DON HARWIN: —and about this facility in particular, that are relevant, and that need to be considered. I hear the Hon. Walt Secord suggesting that the inquiry will not make recommendations until after this facility has been built. What a completely inane contribution from the Hon. Walt Secord.

The PRESIDENT: Order! The Minister will resume his seat.

The Hon. Penny Sharpe: Point of order: It is outside the standing orders for the Minister to respond to interjections.

The PRESIDENT: Order! First and foremost, I remind members that it is disorderly to interject. It is just as disorderly to respond to interjections. Shouting across the table is also disorderly. I remind the Minister that the purpose of his contribution is to argue why this matter is not urgent.

The Hon. DON HARWIN: Indeed, which is the relevant point that I am making: there is an inquiry that will make recommendations on this matter. It is not urgent simply because it is imperative that the House view all of the material that the inquiry has considered during the submission phase and the hearing phase, which will be very relevant and should be taken into consideration when deliberating on the bill that the honourable member is seeking urgency on now. This is not the time to do it; the time to do it is when the Hon. Paul Green's committee reports. I urge the House to oppose the motion moved by Mr Jeremy Buckingham.

The Hon. PENNY SHARPE (15:34): I indicate that the Opposition will be supporting the motion moved by Mr Jeremy Buckingham. This is an unusual thing for the Opposition to do. As a general rule, it does not seek to disrupt Government business on Government business day. However, the issues raised and the urgency that is part of this motion require us to support this. Last night we heard serious allegations about waste disposal in New South Wales. In particular, there were very serious allegations about the proponent of the energy-from-waste facility in Western Sydney.

This morning the Opposition called for approval to be refused for this proposal, given the number of outstanding issues. The community does not support this and there are serious issues to be considered before it goes forward. We know that this proposal came out of nowhere. It was an unsolicited proposal that went to the Government, and has been waved through. We were able to get an inquiry, and I am very grateful to this House for supporting that, but the issues around this incinerator mean that we have to move on this now. We cannot wait for the inquiry to report. That is why, under these very tight and unusual circumstances, Labor supports this motion.

We do not believe that the issues raised since the inquiry was established have been addressed, and there is no reason for the proposal to be proceeding now. We fear that the Government will simply push this proposal through using the fig leaf of an inquiry. The inquiry was established to look at the technology overall; it was not specifically about one proposal. The reality is that New South Wales has before it a proposal for one of the biggest waste incinerators, smack bang in Western Sydney, which is being developed right now. We will also have a piece of legislation coming to this House over the next couple of days that will make things even easier for the proponent by making it possible to deal with stages one and two of large development proposals in one hit. Again, Labor will not be supporting that. However, Labor does support urgency on this very rare occasion.

Reverend the Hon. FRED NILE (15:37): I am sure that the chairman and the members of the committee are well aware of this debate and the urgency, and there is nothing to stop the committee issuing an interim report on just this incinerator issue.

The Hon. MATTHEW MASON-COX (15:37): As a member of the committee, I make it very clear to the House that this matter is not urgent because the committee is reviewing this issue, amongst others. It is not the sole subject of the inquiry, naturally, but it is a relevant matter. It is not urgent also for the clear reason that an environmental impact statement [EIS] is being conducted on this very application. The reality is that it is going through the proper process for consideration of these issues at the moment. The proponent is assessing its response to the EIS, and is due to provide that response to the authorities that are reviewing the application in the next few

months. This is a process that is being undertaken by the applicant and the Government will be reviewing it. That is the proper process. This motion is seeking to circumvent that. It is a stunt; it is not urgent, and I urge the House to reject it.

The Hon. WALT SECORD (15:38): As Deputy Leader of the Opposition, I make a very brief contribution to support the comments of my colleagues the Hon. Penny Sharpe and Mr Jeremy Buckingham. It is unusual for the Opposition to support a move to interrupt Government business, and it is not a decision we take lightly, but this is very urgent. Unfortunately, the Government is hell-bent on pushing the incinerator proposal through. I can imagine the discussion behind the scenes: "Just put it in Western Sydney." I can imagine the Hon. Don Harwin would be at the forefront of that conversation, saying, "Put it in Western Sydney."

Mr Scot MacDonald: Point of order: Mr President, you made the point very clearly that members should stick to debating the urgency and not the substance of the motion.

The Hon. WALT SECORD: This is urgent because it affects a million residents. Again, this is going to be the world's largest waste incinerator. I conclude—

The PRESIDENT: Are you arguing the point of order?

The Hon. WALT SECORD: I was returning to my remarks.

The PRESIDENT: I have not yet ruled on the point of order.

The Hon. WALT SECORD: I apologise, Mr President.

The PRESIDENT: Order! There is no point of order. The member may continue.

The Hon. WALT SECORD: This is urgent because we are on the cusp of the construction of the world's largest incinerator. It will be in Western Sydney. It has not gone through the proper processes; it has been thrust down the throats of the people of Western Sydney. I conclude with a relevant remark made by Reverend the Hon. Fred Nile in his contribution. He made a very good suggestion which showed his experience and longevity in this Chamber: that the committee issue an interim recommendation.

The Hon. MARK PEARSON (15:40): After consideration of what has been said, the Animal Justice Party will support this motion. We have not been assured that this committee is in any way able to intervene before the site is in operation. According to the evidence given on the *Four Corners* program last night and evidence provided elsewhere, this is a very serious issue and thousands of people can be seriously harmed by pollution from this site. It is very likely to have an extremely deleterious effect on people's health, on the environment and on animals in the area, and it is an archaic way of removing and dealing with waste. We cannot go in that direction when there is technology to lead us in a more visionary and intelligent direction. The Animal Justice Party will support the motion.

The PRESIDENT: The question is that the motion be agreed to.

Ayes 13
Noes 18
Majority..... 5

AYES

Buckingham, Mr J
Mookhey, Mr D

Searle, Mr A
Shoebridge, Mr D
Wong, Mr E

Donnelly, Mr G (teller)
Moselmane, Mr S
(teller)

Secord, Mr W
Veitch, Mr M

Field, Mr J
Pearson, Mr M

Sharpe, Ms P
Walker, Ms D

NOES

Blair, Mr N
Cusack, Ms C
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Mason-Cox, Mr M
Pearce, Mr G

Borsak, Mr R
Farlow, Mr S
Harwin, Mr D
Mallard, Mr S

Mitchell, Ms S
Phelps, Dr P

Brown, Mr R
Franklin, Mr B (teller)
MacDonald, Mr S
Martin, Mr T

Nile, Reverend F
Taylor, Ms B

PAIRS

Graham, Mr J
Houssos, Ms C
Primrose, Mr P
Voltz, Ms L

Amato, Mr L
Khan, Mr T
Colless, Mr R
Clarke, Mr D

Motion negatived.

*Bills***JUSTICE LEGISLATION AMENDMENT BILL 2017****Second Reading**

The Hon. BEN FRANKLIN (15:50): 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 Justice Legislation Amendment Bill 2017. The bill will update and improve the operation of the New South Wales justice system by clarifying criminal procedure and improving the efficiency and operation of legislation affecting the courts and other Justice portfolio agencies. The bill will make minor amendments to a number of Acts within the Justice portfolio in order to reduce trauma for victims and witnesses, including children in sexual assault matters; address gaps and anomalies in existing offences and obstacles to the successful prosecution of certain offending behaviour; improve court process in criminal procedure in relation to proceedings involving children; make orders relating to proceeds of crime and criminal assets; provide for the diversion of defendants with cognitive impairment for assessment, treatment or support, and proceedings in the Court of Criminal Appeal; and ensure that the language used and legislation referred to in various pieces of legislation is accurate, up to date and consistent.

I will now outline each of the amendments. Clause 1 sets out the short title of the proposed Act. Clause 2 provides for the commencement of the proposed Act on the date of assent, except for the amendments to the Mental Health (Forensic Provisions) Act 1990, which will commence upon proclamation. Schedule 1 contains amending provisions which amend various Acts within the Justice portfolio. Schedule 1.1 implements a proposal by the Bail Act Monitoring Group to clarify that the offence in section 50B of the Firearms Act 1996, namely giving possession of firearms or firearm parts to unauthorised persons, is a show cause offence for the purposes of bail.

The offence in section 50B is used where a firearm is supplied by one person to another but no financial element is present. It carries a maximum penalty of 14 years imprisonment. These are seen in organised crime and terrorism situations where one member of the criminal organisation will loan a firearm to another to enable that other person to use the firearm. The show cause test for bail, which was introduced under the Bail Amendment Act 2014, was always intended to apply to this offence. Recent bail decisions have indicated some uncertainty with this. This amendment will clarify where a person is charged with the firearms offence under section 50B they must show cause as to why their detention is not justified.

Schedule 1.2 amends the Children (Criminal Proceedings) Act 1987 to provide the Children's Court with a discretion, where an indictable or serious children's indictable offence is transferred to a superior court, to also transfer any back-up offence or related offence with which the person has been charged. Currently serious children's indictable offences and indictable offences that cannot properly be disposed of in a summary manner in the Children's Court are referred to the District Court or the Supreme Court. Related or back-up offences that can be resolved summarily remain in the Children's Court. The result is that two separate proceedings need to be run in the higher court and the Children's Court. This can be time consuming and does not give certainty to the young person who has been committed for trial or sentence. It can also cause unnecessary distress and confusion for victims and witnesses who may need to give evidence in multiple proceedings. This amendment will streamline procedure, improve efficiency and provide greater certainty to young people, victims and witnesses.

The amendment will give the Children's Court the discretion to transfer related and back-up offences where proceedings for a more serious offence have been transferred to a higher court. The Children's Court will not be required to transfer these proceedings but the option will be there where the court considers it appropriate. The amendment replicates with some adjustments the powers that already exist with respect to referring summary matters where more serious charges are committed from the Local Court to higher courts. To inform the Children's Court about what matters can be transferred the prosecutor will be required to produce a certificate for the court

specifying the back-up or related offences. If the Children's Court decides to transfer any of these proceedings they will then be dealt with by the higher court, similar to the way higher courts currently deal with summary proceedings transferred from the Local Court. Higher courts will have the power to remit summary matters back to the Children's Court where necessary to ensure that young defendants are not disadvantaged by this process.

Schedule 1.3 [1] amends the Confiscation of Proceeds of Crime Act 1989 to clarify that the time limit for making an application for a forfeiture order or a pecuniary order under the Act is six months from the day on which the person was sentenced, rather than on the day on which the person was convicted. Currently the Act allows applications to be made for the forfeiture of property where a person is convicted of a serious offence as defined under section 5 of the Act. These confiscation applications must be made before the end of the relevant period in relation to the conviction as defined under section 4 (1) of the Act. In practice in criminal proceedings a person can be convicted at different points in proceedings. Judges will often not pronounce conviction until sentence; however, the date of conviction is taken to be the date when the determination of guilt was made, being the date the jury found the accused guilty or the accused entered a plea of guilty. If sentencing occurs more than six months after the determination of guilt the relevant period has expired and an application can only be commenced with the leave of the Supreme Court. This amendment will clarify that confiscation orders can be sought within six months of final sentence. It will provide certainty of the time frame for both prosecution and defence.

Schedule 1.3 [6] provides for a transitional provision to support this amendment. The transitional provision will mean that the new way of calculating the time limit applies to any matters that are currently on foot as well as future matters. This will give clarity to the way the amendment is to be applied. Other amending provisions of the Confiscation of Proceeds of Crime Act 1989 provide for more minor technical amendments. Schedules 1.3 [2], [3] and [5] insert explanatory notes in the Confiscation of Proceeds of Crime Act 1989 to assist with the interpretation of provisions relating to determining the value or benefit that a person derives from a serious offence, including a drug trafficking offence. The explanatory notes will not affect the current operation of the provisions.

Schedule 1.3 [4] updates references to a Commonwealth Act, the Service and Execution of Process Act 1901, in the Confiscation of Proceeds of Crime Act 1989 to ensure that the legislation referred to is accurate and up to date. Schedule 1.4 amends the Court Security Act 2005 to provide that the maximum penalty for a person possessing a knife without reasonable excuse in court premises is the same maximum penalty for a person having custody without reasonable excuse of a knife in a public place or school under the Summary Offences Act 1988. The maximum penalty for such an offence is 20 penalty units or imprisonment for two years, or both. An inadvertent result of the introduction of the Crimes Legislation Amendment (Possession of Knives in Public) Act 2009 was an inconsistency in the maximum penalty for similar offences under section 8 (1) (b) of the Court Security Act and section 11C (1) of the Summary Offences Act. This amendment will ensure that the maximum penalty for these offences is realigned and there is consistency in the criminal penalty regime.

Schedule 1.5 [1] amends the Crimes Act 1900 to clarify that petrol is a destructive substance for the purpose of the offence under section 47 of that Act. Section 47 relates to throwing a corrosive fluid or destructive or explosive substance on a person with the intent to burn, maim, disfigure, disable or do grievous bodily harm to the person. Currently there is some uncertainty about whether liquid petrol would be scientifically considered to be an explosive substance in all circumstances. The amendment clarifies that petrol is an explosive substance for the purposes of section 47.

Schedule 1.5 [2] amends the money laundering offences in the Crimes Act 1900 to allow an offence under section 193C (2) dealing with property suspected of being proceeds of crime with a value less than \$100,000 to be the subject of an alternative verdict in a trial for an offence under section 193C (1) of the that Act dealing with property suspected of being proceeds of crime with a value of \$100,000 or more. The amendment will clarify that where the court is not satisfied beyond a reasonable doubt that the value of the property being dealt with is over \$100,000 the court can consider whether the accused person is guilty of the offence for property less than \$100,000 under section 193C (2).

Schedule 1.6 amends the Crimes (Sentencing Procedure) Act 1999 to require in proceedings relating to prescribed sexual offences a victim impact statement [VIS] to be read in a closed court and with a support person present unless the court otherwise directs. Currently a complainant is entitled to a support person under section 294C of the Criminal Procedure Act 1986 and a closed court under section 291 of the same Act when giving evidence in prescribed sexual offence proceedings. However, these provisions do not apply when a VIS is read out in court. Further, although there is a general discretionary power in section 291A of the Criminal Procedure Act for the court to be closed during proceedings in respect of a prescribed sexual offence, there is currently no automatic requirement for the court to be closed, nor for the victim to have a support person present when a VIS is read out in court.

This amendment will align the protections for sexual assault victims when a VIS is read out in sentencing proceedings with protections that currently are afforded when a victim is giving evidence during trial. This will provide greater protections and support to victims of sexual violence and minimise further trauma and embarrassment. To ensure the principles of open justice are maintained, the court will have the discretion not to close the court when there are special reasons in the interests of justice to do so, or where the complainant consents. This is consistent with the existing discretion for complainants giving evidence in prescribed sexual assault proceedings.

Schedule 1.7 amends the Criminal Appeal Act 1912 to provide that the New South Wales Court of Criminal Appeal may vacate a determination made by the Supreme Court in its summary jurisdiction and order a new trial in such manner as the Court of Criminal Appeal thinks fit. I seek leave to incorporate the remainder of the second reading speech in *Hansard*.

Leave granted.

This amendment responds to the Court of Criminal Appeal's obiter observation in *Bulga Underground Operations Pty Ltd v Nash* [2016] NSWCCA 37 that, where an error in conviction is established on appeal from the District Court in its summary jurisdiction, the Court of Criminal Appeal has no power to order a new trial where appropriate. The successful appellant would be acquitted in such circumstances.

Criminal Assets Recovery Act 1990

Schedule 1.8 [1] amends the Criminal Assets Recovery Act 1990 to include the offence under section 23A of the Drug Misuse and Trafficking Act 1985 as a drug trafficking offence for the purposes of the Criminal Assets Recovery Act 1990. The offence under section 23A relates to enhanced indoor cultivation of prohibited plants in presence of children,

The Criminal Assets Recovery Act allows for forfeiture orders and restraining orders to be made in relation to interests in property derived from a serious crime related activity. Under section 6 (2) of the Act, a "serious crime related activity" is taken to include a "drug trafficking offence". Currently, similar offences under part 2 division 2 of the Drug Misuse and Trafficking Act are "drug trafficking offences" for the purpose of the Act. This amendment will address a drafting oversight in relation to section 23A and ensure consistency with the other offences.

Schedule 1.8 [2] amends the Criminal Assets Recovery Act 1990 to enable the Supreme Court, at any time when a restraining order is in force under part 2 of that Act, to order NSW Trustee and Guardian to take control of some or all of the interests in property that are interests to which the restraining order applies.

Currently, the Act allows the Supreme Court to make a restraining order preventing the disposal of the property of a person suspected of engaging in a serious crime related activity. Section 10B (2) of the Act provides that the Supreme Court may, when making a restraining order, order the NSW Trustee and Guardian to take control of some or all of the interest in property that are interests to which the restraining order applies.

The amendment will address the situation where it may not be necessary for NSW Trustee and Guardian to take control of property at the time a restraining order is made, but circumstances may arise requiring an order to be made at a later time. This amendment will allow the court to exercise this power after the restraining order is made, and is consistent with other orders of a similar nature that can be made at a later time.

Criminal Procedure Act 1986

Schedule 1.9 [1] and [2] amend the Criminal Procedure Act 1986 to clarify that a child witness is entitled to give evidence at a pre-recorded hearing if they are aged under 16 years at the date of committal. This amendment implements recommendations of the Child Sexual Offence Evidence Pilot Implementation Monitoring Group and will ensure a consistent approach to determining eligibility for inclusion in the Child Sexual Assault Evidence Pilot.

The Child Sexual Assault Evidence Pilot delivers on an election commitment to pilot the pre-recording of children's evidence and Children's Champions to support child victims of sexual assault giving evidence in criminal proceedings. The pilot also implements recommendations from the NSW Ombudsman and the Parliamentary Joint Select Committee on Sentencing Child Sexual Assault Offenders.

The amendment will clarify the relevant point in proceedings for determining whether a child is presumptively eligible for pre-recorded hearing under the pilot. It will provide a greater degree of certainty for child complainants and witnesses, and so promote the broader purpose of the pilot which is to reduce the trauma of criminal proceedings for children in sexual assault matters.

Mental Health (Forensic Provisions) Act 1990

Schedule 1.10 amends the Mental Health (Forensic Provisions) Act 1990 to update old terminology to align with current understandings of cognitive impairment and ensure that people with cognitive impairment can be diverted into assessment, treatment and support.

Section 32 of the Act allows magistrates to divert people with cognitive and mental health impairments from the criminal justice system. The amendment makes it clear that this power is not limited to developmental disabilities and includes other forms of cognitive impairment.

This amendment will support a two-year pilot of the Cognitive Impairment Diversion Program commencing later this year. The program is aimed at people with cognitive impairment who appear before the Local Court for early low-level offending.

The program will provide a pathway for people assessed as having a cognitive impairment, who need supports related to their disability.

Surveillance Devices Act 2007

Schedule 1.11 amends the Surveillance Devices Act 2007 to update provisions relating to the service of documents and notices under that Act. The amendment will modernise the Surveillance Devices Act by allowing service by electronic means.

Schedule 1.12 amends the Terrorism (Police Powers) Act 2002 to update provisions relating to the conduct of personal searches by a police officer authorised to search a person under that Act in order to align those provisions with similar provisions under part 4 of the Law Enforcement (Powers and Responsibilities) Act 2002. This will ensure consistency in language used in relation to personal searches across closely aligned pieces of legislation.

I commend the bill to the House.

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

Questions Without Notice

MURRAY-DARLING BASIN PLAN

The Hon. ADAM SEARLE (16:00): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Why do the terms of reference for the water management and compliance inquiry within the Department of Primary Industries—Water exclude investigation of actions taken by former Ministers Katrina Hodgkinson and Kevin Humphries and actions taken by the current Minister?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:00): I thank the Leader of the Opposition for his question. Obviously he refers to the inquiry that is being led by Mr Ken Matthews, AO, the former Chair and chief executive officer of the National Water Commission, who has been asked by the New South Wales Government to conduct an urgent, thorough and independent investigation into the issues raised by *Four Corners*. At the outset I outline to the House that the New South Wales Government remains committed to the Murray-Darling Basin Plan while seeking the best deal for New South Wales communities within that framework.

As I have mentioned, the investigation is off the back of the *Four Corners* program, which raised very serious issues around alleged improper use in the Barwon-Darling system. The Government takes seriously all breaches of the Water Management Act 2000. It is an offence to take water in excess of a licensed allocation and substantial penalties apply, including a maximum penalty of \$1 million for an individual and \$5 million for a corporation. In any given year around 500 investigations are carried out under the Water Management Act. Mr Matthews has been asked to provide his preliminary report by the end of this month and a final report towards the end of this year.

Should he feel it necessary, Mr Matthews' terms of reference allow him to refer any matters directly to the Independent Commission Against Corruption. The Government will await the findings of Mr Matthews' independent investigation. But rest assured, if there is a case to be answered the Government will immediately take further action. If the Leader of the Opposition has anything to report, he can do so by making contact with Mr Matthews. If the Leader of the Opposition is sitting on any information he believes needs to be reported to other authorities, I encourage him to do so. We will get on and establish the facts through Mr Matthews' investigation. As I have mentioned, we expect to receive an interim report by the end of the month.

The Hon. ADAM SEARLE (16:03): I ask a supplementary question: Will the Minister elucidate on the answer just given, in particular that part of his answer where he referred to there being 500 investigations? Could he inform the House how many of those investigations have resulted in enforcement action or prosecution?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:03): I thank the Leader of the Opposition for his supplementary question. As I stated in my earlier answer, approximately 500 investigations per annum are conducted. These are conducted by the current 47 water regulation officers in Department of Primary Industries—Water, who are authorised to undertake compliance activities, and the 69 officers in WaterNSW, who can be engaged in compliance activities. Since 2010 investigations have resulted in 27 prosecutions, 369 penalty notices, 377 stop work orders, 30 remediation notices and 140 advisory letters.

The PRESIDENT: Order! The question was asked and is being answered. I call the Hon. Walt Secord to order for the first time.

The Hon. NIALL BLAIR: Anyone can call WaterNSW on 1300 662 077.

The Hon. Walt Secord: Point of order: My point of order relates to relevance. The supplementary question was very clear. The Leader of the Opposition asked about the 500 investigations to which the Minister referred, but the Minister referred to a historical 27 investigations in 2010. The Opposition wants to know how many of the 500 investigations actually resulted in prosecution.

The Hon. Don Harwin: To the point of order: The Hon. Walt Secord is engaging in a debating point.

The PRESIDENT: That is correct.

The Hon. Don Harwin: The Minister self-evidently was being relevant in the answer he was giving.

The PRESIDENT: Order! The point of order commenced in a very good way but then descended to debate. The Minister is being generally relevant to the question asked. The Minister has the call.

The Hon. NIALL BLAIR: When the Hon. Walt Secord reads *Hansard* tomorrow he will clearly see that in my first answer I said, "In any given year around 500 investigations are carried out under the Water Management Act." In my subsequent answer I said very clearly that since 2010 investigations—including when there can be up to 500 per annum—have resulted in 27 prosecutions, 369 penalty notices, 377 stop work orders, 30 remediation notices and 140 advisory letters. If anyone has anything they would like to report, I also have given the House the number for WaterNSW to report any issues. If members have some information or allegations, report that or make them to the relevant authorities.

ENERGY PRICES

The Hon. SHAYNE MALLARD (16:06): My question is addressed to the Minister for Energy and Utilities. Will the Minister update the House on what the New South Wales Government is doing to help vulnerable energy customers to keep their lights on?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:06): I thank the Hon. Shayne Mallard for his question. Of course I am very concerned about the impact of energy prices on customers. My personal focus has been to ensure that there is a safety net for those who are doing it toughest. The situation we are in is due to a range of interstate and national factors. Unfortunately, New South Wales customers are being hit. The factors include plant closures in South Australia and Victoria and a tighter supply situation.

The PRESIDENT: Order! I remind all members of a ruling of former President Primrose: "Members should allow Ministers to answer their questions without interruption." We are into the first minute of the answer and already there have been four interjections. The Minister has the call.

The Hon. DON HARWIN: The situation is being exacerbated by higher gas prices due to the liquefied natural gas export sector in Queensland. It needs national reform to unlock new investment, which we are advancing through the Council of Australian Governments [COAG] and the Finkel review. But its impacts are real and immediate. We know that many customers are struggling right now and cannot wait for those reforms. This Government has directed over \$250 million this year to provide direct assistance to help manage energy bills. This includes our emergency voucher scheme, the energy account payment assistance, or EAPA, which is designed to help people who have a financial crisis. The vouchers—up to 10 vouchers a year and each one worth \$50—are issued by approximately 340 providers across the State. To make assistance easier to access, recently I expanded the range of providers to include large charities and local community groups. They have a lot of experience of helping customers in need and they connect customers with other forms of assistance.

To raise awareness of the help that is out there, in recent months I visited a number of those organisations, including Anglicare at Penrith, St Vincent de Paul at Orange and Lismore, and Lifeline at Bathurst. I was also able to speak to their staff as well as members of the community for whom winter has been a struggle. I heard again and again how important EAPA is to keeping the lights on and a roof over people's heads. So the Government has increased the EAPA budget to more than \$17 million and we expect around 55,000 recipients this year. We have also made it easier to access. Since 1 July 2017 EAPA has gone digital. Once an EAPA provider issues vouchers to a recipient these vouchers are transmitted electronically to retailers.

The Hon. Penny Sharpe: That will help the 80-year-old pensioners.

The Hon. DON HARWIN: The Hon. Penny Sharpe's interjection only shows that she has no idea what is actually involved in EAPA. Bill relief as a result of the changes we have made arrives in hours, not days, and with more peace of mind. One of the things that was clear to me in my discussions with providers at the Armidale Community Centre was that this makes it easier for rural recipients to access help over the phone instead of travelling long distances at expense. This helps people in Guyra, Uralla and all sorts of towns surrounding Armidale that are grateful for the changes we have made. I will continue to talk to recipients and providers over the next few weeks to see how we can do more but we owe it to those in need to fix the underlying cause as well, which is my primary focus as a Minister at the COAG Energy Council.

MURRAY-DARLING BASIN PLAN

The Hon. WALT SECORD (16:10): My question without notice is to the Minister for Regional Water. Before his 30 June ministerial orders were published in the *Government Gazette* for the Barwon-Darling

floodplain management and associated regulation, which retrospectively approved illegal irrigation works, was his or his office advised of its impact on individual irrigators in the Barwon-Darling?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:11): I thank the member for his question. The member refers to clause 39, which allows existing floodplain works to be assessed.

Mr Jeremy Buckingham: Approved?

The Hon. NIALL BLAIR: No, it says assessed. I will clearly explain how this works. This policy was introduced as a fair and transparent process for assessing works on a floodplain. This is about creating robust policy that is in line with the Water Management Act 2000, not allowing people to harvest additional water from the floodplain, as some people have misinterpreted. When a landowner needs to build a flood refuge for stock or an embankment to protect a shearing shed, they need a transparent and defensible framework for these works to be assessed. But it is not just farmers who operate under these frameworks; environmental groups building a water supply channel for a wetland will also have to go through the same process.

The PRESIDENT: Order! There are far too many interjections. I will begin calling members to order.

The Hon. NIALL BLAIR: Under clause 39, people can apply for existing floodplain works to be assessed for approval, but just because they can apply does not mean that they will be approved.

The PRESIDENT: Order! I call the Hon. Penny Sharpe to order for the first time. I call Mr Jeremy Buckingham to order for the first time. I did give you both warning.

The Hon. NIALL BLAIR: Applications for existing floodplain works must still go through the same rigorous assessment criteria as new floodplain works. This approach has been rolled out through all new floodplain management plans in New South Wales. In developing floodplain management plans, New South Wales government agencies carry out extensive public consultation. Draft floodplain plans are advertised, the local community is invited to comment and the final plans are published in the *New South Wales Government Gazette*.

ENERGY PRICES

Reverend the Hon. FRED NILE (16:13): My question without notice is directed to the Minister for Energy and Utilities a question without notice. I appreciate the information the Minister gave on helping families, but my question is: What urgent action is the Government taking to reduce electricity prices, which have risen to alarming levels? In my personal experience, when my electricity bill arrived yesterday I found that my account had almost doubled from \$745.18 to \$1337.12. I can handle this increase but many working class families would struggle to pay their bills. What is the Government doing to reduce electricity prices?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:14): I thank Reverend the Hon. Fred Nile for his question. As he mentioned, I have already addressed this earlier in question time in some measure, but I will add some additional matters. We are doing everything in our power to put downward pressure on electricity prices.

The Hon. Daniel Mookhey: No, you are not. You went to court to sue to raise them.

The Hon. DON HARWIN: My goodness gracious, the honourable member has walked right into that because if he had bothered to do his research he would know that network prices are lower by 3 per cent in 2017-2018 than they were last year. He is wrong, absolutely wrong. As I said earlier, we all know that price rises are due to two main factors: a closure of generation interstate in South Australia and Victoria, and higher gas prices due to Queensland liquefied natural gas exports which raise the cost of gas generation. Gas is the marginal fuel cost now and there are a lot of theories about why prices are going up, including some we have just heard by way of interjection. These theories are mostly incorrect. The only way to improve this equation is sensible national reform through the Finkel review. We have already made great progress on this. This should attract new investment to boost competition and thus put downward pressure on prices.

The PRESIDENT: Order! I remind the Hon. Penny Sharpe and Mr Jeremy Buckingham that they are on one call to order.

The Hon. DON HARWIN: A 2016 Independent Pricing and Regulatory Tribunal review on the performance and competitiveness of the retail electricity market in New South Wales found competition is delivering customers greater choice, service innovations and prices that are consistent with a competitive market. I want to make sure that people get access to the best deal, which is why I took action in chairing the energy retailer roundtable earlier this year. The roundtable resulted in a number of positive actions from industry.

The Hon. Scott Farlow: Point of order: Mr President, I am sure you can guess what it is. My point of order is with respect to the disorderly interjections from members opposite. Reverend the Hon. Fred Nile asked the question wanting to hear the answer from a Minister, not from members opposite. I ask that you call them to order.

The Hon. Adam Searle: To the point of order: If only the Minister would answer the question asked by Reverend the Hon. Fred Nile. Instead, he is going on with a diatribe which is not to the point.

The PRESIDENT: I know this our first day back after a break but this behaviour is getting out of hand. I remind all honourable members that this is the Legislative Council, not the Legislative Assembly. I had the opportunity last week to sit in the other place and watch the outrageous behaviour of members there. That will not occur in this Chamber. Members will not speak when I am giving a ruling. So far, I have allowed the interjections to continue. I could have thrown out two members by this stage but I have not. I remind the Minister of a ruling of President Harwin that it is out of order for a Minister to respond to interjections when answering a question.

The Hon. DON HARWIN: I have already spoken in large part about the overall structural issues and I had gone on to speak about the roundtable I engaged in earlier which brought all the retailers together and resulted in a number of positive actions by the industry. Retailers have committed to help their customers experiencing financial hardship. Individual retailers have since responded with price smoothing, additional investment in hardship programs and commitments to helping customers in difficulty get the best market offer. This will make a meaningful difference. Fortunately, around 77 per cent of electricity customers have taken up a market contract. Customers can make great savings by switching to the best market offer.

I am pleased to report that this Government's networks are continuing to put downward pressure on prices as a result. I have spoken already about what we have done in terms of network prices and there will also be further scrutiny on competition. At the Council of Australian Governments Energy Council meetings, Ministers discussed the Australian Competition and Consumer Commission being given the task of conducting an inquiry into electricity prices and supply. This is now under way. *[Time expired.]*

Reverend the Hon. FRED NILE (16:20): I ask a supplementary question. Will the Minister complete his answer?

The PRESIDENT: Order! That is not a supplementary question.

COMMERCIAL FISHING INDUSTRY

The Hon. BRONNIE TAYLOR (16:20): My question is addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister update the House on the continued success of the Commercial Fisheries Business Adjustment Program?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:20): I thank the Parliamentary Secretary for her question on this important issue, one that has been in the making for more than 20 years.

The Hon. Walt Secord: Not much fishing in Brewarrina.

The PRESIDENT: Order! I remind the Hon. Walt Secord that he is already on one call to order.

The Hon. NIALL BLAIR: I am sure plenty of people who made representations to Labor are interested in this issue and the member is doing them a big disservice by interjecting.

The PRESIDENT: Order! I call the Hon. Walt Secord to order for the second time. I remind the Minister that he should not respond to interjections.

The Hon. NIALL BLAIR: We are working with the commercial fishing industry to help it to adjust as we deliver one of the largest reforms in the State's history. During the recent subsidised share trading market, this Government spent \$15.1 million to subsidise shares and buy out fishing businesses. Fishers have now all been paid, a month earlier than expected. For those who purchased shares in the market, the payment period to the Rural Assistance Authority has been extended until 22 September. We continue to offer assistance measures such as financial advice grants, retraining grants, business buyout payments and \$30,000 for co-ops to seek business advice. We have delayed management fees and fishing businesses until October, which will allow more time for fishers to buy and sell shares before those fees are due.

Mr President, you may recall the many claims made prior to the market that this reform would ruin the industry. These claims included that many people would not be able to go fishing on 1 December, that \$16 million was not enough, that the industry would be decimated and that the only option was to stop the reforms. I am pleased to inform the House that these claims have proved unfounded. We still have 895 fishing businesses in the

industry, with more than 124,000 shares changing hands since May 2016. More than 90 per cent of those in the market needed to get up to new share minimums, and they have done so through the market. The remainder have been offered case management by the Department of Primary Industries [DPI]. There has not been a mass exodus, as predicted. The market has been a great success.

It is now time for the Government to step back and allow fishers to get on with trading amongst themselves, as they need. By all accounts, they are already doing that. The new share linkage arrangements commence in December this year, so we are now concentrating on assisting fishers to make sure that they are across the changes. We will also be helping fishers with quota shares to adjust to new online reporting. They will be learning how to report their catch and effort via the FisherMobile app. This app will make reporting easier for fishers, who currently fill out manual logbooks.

Our trading market was an important part of the journey, but it was not the whole journey and it certainly was not the destination. This reform should have been done years ago, but it has taken this Government to make the tough but necessary calls to back commercial fishing for the future. From now on we will be putting our efforts into such things as the new linkages and removing input controls, improved marketing and promotion and innovation and technology. This is a watershed period for the New South Wales fishing industry, and I look forward to seeing how this reform will bring about a new and innovation-focused era for commercial fishing in New South Wales. I know a lot of the staff in the fishery section of DPI have put in a lot of effort, particularly those who manned the helplines set up for commercial fishers. It was a comfort for these commercial fishers to know that the person on the other end of the line could explain what the final results would mean for them. I thank all those involved, particularly those who worked on the hotline.

WHALE WATCHING

The Hon. MARK PEARSON (16:24): My question is directed to the Minister for Resources, representing the Minister for the Environment, Minister for Local Government, and Minister for Heritage, Gabrielle Upton. Members of the public have advised me that they have witnessed whale-watching tour operators' vessels approaching dangerously fast and close to migrating whales, causing breaching and separation of the mothers and calves, which is the purpose of this behaviour. Can the Minister advise what mechanisms are in place to ensure that commercial operators comply with the National Parks and Wildlife Amendment (Marine Mammals) Regulation 2006 regarding defined safe distances and speeds, and whether any penalty notices have been issued in regards to any breach of those regulations?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:25): I thank the Hon. Mark Pearson for his good question. There are whale-watching tour operators up and down the coast, but the member did not specify in which locations these concerns have been raised. Nevertheless, this is a complex question with some specificity, so I will ask the Minister for a response.

MURRAY-DARLING BASIN PLAN AND MR GAVIN HANLON

The Hon. PENNY SHARPE (16:26): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Given the serious allegations against DPI—Water Deputy Director General Gavin Hanlon, including a self-referral to the Independent Commission Against Corruption, why is Mr Hanlon still working in the department and not been stood down?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:26): I thank the member for her question. One thing we must acknowledge in the first instance is that, as the member said in her question, there have been allegations made against Mr Hanlon. At the moment an investigation is being undertaken and Mr Hanlon has been moved to a different role while the investigation takes place. It is absolutely fair that while there is an investigation, and we are only talking about allegations—

The PRESIDENT: Order! I remind the Hon. Walt Secord that he is already on two calls to order. I am sure the Leader of the Opposition will not be happy if he is placed on a third call to order. The Minister has the call.

The Hon. NIALL BLAIR: As I said, the normal justice processes allow us, while these are still allegations, to move Mr Hanlon into another part of the department.

The PRESIDENT: Order! I call the Hon. Lynda Voltz to order for the first time. I remind the Hon. Penny Sharpe that she is on one call to order.

The Hon. NIALL BLAIR: The secretary has moved Mr Hanlon to a different role while the investigations take place.

The Hon. PENNY SHARPE (16:27): I ask a supplementary question. Will the Minister elucidate his answer by telling us what position Mr Hanlon is currently undertaking?

The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:28): I thank the member for giving me an opportunity to elucidate my answer. Mr Hanlon is undertaking a role nowhere near the DPI—Water office.

ABORIGINAL COMMUNITIES

The Hon. NATASHA MACLAREN-JONES (16:28): 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 her recent visit to the State's north-west?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (16:28): Last month I travelled to parts of the State's north-west to meet with local Aboriginal communities. As a proud regional member of Parliament who lives in north-western New South Wales—

The Hon. Walt Secord: Did you go to Brewarrina?

The Hon. SARAH MITCHELL: I did go to Brewarrina; the member should listen. The communities of Walgett, Brewarrina and Bourke are the lifeblood of western New South Wales. The only way to truly deliver positive outcomes is to meet with those communities on their land. As Minister, I take my responsibilities seriously and I feel there is no greater way of building empathy, knowledge and understanding than by visiting communities and by talking with local people. In Walgett I was hosted by the local elder, Uncle George Fernando, and other members of the local land council, and we spent some time looking at the former reserves of Namoi and Gingi. These former missions and reserves are sometimes referred to as discrete communities. In New South Wales there are 61 discrete communities. In 1983, when the Aboriginal Land Rights Act commenced, all titles of the former Aboriginal missions and reserves were transferred to the local Aboriginal land councils. The transfer included all housing stock and community infrastructure, such as roads, street lighting, water, sewerage systems, parks and recreational areas.

As private freehold landowners, local land councils are responsible for the upkeep of the housing and infrastructure services, which has been an ongoing issue. Aboriginal Affairs is working with the Department of Planning and Environment to remove barriers in the planning system to enable the residential subdivision of the 61 discrete Aboriginal communities to open up economic development opportunities. In Brewarrina, after a tour of the World Heritage fish traps and a traditional welcome in language and dancing from local young people, I met with the Aboriginal community working party to learn more about its priorities and projects under the local decision-making framework. Local decision-making is an initiative of Opportunity, Choice, Healing, Responsibility, Empowerment [OCHRE], which represents a fundamental change in the relationship between the Government and Aboriginal communities. It is underpinned by the principle of self-determination and aims to ensure that Aboriginal communities have a genuine voice in determining what and how services are delivered to their local communities—something about which we spoke at length in Brewarrina.

Brewarrina is part of the Murdi Paaki Regional Assembly, which was the first regional alliance to negotiate and sign an accord with the New South Wales Government on 19 February 2015. Achieving greater economic prosperity for Aboriginal people is a priority of the New South Wales Government, and this is reflected in OCHRE, our community-focused plan for Aboriginal Affairs. Growing New South Wales' first economy, which is our framework for economic prosperity for Aboriginal communities, is a key mechanism for improving Aboriginal economic outcomes for people in New South Wales and will also contribute to the Government's broader priorities for economic growth. Effective policy in education, training, and employment is crucial to the economic prosperity of Aboriginal people.

This Government is committed to ensuring the benefits of a strong New South Wales economy flow equally to the people of towns such as Bourke and also central New South Wales. While in Bourke I also met with residents of the Alice Edwards Village. In 2015 the Environment Protection Authority [EPA] funded a pilot program at Alice Edwards Village to better understand waste management issues. The pilot demonstrated that local solutions are best identified by local communities. Working together, the local community and local council put in place strategies to ensure that sufficient bins were provided, that the bulk waste was removed, and that derelict car management was addressed.

The success of this pilot has led to the EPA committing \$4 million to address issues of waste management inequities in other discrete Aboriginal communities. The local Aboriginal people with whom I met are working on various local solutions to help turn around statistics. It means a great deal for me, as Minister, to be welcomed

into these communities and I thank all members of the communities who met with me while I was visiting the towns of Bourke, Brewarrina and Walgett.

CROWN LAND OCCUPATION

Mr DAVID SHOEBRIDGE (16:32): My question without notice is directed to the Hon. Niall Blair, representing the Minister for Lands and Forestry. Noting today's announcement by the Premier to change the Crown Lands Act to empower police to forcibly remove people from public land when the Minister for Lands and Forestry asserts that there are unacceptable impacts on the public, what protections are planned by his Government to prevent this new power being abused by the Government to limit protests on public land, reduce media scrutiny from public land or end the peaceful occupation of public land in the city of Sydney?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:33): I thank Mr Shoebridge for his question which is directed to my colleague in the other place, the Minister for Lands and Forestry. I do not have with me the information that the member seeks so I will take the question on notice and refer it—

Mr David Shoebridge: You put it through the party room today.

The PRESIDENT: Order! Mr David Shoebridge has asked a question. He should allow the Minister to attempt to answer it. The Minister has the call.

The Hon. NIALL BLAIR: I will refer the member's question to the Minister for a detailed response and I will get back to the member in due course.

Mr DAVID SHOEBRIDGE (15:33): I ask a supplementary question. Will the Minister elucidate his answer by explaining whether he is aware of a single protection to prevent these powers being abused, given that they can be used by the mere assertion by the Minister for Lands and Forestry about this unacceptable issue?

The Hon. Don Harwin: Point of order: Mr David Shoebridge is making a speech. He is not even attempting to comply with the standing orders which require him, if asking a supplementary question, to seek the elucidation of an aspect of the Minister's answer. He is not doing that and, therefore, he is out of order.

The PRESIDENT: Order! Supplementary questions must seek an elucidation of a part of the Minister's answer. The supplementary question asked by Mr David Shoebridge does not do that; it does not identify what part of an answer the Minister gave to which the elucidation applies. In a sense he also seeks to ask a new question by way of a supplementary question. The supplementary question is out of order.

BARWON-DARLING VALLEY FLOODPLAIN MANAGEMENT PLAN

The Hon. MICK VEITCH (16:35): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. When did he and/or his office first become aware of the allegations of meter tampering and water theft in the Barwon-Darling River system and what action did he take once advised?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:35): I do not take action in relation to these operations. That is why we have a department, operational teams and investigators. As I indicated to the House earlier, there could be up to 500 investigations per annum, so when people make complaints they are handled by the agencies responsible. Earlier today I outlined the number of people in the Department of Primary Industries and in WaterNSW who handle those operations.

The Hon. Walt Secord: Point of order: My point of order relates to relevance. The question, which was very clear, was, "When did the Minister become aware of meter tampering and water theft and what action did he take when he was advised?"

The PRESIDENT: Order! The Minister is being generally relevant to the question. Part of the question referred to action being taken. The Minister was answering that part of the question. Members cannot refer to one part of a question and insist that the Minister answer that part only. The Minister has the call.

The Hon. NIALL BLAIR: As I was saying, anyone who has any allegations about any wrongdoings should report it to the relevant authorities.

The Hon. Penny Sharpe: What did you know and what did you do?

The PRESIDENT: Order! Stop the clock. It is impossible for me, as the Chair, to listen to an answer when at least four or five Opposition members are interjecting and at least two or three Government members are interjecting. If I cannot hear the answer I do not know how Hansard can hear it. I am happy to keep stopping the

clock and allowing the time to expire, but I do not think that is what the Opposition really wants. The Minister has the call.

The Hon. NIALL BLAIR: Earlier in question time today I clearly outlined the agencies responsible for compliance.

The Hon. Don Harwin: Point of order: A constant stream of noise is being directed at the Minister by the Deputy Leader of the Opposition, which is deliberately designed, in a form of gamesmanship, to try to make it more difficult for the Minister to answer. That is not the way in which question time should be conducted.

Mr Jeremy Buckingham: To the point of order: There was not a constant stream of interjections. There might have been a low rumble but there was certainly not a constant stream of interjections. That does not characterise the incident to which the Minister referred. It might be helpful if the Minister answered the question.

The PRESIDENT: That was a debating point, especially the last part. I indicate to the Deputy Leader of the Opposition that it does not help his argument if he constantly interjects when the Leader of the Government is trying to take a point of order. I again remind all members on this our first day back that interjections are disorderly at all times. I have been incredibly patient. I believe that Hansard staff are having enough difficulty without having to contend with continued and repeated injections. This is my last warning. I will call members to order. I remind the House that the Hon. Walt Secord has been called to order twice, the Hon. Penny Sharpe has been called to order once, Mr Jeremy Buckingham has been called to order once and the Hon. Lynda Voltz has been called to order once. The Minister has the call.

The Hon. NIALL BLAIR: Anyone who has any concerns about water compliance should report them by calling 1300 662—

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

The Hon. NIALL BLAIR: Anyone who has any concerns about water compliance should contact WaterNSW on 1300 662 077. Anyone who thinks there are further wrongdoings beyond that should also report them to the relevant authorities.

The PRESIDENT: Order! I call the Hon. Penny Sharpe to order for the second time. There is only 20 minutes left of question time, so it looks as though I may have to ask someone to leave the Chamber soon.

The Hon. NIALL BLAIR: I want to reassure the House that water compliance is an ongoing activity that has been undertaken by our New South Wales agencies. We have water sharing plans under the Murray-Darling Basin Plan for a reason. We want to make sure—

The Hon. Walt Secord: Point of order: My point of order relates to relevance. The question is very, very, very clear: When did the Minister find out? It is very clear and we are being very tolerant on this side of the House. We are being very patient. The Minister has one minute to answer, and we will continue to return to this matter. The Minister should be asked to return to the original question.

The PRESIDENT: First, using the word "very" seven times does not help a point of order. Secondly, the Minister was being generally relevant. I did not have the opportunity to hear the last three words the Minister uttered due to an interjection from an Opposition member, and I did not call that person to order because I do not know who it was.

The Hon. NIALL BLAIR: We have around 45,000 water licences in New South Wales and every part of this State is covered by water sharing plans. I believe that in Australia, and maybe in the world, no other jurisdiction is 100 per cent covered by water sharing plans. We take this very seriously. As I stand here today, water compliance officers are out there doing what they do. That is continuing to happen and it will continue to happen, because we need to make sure that all the irrigators who are doing the right thing in this State can rely on our compliance system.

The Hon. Lynda Voltz: Point of order: The question asked by the Opposition was when did the Minister know and what action did he take when he knew.

The PRESIDENT: There was a third part to the question. If the Hon. Lynda Voltz is going to quote the question she should quote it all.

The Hon. Lynda Voltz: I will quote the question: When was the Minister aware and what actions did he take? The Minister has at no point referred to either when he knew or what actions he took. He should be asked to return to the question that was asked.

The PRESIDENT: May I have a look at the question? I see that the question refers to the Minister and/or his office. The Minister was being generally relevant.

The Hon. NIAL BLAIR: The agencies I have mentioned are there to ensure that compliance continues, and if people have any issues in relation to compliance they should report them. If they have any other information or allegations they wish to make, they should report them to the relevant authorities or say what the problem is. WaterNSW is in charge of compliance. [*Time expired.*]

WESTERN SYDNEY ARTS AND CULTURE

The Hon. SCOTT FARLOW (16:44): My question is addressed to the Minister for the Arts. Can he update the House on the development of arts and cultural infrastructure in Western Sydney?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:44): I certainly can. I thank the Hon. Scott Farlow for his interest and his question. I am delighted to inform the House that the New South Wales Government is making a commitment to funding arts and culture in this State that is without precedent in recent times. We are committed to this once-in-a-generation investment in our cultural infrastructure. We made an election commitment to build a new museum—a cultural icon for Western Sydney. We will deliver not only on that commitment; last week we were also able to announce that the deal will deliver a triple boost to arts and culture in Western Sydney. First, we will acquire the land on which the new museum will be built. Secondly, there will be a \$40 million fund for arts and culture in Parramatta to be spent over the next 20 years to implement the excellent new cultural plan that the council has recently adopted for the local government area.

Thirdly, the New South Wales Government and the City of Parramatta Council will enter into a joint venture to redevelop the Riverside Theatres Parramatta. This latest commitment, subject to a further business case, delivers on some of the points raised by the 2014 State Infrastructure Strategy Update which recommended, in part, "a new Parramatta Cultural Precinct". The strategy stated that the precinct should be based around the redevelopment of the Riverside Theatres complex and the old David Jones site, which will be the flagship campus of the Museum of Applied Arts and Sciences. I want this deal to be the catalyst for the Riverside Theatres becoming a premier performance and theatre venue to attract the best shows in Australia to Parramatta. That is not all. As part of this development, we hope to have a walkway between the two institutions. Moreover, the route of the Parramatta Light Rail will pass nearby.

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

The Hon. DON HARWIN: This means that the new arts and cultural precinct around the museum and the theatre will be the anchor for arts and culture for the region. The museum itself will include the best of the exhibits currently at Ultimo and will expand and build upon them. This is an exciting time for arts and culture in New South Wales. For decades New South Wales has been slipping behind Victoria and even Queensland. When people think about where to go in Australia for arts and culture, I want them to be thinking about New South Wales. We have a huge responsibility to deliver arts and culture to our State's fastest growing and most diverse region, Western Sydney, and also in Sydney's second central business district, Parramatta. I announced in April that we have expanded the scope of the project to investigate more options for both Parramatta and Ultimo, and we are now in active dialogue with the community to ensure the best possible outcome for both sites.

These projects will take time and proper planning, which is why we are working closely with the City of Parramatta to ensure the theatre and museum are part of a cohesive rejuvenation of Parramatta's central business district as well. Like all major projects, these will advance through a detailed business case process to ensure best value for our investment. This is a game-changing opportunity to build two globally recognised arts and cultural facilities in Western Sydney, and I thank the Premier for her support in ensuring that investment in the arts forms a key part of this Government's agenda.

BARWON-DARLING VALLEY FLOODPLAIN MANAGEMENT PLAN

Mr JEREMY BUCKINGHAM (16:48): My question is directed to the Minister for Regional Water. The Minister's department has revealed that at least three applications have been made to have illegal works retrospectively legalised under section 39 of the recently gazetted Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017. Will the Minister assure the House that none of these applications were made by Mr Peter Harris?

The Hon. Niall Blair: Point of order: The question clearly contains argument as it refers to the works being illegal when all the process allows is for people to make an application. The way the question has been framed pre-empts the result of the process and I believe therefore contains argument.

Mr Jeremy Buckingham: To the point of order: In his speech in the other place the former Minister for Water described as illegal those works that did not have an approval. I am only using the words of the former Minister in the other place.

The Hon. Walt Secord: To the point of order: In my second question I asked earlier today in the Chamber I explicitly referred to them as illegal works. No objection was taken and the Minister answered the question and accepted the premise that they were illegal works.

The Hon. Niall Blair: Further to the point of order: Just because a point of order was not taken on an earlier question does not therefore automatically rule it out of order. The works may be unapproved at this stage and I believe the way the question was formed contained argument.

Mr Jeremy Buckingham: Further to the point of order: To assist the House and the Minister I am prepared to amend my question by replacing the word "illegal" with the word "unapproved". For the benefit of the Minister I will repeat the question.

The PRESIDENT: I do not rule in relation to what has been stated by Mr Jeremy Buckingham, but I will indicate that previously it has been ruled by President Harwin that the Minister may answer the parts of the question that were not argumentative. If the Minister is able to answer that part of the question with the word "illegal" being removed I will leave it to the Minister. If he cannot, I will leave it to the Minister. The Minister has the call.

The Hon. Niall Blair: Point of order: I thought the member was offering to read the question again.

The PRESIDENT: I will allow him to read the question again. I rule that the Minister can answer that part of the question, but Mr Buckingham will read the question as it was, not as it is amended.

Mr JEREMY BUCKINGHAM: It has been reported that at least three applications have been made to have illegal works retrospectively legalised under section 39 of the recently gazetted Floodplain Management Plan for the Barwon-Darling Valley Floodplain 2017. Will the Minister assure the House that none of these applications were made by Mr Peter Harris?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:52): I thank Mr Jeremy Buckingham for his question. As was said earlier in question time, this is about creating a robust policy that is in line with the Water Management Act 2000 and not allowing any additional water to be harvested from the floodplain. A landowner building a flood refuge for stock or an embankment to protect a shearing shed is the type of context in which these applications can be made. Under clause 39 people can apply for existing floodplain works to be assessed for approval.

The member referred to some reports and said that three applications had apparently been made in this process for clause 39 works. Just because they can apply does not mean that they will be approved. They must still go through the same rigorous assessment criteria as new floodplain works. As I have said, we are adopting this approach for all new floodplain management plans in New South Wales. As from today I do not believe any applications have been processed or approved. The member referred to a media report which said that three applications had been made. I believe WaterNSW does not disclose who made those applications.

BARWON-DARLING VALLEY FLOODPLAIN MANAGEMENT PLAN

The Hon. MICK VEITCH (16:54): My question is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister confirm that he received a letter from a neighbour of The Nationals donor Peter Harris in July 2015 regarding serious allegations of water theft, and what action did he take in relation to these allegations?

The Hon. Greg Pearce: Point of order: That is a hypothetical question.

The Hon. Mick Veitch: To the point of order: It is not hypothetical. This is in the mainstream media today. This is an accurate, factual question.

The PRESIDENT: Order! The question, which requests the Minister to confirm whether he received a letter or some other communication, is not hypothetical. The question is in order. I will allow the Minister to answer it.

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:55): I believe the member is referring to concerns that have been raised about the permission granted to an irrigator to extract water whilst an embargo was in place. My department has written to the complainant twice to explain that. The irrigator had an A class licence, which was not subject to the pumping embargo in place at the time. The extraction was permitted in accordance with clause 48 of the Water

Sharing Plan which permits A class licence holders to apply for earlier access to water when flows are imminent. The extraction did not breach the section 324 order for the Barwon-Darling and the amount of water extracted was less than the amount that had been permitted. The consultation process with other government agencies to allow extraction was conducted in accordance with the requirements of the water sharing plan.

A number of questions relating to these matters have been raised in the *Four Corners* program and have subsequently been reported. We are committed to making sure that we get the best for everyone in New South Wales under the Murray-Darling Basin Plan. Anyone who works within that plan and other water sharing plans, such as our water resource plans, must have confidence that we are getting things right in New South Wales. Approximately 6 per cent of the water that goes through the Barwon-Darling area is available for productive use in New South Wales. Our water sharing plans set out the rules for the use of that productive water and we enable licence holders to make the best decisions about how they legally use that water. Just as importantly, we need to ensure that if anyone steps outside those rules they are dealt with appropriately.

The Hon. Mick Veitch: It is not happening. It has not happened.

The Hon. NIALL BLAIR: It is happening. As I stand in this House, we have compliance officers. Many of the allegations made by the *Four Corners* report relate to 2015.

The Hon. Penny Sharpe: These are new allegations.

The Hon. Don Harwin: Point of order: Right throughout question time the Hon. Penny Sharpe has interjected constantly on all Ministers who have been answering questions.

The Hon. Shaoquett Moselmane: It is question time, Don.

The Hon. Don Harwin: It is intolerable for Ministers who are trying to answer to put up with the cacophony coming from the Opposition.

The PRESIDENT: Order! I call the Hon. Shaoquett Moselmane to order for the second time. While a point of order is being taken by the Leader of the Government, it is disorderly for the Hon. Shaoquett Moselmane to yell out, "You're wasting time, Don." I remind the Hon. Penny Sharpe that she is on two calls to order. If a member is removed from the Chamber, I assure members it will not be simply for one minute until the end of questions. Please keep in mind it will be a lot longer than that. The Minister has the call.

The Hon. NIALL BLAIR: In relation to the regime we have in New South Wales, we have Mr Matthews looking at, first, establishing the facts and investigating those matters that were raised in the *Four Corners* program and, secondly, the compliance system that we have in New South Wales and provide recommendations for improvement going forward. Everyone who operates within the system needs to have confidence. It does not matter whether they are upstream or downstream or anywhere else throughout the system: Everyone needs to have confidence in the system, particularly when it comes to water compliance in New South Wales. There is one thing that everyone must remember. The majority of irrigators and the majority of farmers in New South Wales operate within those rules. They should not be disadvantaged and taken down by political point-scoring for those who are doing the wrong thing. [*Time expired.*]

The Hon. DON HARWIN: If members have further questions I suggest that they place them on the notice.

MURRAY-DARLING BASIN PLAN AND MR HANLON

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (17:01): Earlier during question time the Hon. Penny Sharpe asked me a supplementary question about the role within the Department of Industry in which Mr Gavin Hanlon currently is acting. I advise the member that Mr Hanlon currently is acting executive director, industry investment and export support.

Deferred Answers

SYDNEY HARBOUR BRIDGE CYCLEWAY

In reply to **the Hon. PAUL GREEN** (23 May 2017).

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

I am advised:

The existing Sydney Harbour Bridge cycleway is a vital commuter link for Sydneysiders including cyclists enjoying the view of the harbour or commuting to and from work.

Currently, cyclists must dismount and push their bikes up and down 55 steps at the northern end of the cycleway to access the bridge. While there is a ramp in the middle of the stair case to make this task easier, it is by no means ideal and can be very difficult for people in terms of fitness, coordination or who cannot easily climb stairs.

A new ramp will be built to remove this problem and provide a connection to the future North Shore Link Cycleway.

The community will be invited to provide feedback on concept designs for the upgrade in mid 2017.

OLDER DRIVERS

In reply to **the Hon. PAUL GREEN** (23 May 2017).

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

I am advised:

Under the current older driver licensing regime in New South Wales, at 75 you are required to have an annual medical assessment conducted by your doctor. At age 85 there is an option of either an on-road hazard perception practical test or a conditional licence which restricts you to local driving or driving from point to point. Around 90 per cent of drivers continue to drive after 85, currently in New South Wales.

When we talk to older drivers and when we survey them we note that they are self-regulating. Many older drivers are deciding, on their own part, not to drive at night any more, or not to drive during peak periods or on long trips.

The system that we have in place for medical checks and practical driving tests has been reviewed and assessed by experts both in health and also in road safety to provide a reasonable framework for managing that risk as the ageing population grows.

The Government has launched a program called On the Road 65Plus—staying independent and mobile to attempt to get people earlier than when they get to 85 to start the plan for retiring from driving or experiencing public transport or community transport early so that they are more familiar with the services that are available in their community in order to remain active and mobile. Workshops and a whole range of materials that has been developed and delivered through local government and other community organisations directly in the community to encourage not just driver safety, but also pedestrian, cycling and motorcycle safety.

LOGIE AWARDS

In reply to **the Hon. WALT SECORD** (24 May 2017).

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

I am advised that Destination NSW, the New South Wales Government's tourism and major events agency, has presented an Expression of Interest to the Nine Network to host the TV Week Logie Awards from 2018 to 2020 in New South Wales. It is proposed that the Logie Awards would be held in three regional New South Wales locations. The suggested locations are Tamworth, Dubbo and Albury.

REGISTERED NURSES IN NURSING HOMES

In reply to **the Hon. ROBERT BORSACK** (24 May 2017).

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

The circumstances of incarcerated persons are entirely different to individuals who are resident in residential complexes and nursing homes.

Your question does not have any logical base and therefore there is no sequitur.

GAS PIPELINES

In reply to **the Hon. JOHN GRAHAM** (24 May 2017).

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

I am advised:

The 2017-18 budget includes \$1.3 billion through the Regional Growth Fund for economic activation and community amenity programs that will investment in infrastructure that will unlock the potential of regional New South Wales and provide the local infrastructure regional communities deserve.

CREEK CONTAMINATION

In reply to **the Hon. PENNY SHARPE** (24 May 2017).

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

I am advised:

Sydney Water repaired a wastewater pipe underneath Parramatta Road in Annandale on Sunday 14 May, which had caused a wastewater leak into Johnston's Creek.

Sydney Water crews had carried out initial repairs to the wastewater pipe in late April, which reduced the original leak. They then completed a series of minor repairs, but found the pipe was damaged in other locations and needed to be fully relined. This was arranged and completed in consultation with authorities. Due to the difficult location of the pipe underneath Parramatta Road, Sydney Water crews needed to do the work at night as required by the Roads and Maritime Services.

Sydney Water has apologised for any inconvenience caused, the health of the community and environment is their primary concern and they are making every effort to ensure they are protected, Johnston's Creek is surrounded by fencing and a concrete channel which prevents direct exposure and health risks, and that there was no immediate flora or fauna at risk. The wastewater was contained and pumped out through two containment barriers to minimise impact on the environment.

NATIVE WILDLIFE CONTROL

In reply to **the Hon. MARK PEARSON** (24 May).

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

I am advised that non-lethal methods were considered, but were unviable due to the large area and the size of the kangaroo population.

BROKEN HILL LEAD POISONING

In reply to **the Hon. DANIEL MOOKHEY** (24 May 2017).

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

I am advised:

In February 2015, the New South Wales Government announced it had allocated more than \$13 million over five years to address the issue of elevated blood lead levels in children at Broken Hill. The five-year program commenced on 1 July 2015. The money has rejuvenated the Broken Hill Environmental Lead Program enabling it to undertake much needed research and monitoring at Broken Hill to identify contamination sources, adopt contemporary lead abatement practices to eliminate and stabilise sources of lead and to implement public education and awareness campaigns.

The Broken Hill Environmental Lead Program works collaboratively with key stakeholders including the Far West Local Health District, Broken Hill Lead Reference Group, Broken Hill City Council, the Maari Ma Health Aboriginal Corporation and the local community.

The program aims to establish a long term sustainable solution to ensure that all children at Broken Hill meet the National Health and Medical Research Council goal for blood lead levels into the future.

The administrative functions of the Broken Hill Environmental Lead Program is overseen by the Environment Protection Authority [EPA]. The EPA continues to play its part in controlling lead through the progressive rehabilitation of licensed mining operations, and controlling dust emissions and exposure pathways from these licensed activities.

VEHICLE REGISTRATION FEES

In reply to **the Hon. PAUL GREEN** (25 May 2017).

The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry)—The Minister provided the following response:

I am advised:

All revenue collected from the motor vehicle weight tax is directed to the Roads Program and is used to fund road safety initiatives, maintenance of the road network and improve traffic management.

The registration administration fees collected go to the New South Wales Government consolidated fund for support of government services, including vehicle registration services.

GAS SAFETY

In reply to **the Hon. ADAM SEARLE** (30 May 2017).

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

I am advised:

These incidents are infrequent, because there are a range of protections in place to prevent them. Unfortunately even with the best planning and controls, accidents do occur.

All gas network operators, including Jemena, are required to have a Safety and Operating Plan. This plan sets out how Jemena will design, construct, maintain and protect its assets, respond to emergencies and investigate incidents. These plans are independently audited annually.

Legislation requires excavators to consult with Dial Before You Dig before working in a public area. Preliminary reports are that these procedures were followed.

Jemena must report incidents to the Department of Planning and Environment. A formal report on this incident will be provided after the investigations have been completed.

LAW ENFORCEMENT CONDUCT COMMISSION

In reply to **Mr DAVID SHOEBRIDGE** (30 May 2017).

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

I refer the member to the Premier's response to this question.

DOLPHIN MARINE MAGIC

In reply to **the Hon. PENNY SHARPE** (30 May 2017).

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

Decisions regarding the compliance or otherwise of animal exhibitors are not made by me as the Minister but are under the authority of the Department of Primary Industries and the Director General of that department.

NEWCASTLE INDUSTRIAL RELATIONS COMMISSION REGISTRY CLOSURE

In reply to **the Hon. ROBERT BORSACK** (30 May 2017).

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

I am advised that this question would be more appropriately directed to the Attorney General.

FIRE AND EMERGENCY SERVICES LEVY

In reply to **the Hon. WALT SECORD** (31 May 2017).

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

The Government will compensate all councils for reasonable costs incurred in implementing the Fire and Emergency Services Levy.

CENTENNIAL PARK AND MOORE PARK TRUST

In reply to **Dr MEHREEN FARUQI** (31 May 2017).

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

I am advised:

- (1) Appointments to fill all vacancies on the Centennial Park and Moore Park Trust have been approved.

FIRE AND EMERGENCY SERVICES LEVY

In reply to **the Hon. JOHN GRAHAM** (31 May 2017).

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

The Government took all reasonable measure to inform residents, businesses and other property owners of then-forthcoming changes to their insurance premium and council rates notices.

ICE EPIDEMIC

In reply to **the Hon. PAUL GREEN** (31 May 2017).

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

In 2015 the New South Wales Government invested \$11 million to combat the impact of methamphetamine, known as ice, in our communities. This included a commitment to:

- invest \$7 million in new Stimulant Treatment Programs in Illawarra Shoalhaven, Mid North Coast, Northern NSW and Western Sydney Local Health Districts
- expand existing service capacity in the Hunter New England and St Vincent's Stimulant Treatment Programs
- invest an additional \$4 million in funding to the non-government sector to enhance local delivery of drug and alcohol treatment services, especially amongst rural and regional communities
- enhance the capacity of the health system to respond to ice
- educate the community on the dangers of ice
- new non-government sector services are now operational in Goulburn, Dubbo-Wellington and Wagga-Griffith

In addition, the New South Wales Government has announced the NSW Drug Package as part of the 2016-17 budget. The package increases Government funding by \$75 million over four years to address alcohol and drug misuse, including expanding treatment and residential rehabilitation services.

Details of the NSW Drug Package are provided on the NSW Ministry of Health website at www.health.nsw.gov.au.

RENEWABLE ENERGY

In reply to **Mr DAVID SHOEBRIDGE** (1 June 2017).

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

Local councils are key partners with the New South Wales Government in taking action and delivering programs because of their close connections with the community and local businesses.

The New South Wales Government has a history of supporting communities to engage with clean energy. In 2015 early stage funding of \$846,000 was provided under the Growing Community Energy grants to 19 groups across New South Wales working to develop community energy projects. If built, the grant-recipients' projects would produce enough electricity annually to meet the needs of around 9,000 New South Wales households.

One success story coming out of the program is the Sydney Renewable Power Company, which has installed a community-owned 520 kilowatt system on the roof of the International Convention Centre Sydney in Darling Harbour.

Another important initiative involves two community solar projects that received grants in Lismore. The first 99 kilowatt solar array became operational in May on top of Lismore's Goonellabah Sports and Aquatic Centre, and the second is a planned 99 kilowatt floating solar array on the East Lismore Sewage Treatment Plant. Both projects also received funding from the Lismore City Council.

In addition, the Regional Clean Energy Program [RCEP], which is a key component of New South Wales Renewable Energy Action Plan, has worked closely with local councils along with industry and other stakeholders to create opportunities for communities throughout the State to fully participate in local renewable energy initiatives.

The New South Wales Government's Renewable Energy Advocate also actively engages with communities on clean energy. A recent instance includes last year when the advocate teamed up with RCEP, Local Land Services, Landcare, NSW Farmers Association, CottonInfo and Cotton Australia, to deliver 14 workshops throughout regional New South Wales on the benefits of using solar pumping in agriculture.

Building on this work, the New South Wales Government released its draft Climate Change Fund Strategic Plan in November 2016 which includes potential actions to invest \$500 million in new funding over five years in Action Plans on clean energy, energy efficiency and climate change adaptation. The Government is seeking to prioritise regional New South Wales through a range of potential actions to empower local communities to adopt renewable energy. This includes building the capacity of local councils to provide advice to their communities on advanced energy and supporting initiatives that make it easier for local councils to buy electricity from renewable energy projects in New South Wales.

During consultation on the draft plan, the Government held a targeted workshop specifically for local councils and received 30 submissions from local government organisations. The New South Wales Government has considered these submissions in developing the final action plans, which are expected to be released later this year.

LAND CLEARING

In reply to **Dr MEHREEN FARUQI** (1 June 2017).

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

I am advised:

The Biodiversity Conservation Act and the Local Land Services Amendment Act, enacted in November 2016, will integrate and modernise laws governing biodiversity conservation and the management of threatened species.

The reforms include an unprecedented investment of \$240 million over five years and \$70 million in each following year for a new private land conservation program.

This investment, alongside baseline rates of revegetation, will deliver significant levels of biodiversity conservation and land-based carbon sequestration.

COAL INDUSTRY

In reply to **the Hon. JOHN GRAHAM** (1 June 2017).

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

As with any industry, there are a number of business models in which any organisation, including mining companies can choose to operate. The range of business models also provide alternatives to potential employees within each industry and require consideration with their circumstances and the current market at the time. Each has its own merits and it is not the position of the New South Wales Government to determine the optimal model for employees or private businesses. In the mining industry, the use of contractors does not alleviate any of the obligations to the people of New South Wales. Each contractor is captured and accounted for in the Mine Safety Levy and companies who use contractors are still required to adhere to the same high standards that have been established in New South Wales.

HOSPITALS PRIVATISATION

In reply to **the Hon. WALT SECORD** (20 June 2017).

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

It has been decided that a Government-led approach will be taken for the Bowral and Wyong Hospital redevelopments.

The New South Wales Government has decided to test the market for a partnership with a not-for-profit provider for the new Maitland Hospital. The procurement model for Shellharbour is still being considered.

GENERAL POST OFFICE SALE

In reply to **Reverend the Hon. FRED NILE** (20 June 2017).

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

I am advised:

1. The General Post Office, 1 Martin Place Sydney is listed on:
 - a. The State Heritage Register and as such is afforded protection under the Heritage Act 1977 for its ongoing conservation and management.
 - b. The Commonwealth Heritage List and as such is afforded protection under the Environment Protection and Biodiversity Conservation Act 1999.

This property is owned by the Commonwealth (Australia Post) and therefore the New South Wales Government does not have a role in its transfer or sale.

NSW POLICE FORCE

In reply to **Mr DAVID SHOEBRIDGE** (20 June 2017).

The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry)—The Minister provided the following response:

I am advised the NSW Police Force continues to promote, through education and training, the statutory requirements for officers to state their name and place of duty under Part 15 of the Law Enforcement (Powers and Responsibilities) Act 2002 when exercising certain powers. The NSW Police Force also has an extensive complaints management system that captures complaints relating to the Part 15 statutory requirements which allows the NSW Police Force to respond to and rectify issues with compliance that may arise.

I am confident the NSW Police Force will continue to provide appropriate training to officers to ensure that officers are aware of their statutory obligations.

HOSPITAL PARKING FEES

In reply to **the Hon. WALT SECORD** (21 June 2017).

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

The New South Wales Government has delivered fairer parking fees at New South Wales public hospitals, where fees apply, for patients and their carers who need it most. This will save families up to \$200 per week, and has been available since 1 July 2017.

The 2017-18 Budget makes provisions for any cost impact associated with the implementation of the new policy.

F6 FREEWAY

In reply to **Dr MEHREEN FARUQI** (21 June 2017).

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

I am advised:

A decision on the nomination of the Royal National Park for World Heritage Listing has not yet been made.

MUNIBUNG ROAD PROJECT

In reply to **the Hon. PAUL GREEN** (21 June 2017).

The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry)—The Minister provided the following response:

I am advised:

Stage 1 of the Lake Macquarie Transport Interchange opened to traffic on 16 June 2017. It is a local connection between Glendale and Cardiff involving the extension and realignment of Glendale Drive, upgrading the intersection of Main Road and Glendale Drive, extending Stockland Drive in Glendale. Lake Macquarie City Council managed the first stage of work.

The first stage of the project is funded by the Federal Government's Regional Development Australia Fund, the New South Wales Government's Hunter Infrastructure Investment Fund and Lake Macquarie City Council.

Transport for NSW and Roads and Maritime Services will work with Lake Macquarie Council to review the project scope and develop a strategic business case for future works. The proposal will draw from work and consultation being carried out on improvements to the Newcastle public transport network, and be aligned with planned population growth and development.

PUPPY FARMS

In reply to **the Hon. MARK PEARSON** (22 June 2017).

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

I am advised:

The New South Wales Government is committed to ensuring that companion animals breeding practices are safe, ethical and meet community expectations. Animal welfare is supported in New South Wales by the Prevention of Cruelty to Animals Act 1979 [POCTA] and underpinning Codes and Standards.

The New South Wales Government has established a Companion Animals Taskforce to provide advice on key companion animal issues such as puppy factories, euthanasia rates, rehoming options for surrendered or abandoned companion animals, and microchipping and desexing initiatives to promote responsible pet ownership.

The New South Wales Government has implemented many of the recommendations from the taskforce, such as:

- implementing an expanded education program;
- establishing the Responsible Pet Ownership Reference Group;
- removing the exemption in the Companion Animals Regulation allowing recognised breeders to sell un-microchipped dogs and cats to pet shops;
- encouraging people to buy pets from shelters and pounds; and
- implementing a \$900,000 council grant program to provide targeted microchipping, registration and desexing.

In addition, the New South Wales Government has released its response to the recommendations made by the Companion Animals Breeding Practices [CABP] Inquiry. The response includes the introduction of significant changes to Companion Animals Breeding Practices in New South Wales.

Twenty seven recommendations out of a total of 34 were supported or supported in part by Government and the intent of the remaining seven will be implemented by alternative means.

The New South Wales Government is actively working on implementing these changes.

The new online NSW Pet Registry is now available and work is well underway to deliver future phases of improvements to the registry. The new registry is a significant step towards ensuring high-quality welfare standards through comprehensive tracing of dogs and cats from the breeder through to owners. The register captures breeder and animal information that can be shared amongst agencies, while avoiding duplication of services. The registry can be found at www.petregistry.nsw.gov.au.

For each person who registers as the first owner of a puppy or kitten (the owner of a female cat or dog that has the litter of kittens or puppies), the NSW Pet Registry will automatically generate a breeder ID number if they do not already have one. This applies whether or not they are a recognised breeder or are in the business of breeding pets for sale.

The registry also provides enforcement agencies with better quality data that can be easily interrogated, allowing for collaborative risk-based, targeted compliance and enforcement programs.

The Government also provided RSPCA NSW and Animal Welfare League NSW with an additional \$200,000 to educate and raise public awareness about the risks of purchasing puppies from unknown and unseen locations, and to encourage reporting of sub-standard breeders. This is on top of the nearly \$500,000 we provide as a grant to these organisations each year and is in addition to significant outlay for capital works and education programs. The "Close Puppy Factories" campaign can be found at www.ClosePuppyFactoriesNSW.org.

The Government is introducing the requirement to display an identification number when advertising dogs and cats for sale. This will provide an auditable trail for every sale back to the breeder and their breeding facilities.

We already have enforceable Codes of Practice for dog and cat breeding and pet shops. In line with recommendations of the Committee, the Animal Welfare Advisory Council has reviewed these and provided advice on improvements. Work is now underway to revise these.

Any further questions on this matter should be directed to the Hon. Niall Blair, MLC.

LOCAL GOVERNMENT AMALGAMATIONS

In reply to **Mr DAVID SHOEBRIDGE** (22 June 2017).

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

The New South Wales Government's allocation of funds to local government reform are included in the New South Wales Government's Budget Papers.

WINDSOR BRIDGE

In reply to **the Hon. PENNY SHARPE** (22 June 2017).

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

I am advised:

The Office of Environment and Heritage is seeking further information from Roads and Maritime Services.

ACTIVE KIDS REBATE

In reply to **the Hon. ROBERT BROWN** (22 June 2017).

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

The Office of Sport is leading the development and implementation of the Active Kids Voucher program and is engaging with the sport and active recreation sector to finalise the list of eligible activities and providers.

COAL INDUSTRY WORKERS COMPENSATION

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

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

The New South Wales Government is reviewing the issue identified in the Kuypers decision and will consider an appropriate response to maintain suitable workers compensation arrangements and a health and safety scheme that protects workers.

The New South Wales Government is committed to ensuring the safety of workers and the maintenance of a suitable workers compensation scheme.

NEW SOUTH WALES STATE LIBRARY

In reply to **the Hon. ERNEST WONG** (22 June 2017).

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

I am advised:

The State Library is not stopping the multicultural loans service to local libraries, but it is working on changes to the circulation model with the intention of making more of the collections freely available on local public library shelves.

The State Library has undertaken extensive consultation with public libraries about new distribution models over the past 18 months. In 2016 and 2017, all libraries were invited to participate in a pilot of the distributed model and the proposed model was piloted at 20 regional and metropolitan libraries.

Following recent feedback received from some local libraries about the proposed new model, the State Library will engage in more consultation with public libraries to deliver a workable model.

I am aware of how beneficial this service is for culturally and linguistically diverse communities across New South Wales, and I am assured that the objective of any new model will be to increase access to the collections for the public in local libraries while ensuring equity for smaller and regional libraries.

GREYHOUND MUZZLING

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

The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry)—The Minister provided the following response:

The March 2017 Greyhound Industry Reform Panel report recommended the removal of the current muzzling requirement for pet greyhounds.

In this context it is noted that the Government accepted all but one of the 122 recommendations of the panel.

The Government has accepted, in principle, that greyhounds registered on the NSW Companion Animal Register should not be required to wear a muzzle.

The Government will be working with its Responsible Pet Ownership reference group over the coming months to consider how to best ensure the balance between rehoming and community safety in establishing the replacement for the existing muzzling framework.

The reference group will advise over the coming months how best to establish any new framework and implement the necessary changes.

CONTAINER DEPOSIT SCHEME

In reply to **the Hon. SHAOQUETT MOSELMANE** (22 June 2017).

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

I am advised:

1. Yes.

ELECTRICITY PRICES

In reply to **the Hon. PAUL GREEN** (22 June 2017).

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

The New South Wales Government understands the pressure high energy prices place on businesses and residential consumers.

The New South Wales Government has brought down network prices with a price guarantee of lower charges in 2019 than 2014. We did the right thing and reformed the networks.

In fact, consumers now pay around 4.5 per cent less for Endeavour Energy's network costs from last year.

But it is important to note that prices are being driven higher by wholesale price rises due to generators closing interstate and higher gas prices. We need national market reform to fix this. This is evidence that something needs to get done on a national level.

We need a national plan to ease energy price rises, and that is why the New South Wales Government supports the Finkel process to deliver national reform.

I have written to IPART asking them to undertake a review of electricity and gas price movements into 2017-18, to advise on the drivers of price changes and whether these reflect efficient costs in a competitive market.

The New South Wales Government has appointed the Independent Pricing and Regulatory Tribunal [IPART] to maintain a strong oversight on the electricity and gas market in New South Wales.

This is one of the latest initiatives by the New South Wales Government to look after consumer interests with regards to energy pricing.

The New South Wales Government, through the COAG Energy Council, is also closely monitoring the Australian Consumer and Competition Commission's [ACCC] inquiry into the electricity supply and prices.

At the last COAG Energy Council meeting, the ACCC presented Ministers with an update on progress of the Electricity Supply and Prices and the Gas Market Transparency Measures inquiries, both of which are designed to shine a light on the behaviour of energy suppliers and ensure that energy pricing is fair and transparent.

This Government is assisting businesses to offset the electricity and gas increases through programs such as:

- the Energy Savings Scheme [ESS] which is the Government's largest energy efficiency program. It provides financial incentives for businesses that implement electricity and gas saving activities. Since 2009, the ESS has supported projects that will deliver more than 17,000 gigawatt hours of energy savings, and more than \$2.6 billion in bill savings. Projects have included efficient lighting retrofits and upgrades to chillers for cooling buildings.
- the Energy Saver Program which offers subsidised energy investigations and training as well as project, financial and technical support for businesses.

Information on these programs and more can be found at resourcesandenergy.nsw.gov.au and at environment.nsw.gov.au/business.

I would encourage all businesses to take advantage of these programs to improve business competitiveness and retain employment levels for its operations.

The New South Wales Government is closely monitoring competition in the energy markets, and that will continue.

Committees

GENERAL PURPOSE STANDING COMMITTEE NO. 2

Report: Child Protection

Debate resumed from 20 June 2017.

The Hon. PAUL GREEN (17:02): It is with pleasure that I participate in the take-note debate on the report of the inquiry into child protection by General Purpose Standing Committee No. 2. The inquiry arose when the most recent report of the New South Wales Child Death Review Team was released. The statistics that the report produced caused huge concern. The report of the inquiry has provided many recommendations and references into a new analysis of systems, procedures, practices and mainly safety that include risk assessment tools and community service centres. The committee undertook this inquiry to provide measures in different customs to assist those who are in need of protection.

I thank the Chair of the committee, the Hon. Greg Donnelly, MLC, who managed a tough and lengthy inquiry in an accomplished manner and achieved some very successful outcomes. I also thank the other members of the committee—the Hon. Daniel Mookhey, Mr David Shoebridge, the Hon. Matthew Mason-Cox, the Hon. Dr Peter Phelps, and the Hon. Bronnie Taylor. I thank the committee secretariat. As usual, they were impressive and assisted committee members throughout the inquiry process. The committee investigated some concerns about the role of the Department of Family and Community Services in relation to child protection. The committee held four hearings and received a total of 139 submissions. The report of the inquiry into child protection in New South Wales makes for harsh and challenging reading. It raises issues regarding the proficiency of the government department that has responsibility for child protection, the Department of Family Community Services, to fully comprehend, plan and execute its obligation.

Over many decades all political parties have had an effect on child protection issues. The committee found that not one Minister or Government is at fault in the disorder of child protection. I refer to one part of the evidence heard by the committee that prompted the Hon. Greg Donnelly to state that the reality is that child protection has been treated as a political football—going back and forth, which is strenuous, and those who should be at the centre of attention, our vulnerable and neglected children and young people, have been stuck and caught in the middle. When I reflect on how proud and fortunate Australians are to live in a country with all its material wealth, opportunity and prosperity, I ask: Why are so many children and young people in harm's way every day of their lives? How has Australia got to this point? How has our society allowed this to happen to our children and young people?

The inquiry was very difficult for many reasons, but one thing that stood out was community expectations of the Government in relation to child protection and the role of government in overseeing and acting as guardians of those children. It is very difficult to know what is happening with every child in every setting, with all the disruption in their lives, the disempowerment that many of them feel, the disengagement in which many of them are caught, and their bewilderment by a world that in many ways has let them down but it is equally difficult to somehow have a system that is able to identify very vulnerable children in the system. We know that 134,000 children are at risk of significant harm and that just a small percentage of those children's concerns are able to be addressed. One of the sad things about children who have become disengaged and are enduring disruption in family relationships is that there are so many children suffering. The Government tends to be the pressure point when something goes terribly wrong.

When a child dies because their parents have done the wrong thing, or they have been left with a mum who takes on a boyfriend or a partner in an attempt to cope with the world around her only to find that that partner mistreats the child sexually or physically, it is sad that it is the bottom of the barrel of our society that we see in those cases. It is even sadder that we cannot know which children are at a very high level of risk. It is a serious problem when in those situations the media goes after the Government in the interests of accountability. It is very hard to know where cases of high levels of children being at risk exist. I am sure the Government is doing as much as possible to ensure the authorities are aware of cases involving vulnerable children and that everything possible is being done.

That is not to let the Government off—some of those cases have been flagged time and again yet no-one has been able to attend to those children's needs, given the alarms going off. That is inexcusable. The other cases are simply hard to follow all the time. Overall we are very fortunate to live in a very prosperous country that has

systems in place that enable us to at least try to track these children and do what is right for them. In this Chamber I have worked to achieve a vision that New South Wales is the safest place to raise a child. The inquiry was led by the Hon. Greg Donnelly. There was so much more we could have done. We could have researched further or heard from additional witnesses. At the end of the day, we wanted to achieve real changes. I think the recommendations do that. There was robust and diverse discussion on the recommendations, which went as far as abolishing the system and questioning whether we would be better off without it at all, which shows the latitude and depth of this problem of child protection.

Mr David Shoebridge: Crisis.

The Hon. PAUL GREEN: Yes, childhood crisis and life challenges that our children face at such a young age. At the end of the day, I think the recommendations were very helpful. We could walk away from these sorts of things because we are not getting every case. Sadly, we are not able to fight every case and the result of that is child mortality and losing kids. That is appalling. But it is extremely difficult for the Government to track every child in every situation. We have to get better at ensuring that when alarms go off, we put the majority of our resources into those cases rather than chase other cases that may have other indicators but may not be as urgent.

As a society we must provide assistance to these children and our young people in need. If we work together we can succeed in developing further policies, and analysing data and research that probably can improve and provide responses that will work in many of these tough situations. The committee found many further avenues to research and assist in understanding the dynamics of a problem. I commend the Government for its hard work and particularly the frontline services that really are at the cutting edge. They see some horrible things and then have to decide who is telling the truth and who is telling half-truths, and work out the best way to proceed in the best interests of the children. I commend them for their hard work. Overall the committee found that we must work together to solve the problem in a bipartisan way. I commend the report to the House.

The Hon. MATTHEW MASON-COX (17:12): I concur with my colleague's view that this is a harrowing and challenging area. I commend the Chair of the committee, the Hon. Greg Donnelly, and the committee for what I believe is a seminal report in this challenging area. I thank the committee secretariat for its excellent work in compiling a comprehensive report. I strongly suggest to members that they take the time to read this detailed review that not only looks at previous reports but also gives a range of recommendations to improve the system.

The review posits potential changes to the system, even jettisoning the system to find a new way of dealing with this difficult area—as the dissenting report of the Hon. Dr Peter Phelps suggests. While the majority of the committee did not decide to go down that pathway, the Hon. Dr Peter Phelps certainly made some salient observations, and I encourage members to read his dissenting report. It is worth reflecting that the current system and findings of the committee are difficult to ignore. The committee recognises that while Child Protection New South Wales has been subjected to major reforms over the past decade, it is failing vulnerable children and their families. As the committee report states:

It is overwhelmed and operates predominantly in crisis mode. It is reactive not proactive and apparently incapable of adequately addressing the systemic issues that review after review has identified over the last decade.

It is worthwhile noting that the reviews that the report goes through go back to the seminal review of the Special Commission of Inquiry into Child Protection Services in New South Wales, known as the Wood report, which stated the issues in very clear terms. Members will be aware of some of the recommendations that flowed from that review. We had a review by the Ombudsman in 2011, reforms by the Government in 2014, the Safe Home For Life reforms, the Auditor-General's 2015 report, the Tune review, the Auditor-General's 2016 report and then this committee report.

I will reflect particularly on the Tune review and deal with some of the recommendations of the committee's report that pick up some of those threads and seek to bring that together in a reform package that we trust the Government will consider very seriously. In November 2015 the Tune review was commissioned by the Government to carry out an independent review of the out-of-home care system in New South Wales. In mid-2016, the Tune review concluded that while the current system responds to immediate crisis, it fails to address the complex needs of vulnerable children and families. It fails to improve outcomes or to arrest the devastating cycles of intergenerational abuse and neglect. Outcomes are particularly poor for Aboriginal children, young people and families.

The Tune review also found that the system is not client-centred. It is designed around programs and service models instead of the needs of vulnerable families. The review found that vulnerable children and families have needs that cross the boundaries of Government agencies, and that Family and Community Services [FACS] holds primary accountability for these vulnerable families with little influence over the drivers of vulnerability or

the levers for change. The Tune review also found that the expenditure in this area is crisis-driven and not well aligned to the evidence, and does not target clients effectively. The Tune review concluded that a siloed approach to service design and delivery with its dependence on good will for coordination across agencies and multiple programs is not adequate to address these problems.

These are the sort of reforms that the committee also found. The reality is that while the Tune review saw some changes made by Government, a lot of these continuing problems are still causing significant challenges for vulnerable people in the system. The Tune review particularly attempted to set out a program for change in some of these key areas. I note in particular the reforms to the \$90.5 million in funding for family preservation and restoration services. That is a very practical development that the Government has funded for families that are very vulnerable to ensure that they have some of these services and supports in house or in areas they can access readily. This is a very good but long overdue start to addressing the current problems but one must ask, as this committee report found: What about the tens of thousands of children that the system is currently ignoring? It is worth noting that of the 196,874 reports made to the Child Protection Helpline in 2015 and 2016 in relation to 278,521 children and young people, 78,186 of these were identified as children at risk of serious harm.

Only 30 per cent of these children—that is, 23,609—received a face-to-face assessment. That means in 2015-16 we had 54,577 children who effectively were ignored by the responsible agency, Family and Community Services. That means that 54,577 children had their files closed or ignored by the responsible agency. This is at the heart of the problem in relation to child protection in New South Wales. We have a system that identifies children but does nothing about correcting their problems until they come up in the system time and again. Unfortunately, at times it is too late to help these children who are left in very dangerous circumstances that should be addressed by government. I note that in the latest budget more resources were dedicated to child protection by this Government, and that is to be welcomed. But the reality is that never enough resources are allocated, and a lot of children will continue to fall through the cracks.

A key difference between the findings of the Tune review and the findings of the committee was that the committee found Family and Community Services [FACS] to be incapable of addressing the systemic issues that review after review has identified over the past decade. The reality is that FACS is unequivocally part of the problem, and business as usual is just not an acceptable response from government. I note that the key recommendation of the committee is that the Government provide a specific one-off injection of additional funding for evidence-based prevention and early intervention services including targeted client services and programs that operate in regional, rural and remote areas. Indeed, the committee discussed the quantum of this investment, and a figure of perhaps \$1 billion was thought to be appropriate. An analogy was drawn between the amount of money being spent on physical infrastructure by government as opposed to the very important investment in social infrastructure. It was felt that this disparity was driving a lot of the problems and drawing a lot of children to the attention of child protection authorities.

Another key recommendation of the committee was that the New South Wales Government establish a cross-sector body to direct the injection of additional funding for evidence-based prevention and early intervention services, with this body to be comprised of key stakeholders including the Children's Guardian, the Ombudsman, the President of the Children's Court, senior representatives of the NSW Police Force, health and education, as well as Independents with relevant commercial experience. This recommendation is focused on ensuring that we start to take a fresh approach on how we deal with child protection issues that keep coming up but are not being addressed under the current status quo. I would like to say a lot more about this report, but I will hold my comments to another time. I commend the report to the House and again thank members of the committee secretariat for all their good work.

The Hon. GREG DONNELLY (17:22): In reply: I thank all those who contributed to the debate on this report, the Hon. Bronnie Taylor, the Hon. Dr Peter Phelps, Mr David Shoebridge, the Hon. Paul Green and the Hon. Matthew Mason-Cox. As has been said, it was a difficult inquiry in terms of looking at the sheer number of young people for whom every day of every year authorities have to find safe accommodation because their circumstances are such that they cannot live at home safely. It is incumbent upon the Government and the Opposition to seek ways of working more closely and cooperatively to examine new initiatives, policies and approaches to deal with these issues. I commend the report to the House.

The DEPUTY PRESIDENT (The Hon. Ernest Wong): The question is that the House take note of the report.

Motion agreed to.

SELECT COMMITTEE ON OFF-PROTOCOL PRESCRIBING OF CHEMOTHERAPY IN NSW**Report: Off-Protocol Prescribing of Chemotherapy in New South Wales****Debate resumed from 20 June 2017.**

The Hon. BRONNIE TAYLOR (17:24): My contribution to the debate on the Select Committee on Off-Protocol Prescribing of Chemotherapy in New South Wales report entitled "Off-Protocol Prescribing of Chemotherapy in New South Wales" will be brief. I acknowledge my colleagues on the committee and note that it was a privilege to be the deputy chair of the committee that is chaired by the Hon. Paul Green. Throughout the inquiry my thoughts were focused on one thing, and that is that the patient must always come first. Their treatment must be transparent, careful and considered. But we must also be careful to not put doctors into a framework where they are reluctant to go off protocol. Treatment must be tailored to the patient. We are respected worldwide for our healthcare, because we are really good at it. Doctors need to judge how patients will respond and adjust treatment accordingly. But they must be honest with the patient and their families, as well as with the treatment team.

I was happy with the recommendations that the committee reached. I will touch on a couple of the recommendations that are particularly important from my perspective. Recommendation 1 is about fly-in, fly-out specialists who play an important role in delivering healthcare in our regions. This recommendation for Western NSW Local Health District's review is about ensuring fly-in, fly-out doctors are accountable to the local health district as well as to their patients. Certainly, things we heard during the inquiry confirmed that these extra safeguards are an important improvement to the system, and a very necessary one. Recommendations 4 and 5 focus on the role and importance of computerised medical records and information management. I believe that medical records must be computerised. We have been talking about this for what seems to be forever.

When I was employed by the Southern NSW Local Health District in my final position before entering Parliament, I was the director of cancer services for southern New South Wales. I spent a great deal of my time trying to get electronic medical records, and I am really pleased to say that southern New South Wales now has electronic medical records. They are very important, because an entire team of medical professionals treats any one patient and all those medical professionals need access to medical records to provide the patient with the best result. In this vein I was happy that the Government announced a \$536 million investment in eHealth. Making records accurate and accessible is a valuable endeavour. We must look at information sharing and privacy, which go hand in hand. Information sharing leads to better health outcomes, and that is the most important thing in treating our patients.

Recommendation 6 talked about the whole team and noted that the whole team is important, no matter where you live. Doctors have a responsibility to give general practitioners [GPs] and nurses relevant and timely information. This information should not be in the form of a dictated letter that arrives for the GP six to eight weeks after the patient has been for their initial consultation or their first, second or third cycle of chemotherapy. It is timely information that is required, and that means that the information for regional and rural patients must be made available to the medical team. The information is not relevant six or eight weeks after the consultation.

Recommendation 7 revolves around the role of multidisciplinary cancer care teams. I absolutely support multidisciplinary teams, but we must acknowledge the challenges that exist for regional patients. We cannot ignore the challenges we face thanks to distance. In this regard, information sharing is essential. I started the first multidisciplinary care team meeting in Cooma for patients of our oncology service. If we think about multidisciplinary care teams, enormous rooms with 25 health practitioners may come to mind, but I remember that four of us sat around the table for that initial meeting. Most of us were nurses and we were committed to making sure that our patients had the best possible opportunities and health outcomes. It is not essential to have an expert from every discipline on these teams.

It is about having people there who can coordinate the care, who put the patient first, and who know what they are doing. Recommendation 9 is that the Ministry of Health implement improved patient consent procedures. We have to remember that this is more than just procedures and protocols; it is about placing the patient at the centre. In our pursuit to ensure that patients do not have some of the terrible experiences we heard about, we cannot lose focus. It is not just about ticking boxes. This is about patient education, which takes time from the doctor and time from the expert nursing staff. Our role was to understand what policies and procedures failed patients in these cases. I hope that the recommendations are taken on board, and that the reviews and changes incorporated go some way in improving the system.

But this is not a one size fits all solution. It is not about looking up an eviQ standard and saying that this is the exact dose people should have at a precise time. Everybody is different and everybody responds differently to their treatments. We need to ensure care is tailored to what best suits individuals, because we want them to

have some quality of life. People need to be able to choose and say when the medication is too much, too strong, or unmanageable. By the same token, doctors need to be honest and realistic about the expectations and the outcomes their patients can achieve.

There are many exciting things happening in health care, particularly in cancer treatment. I was speaking to a friend recently who is having very aggressive treatment for breast cancer. She is a great mate of mine, we shared a house in Terrigal when I was in my first year of nursing and she was in her first year as a doctor. It was quite a share house. Anyway, she is having aggressive treatment but, as I said to her, we are really good at this and we have a fantastic health system.

She has been trialling putting a frozen pack on her head to restrict the blood flow, which is having fabulous effects in allowing people to keep their hair. It may seem like such a trivial thing to many in this Chamber. Six weeks ago I had lunch with her, and I reminded my husband that she would look really different because she would not have any hair—she is a drop-dead gorgeous woman. But she did have her hair and she looked amazing. She said it was not about how she looked, but rather that she could pick up her children from school and was in control of who knew she was having cancer treatment. She did not want people making judgements, which is hard not to do.

That is how far we have come, and that is why we have to allow flexibility within the system to tailor things to people's needs. We need to understand that one size does not fit all. There may be people who do not choose to have the option that my friend did, and that is okay. We will never be finished improving our health systems and practices; it is a constantly evolving field. We are lucky to have a great health system in this State, and continuing to work to ensure the confidence of patients and medical staff is not something to be scared of. We should never play politics with health.

The Hon. PAUL GREEN (17:32): In reply: I thank the Hon. Bronnie Taylor for that great speech. She would have been a great nurse. I acknowledge the Hon. Walt Secord, the Hon. Natasha Maclaren-Jones, and, of course, the Hon. Bronnie Taylor, who spoke so well on things that are important to individual patients, and to women even more so, because, with all due respect, their hair, beauty, and how they present is quite important to them. It was a wonderful story about being in control of one's cancer. Once a patient loses their hair then everyone knows they are being treated for cancer and the questions come, and a whole bunch of issues come with that. I acknowledge the Hon. Bronnie Taylor's story and I ask her to encourage her wonderful friend for us.

The inquiry into the off-protocol prescription of chemotherapy in New South Wales dropped into the Chamber like a bomb, because the intelligence we had was that some specialists had perhaps moved outside the prescribing protocols. Fortunately, we had the capacity to investigate those matters, and I have already said a lot about that in my speech on the report. The Hon. Bronnie Taylor brought up some important issues. Medicine is unique and no two people are the same. It is rather like a snowflake: it looks the same and feels the same as all others, but in micro-detail every snowflake is different. It is really amazing, and it is the same with people. Accordingly, the treatment of people varies widely. Putting incredibly toxic drugs into people is not a natural thing to do. The response of each person to those drugs is unpredictable, hence we see some of the stories that are coming out about the impact they have on every individual.

That is why it was really important that one of the findings of the report was about informed consent from the patients. When a person goes to the doctor and is told they have the "Big C", their world falls apart, and they may not gather themselves for a week, a month, two months, or even a year. They have to be in a place where they can receive the specialist's advice. Our concern on this journey was that a lot of patients are not always necessarily ready to receive that advice at stage one or stage two of the treatment. The advice needs to be reaffirmed by the specialists, and the patient needs to be told exactly what is being done to them, what sorts of drugs are being administered, and what sort of outcome they can expect.

Informed consent is not implied consent; it is informed consent. A doctor might give a patient a lot of information, but that does not mean it has been heard or understood by the patient, depending on who they are, where they are up to in their treatment and whether they are able to receive such medical information on top of that. We need to ensure that we do something about informed consent, and that consent is ongoing and is not just a one-off thing that patients give when they sign to begin a set of treatments.

Nobody is above the law. As I said, we have some amazingly gifted specialists, including surgeons and oncologists, but none of them should think their knowledge allows them to cross the boundaries that are put around them in treatment protocols, unless it is within the legislative boundaries that have been created for them to test procedures. No-one is above the law and no-one should be able to apply a treatment because they think it might work. There are ways to achieve that through research and development, and that is the framework.

Every person needs to be accountable for the way they are treating patients. Part of that is informed consent and getting accountability from the patient, perhaps from the family, and, of course, from peers. Specialists working in a multi-disciplinary team do not detail to a patient, from top to bottom, what medications they are on, which might include anything from Panadol to blood pressure medication to diabetes pills, and how much they are taking. They are not asking all those questions and I believe that is creating a big gap. No-one is asking what sort of chemotherapy doses patients are receiving or what other medication the patients are taking.

That is how the situation developed where one doctor was giving treatment and no-one was asking questions because the doctor was a specialist. The chemotherapy he was using was not questioned, because the radiologists did radiology and that is all. They could only answer questions about their own expertise. I could not believe that these multi-disciplinary teams were not sharing basic facts, for example that a person had low blood pressure, a weak heart, or kidney problems.

I would have thought that when treating a person holistically in a multi-disciplinary team, the specialists would have that snapshot somewhere along the line, so everyone knew what pills and medication the patient was on and what medical challenges they were facing as an individual. Those are the sorts of things that we had to work through. I have no doubt that the system will be better as a result of this inquiry. The Hon, Bronnie Taylor said it: this was all about the patients coming first.

When we made the recommendations in the report, it was not about who said what but about making sure that, in the future, with ongoing improvement in medicine and health outcomes, we will stick to the basic, old and beautiful foundation of health care described by Florence Nightingale, which is that the patient comes first. Patients are treated holistically, patients are treated as people and they are valued. If we stick to that principle, we need to ask the age-old question of whether the patient is coming first and whether it is optimal health care. This will stand us in good stead when it comes to challenges such as euthanasia, which will soon appear in legislation before the Parliament.

The bottom line is that the patient must come first. They must have the best quality of life for them—not necessarily for the family, their loved ones or their doctor. What is the best outcome for the patient? That is what we need to ask the patient, and we need to work with them and within the boundaries of our legislation with love, care, compassion, mercy and treatment to serve them and ensure that the patient comes first. We commend this report to the House.

The DEPUTY PRESIDENT (The Hon. Ernest Wong): The question is that the House take note of the report.

Motion agreed to.

Bills

JUSTICE LEGISLATION AMENDMENT BILL 2017

Second Reading

Debate resumed from an earlier hour.

The Hon. ADAM SEARLE (17:41): I lead for the Opposition in debate on the Justice Legislation Amendment Bill 2017. The Labor Opposition does not oppose the bill. The object of the bill is expressed to be to make a whole range of minor amendments connected with the Justice portfolio. The legislation proposed to be amended by the bill includes the Bail Act 2013, the Terrorism (Police Powers) Act 2002, the Children (Criminal Proceedings) Act 1987, the Surveillance Devices Act 2007, the Confiscation of Proceeds of Crime Act 1989, the Mental Health (Forensic Provisions) Act 1990, the Court Security Act 2005, the Criminal Procedure Act 1986, the Crimes Act 1900, the Criminal Assets Recovery Act 1990, the Criminal Appeal Act 1912 and the Crimes (Sentencing Procedure) Act 1999.

Schedule 1.1 slightly expands the indictable offences to which the show cause requirement of the Bail Act applies. Schedule 1.2 allows the transfer of back-up or related offences to other courts to which substantive offences have been removed in relation to Children's Court matters. The Court Security Act is amended to alter the maximum penalty for a person possessing a knife in court premises so that it is the same as for a person having custody, without reasonable excuse, of a knife in a public place or school under the Summary Offences Act. Schedule 1.5 amends the Crimes Act in relation to sections 47 and 193 of that Act.

Schedule 1.7 amends the Criminal Appeal Act so that the Court of Criminal Appeal may vacate a determination made by the Supreme Court in its summary jurisdiction and order a new trial in such manner as the Court of Criminal Appeal thinks fit. I note in passing that this is yet another minor amendment to the criminal appeal laws in this State. In 2015 the New South Wales Law Reform Commission delivered report No. 140 on

criminal appeals, which made what seems to the Opposition to be a range of entirely sensible proposals to modernise the quite archaic structures this State has for criminal appeals. Regrettably, the Government has not yet taken up the opportunity offered by the Law Reform Commission's report and has missed another opportunity to do so in this bill. It seems this Government never misses an opportunity to miss an opportunity.

There are some minor amendments in schedule 1.7 of the bill concerning the Child Sexual Offence Evidence Pilot Scheme. The Attorney General made a point in his second reading speech about the Government's election commitment in this area. Neither that commitment nor its legislative action has gone anywhere near Labor's commitment to a specialist family domestic violence and sexual assault court. On that point I note that the Attorney in the other place gave this aspect of the shadow Attorney's speech some attention and referred to a speech given by the Chief Justice of the Supreme Court of New South Wales, the Hon. T. F. Bathurst, at the Pacific judicial conference in Papua New Guinea on 14 September 2016 entitled "Specialised Courts/Court Tracks—The Way to Go?" The effect of the extracts of the speech he relied upon was that specialist courts may fragment the integrity of the legal system and make the system susceptible to external pressures in a manner destructive to the impartiality and integrity that the community expects from its courts.

I wonder whether the Government might indicate whether this extract represents a complete hostility to specialist courts. I note that the Government brought forward legislation last year that abolished the Industrial Court of New South Wales, a superior court of record that has existed in one form or another for over 100 years. There is the specialist Land and Environment Court, not actually a separate court but a division of the Local Court. There is the Children's Court, and I think I am correct in saying that the President of the Children's Court is in the process of establishing a specialist Koori court dealing with Aboriginal or Indigenous child offenders. Is the Government now signalling, through the Attorney General's comments, its hostility to those specialist measures? I ask the Parliamentary Secretary in his reply to give some assurance that those initiatives are not being put at risk.

There are also a number of amendments to the Mental Health (Forensic Provisions) Act. Schedule 1.10 replaces the current term in section 32 (1) (a) (i) and replaces it with the term "cognitively impaired", which in turn is defined in section 32 (6). The Attorney General did not mention this in his second reading speech—as I recall, I do not think the Parliamentary Secretary in this place did in his second reading speech—but some of that looks remarkably like some, but not all, of the recommendations in chapter 5 of report No. 135 of the New South Wales Law Reform Commission, entitled "People with cognitive and mental health impairments in the criminal justice system". With those brief observations and as I indicated at the outset, the Opposition does not oppose the bill.

Mr DAVID SHOEBRIDGE (17:46): I speak on behalf of The Greens in the debate on the Justice Legislation Amendment Bill 2017. This is one of the rare occasions when the Coalition Government is making a raft of amendments to our justice system which, by and large, The Greens support. The Justice Legislation Amendment Bill 2017 makes a series of relatively minor amendments, some of them important, to a series of Justice bills.

Some of the notable amendments include: streamlining processes where Children's Court offences are transferred to the District or Supreme Court, meaning that back-up or related offences are also transferred, avoiding doubling-up of court proceedings; a small increase to the penalty for having a knife in court, which makes it equate to the penalty for having a knife in a public place or a school; clarifying that petrol is a destructive substance for the purposes of section 47 of the Crimes Act, particularly noxious offences involving the throwing of corrosive fluid over another person; increasing some protections for victims of prescribed sexual offences to allow—in fact to require, in certain circumstances—victim impact statements to be read in closed court and with a support person present; and clarifying that child witnesses—a child witness being someone who is less than 16 years of age at the date of the committal—can give pre-recorded evidence, which is part of implementing some of the recommendations of the Child Sexual Offence Evidence Pilot scheme.

The Greens support this bill, which makes amendments to a dozen Acts within the Justice portfolio. In general the changes are geared towards improving processes for victims and witnesses in sexual assault matters, improving the running of court proceedings, avoiding duplication of court proceedings and addressing anomalies in existing offences. The changes to the Children (Criminal Proceedings) Act 1987 will mean that where indictable or serious offences are transferred to a superior court then back-up and related offences will also travel with them. These offences will also be dealt with by the higher court but they will be dealt with as though they were summary proceedings before a Local Court.

The Greens seek a commitment from the Government to continue monitoring the impact of those changes to ensure that they do not unintentionally result in harsher sentencing for children. We understand the procedural common sense in that but the Department of Justice needs to do some internal tracking to ensure that there is no unintentional uplift in sentencing when sentences are being delivered by courts that normally deliver far more serious sentences than those in the Local Court and Children's Court. The changes that will allow greater support

of victims of sexual assault and the protection of child witnesses are strongly supported by The Greens. I spend my time in this Parliament doing what I can to ensure that particularly victims of child sexual abuse but also witnesses in those cases are properly protected. There is much more to be done in this area of the law to improve the experience of both witnesses and victims of sexual and child sexual abuse. I give the Government credit for this modest reform.

Last week I attended the Director of Public Prosecutions [DPP] conference called "Victims' Voices" which had a strong focus on how to make our justice system much more victim-focused. I do not always commend the work of the Director of Public Prosecutions. I have been known to take issue with his work but I do commend him and his office for trying to prioritise the needs of victims in our criminal justice system. Their rights are sometimes left behind in our traditional court system; voices are often silenced when we sometimes give an excessively privileged position—with necessary protections, which I support; that golden thread—to defendants, ignoring the need to protect victims and ensure their voices are heard and they are respected in the process.

The conference identified a number of serious concerns about how victims and witnesses are treated, including the impact that lengthy cross-examination has on them and the failure of many judges to use existing discretions in the Evidence Act to limit improper questioning. There are powers in the Evidence Act to prevent improper questioning but they seem to be idiosyncratically applied by judges in the criminal justice system. Judges are concerned that if they step in to stop victims and witnesses being torn apart in inappropriately lengthy cross-examination they will be challenged on appeal. They need to be supported by some clear legislative reforms through this Parliament. Judges who exercise the power to stop improper questioning, to stop victims being the subject of what can be secondary abuse in the court system, need to be empowered with statutory protections so that mistrials do not happen. There was strong agreement at the conference that the legal community, and judges in particular, should be monitoring the way in which that power to prevent improper questioning is used in the courts. The Government should be undertaking a review of the occasions in which that provision of the Evidence Act has been used to see what is required to ensure that victims are respected across the board and that it does not just depend upon the whim of a judge whether or not that kind of questioning is prevented.

Other difficulties for victims and witnesses include the delay from charge to trial, which, in the District Court, is estimated to be around two years for domestic violence and serious sexual offences. When victims are spoken to about their experience in the criminal justice system it is the delay that is repeatedly raised. That delay can carry with it a whole series of deeply traumatic emotional moments. Sometimes they are told their matter will be listed for hearing. They will be prepared and emotionally prepared, they will come with their families and support groups in order to give the evidence and potentially be exposed to some pretty ruthless cross-examination, maybe for a day or two days in the witness box. They turn up at the Downing Centre, the John Maddison Tower or the Supreme Court with all of the stress that can be imagined—and many of us cannot imagine that—in potentially being cross-examined about a traumatic sexual assault. Then their case is not reached because there are not enough judges, or it is otherwise delayed. That can happen to some victims two or three times in the course of a two-year delay in getting their case heard.

We desperately need some more judges in the District Court. We desperately need more judges in the District Court in Newcastle and in the District Court in Sydney to ensure that victims are not facing that delay and repeated revisiting of the insult when they turn up to court and their matter is not reached. It is often said that justice delayed is justice denied. The human toll of those court delays on victims is very real and this Government has an obligation to address it. Additional matters were raised in the conference including the difficulties for victims and witnesses in understanding court processes and the lack of continuity of police, prosecutors and lawyers whom they deal with. For many victims of crime the first time they meet the prosecutor who is going to be running their case, defending them from cross-examination and interrogating the defendant, if the defendant gives evidence, is on the morning of their trial. They might have reported the matter to police three, four or five years previously but the first time they meet their lawyer is on the day that they go to give evidence.

That is distressing for victims, particularly when they see on the other side the defendant's counsel, sometimes very well paid and very well heeled, who has known the defendant for two or three years, knows every nuance of the case and clearly has a detailed knowledge and some kind of relationship with the defendant. On the other side, the victim meets their lawyer for the first time when they come into court. I know the DPP is looking to reform its processes to change that and put a senior prosecutor on the case right at the outset when it is first allocated, at what is traditionally the committal. That reform is essential to ensure that victims feel like they are getting a fair shake in our criminal justice system.

I accept that some of those issues are beyond the scope of the bill. I put them on the record because fixing those problems in the criminal justice system and rebalancing the system so that victims are respected and heard should be an apolitical goal. We should all be signing on to this regardless of whether we are a Greens member of parliament, like me, Coalition MPs such as the Parliamentary Secretary, or Opposition members such as the

Hon. Adam Searle. We all have an obligation to put our politics to one side to rebalance our court system, not to remove the golden thread in our criminal justice system but to ensure that victims are heard. With those observations The Greens will be supporting this bill.

Reverend the Hon. FRED NILE (17:56): The Christian Democratic Party supports the Justice Legislation Amendment Bill 2017. As the House knows, this is a procedure we encounter probably twice a year when many minor changes are made to legislation and to various Acts. Instead of having separate bills these minor changes are incorporated in one bill, such as this bill. Often they are important matters even though they may appear to be minor matters. I draw the House's attention to some of the procedures and provisions in the bill. Schedule 1 extends the provisions of the Firearms Act that involves acquiring, supplying or manufacturing a prohibited firearm to acquiring, supplying or manufacturing a firearm part and, furthermore, to giving possession of a prohibited firearm or firearm part.

Members may remember the recent case involving the men who were planning an explosive attack on an aircraft from Sydney airport. They were able to have parts sent to them from overseas to help make that bomb. In the same way, people can put together parts to make a firearm. It is important to strengthen that provision. Schedule 1.2 makes amendments to the Children's (Criminal Proceedings) Act so that back-up offences or related offences can be transferred by the Children's Court to another court. That provision may be convenient, provided that it results in greater efficiency from a case management perspective, but the interests of justice should prevail in each case.

Schedule 1.3 changes the date when an application for a forfeiture order or pecuniary penalty under the Confiscation of Proceeds of Crime Act can be made within six months from the date of conviction to the day of sentencing. The Christian Democratic Party supports that provision. Obviously, it is a great deterrent for criminals to know that the proceeds of crime can be confiscated. Schedule 1.4 harmonises the penalties for possession of a knife without reasonable excuse in court premises with similar prohibitions for possession of a knife in a public place or school. Obviously, no sensible person would be carrying a knife in a court and such conduct should be treated very seriously. The amendment will set the penalty under the Summary Offences Act to \$2,200 or two years imprisonment. Schedule 1.5 changes the Crimes Act so that petrol is classified as a destructive or explosive substance. Sadly, we know that some men have thrown petrol over a woman for whom they have nothing but hatred after the breakdown of a relationship and, having thrown petrol over the woman, they have set her on fire. That is the use of petrol as a destructive and explosive device and its classification in this legislation is certainly justified.

Schedule 1.6 changes the Crimes (Sentencing Procedure) Act to allow for the reading of victim impact statements during sentencing procedures in respect of prescribed sexual offences. The Christian Democratic Party supports wholeheartedly the use of victim impact statements to give victims a voice and a role in court as well as an opportunity to express their feelings and attitudes as well as their hurt and suffering. Schedule 1.7 extends the powers of the Court of Criminal Appeal to allow it to vacate a determination of the Supreme Court in its summary jurisdiction and order a new trial to be commenced in a manner that the Court of Criminal Appeal deems appropriate. The proposed amendment appears to concentrate more power in the hands of the Court of Criminal Appeal and allows matters to be reopened in the manner that the Court of Criminal Appeal sees fit. The Christian Democratic Party assumes that that amendment is designed to create greater efficiency in our court system. Schedule 1.8 concerns the Criminal Assets Recovery Act. The bill before the House effectively amends section 6 (3), which defines serious crime-related activity to include drug trafficking offences.

Schedule 1.9 amends section 84 (1) of the second schedule to the Criminal Procedure Act so that the requirements of section 85, which refer to procedural matters related to prerecorded evidence hearings, will apply when evidence is given by a witness who is younger than 16 years of age at a time when the accused person is committed for trial or sentence. Schedule 1.10 makes various changes to the Mental Health (Forensic Provisions) Act. Schedule 1.11 amends the Surveillance Devices Act. The bill proposes to repeal section 51 (3), which deals with the requirements for notices to be given for surveillance devices and retrieval warrants.

The provisions will be replaced with proposed new section 54. Schedule 1.12 makes various changes relating to authorised searches under the Terrorism (Police Powers) Act. The notes that are proposed to be deleted in sections 17 and 26V explain those sections in relation to the existing schedule to the Act. It is very important, in this era of increased terrorism threats, for the police to have all the powers they need to carry out their duties. The Christian Democratic Party is pleased to see these improvements and supports the legislation.

The Hon. PAUL GREEN (18:03): The Christian Democratic Party supports the Justice Legislation Amendment Bill 2017, which makes minor adjustments to several Acts. The Bail Act 2013 amendment results in the accused having to provide a reason to not be detained in the case of a serious offence in relation to the possession of weapons. This initially raised concern because it reverses the onus of proof onto the accused, but the Christian Democratic Party agrees with the view expressed in Legislation Review Digest No. 40/56 that the

amendment is reasonable due to the seriousness of the circumstances. Changes to the Mental Health (Forensic Provisions) Act 1990 refer to the purpose of a two-year pilot of the Cognitive Impairment Division Program:

The program is aimed at people with cognitive impairment who appear before the Local Court for early low-level offending.

The Christian Democratic Party embraces this recommendation because it supports those with cognitive impairment by allowing courts to divert people suffering impairment into an appropriate support structure. It also can reduce inappropriate incarceration and prevent further and potentially more serious offences. The updated terminology also provides a clear understanding and guidance as to what cognitive impairment refers to, which helps to support a judicial system to know when it applies and prevent it from being applied inappropriately. One of the principles of the Christian Democratic Party is:

To support and strengthen the Family unit as the basis of a society and responsible parenting with pro-family, pro-child policies.

The Christian Democratic Party therefore welcomes the amendments to the Criminal Procedure Act 1986 that protect our children at a point when they already are traumatised and vulnerable. Those children, having already experienced the horror of witnessing or experiencing a sexual offence, must be protected and we believe our institutions have a role to protect those children to the best of their ability. We believe that allowing a witness to give evidence by a prerecorded hearing, based on the complainant being under 16 years of age at the time of the committal, achieves this.

Changes to the Crimes (Sentencing Procedure) Act 1999 provide protections to victims of sexual offences. Extending the level of support that victims receive is the right thing to do, understanding it can be difficult to give evidence. For many victims, the reading of a victim impact statement can cause them to relive previous trauma. Updating this bill will allow for clarity and consistency as it ensures that the victim receives necessary support and protects them when their victim impact statement is read out, while not compromising open justice by giving the court permission not to hear the case in closed court. The bill strengthens wording that, potentially, has allowed offenders to escape with lesser penalties for serious acts. Changes to the Crimes Act 1900 now classify petrol as an explosive substance whereas before its classification was uncertain. This will help to protect victims from further pain when an accused escapes appropriate consequences due to poor interpretation. My colleague Reverend the Hon. Fred Nile dealt with that matter in detail.

With the increasing threat of terror that our nation and other nations throughout the world face, the Christian Democratic Party understands the need for police to have power to protect our families and our communities, understanding that a potential threat could infringe on an individual's right to privacy. However, I acknowledge that the safeguards that have been put in place in the Terrorism (Police Powers) Act 2002 ensure that the individual's right to privacy is maintained. The Christian Democratic Party agrees that, due to the seriousness of terrorist acts and the potential for widespread harm, the changes in this bill are fair and reasonable. I commend the bill to the House.

The Hon. SCOTT FARLOW (18:07): My remarks in debate on the Justice Legislation Amendment Bill 2017 will be brief. This bill is part of our Government's routine improvement and clarification of legislation that impacts upon the operation of our courts and justice agencies. The bill, as members who preceded me in this debate have discussed, amends quite a few different Acts. During my speech I will focus on one area of interest with respect to the amendment of section 32 of the Mental Health (Forensic Provisions) Act 1990, which allows magistrates to divert people who are suffering from a mental health issue away from the criminal justice system. The amendment clarifies that this power is not limited to developmental disabilities and includes other forms of cognitive impairment.

This amendment directly supports a two-year pilot program, the Cognitive Impairment Diversion Program, which is aimed at people with cognitive impairment who appear before the Local Court and who are accused of low-level offending. The program offers a pathway for people who have cognitive impairment and who need support in respect of their disability. The New South Wales Law Reform Commission has found that there is a significant overrepresentation of people with cognitive and mental health impairments in the criminal justice system. The proposed amendments to section 32 of the Act will enable the provision to be utilised for diversionary purposes, allowing people to obtain much-needed support. Diversion for low-level offending will, as studies have shown, reduce reoffending, provide better mental health outcomes and deliver significant cost savings. This amendment will significantly assist diversion by providing support services at the court stage of proceedings.

I now return to some other elements of the bill that members of the House may be interested in. In addition to proposed changes to the Mental Health (Forensic Provisions) Act 1990, the bill encompasses other changes, particularly focused on victims and witnesses. Proposed amendments to section 30A (3) of the Crimes (Sentencing Procedure) Act and clauses 84 (1) and 84 (2) of the Criminal Procedure Act aim to reduce the trauma of victims and witnesses in sexual assault matters. There are also proposed amendments to improve court process and

criminal procedure and enforcement, including aligning relevant offences in section 47 of the Crimes Act 1900 and section 193C of the Crimes Act, introducing a new provision in the Children (Criminal Proceedings) Act and section 4 (1) of the Confiscation of Proceeds of Crime Act. The bill also proposes to insert explanatory notes into sections 25 and 30 of the Confiscation of Proceeds of Crime Act, section 8 (1) (b) of the Court Security Act, section 5AA of the Criminal Appeal Act, sections 6 (3) and 10B (2) of the Criminal Assets Recovery Act, and section 32 of the Mental Health (Forensic Provisions) Act.

There are also amendments to strengthen bail laws in section 16B of the Bail Act and amendments to make technical adjustments to the criminal procedures in section 26 (2) and 83 (1) (d) of the Confiscation of Proceeds of Crime Act, section 51 (3) of the Surveillance Devices Act and schedule 1 of the Terrorism (Police Powers) Act. As some members have mentioned, while this bill may make some minor changes, it will also make some significant changes particularly when it comes to the experiences of victims in our criminal justice system. All of us in this House are very cognisant of the trauma that victims go through when they appear before our courts. I am sure all members of the House would agree that we need to do everything we possibly can to ensure that process has as little impact on victims as possible, particularly when it comes to vulnerable victims. None are more vulnerable than those minors who appear before the courts in sexual assault proceedings. They are of concern to all members of this House. I commend this bill to the House.

The Hon. NATASHA MACLAREN-JONES (18:12): I am also in favour of the Justice Legislation Amendment Bill 2017 which makes minor amendments to various Acts to clarify criminal procedures and improve the operation of legislation. It is important to note that the Department of Justice consulted a wide range of stakeholders when drafting this bill including the courts, the Law Society of NSW, the NSW Bar Association, Legal Aid NSW, the Office of the Director of Public Prosecutions, public defenders, the NSW Police Force, and the NSW Crime Commission in order to ensure that the bill brings about the most necessary reforms.

Among other effects, a number of amendments in this bill will reduce trauma for victims and witnesses, including children in sexual assault matters. Items [1] and [2] of schedule 1.9 of this bill relate to the child sexual assault evidence pilot which was established in response to recommendations of the Joint Select Committee on Sentencing of Child Sexual Assault Offenders, the New South Wales Ombudsman and the child sexual offence evidence pilot implementation and monitoring group. The pilot commenced on 31 March 2016 in a district court in Newcastle and delivered on an election commitment made by this Government. It was established by amending the Criminal Procedure Act 1986. The special measures introduced by the pilot make it so that when a witness under the age of 16 is to give evidence it must be given in a pre-recorded hearing. This can also be extended to children under the age of 18 if requested by a court order.

The pilot program also allows for the appointment of children's champions, also known as witness intermediaries. This will assist child victims and prosecution witnesses to communicate with parties and the court when giving evidence. Children's champions are professional and impartial officers of the court with tertiary qualifications in psychology, speech pathology, social work or occupational therapy. In addition to their assistance during court proceedings they are also available at the police investigation stage to assist child victims and witnesses. These measures are designed to reduce the trauma and stress of child sexual assault victims in giving evidence. Under current legislation there is the unintended consequence that if a child witness is under 16 when a matter is listed for a pre-recorded hearing but then turns 16 before they give evidence, the child is not automatically entitled to a pre-recorded hearing because they will not be under 16 when the evidence is given. The proposed amendments in the Justice Legislation Amendment Bill 2017 will clarify that a child witness is entitled to give evidence at a pre-recorded hearing if the child was under the age of 16 at the date of committal. This will provide greater certainty for victims and witnesses.

Similarly, upon the recommendations of the Office of the Director Of Public Prosecutions, schedule 1.6 of the Justice Legislation Amendment Bill 2017 amends the Crimes (Sentencing Procedure) Act 1999 to require, in proceedings relating to prescribed sexual offences, a victim impact statement [VIS] to be read in closed court and with a support person present unless the court otherwise directs. Currently, a complainant is entitled to a support person under section 294C of the Criminal Procedure Act 1986 and a closed court under section 291 of the same Act when giving evidence in prescribed sexual offence proceedings. However, these same provisions do not apply when a victim impact statement is read out in court.

Although there is a general discretionary power in the Criminal Procedure Act for the court to be closed during proceedings in respect of a prescribed sexual offence, there is currently no automatic requirement for the courts to be closed nor for the victim to have a support person present when a victim impact statement is read out in court. The proposed amendment will align the protections for sexual assault victims when a VIS is read out in sentencing proceedings so that they are consistent with the protections that are currently afforded to a victim when giving evidence during a trial. This will provide greater protections and support to victims of sexual violence and minimise further trauma and embarrassment.

Courts will have the discretion not to close the court where there are special reasons to do so in the interests of justice or where the complainant consents in order to ensure the principles of open justice are maintained. This is consistent with the existing discretion for complainants giving evidence in prescribed sexual assault proceedings. Along with many amendments regarding closed courts during the reading of victim impact statements and pre-recorded hearings for children under the age of 16, the New South Wales Government is committed to supporting victims throughout their engagement with the justice system. The New South Wales Department of Justice's Victims Services and Support has a support coordination function and administers the Victims Support Scheme, the Victims Access Line and the Aboriginal Contact Line.

The Victims Support Scheme provides support through a number of different avenues including up to 22 hours of counselling through the approved counselling service, with unlimited hours of counselling for victims of child abuse. They provide individually tailored support packages worth up to \$5,000 to address the urgent needs of victims, long-term support of up to \$30,000 and group therapy programs for victims of crime through the approved counselling service. The scheme also provides group therapy programs for male survivors of child sexual assault. This bill demonstrates the New South Wales Government's commitment to ensuring that our justice system remains clear, consistent, up-to-date and proactively supports victims by reducing trauma and emotional distress that may be experienced during court proceedings. I commend the bill to the House.

The Hon. TAYLOR MARTIN (18:18): I speak in support of the Justice Legislation Amendment Bill 2017 which makes a number of amendments to improve criminal enforcement through addressing gaps in existing offences, overcoming obstacles to the successful prosecution of certain offending behaviour and aligning relevant offences to create a consistent penalty regime for similar offences. This bill seeks to describe petrol as a "destructive substance" when used to assault an individual. Items [1] and [2] of schedule 1.5 to the bill amend the Crimes Act 1900 in order to address gaps and obstacles to the successful prosecution of certain criminal behaviour, as identified by the Office of the Director of Public Prosecutions. Item [1] of schedule 1.5 amends the Crimes Act 1900 to clarify that petrol is a destructive substance for the purpose of the offence of using an explosive substance or corrosive fluid in section 47 of that Act. This offence covers conduct where a person throws a destructive or explosive substance on a person with intent to burn, maim, disfigure, disable or do grievous bodily harm to the victim.

One commonsense application of this offence is where a person throws petrol on another person and threatens to set it alight. However, contrary to the ordinary understanding of petrol as an explosive substance, in technical scientific terms it is only explosive under certain conditions. The amendment aims to circumvent a possible argument along these lines by clarifying that, for the purposes of this offence, petrol is to be understood as an explosive substance. The amendment will remove this technicality as a potential difficulty in future prosecutions for this offence. It will ensure the offence works as intended and that if petrol is thrown onto someone, the physical element of the offence in section 47 is made out. This bill also seeks to provide a statutory alternative prosecution under section 193E.

Item [2] of schedule 1.5 makes an adjustment to the money laundering offences in the Crimes Act 1900. Under section 193C (1), it is an offence to deal with property valued at \$100,000 or more where there are reasonable grounds to suspect that the property is the proceeds of crime. Section 193C (2) provides the same offence but applies where the property is valued at less than \$100,000. It can sometimes be difficult for the prosecution to prove beyond reasonable doubt the exact value of the property for the purpose of these offences. To ensure that this does not lead to a prosecution failing, the bill amends section 193E to provide that the offence of dealing with property valued at less than \$100,000 is a statutory alternative to the offence of dealing with property valued at \$100,000 or more.

The practical effect of this will be that if a person is charged with dealing with property valued at \$100,000 or more but the prosecution cannot prove beyond reasonable doubt that the property was worth that amount, the person can instead be convicted of the lesser offence of dealing with property worth less than \$100,000. The amendment will ensure that the structure of these offences does not create an obstacle to successfully prosecuting a person for money laundering. This bill seeks to align similar offences and create a consistent penalty regime. Schedules 1.1, 1.4 and 1.8 to the bill align relevant offences and will create a consistent penalty regime for similar offences across different pieces of legislation.

This bill seeks to clarify a "show cause" offence for bail purposes. Schedule 1.1 implements a proposal by the Bail Act Monitoring Group to clarify that the offence under section 50B of the Firearms Act 1996 is a "show cause" offence for the purposes of bail. The offence in section 50B relates to giving a person possession of a firearm where the recipient is not authorised to possess the firearm. An example of where this offence may apply is when the owner of the firearm lends it to another person who is not authorised to have the firearm. This conduct can occur as part of organised crime or terrorist activities. Under the Bail Act 2013, certain serious offences are show cause offences—that is, a person charged with one of these offences will be refused bail unless the person

can show cause for why his or her detention is not justified. The Bail Act already specifies that serious firearms offences that involve illegally acquiring or supplying a firearm are show cause offences.

It was intended that the offence in section 50B of "giving possession of" a firearm would also be a show cause offence because it comes under the idea of "supplying" a firearm. However, a recent decision of the Supreme Court highlighted that the offence is not covered, as it technically relates to "giving possession of" a firearm rather than "supplying" it. The amendment in schedule 1.1 to the bill fixes this unintended anomaly by specifying that an offence of "giving possession of" a firearm is also a show cause offence for the purposes of bail. This will correct a drafting oversight, as the show cause test was always intended to apply to serious firearms offences.

This bill seeks to align the penalty for possessing a knife on court premises. Schedule 1.4 amends an anomaly in the maximum penalty for the offence of possessing a knife on court premises. Under section 8 of the Court Security Act 2005, it is an offence to possess a restricted item in court premises without a reasonable excuse. The current penalty if the item is a knife is a fine of five penalty units for a first offence, 10 penalty units or imprisonment for 12 months, or both, for a second offence, and 20 penalty units or imprisonment for two years, or both, for any subsequent offence. The offence is similar to the offence in section 11C of the Summary Offences Act 1988, which makes it an offence to have custody of a knife in a public place or school without reasonable excuse. The maximum penalty for this more general offence is a fine of 20 penalty units or imprisonment for two years, or both.

This bill amends the Court Security Act 2005 to bring the maximum penalty for possession of a knife in court premises in line with the offence in the Summary Offences Act 1988. The simpler maximum penalty of a fine of 20 penalty units or imprisonment for two years, or both, will apply. This amendment was proposed by the Chief Magistrate of the Local Court and will ensure that a consistent penalty regime is in place for these two very similar offences. The court will be able to take a person's criminal history into account when sentencing for the offence under the Court Security Act 2005. Where it is a person's first offence, he or she will receive a lower sentence—all other things being equal—than a person who has previously been convicted of an offence of this nature.

The bill also corrects an oversight in the definition of "drug trafficking offence". Item [1] of schedule 1.8 amends the Criminal Assets Recovery Act 1990 to include the offence under section 23A of the Drug Misuse and Trafficking Act 1985 as a drug trafficking offence for the purposes of the Criminal Assets Recovery Act 1990. Section 23A relates to enhanced indoor cultivation of prohibited plants in the presence of children. Currently, similar offences within part 2 division 2 of the Drug Misuse and Trafficking Act 1985 are defined as "drug trafficking offences" for the purpose of the Criminal Assets Recovery Act 1990. Section 23, for example, relates to offences with respect to prohibited plants and includes an offence for cultivation of a prohibited plant. The amendment will address a drafting oversight in relation to section 23A and ensure consistency with other offences. I commend the Justice Legislation Amendment Bill 2017 to the House.

The PRESIDENT: I will now leave the chair and cause the bells to be rung at 8.00 p.m.

The Hon. BEN FRANKLIN (20:02): On behalf of the Hon. Don Harwin: In reply: I thank the Hon. Adam Searle, Mr David Shoebridge, Reverend the Hon. Fred Nile, the Hon. Paul Green, the Hon. Scott Farlow, the Hon. Natasha Maclaren-Jones and the Hon. Taylor Martin for their contributions. I will address some of the matters members raised in this debate. I note the Hon. Adam Searle's comments about the speech delivered by the Chief Justice of the Supreme Court of New South Wales, the Hon. Tom Bathurst, at the Pacific Judicial Conference in Papua New Guinea on 14 September 2016 entitled "Specialised Courts/Court Tracks—The Way to Go". Labor proposes a specialist court for sex offences. The views and commentary expressed by the Chief Justice of New South Wales from the judicial arm of government are, of course, not a statement of executive policy but are of influence and significance when considering and debating a proposal about the justice system. As the Chief Justice noted in his speech, there are both merits and drawbacks to specialised courts.

The Government favours enhancing existing specialist measures for child sexual assault proceedings throughout New South Wales, rather than concentrating such measures in only one court. The Government has implemented a number of specialist measures aimed at reducing re-traumatisation of child witnesses in sexual offence proceedings. These are: piloting the use of children's champions to support child victims in giving their evidence, which commenced on 31 March 2016; expanding the prerecording of out-of-court evidence given by child victims, which commenced on the same date; and the appointment of two specialist District Court judges in August 2015 trained in managing child sexual assault matters. The prerecording of evidence and the use of children's champions are being piloted prior to any wider implementation.

Other legislative reforms in recent years aimed at reducing the trauma experienced by victims in sexual assault proceedings available in all courts include: remote witness facilities so that sexual assault complainants do not have to see their accused in court; evidence-in-chief can be given through a prior recorded video statement;

provisions for the privacy of hearings; and rules that make evidence of prior sexual experience inadmissible. All District Courts now have permanent remote witness facilities installed. Most child sexual assault matters are heard in the District Court. Under the Justice Audio Visual Link Consolidation Project, remote witness facilities are being expanded in courts throughout New South Wales.

I note Mr Shoebridge's concerns about the potential for the amendments to the Children's Criminal Proceedings Act 1987 to increase sentencing outcomes for child offenders. To those concerns I say the following: The amendment will not disadvantage child defendants. Under the proposal there is no requirement for back-up or related offences to be transferred to the higher court. The Children's Court will have discretion as to whether the proceedings should be transferred. Further, if the proceedings are transferred, the higher court will deal with the back-up and related offences using the jurisdiction of the Children's Court or remit them to the Children's Court if it is in the interests of justice to do so. This will ensure that the possible sentence for the transferred offences will be the same. I note that the proposal will enable a young person to be sentenced for all offences at the same time.

In conclusion, this bill contains minor amendments to a number of Acts within the Justice portfolio. The amendments arise from regular review of courts and crimes legislation impacting the Justice Cluster. In particular, the amendments will: reduce trauma for victims and witnesses, including children, in sexual assault matters and address gaps and anomalies in existing offences and obstacles to the successful prosecution of certain offending behaviour. The amendments will also improve court process and criminal procedure in relation to: proceedings involving children; orders relating to proceeds of crime and criminal assets; the diversion of defendants with cognitive impairment for assessment, treatment or support; and proceedings in the Court of Criminal Appeal. The amendments will also ensure that the language used, and legislation referred to, in various pieces of legislation is accurate, up to date and consistent. The bill will clarify criminal procedure and improve the operation and efficiency of legislation affecting the courts and assist agencies within the Justice Cluster to carry out their functions more effectively and efficiently. 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. BEN FRANKLIN: On behalf of the Hon. Don Harwin: I move:

That this bill be now a third time.

Motion agreed to.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (STAGED DEVELOPMENT APPLICATIONS) BILL 2017

COAL MINE SUBSIDENCE COMPENSATION BILL 2017

First Reading

Bills received from the Legislative Assembly.

Leave granted for procedural matters to be dealt with on one motion without formality.

The Hon. DON HARWIN: I move:

That the bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second readings of the bills be set down as orders of the day for a later hour.

Motion agreed to.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (STAGED DEVELOPMENT APPLICATIONS) BILL 2017

Second Reading

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (20:09): I move:

That this bill be now read a second time.

I have no wish to detain the House unnecessarily. This bill was released as a draft in June and there has been ample time for members to consider its provisions. I will seek leave to incorporate the Minister's second reading speech but, as Minister for the Arts, it is appropriate that I make a few brief comments, as my agency was the

respondent in the case in the Court of Appeal brought by a tenant of the Walsh Bay Arts Precinct, Simmer on the Bay.

In relation to the court's decision, I make it clear that this bill will not in any way validate the second stage development application for the Walsh Bay Arts Precinct proposal that was the subject of the litigation and nor have I ever contemplated that it would do so. The bill comes to this place only because of the wide implication of the Court of Appeal's decision on what previously had been understood to be settled law. I am absolutely committed to proceeding with this outstanding project at Walsh Bay, which is a major boost for a number of our major performing arts groups. Our department is progressing the program with an alternative strategy for obtaining development consent in close consultation with all concerned. I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

I am pleased to introduce the Environmental Planning and Assessment Amendment (Staged Development Applications) Bill 2017. The purpose of this bill is to restore the procedures for staged development applications and how first stage concept proposals are assessed. Staged development applications are often lodged for complex residential, commercial, retail and hotel developments to obtain "in principle" approval which sets out key planning parameters like use, shape and scale upfront, allowing the finer-grained details and operational impacts of a proposal to be spelled out in future applications when those more detailed aspects are fully developed. Importantly, a first stage concept approval does not allow any works on a site to start. This ensures that all relevant impacts are fully assessed in subsequent staged development applications before any work may be carried out.

The staged development application model is particularly important in the City of Sydney where a concept proposal is required for new or expanded buildings in central Sydney. This staged approach of concept proposal followed by a detailed development application provides for more certainty to developers and financial backers to make investment decisions knowing that the key parameters have been found sound and justify further investment in the detailed design of a proposal through a subsequent application. The provisions also allow stakeholders and the community to provide feedback at the conceptual stage before a detailed proposal is lodged.

In 2015 the Minister for Planning approved a first stage concept development application made by Arts NSW for an integrated performing arts and cultural precinct in Walsh Bay. The approval did not permit any construction work to be carried out. The Minister's decision was challenged and initially dismissed by the Land and Environment Court in 2016. The Land and Environment Court's decision was then taken to the Court of Appeal. On 15 June 2017 the Court of Appeal overturned the Land and Environment Court's decision and declared that the approval was invalid. The court made this decision on the basis that the proposal was not a staged development application within the meaning of the Environmental Planning and Assessment Act. It came to this conclusion because the concept proposal was to be followed by only a single development application for the development of the whole site.

In the Court of Appeal's view there must be at least two detailed proposals for separate parts of the site in order for a staged development application to meet the requirements of the Environmental Planning and Assessment Act. The court also determined that the Act did not permit the consideration of construction-related impacts to be permitted as part of a later development application even though the concept approval did not authorise construction work starting. The effect of the decision was to limit the circumstances in which the stages provisions could be used.

The decision by the Court of Appeal creates a great deal of uncertainty for a number of complex development proposals under assessment or recently approved by the department and local councils. Many of these projects have a high capital investment value. The Department of Planning and Environment estimates that the projects at risk of legal challenge could have a combined capital investment value of over \$8 billion and would deliver over 14,500 dwellings across the State. By introducing this bill, the Government has acted swiftly to address this uncertainty and prevent delays in the delivery of significant residential, retail and commercial development across Sydney and the rest of the State. This bill is a conservative measure to restore the law to the way it previously operated and was understood by councils and other consent authorities and industry.

The draft bill was released for public comment on 30 June 2017 and a broad range of submissions were received. Some suggested the inclusion of additional provisions to allow greater flexibility for concept approvals. These comments were taken into consideration but were considered inconsistent with the purpose of the bill which is to restore current accepted practice for concept development applications, remove uncertainty and prevent delays. Following the public consultation period, some drafting changes have been made in relation to consequential amendments. There is one major change to the bill in response to submissions. This change is to clarify that the bill will not validate the second stage development application lodged for the Walsh Bay Arts Precinct proposal.

I now turn to the amendments in the bill. The bill replaces the current staged development application provisions of the Act with new provisions for concept development applications. This confirms that the provisions are meant to be used for any concept proposal rather than exclusively for staging two or more parts of a proposal across a site. The new provisions are largely the same as the current ones, however there are two critical changes which restore the way the provisions for staged development applications operated before the Court of Appeal's decision. First, the bill will allow a concept development application to be followed by only a single application for the whole development site. This will avoid the artificial carving up of a development site which would otherwise be required if the legislation was left unchanged, creating time delays and additional costs for no good commercial, technical or community benefit. It will also mean that the provisions are available to a broader range of development.

Secondly, the bill will allow councils and other consent authorities to decide the most appropriate time to assess construction-related and other operational impacts, as has been longstanding practice before the Court of Appeal's decision.

It is councils and other consent authorities who, with the benefit of having the available information at hand, are best placed to determine when a comprehensive assessment of these impacts should be undertaken. The bill will give councils and other consent authorities the choice to decide on a case-by-case basis whether construction-related impacts should be assessed either in part at the concept stage and more fully at the subsequent stage of the development application, or at the subsequent stage of the development application when the details and likely operational impacts of the proposal are fully known.

Importantly, nothing in the bill will result in a reduction in the level of assessment undertaken by councils and other consent authorities and it will ensure that all impacts are fully assessed before any construction can be carried out. Also, nothing in the bill will affect the department's longstanding practice of comprehensively assessing all likely impacts of coalmines, wind farms and coal seam gas projects. Finally, the bill will apply to pending applications and will prevent any legal challenge against consents granted since the public release of the bill on 30 June 2017. However, the bill will not validate the State significant development concept consent for the Walsh Bay Arts Precinct proposal or the second stage, which is yet to be determined. The bill restores the settled law and practice on staged development applications to how it previously operated, resolving the current uncertainty and avoiding potential delays and additional cost in the delivery of significant development across the State.

I commend the bill to the House.

The Hon. PETER PRIMROSE (20:11): The shadow Minister for Planning has already ably addressed many matters in the debate on the Environmental Planning and Assessment Amendment (Staged Development Applications) Bill 2017 earlier today in the other place, so I will draw attention to only a few points this evening. The main purpose of the Environmental Planning and Assessment Amendment (Staged Development Applications) Bill is to allow staged development applications [DAs] where a concept approval is followed by only one detailed development application. Development applications are required for certain developments, land uses and activities in New South Wales. They are submitted to and decided by a consent authority which can be a local council, the Minister for Planning and other bodies, such as the Sydney Planning Panels, depending upon the type and value of activity being undertaken.

When deciding a DA, the consent authority is required to take into consideration section 79C of the Environmental Planning and Assessment Act. Section 79C contains considerations such as relevant statutory provisions, the suitability of the site of the development, the public interest and so on. A crucial consideration is section 79C (1) (b), which requires a consent authority to take into consideration "the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality". The exception to the requirements under section 79C is for "Staged Developments". Staged development applications allow an initial concept plan application to be lodged with and considered by a consent authority, at which time the consent authority is able to consider the concept, taking into account section 79C. In these cases, an initial concept DA is followed by subsequent DAs which cover construction and traffic management plans and other considerations required of an ordinary DA.

Standard practice in New South Wales has been to allow staged DAs to consist of a concept DA followed by one or more subsequent DAs. There has been a tendency, especially within the City of Sydney, for staged DAs to consist of a concept DA and only one additional DA setting out the entire scope of the project. This is because a clause in the City of Sydney Local Environment Plan [Sydney LEP] states certain types of development require a development control plan [DCP], broadly considered to be an onerous and time-consuming process. However, the Environmental Planning and Assessment Act allows DAs submitted as staged DAs to circumvent the need for a DCP, which has led to the popularity of staged DAs.

The Court of Appeal in *Bay Simmer Investments v NSW* [2017] NSWCA 135 looked at the issue of staged DAs and held that for a DA to be considered as part of a staged DA, the initial concept DA must be followed by at least two subsequent DAs, rather than the common practice in New South Wales of as few as one subsequent DA. Bay Simmer concerns the State Government's redevelopment plans for the Walsh Bay precinct. The redevelopment was classed as State significant development and, accordingly, the consent authority was the Minister for Planning, who nominated a delegate to determine the DA. The delegate approved the concept DA, which did not consider the impacts that subsequent construction would have on the surrounding businesses. Once the scope of the subsequent DA became clear a local restaurant, Bay Simmer, brought an action against the department on the grounds that the requisite standard of consideration in relation to construction-related impacts was not applied.

The New South Wales Court of Appeal ruled in favour of Bay Simmer, finding that the delegate did not adequately assess the impact of construction on the surrounding businesses in granting the approval. Critically, as the initial concept DA made reference to only one subsequent DA, the court overturned the conventional practice and held that the initial DA was invalid, as a staged DA required at least two subsequent DAs in addition to a concept DA. After a brief consultation period on a draft bill, the Minister introduced this legislation on 2 August. This bill is substantially unchanged from the draft bill and is primarily concerned with nullifying the effect of the court's decision in Bay Simmer as it relates to staged development applications. The bill will apply to any applications currently under assessment or which have been approved since the draft bill's release. However, the bill will not validate the DAs pertaining to the Walsh Bay development. The bill also provides a new section, section 83B (5), which allows a consent authority for a concept DA to defer the bulk of any consideration of construction-related impacts to subsequent DAs.

In Walsh Bay the local community, consisting of both residents and businesses, argued that the Minister, as consent authority, should have regard to the impacts of the construction at the outset. The site is in a heritage

conservation area. It is very constrained. There is no public transport. There is an enormous amount of construction underway nearby at Barangaroo, and there is more to come. It argued that, if there was only one more DA to come after the concept plan, to give it and the local area certainty the entire project and its ramifications should have been spelt out from the outset so that the consent authority should have given consideration to those factors and planned for mitigation of them upfront. There is plenty of logic to this argument. The development industry argues differently, but with the Government behaving as though it is a wrecking ball in Sydney, the Opposition opposed this legislation in the other place and we plan to oppose it in this place. We believe that the community should be treated with respect, full disclosure should occur at all times and consultation will improve the outcomes.

We are not only talking about Walsh Bay. Those of us from Western Sydney are very concerned about what is happening in relation to the proposed world's largest incinerator. Under the proposal in this legislation, that development could proceed in bits, but it is far more important for those in Western Sydney to understand, be advised and be consulted on the whole concept from the beginning. That is what is missing here: the right of people to know, the right of local businesses and residents to have the certainty of knowing what is being proposed rather than to go through the piecemeal proposal outlined in this bill. For those reasons the Opposition opposes this legislation.

Mr DAVID SHOEBRIDGE (20:19): The Greens oppose the Government's proposed Environmental Planning and Assessment Amendment (Staged Development Applications) Bill 2017. This is yet another example of an incompetent government that does not understand its own statutory framework, stuffing up a major project and then after being embarrassed in the courts scrabbling in Parliament to try to fix its horrible mess. How exactly did this apologist of a bill find its way to this Parliament? It all started with incompetence. In July 2013 Arts NSW took the first steps to obtaining approvals for the development of an integrated arts precinct at Walsh Bay immediately on the south-west side of the Harbour Bridge. Arts NSW took the steps to get the approvals, and they got the law wrong from the very outset.

It was a \$200 million project and they could not get the basic law about how to put in a development application [DA] and how to get a concept proposal right. What did they do? They put their application in and on 1 July 2014 lodged it with the consent authority. Who is the consent authority? It is another buggerlugs from the Government; the Minister for Planning is the consent authority. Arts NSW put in a hopelessly flawed application that got the law wrong and it went to the Minister for Planning. One would think that at that point there would be somebody competent in the Department of Planning and Environment who would know how the Environmental Planning and Assessment Act operates. But no, the Minister for Planning shoved it over to a delegate, a bureaucrat in the department.

On 21 May 2015—they have had this for the better part of two years, stuffing it around and getting it wrong—the delegate appointed by the Minister granted consent to the application. Then along came Ms Brigid Kennedy, one of those citizens who actually thinks that the law should be followed. She is a director of Bay Simmer Investments. Bay Simmer Investments has been running a very successful restaurant business on land owned by the Waterways Authority on the southern side of the proposed development. It has a 99-year lease. It likes its business, it works, it runs a profit and it employs people. Bay Simmer Investments wanted the obvious impact that the development would have on their business when the construction work started—perhaps over a couple of years—to be taken into account.

Ms Brigid Kennedy on behalf of Bay Simmer Investments made submissions in response to the public exhibition of the application. She said, "This is going to kill our business. The construction work will put a lot of impediments to customers coming in, nobody has taken into account the impact on our business, you are going to destroy our family's major investment, you are going to ruin a successful business. We want you to take into account the impact of the construction and put some conditions in there that will mean we can keep having patrons come to our business. We have a 99-year lease with the Government; respect the lease, take into account the impact upon our business." What happened? The Minister's delegate in approving the application completely ignored the impacts on her business.

The Minister's delegate said this was just a concept proposal and did not require them to consider the effects of the construction proposed to be undertaken. The reasons for the grant of the consent clearly indicated that those could all be considered later, perhaps when a DA is lodged. A concept approval was granted. What happened? Bay Simmer Investments, the courageous Ms Brigid Kennedy, took on the State Government. She went to the Land and Environment Court and she lost. She was required to appeal the decision and took her case to the Court of Appeal. What did the Court of Appeal say? His Honour Justice Basten points out the obvious in paragraph 62 of his judgement:

It would be curiously artificial to assess any development application on the basis that the completed development had simply materialised, without regard to how it had materialised. As the appellant submitted, the social and economic impacts of carrying out the development may adversely affect persons in the locality in a way and to a degree that use of the development as constructed

would not. Alternatively, conditions might be imposed on the manner of construction which would render the proposal no longer financially viable.

That is the most obvious commentary from the Court of Appeal: Think about the construction and before granting approval realise it has to be built and take into account the construction impacts. The judge gave an illustration that would be well known to anybody who has engaged in litigation on contract. His Honour continues:

An illustration may be found in the facts of the litigation leading to two judgements in the High Court, the principal one being *Codelfa Construction Pty Ltd v The State Rail Authority of New South Wales*, although the case involved a contractual dispute. The case arose out of the construction of the eastern suburbs railway in Sydney. The construction company sought to operate three shifts a day, seven days a week. However, because of the noise and vibration, the company was constrained to operate between 6 a.m. and 10 p.m.

That was so they did not destroy the amenity of all the residents with a 24 hour, seven day a week operation. That was an obvious condition that would be put in place for the planning proposal. His Honour says further:

Significant additional costs were incurred. In seeking a consent to the proposed rail link, it would have been irrational to disregard the impacts of the construction stage, unless the statute required it.

There you have one of the most senior members of the Court of Appeal—admittedly in what is otherwise quite a complicated legal judgement—pointing out the obvious. These massive developments cannot be approved on the assumption that they will magically materialise and there will not be construction-related impacts. Any consent authority has to consider the construction-related impacts and it has to do it up-front when it is considering the approval. The Government did not do it to Ms Kennedy and her business, it ignored her. As I understand it, the Minister's proposal is to put a fresh application in now they have fixed the law and they can ignore her, and they will ignore her a second time around. That is shameful, that is appalling misgovernment. The Government wants to change the law so it can ignore the construction-related impacts and then put another application in under the changed laws and Ms Kennedy and her business can disappear despite having a 99-year contract with this Government and despite having a successful business she does not want destroyed as a result of the construction-related impacts.

The Government wants to ignore her, and not just her, it wants to ignore anybody it chooses to ignore. What is being proposed with this change to the Environmental Planning and Assessment Act is new provisions that allow a concept DA to be followed by a single application. Two applications are not required now, just one single application for the whole of development. When considering the likely impacts of a concept DA a consent authority may consider the impact of the concept proposal only and noting that the concept consent will not authorise the commencement of any works. As his Honour Justice Basten says, they can assume that the construction process will magically materialise and ignore the construction-related impacts. They can live in some fantasy world that the Minister for Planning and his delegate and Arts NSW were living in when they put in this original application and they can ignore the impacts of the construction work on businesses and residents and the environment.

This is a really ugly proposal from the Government. It wants to allow consent authorities to decide on a case-by-case basis when or if they will consider the construction-related impacts. The Government wants to allow the assessment of construction-related impacts either at the concept stage or at a later stage. It wants to be able to defer assessment of anything it likes. This is the fantasy world of a government that does not realise the impact of what it is doing. One has only to look at some of the projects that are already underway in Sydney and the extraordinary impact of the construction, such as the mess that is the light rail construction in George Street whose impacts have cruelled the city.

This Government wants to be able to ignore the construction-related impacts on private developments. It wants private developers to be able to put through projects like that, cause that kind of disruption and pretend that no business will be impacted, no house will be impacted, no resident will be impacted. It wants to do blindfold assessments through delegates appointed by the Minister. From what I can tell, the conservative cross-benchers are going to push this bill through. They do not care about people's businesses such as the likes of Ms Brigid Kennedy and her restaurant. They do not care about the impact on businesses, residents and the environment.

The Hon. Paul Green: The member is casting aspersions on crossbench members and we have not even spoken yet. Unless he is prophetic, I do not understand how he knows what position we will take, although with all due respect we will never be half as good as the planning bureaucrats as we do not know much at all.

Mr DAVID SHOEBRIDGE: They do not know either; they got it wrong. That is what the Court of Appeal said.

The PRESIDENT: Order! I have not ruled yet. The member was speaking generally. He was not referring to a specific member. I ask the Hon. Paul Green to not interrupt me when I am giving a ruling, especially

when it is his point of order on which I am ruling. Further, some of the comments made by the member in his point of order were debating points.

Mr DAVID SHOEBRIDGE: The EDO's submission outlines four areas of concern. I will read three of them onto the record. This is what the EDO says in its submission on the draft bill, which it put out for public consultation and which is effectively identical to the bill that is before us. Its first issue of concern is that the amendments provide that the new version of staged development may involve a concept plan followed by a single development application [DA]. The intended consequence of the amendment seems to be that the proposed process will give proponents upfront certainty that subsequent development applications will be approved prior to the assessment of all the impacts. The EDO states:

However, it is questionable how a single-stage DA with a concept plan is any different to an ordinary development project, or why it should receive special treatment if it is not a staged DA.

For example, we are concerned that a development proponent of a single-stage development could apply to use the proposed concept plan process to avoid detailed upfront scrutiny of the "carrying out" of the project, and thus constrain conditions placed on the subsequent DA once the impacts of carrying out the project are assessed and other detailed impacts are clarified.

That is almost certainly what the Government plans to do for its harbour-side precinct. The second concern the EDO has is as follows:

The draft bill could have adverse consequences regarding multi-stage projects. The lack of a requirement to assess impacts from the carrying out of a development upfront is particularly concerning for large, long-term projects where the development may be carried out over, say, 20 years. During that time the local residents would be subject to a range of direct impacts from the carrying out of the whole development such as ongoing and cumulative noise, dust, increased traffic and other impacts on their quality of life. The cumulative effect of these impacts as a whole should be assessed upfront.

The EDO gives the example of a concept application for a 20-year seam gas project that did not have to assess the impact of carrying out the project. It says:

...later stages of the carrying out of the project may significantly impact the surrounding community and the environment, though those cumulative impacts would not have been assessed upfront.

Why would we change the law to ignore reality? The last point I will read from the EDO's statement relates to its final concern. It says:

Finally, EDO NSW has consistently submitted that a flaw in current planning law is the failure to effectively consider cumulative impacts. As noted above, the new proposal to allow concept approvals that do not adequately assess operational impacts—especially applying to large long-term projects—will further exacerbate this deficiency.

The Nature Conservation Council of NSW says in its submission:

New South Wales needs robust planning laws that truly implement the principles of ecologically sustainable development and deliver positive outcomes for the environment and communities. The draft bill will not achieve this. We consider that for proposed concept development applications, the draft bill would result in inadequate consideration of the environmental impacts of the constructional and operational phases of such developments as well as their cumulative impacts.

That is exactly what is proposed in this bill. The Government wants to pretend that major projects will materialise out of thin air; that businesses and residents will not be impacted; that the mess we see in places such as George Street will not happen; that the light rail will magically appear out of thin air; and that no business or resident will be impacted. The Government wants to pretend that the arts precinct will be knocked down and rebuilt and no business will be impacted.

This Government is living in some kind of fantasy world if it thinks that is how the Planning Act should operate. If it makes these changes and this bill gets through with the support of other crossbench members, it will be creating a rod for its own back as it ignores people, businesses and residents. It will find an increasing opposition to its arrogant approach to infrastructure and development. This bill affects not just government projects; it hands over such powers to private property developers. They will be able to get their concept approval through with in-principle approval to what might be a 10 year project—approval that ignores all the construction-related impacts or other impacts of building a project. That is the sort of irrational, pro-developer Property Council driven rubbish we get from this Government and all members should oppose it.

The Hon. PAUL GREEN (20:34): I speak in debate on the Environmental Planning and Assessment Amendment (Staged Development Applications) Bill which has as its object to restore the procedures for staged development applications following the Court of Appeal decision about State significant development [SSD] consent for the Walsh Bay Arts Precinct. All planning legislation is virtually a planning contract with the community. It is paramount that communities are consulted and that their feedback is considered to ensure a better planning outcome for them. On 15 June this year the Court of Appeal determined by judicial review that the staged State significant development consent granted to the Walsh Bay Arts Precinct was invalid. This case highlights the need for the Government to consider the broader impact on local businesses in particular.

A recent decision by the Court of Appeal created uncertainty for a number of complex development proposals recently approved under the current assessment process which, if left unaddressed, could result in uncertainty and significant investment in Sydney and New South Wales could be delayed. The Government is seeking to restore the weighty provisions for staged development applications [DAs] that operated prior to the decision of the Court of Appeal. The new provision contains the following key changes. First, a concept development application can be followed by a single application for a whole development. Secondly, when considering the likely impacts of a concept DA, the consent authority may consider only the impact of the concept proposal, noting that the concept consent will not authorise the commencement of any works.

This change will enable consent authorities to decide on a case-by-case basis the most appropriate time to assess construction-related impacts based on the information available, including deciding whether to assess construction-related impacts in part at the concept stage or more fully at the subsequent stage, or to defer assessment to the subsequent stage where the full details and likely impacts of the proposal are known. Recognising that the community, individuals and local businesses all need to provide input and feedback to the Government's proposals and that this can happen at the relevant stages as decided on a case-by-case basis, this bill will apply new provisions to pending applications as well as protect consents previously granted. It should be noted that the amendments will not revive the State significant development consent for the Walsh Bay precinct or apply to currently undetermined second stage development applications.

I heard my colleague Mr David Shoebridge speak passionately about this issue—something that I would expect him to do because that is what he has done for the past six years in this Chamber. He speaks against the Government and in favour of some community members. I read the article to which he referred earlier concerning a certain lady. Good on her; she fought that decision and did well. In his contribution Mr David Shoebridge included a passionate quote to further his cause.

Mr David Shoebridge: It was not my quote; it was from the Court of Appeal.

The Hon. PAUL GREEN: Mr Shoebridge is a barrister and I am a nurse. I will not try to take him on in legal matters as that is his God-given gift and talent. I am just a nurse trying to get this right for the people of New South Wales. George Street is a classic example of where businesses have to contend daily with massive building works and fences, and the redirection of foot traffic, all of which have an impact on their businesses. As Mr David Shoebridge noted earlier, many businesses would be lucky to survive beyond such construction. When development applications are sent to council at the construction, concept or development stage, the impact on people's lives must be thought through as there are many unjust decisions. During the construction of the Princes Highway the Crooked River was diverted for a number of years. Governments cannot protect people from the impact of development.

Mr David Shoebridge: That's what this bill does.

The Hon. PAUL GREEN: Also we cannot withhold progress for the benefit of the State, not just because Mr David Shoebridge and I perhaps disagree on a case-by-case basis but because we are doing this for our children's children as well as their children. We need to build light rail infrastructure and other rail infrastructure. We need to build roads for the twenty-first century; that is what we are here to do. Yes, building infrastructure does have an impact on businesspeople, not just in Sydney but also those businesses on the Princes Highway and the Pacific Highway. Businesses all over New South Wales are being affected by infrastructure development, and because New South Wales is currently prospering probably more businesses are suffering than normal because of development in New South Wales. There is a heck of a lot of growth in New South Wales, and that is good for New South Wales and good for our communities. Jobs growth means opportunities for our kids.

Reverend the Hon. Fred Nile: The State is on the move.

The Hon. PAUL GREEN: I acknowledge the interjection from Reverend the Hon. Fred Nile. The State is on the move and currently some businesses and communities are experiencing the pains that come with growth and prosperity as our State advances. We need to accommodate more people and provide transport infrastructure so that these people can move more quickly and safely around the State. We also need to provide affordable transport options for people, and this infrastructure development brings with it some pain for affected communities. The legislation before us tonight is aimed at dealing with development applications. The Christian Democratic Party is with the Government on this legislation because we genuinely believe that this bill will address significant problems. I heard the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts, and Vice-President of the Executive Council say that he is aware of the problems and the intent of the legislation is not to shut down debate and prevent people or businesses from having a say on development.

Mr David Shoebridge: It's what the law does.

The PRESIDENT: Order! Mr David Shoebridge has had his turn to contribute to this debate without interruption and I ask him to show the same courtesy.

The Hon. PAUL GREEN: Anyone assessing concept plans and development applications while being ignorant of the impacts of construction would indicate a limited understanding of the full impact of construction.

Mr David Shoebridge: It's what they did.

The Hon. PAUL GREEN: I am not saying they did not do so in this case, and that is perhaps why the court decided as it did.

The PRESIDENT: I ask the Hon. Paul Green not to acknowledge or respond to interjections and I ask Mr David Shoebridge, who was heard in silence, to afford the Hon. Paul Green the same courtesy.

The Hon. PAUL GREEN: When the Government came to power in 2011 the net worth of New South Wales was around \$137.5 billion and now it is moving towards a quarter of a trillion dollars by 2021. This means that the State is undergoing a lot of infrastructure development, which will lead to the raising of more issues about how this development affects businesses and communities. I encourage the Government to be mindful that this development does impact many small businesses, owned by people who have worked their backsides off and invested hard cash to make their dreams come true by running efficient small businesses. I ask the Government to look closely at significant construction projects throughout Sydney and New South Wales. We must remember that a lot of small businesses are working hard to thrive and succeed in realising their dreams. I commend the bill to the House.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (20:43): In reply: I thank members who have spoken in debate on the Environmental Planning and Assessment Amendment (Staged Development Applications) Bill 2017. In relation to the remarks of the Hon. Peter Primrose, I note his comments regarding opportunities for those with an interest in projects, including neighbours and surrounding businesses, that wish to make submissions. It needs to be understood that the bill will not change or reduce the opportunity for submissions to be made—in fact, the bill reinforces that submissions are welcome at the concept stage and are also welcome at the stage where the impacts of the development in question are being considered.

I want to make it clear that just because a development receives a concept approval in no way means a subsequent development approval will automatically be granted. The project proponents still need to satisfy the requirements of the relevant consent authority, whether that be the local council, a joint regional planning panel, the Department of Planning and Environment or the Planning Assessment Commission, for subsequent stages to progress. If the proponent cannot demonstrate that the amenity impacts of the project are adequately identified and managed, including in response to submissions received, the project will not be approved. As a footnote, I note that the litigation in this case involved one leaseholder. The member might have sought to give the wrong impression in relation to the number of people involved in this litigation. It was the action of one leaseholder owner only, Bay Simmer Investments.

In relation to the comments of Mr David Shoebridge, a number of things should be said. I start with the observations the member made in relation to some comments of the Environmental Defenders Office NSW [EDO]. The member, the EDO and other mentioned bodies most certainly have put forward their concerns, but unfortunately they have not done their research on this matter. The concerns raised regarding the potential for concept development to apply to mines, for example, is not new. It is something that this bill will introduce. It has always been the case; however, there has not been a concept approval of a mine for the simple reason that the Government does not allow this to occur. The Government requires that all the impacts of a mining proposal are examined and assessed upfront. This usually occurs through the independent Planning Assessment Commission. The amendments proposed in the bill would not change this process, and the Government will continue to ensure that full and upfront assessment of these projects occurs.

The purpose of this bill is to restore what was widely understood to be settled law, contrary to the impression the member sought to give in his contribution to the debate. The bill will restore the procedures for staged development applications and how first-stage concept proposals are assessed, following the Court of Appeal's decision in *Bay Simmer Investments Pty Ltd v State of New South Wales*. The decision by the Court of Appeal has created significant uncertainty, placing at risk the legal validity of a number of complex development proposals under assessment or recently approved by the department or local councils. Before I conclude my remarks I will come to the concerns raised by one particular council. Many of the development proposals under assessment or recently approved by the department or local councils have a high capital investment value.

By introducing this bill, the Government has sent a clear message to stakeholders and industry that it is not prepared to accept the continued uncertainty and confusion in investment in major staged development

proposals in New South Wales. The bill will restore the law to the way it previously operated and was understood by consent authorities and industry. The new provisions are largely the same as the current ones; however, the provisions will make it clear that a project utilising the concept development application provisions need only comprise a stage one concept proposal and a single subsequent development application for the whole of the site.

The bill will also give councils and other consent authorities the choice to decide the most appropriate time to assess construction-related and other operational impacts. Nothing in the bill will result in a reduction in the level of assessment undertaken by councils and other consent authorities, or limit the opportunities for stakeholders and the community to provide feedback at the conceptual stage and at subsequent development application stages. The Government has been transparent about this. It consulted on the bill back in June and July, inviting public comment from a range of key stakeholders. A range of views were put forward but, in keeping with the intent of the bill to restore the law to the way it previously operated, a broadening of the flexibility of the provisions for concept proposals as was called for by some submitters was not considered appropriate.

I now turn to the views of the City of Sydney. I note that the member for Sydney in the other place did not oppose this bill. I advise members that as part of the consultation process with stakeholders the City of Sydney sent a letter on behalf of the Lord Mayor and council. It reads:

This totally unexpected determination has very significant legal implications for recent Stage 1 approvals, current Stage 1 applications (including SSD) under assessment and Stage 1 applications about to be lodged.

Further on it states:

The Court of Appeal judgement as to what constitutes a valid stage 1 DA for the purposes of s 83B of the Act dramatically undermines the Sydney LEP 2012 as well as SSD stage 1 or concept plan applications. It could invalidate a number of pre-existing approvals while immediately preventing the City from completing the assessment of a number of Stage 1 applications and modifications to Stage 1 applications. It also impacts on a number of applications presently before the Land and Environment Court.

At present this potentially impacts eleven Stage 1 assessments valued at \$1.86 billion (including the delegated SSD for 201-217 Elizabeth Street) and four modification assessments to existing Stage 1 approvals. This list has been furnished to the litigation staff at the Department of Planning and Environment on Friday last.

In the light of the impact of this decision on existing Stage 1 approvals and applications presently under assessment, we urgently request that the NSW Government restore the validity of Stage 1 applications by an amendment to s 83B of the Act to reinstate the previously understood position, prior to the Court of Appeal's decision.

That is an extract from a letter written to the Department of Planning by the City of Sydney on behalf of the Lord Mayor and councillors. The alarmist nonsense that we heard from Mr David Shoebridge about the policies of this Government ought to be seen for what it is: a lot of belligerent grandstanding in the Legislative Council one night. What the member said about the circumstances that led to this case and its outcome and where Arts NSW—or Create NSW, as it is now called—plans to go from here was also complete garbage. Create NSW has accepted the outcome of the Court of Appeal decision.

Once upon a time under previous governments Create NSW might have demanded that the original decision taken by the Land and Environment Court and the delegate be reimposed. We are not doing that. Create NSW is in negotiation with the owner of Bay Simmer Investments to come to an appropriate understanding of how to resolve some of the planning issues associated with the Walsh Bay Arts Precinct. As I said earlier, we are also coming up with an alternative strategy, which is a good way to proceed with this very important and good project. The idea that Create NSW and staff in my department are going to behave in the way that Mr David Shoebridge tried to suggest is absolute nonsense. We will not be doing that.

Mr David Shoebridge: You are changing the law so that you can ignore them.

The Hon. DON HARWIN: In the fullness of time the nonsense that Mr Shoebridge is going on with will be seen for the garbage that it is. This bill is all about restoring settled law and providing certainty. I commend the bill to the House.

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

The House divided.

Ayes 17
Noes 14
Majority..... 3

AYES

Blair, Mr N
Farlow, Mr S

Brown, Mr R
Franklin, Mr B (teller)

Cusack, Ms C
Green, Mr P

AYES

Harwin, Mr D

MacDonald, Mr S

Maclaren-Jones, Ms N
(teller)Mallard, Mr S
Mitchell, Ms S
Phelps, Dr PMartin, Mr T
Nile, Reverend F
Taylor, Ms BMason-Cox, Mr M
Pearce, Mr G

NOES

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A
Veitch, Mr MDonnelly, Mr G (teller)
Graham, Mr J
Pearson, Mr M

Secord, Mr W
Walker, Ms DFaruqi, Dr M
Mookhey, Mr D
Primrose, Mr P

Shoebridge, Mr D

PAIRS

Amato, Mr L
Clarke, Mr D
Colless, Mr R
Khan, Mr THoussos, Ms C
Sharpe, Ms P
Voltz, Ms L
Wong, Mr E**Motion agreed to.****Third Reading****The Hon. DON HARWIN:** I move:

That this bill be now read a third time.

Motion agreed to.**COAL MINE SUBSIDENCE COMPENSATION BILL 2017****Second Reading****Mr SCOT MacDONALD (21:02):** On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech in Hansard.

Leave granted.

Introduction

The Government is pleased to introduce the Coal Mine Subsidence Compensation bill 2017 to the House.

The 1961 Act

The 1961 Act was the creation of the Heffron Government in 1961. The bill was introduced into this place on 15 March of that year.

The 1961 Act, as it became, achieved two major reforms.

Firstly, it introduced a mine subsidence compensation fund that was financed by the coal industry and not by property owners, as under the original scheme which dated back to the 1920s. The intention was to ensure that property owners whose properties were damaged by subsidence from historic, legacy coal mining would be compensated.

Secondly, the fund provided compensation payments for mine subsidence damage for properties located in any part of the State, as opposed to just the Newcastle area under the original scheme.

The 1961 Act moved accountability for mine subsidence impacts to mining operators rather than property owners. The Berejiklian Government's reforms to the Mine Subsidence Compensation Act 1961 build on that.

The main purpose of the 1961 Act was to finance mine subsidence compensation through a fund by imposing a levy on mining operators and to provide payments to property owners affected by subsidence damage regardless of where their property was situated. The Fund was called the Mine Subsidence Compensation Fund (the Fund).

Before 1961, all property owners in Merewether and the greater part of the west ward of Newcastle were required to insure their properties against the risk of damage by subsidence, even if their properties were not being, and probably never would be, undermined.

The 1961 Act recognised the injustice to property owners whose properties would not be affected by subsidence damage. Property owners would essentially be paying an annual premium against a risk that was unlikely to even occur. The 1961 Act addressed this issue.

The 1961 Act also recognised the need for protection against subsidence damage beyond properties in Merewether and Newcastle. With impacts from historic, legacy coal mining becoming apparent across other areas in the State, the risk of subsidence had also extended accordingly. Therefore the 1961 Act provided that compensation arising from subsidence in any part of the State could be claimed from the Fund to ensure fairness and certainty for all property owners.

The Fund consisted of levy contributions from mining operators. A board was set up to administer the Fund, deal with and determine claims and pay compensation. The bill before the House today will build on and strengthen the 1961 Act, and introduce a number of significant measures to ensure mining operators that are causing subsidence damage are accountable for those impacts, both financially and socially.

Background to the review

As the House will be aware, a review of the 1961 Act was undertaken and a report provided to government late last year.

As part of the review, submissions were invited from interested parties on the review's terms of reference.

Submissions were received from past and current claimants, community groups representing residents impacted by subsidence, local councils, the development industry and the NSW Minerals Council. Among issues raised, were concerns that the Mine Subsidence Board was not determining suitable compensation fairly or processing claims efficiently, and that a better balance was needed between the interests of mining operators and property owners.

Effectiveness of current legislation and levy model

The key finding of the review was that the mine subsidence compensation framework was outdated, and was not being administered effectively by the Mine Subsidence Board.

The legislation had not been subject to a comprehensive review in over 40 years. While the intention of the 1961 Act was to cover costs of property damage caused by legacy mining where liability could not be apportioned to mining operators, the recent claims data shows that approximately 90 per cent of claims for compensation relate to damage from active mines currently in operation, rather than historic, legacy coal mines.

This is a clear disconnect between the original intent of the legislation and the outcome of the legislative framework in practice.

There is also a high level of industry cross subsidisation. Although all active open cut and underground coal operations contribute to the Fund, only a small number of underground coal mining operators are actually causing the majority of subsidence damage.

This inequitable regime provides an unfair competitive advantage to certain mines.

Poor administration of the system

In addition to these findings, there was also a clear opportunity to improve the way the Mine Subsidence Board and its officers administered the system.

In October 2013, the NSW Independent Commission Against Corruption commenced an investigation into the Mine Subsidence Board.

In early 2016 the Commission delivered its final report, finding evidence of serious fraud and corruption within the organisation. The Commission made recommendations on changes to financial management, organisational processes, procurement practices and governance arrangements.

Furthermore, there was a high level of community dissatisfaction with the Mine Subsidence Board and, in particular, with the Board's ability to process claims efficiently and treat claimants fairly.

For example, there was a large backlog of claims when the organisation came into the Finance, Services and Property portfolio from 1 July 2015. There were in excess of 300 outstanding claims awaiting determination, with some claims remaining unresolved for over 10 years.

The need to improve the mine subsidence compensation framework

Overall, the review found that the 1961 Act is no longer fit for purpose and that there is a clear need to improve the mine subsidence compensation framework to restore the confidence of the community.

The Government acknowledges the stressful experience property owners go through when their homes are affected by mine subsidence, through no fault of their own. The Government also recognises that any changes to the system will impact the coal mining industry.

However, the Government is committed to ensuring that the small number of mining operators that are causing subsidence damage are made directly accountable for these impacts, both financially and socially.

With this in mind, the reforms provide comprehensive improvements to the mine subsidence compensation process and fairer outcomes for property owners and the coal mining industry generally.

The bill, together with the package of guidelines and regulatory change which will underpin this legislation, strikes the balance between coal mine operators' and claimants' interests. It ensures an increased level of colliery involvement in the claims management process, so that collieries better understand their subsidence impacts and costs, while also ensuring claimants receive faster and fairer compensation.

Coal mining is a major contributor to the economic development of NSW and investment in the State's mining industry is encouraged.

Continued development of the State's coal resources, however, needs to take into account the impacts of subsidence damage on the people of NSW.

We are committed to improving government services, particularly in light of our growing population in regional areas, and this bill will contribute to delivering this commitment.

Work is already underway to give the utmost assurance that property owners affected by subsidence will be well-supported by Government.

The Mine Subsidence Board has been repositioned as Subsidence Advisory NSW and integrated into the Department of Finance, Services and Innovation.

Subsidence Advisory NSW is now undertaking a stronger case management role to assist property owners affected by subsidence.

All claims will be allocated to a case advisor, tasked with monitoring the assessment of claims and facilitating collieries' participation in the claims management process.

The case advisor will facilitate discussions between the colliery and the claimant to resolve compensation claims; ensuring mine operators understand the full impacts of their operations, including the emotional hardship that can accompany property damage from mine subsidence.

Since August last year, Subsidence Advisory's strengthened role in case management has seen a significant reduction in the backlog of claims. From August 2016 to present, the case management team has resolved over 120 claims, compared to 40 claims per annum on average in previous years. These results have been achieved through taking a more empathetic approach to claims management, as well as focusing on driving outcomes for people, so that we can help them move on with their lives. These results are underpinning the development of a new claims management model that puts claimants' needs at the centre.

To ensure the system is more accessible for claimants, an online portal is being developed so that property owners can lodge their claims in a central government-managed location, with the ability to manage claims online and streamline access to claims documentation and case advisory services.

To restore transparency and independence in decision making, all claims will now be assessed by technical experts from a panel of independent assessors. SA NSW will manage this panel and oversee inspections, assessments and claim evaluation reports.

This new claims management process prioritises and supports those communities impacted by mine subsidence, and places the claimant at the centre of the compensation process.

The former Customer Service Commissioner, Mr Michael Pratt AM, has reviewed and endorsed the claims process.

The Government thanks Mr Pratt for the work he has done to review the process from the citizen's perspective to ensure the claimant experience is fair and easy to navigate.

There are further improvements to be made. This package of reforms commits us to strengthening the 1961 Act to provide advocacy and support to claimants at every step of the process, and a fairer levy framework which will enable SA NSW to perform case advisory functions and become a more effective regulator of development in mine subsidence districts.

In order to deliver on these objectives, the Government is acting decisively in creating a new Coal Mine Subsidence Compensation Act.

Legislative change

- 1) The first change is to make mine operators directly liable for subsidence damage caused by their operations

Currently, mine operators pay a levy towards the Mine Subsidence Compensation Fund which effectively absolves them of any further liability.

The proposed reforms will require mine operators to determine and pay claims for compensation in accordance with independent assessments of damage and costs via a panel of technical assessors.

This will provide mine operators with a direct financial incentive to reduce their future subsidence impacts on communities to the greatest extent possible.

This will also ensure operators are not only financially accountable, but also understand the full impacts of their operations including the emotional hardship that can accompany property damage from subsidence.

The proposed changes also provide a more consistent impact mitigation model across the mining industry, aligning the mine subsidence compensation system with how other mining impacts such as blasting, noise and dust are directly compensated.

Mine operators will be financially accountable for their own subsidence impacts just as they are for other mining impacts.

Overall, this means there will be an increase in mine operator involvement in the claims management process. Government sees this as an opportunity for mine operators to strengthen their partnership with their local communities.

It is important to note that government will continue to administer all claims, regardless of whether they are caused by active or non-active mines, and to provide a dedicated case advisor for each claim. Mine operators will be required to be involved at key stages of the claims process, and to provide compensation in accordance with independent technical assessments.

- 2) The second change I announce today is that the Coal Mine Subsidence Compensation levy and Fund will be reduced to primarily fund compensation claims arising from non-active mines

All mine operators will continue to contribute to the Fund, but it will be at a significantly reduced rate to mainly cover claims arising from non-active mines.

This returns the legislation to its original intent.

The Fund will operate on a base levy scenario, meaning the levy will only be payable when the Fund is below a specific base threshold, minimising the financial burden on collieries as much as possible.

Importantly, the Government will continue to administer the levy and draw on the Fund to provide compensation to property owners affected by subsidence damage from non-active coal mines or mines where liability cannot be apportioned, but with improved processing timeframes and service guarantees.

The Fund will also be used to address the backlog of claims and to meet existing claims arising from damage from active mines up until the commencement of the new legislation. The cost of transitional arrangements will also be met from the Fund in the first five years of the legislation commencing.

- 3) As referenced earlier, the third change in this reform package is that claims will be assessed by an independent assessor from a panel of technical experts

To ensure transparency and independence, the claimant will select an independent assessor from the panel of technical assessors to undertake an investigation to assess the damages attributable to mine subsidence as indicated in the claim.

The independent technical assessor will typically be a geotechnical or structural engineer with an understanding of mine subsidence, or a quantity surveyor depending on the nature of the damage.

The assessor will prepare a Claim Evaluation Report outlining the damage, supporting data, scope of works to repair the damage and cost estimate for repairs. Mine operators will then be required to compensate property owners in accordance with these reports.

Government will maintain and support the panel of technical assessors to provide expert, objective and consistent assessment of all claims, providing both claimants and mine operators with a straightforward process to assess claims.

- 4) The fourth change again goes to the issue of independence. A robust dispute resolution process will be introduced, allowing claimants and mine operators to seek an independent review, without having to resort to expensive litigation

In the interests of transparency and natural justice, the Government will change the Act to allow claimants and mine operators to seek an independent review by the Secretary of the Department of Finance, Services and Innovation. The Secretary is able to delegate this determination role to an independent body or expert panel.

Claimants will now be able to request reviews of the mine operator's determination:

- as to whether damage has arisen from subsidence;
- the scope of repairs or amount of compensation; or
- the means of compensation.

Similarly, when claims are lodged in relation to a mine operators' operation, mine operators may request the Secretary to review the determination that the damage arises from subsidence caused by their mine.

This new independent, no-cost review mechanism provides an alternative to existing onerous and costly litigation options and will improve transparency and fairness in decision making.

The right to appeal against the decision of the Secretary to the Land and Environment Court remains where claimants and mine operators are dissatisfied after the independent review process.

- 5) The fifth legislative change will ensure that compliance with the Act can be considered when determining whether a mine operator is a fit and proper person under the Mining Act 1992

Compliance with the new Coal Mine Subsidence Compensation Act (the Act) will be taken into account when applying the "fit and proper person" test under the Mining Act 1992.

This means a mine operator's record of compliance with the Act, and their performance in upholding community protections will be considered to determine whether the mine operator is a fit and proper person. A determination that an operator is not a fit and proper person may result in a decision to refuse to grant, renew, cancel or transfer a mining right, suspend operations under a mining right, or restrict operations through imposition or variation of conditions. This provides a strong incentive for operators to meet their obligations under this Act and treat claimants fairly.

Through this change, Government is able to undertake compliance and enforcement activities in relation to mine subsidence compensation by utilising the powers under the Mining Act 1992 where necessary.

- 6) In the interests of efficiency, the Government will improve and streamline development regulation in mine subsidence districts

Development regulation will now be risk-based, ensuring mine subsidence districts align with high-risk areas for subsidence related damage, while development approval processes in low risk areas will be streamlined.

This will refine the approval process and design requirements for development, reducing costs to property owners and providing certainty to mine operators that future liability is being proactively mitigated.

Importantly, protections will be afforded to property owners, where through no fault of their own, their home is damaged by subsidence and they were unaware that their home was built in contravention of the requirements in a mine subsidence district.

In certain circumstances, property owners may lodge subsidence compensation claims as per normal, despite the building being an unlawful development, and will follow the standard assessment process to determine compensation.

Property owners and conveyancers can be assured that this avenue will be available for such claims to be lodged.

- 7) The Government will require compliance with approved procedures for consistent processes in claims management

Underpinning the bill, a series of approved procedures will provide details on the claims management process, compensation eligibility and dispute resolution.

The legislation requires mine operators to comply with the approved procedures when dealing with claimants, protecting property owners by ensuring all mine operators are compensating claimants consistently and fairly.

To ensure claimants are treated fairly, mine operators will be required to deal with claims in accordance with this Act and approved procedures or risk compliance and enforcement action.

This Act provides the Government with compliance and enforcement tools to allow it to effectively oversee and enforce compliance with the Act and approved procedures. Authorised officers will be appointed and tasked with monitoring compliance with the Act and will have the powers to carry out necessary inspections, audits and inquiries.

8) The Government will legislate to disband the Mine Subsidence Board

The Mine Subsidence Board will be retained for an initial 12 month period from the commencement of the legislation before it is disbanded.

This will allow the Board to oversee the transition and ensure there is continued industry and community visibility over the Fund.

After the 12 month period, the Board will be disbanded in line with government's commitment to actively reduce the number of NSW boards and committees as part of the 'eliminating duplication' initiative, making government processes leaner and more efficient.

Regulatory burdens will be reduced and lines of accountability will be strengthened to improve the delivery of services to the people of NSW.

An ongoing advisory group will be established to ensure industry continues to have visibility on how the Fund is managed.

Subsidence Advisory NSW will manage all claims and assist property owners who are affected by subsidence.

9) The Government will legislate to include transitional arrangements for those coal mines deemed worse off under the reforms

Transitional arrangements will be negotiated with mine operators that are adversely affected by the reforms and deemed worse off.

They are deemed to be worse off as their operations are causing significant subsidence damage to homes and infrastructure, and compensation costs will now be met by these coal mines.

This means for these mines, the costs will outweigh the savings accruing from the reduced levy.

Government is committed to supporting industry throughout this time of change, which is why government will draw upon the Fund to financially support these mines over a five year transitional period.

The transitional period will allow mine operators adversely affected to prepare and put in place the necessary financial and administrative arrangements for the new subsidence compensation framework and minimise disruption to their operations.

Conclusion

The bill before the House will better balance mine operator involvement in the claims management process so that mine operators better understand their own subsidence impacts and costs, while also ensuring claimants are treated fairly and respectfully.

The package recognises the significant personal impact mine subsidence can have and provides for a fairer and more transparent compensation framework for property owners.

I commend the bill to the House.

The Hon. PETER PRIMROSE (21:03): I lead for the Opposition in the debate on the Coal Mine Subsidence Compensation Bill 2017 and make it clear from the outset that we will not oppose this bill, which repeals and replaces the Mine Subsidence Compensation Act 1961, which legislated that issues concerning mine subsidence be dealt with by a body known as the Mine Subsidence Board. The board oversees a fund paid into by various mining operators called the Mine Subsidence Compensation Fund. The role of the board is to make a determination about responsibility and compensation when a property owner experiences damage to the property as a direct result of nearby mining activity.

The key changes proposed are: one, the replacement of the Mine Subsidence Board with a new body called Subsidence Advisory NSW or SA NSW; two, mine operators will be financially liable for any mine subsidence caused by their operations; three, a significant reduction in the levy charged to mine operators, which will cover any compensation claims for subsidence caused by non-active mines; four, the introduction of an independent panel of assessors that will be charged with determining the liability of mine operators for any subsidence that arises; five, the implementation of a new independent, no-cost review process for claimants or mine operators who wish to dispute the findings of the independent assessors; and, six, compliance with this new Act can be used by the Government in determining whether or not a mine operator is a fit and proper person for the purposes of mining within New South Wales as per the Mining Act 1992.

The bill is the Government's response to the findings and recommendations of the Independent Commission Against Corruption [ICAC] investigation of the Mine Subsidence Board. The inquiry was the result of years of complaints and controversies involving the board. The view throughout the community, including

among many in the industry, was that the board had a tendency to seemingly hinder, rather than help, some of the victims of mine subsidence. The shadow Minister advises that he is confident the changes outlined in the bill address the majority of the issues and concerns raised during the ICAC inquiry and will, therefore, be welcomed by members of the community who have been concerned by past actions and responses of the board.

Under the changes in this bill, the Mine Subsidence Compensation Fund will be renamed the Coal Mine Subsidence Compensation Fund and will have general levies paid into it by all mining operators, at the very least to fund the work of Subsidence Advisory NSW but also to fund the historic mine workings that are no longer active. I note there is some concern from mining operators and the industry that by paying the levy they will still be funding compensation packages for subsidence caused by non-active mines. I note in the Minister's second reading speech that 90 per cent of claims relate to current mining operations.

A key role of Subsidence Advisory NSW will be as an intermediary between the affected person or persons and the coalmining company directly responsible for disrepair. Subsidence Advisory NSW will, first, determine whether or not the disrepair is linked to the mining operation and then, if satisfied, will assist the affected person or persons in negotiating with the mining company to make good. Subsidence Advisory NSW will also deal with development applications that are seeking approval within a mine subsidence district. In addition to this last point, the mapping of mine subsidence districts has been altered recently and the dealing of development applications will be based on risk. I commend the bill to the House.

Mr JEREMY BUCKINGHAM (21:07): I lead for The Greens in the debate on the Coal Mine Subsidence Compensation Bill 2017 and state from the outset that we will not oppose the bill. This is an overdue overhaul of the mine subsidence compensation system, and The Greens welcome the changes. In 2014 when the Government introduced amendments to the Mine Subsidence Compensation Act, The Greens opposed those flawed reforms. I said at the time that a more significant review of the operation of the Act and the Mine Compensation Board was required. We are pleased that the Government has finally heeded the calls of the community and The Greens, and is reforming what is clearly a broken system. However, it is of concern—and it reflects on the arrogance of this Government—that it has not made publicly available the final report of the Review of the Mine Subsidence Compensation Act. This is the review upon which this bill is based, but the Government is hiding behind Cabinet in confidence to prevent members of this House seeing whether it has been faithful to that review.

The Greens will support the bill, but I will seek to make a number of sensible amendments, which I will detail in the Committee stage. We are pleased that this new scheme appears to be more independent, transparent and fair, but we will continue to work with the community to ensure it meets community expectations. Mine subsidence in New South Wales is an incredibly big issue for communities across the Illawarra, southern Sydney, the Hunter, western coalfields, the Central Coast and beyond. Coalmining is destructive and ultimately unnecessary. We call on the Government to honour its pre-election promise and reject any further development applications for longwall coalmining in water catchments.

The Hon. PAUL GREEN (21:09): On behalf of the Christian Democratic Party I speak to the Coal Mine Subsidence Compensation Bill 2017, which aims to update the outdated 1961 mine subsidence compensation framework and improve the administration of the system through Subsidence Advisory NSW. It also sets out to ensure mining operators will be financially responsible for their own subsidence impacts. Mine subsidence can be defined as movement of the ground surface as a result of readjustments of the overburden due to collapse or failure of underground mine workings. When this happens, the newly established Subsidence Advisory NSW will provide compensation or repair services where properties, such as houses, are damaged by coal mine subsidence. Subsidence Advisory NSW is changing the way mine subsidence damage is compensated to make the process fairer, faster and more community responsive.

The Government provided the past 10 years' worth of claim payouts relating to active and inactive mines. There is a substantial amount of claims and payouts relating to active mines—averaging \$9.5 million per year over the past 10 years. One payout in 2014 was approximately \$30 million due to the Land and Environment Court decision regarding damage from the Jemena Gas pipeline. Hence, the changes will see claims for subsidence damage caused by active mining compensated by the mine operator responsible. These changes will affect three mine operators: South 32 coalmine in Appin; Xstrata coalmine in Tahmoor; and Centennial coalmine in Mandalong. At the moment, all mine operators pay a levy into the Mine Subsidence Compensation Fund, which will be renamed the Coal Mine Subsidence Compensation Fund.

Mine operators will determine and pay claims for compensation in accordance with independent assessments of damages and costs via a panel of technical assessors. In other words, mining operators will be financially responsible for their own subsidence impacts. In addition, mine operators will continue to pay a levy, but at a reduced rate, to cover subsidence caused by inactive mines. To ensure transparency, Subsidence Advisory NSW will oversee the panel of technical experts that will assess all claims caused by active or inactive mines and

make evaluation reports. The Christian Democratic Party believes this bill will address the outdated management processes relating to subsidence claims and will make for a fairer operating procedure. The Christian Democratic Party commends the bill to the House.

Mr SCOT MacDONALD (21:12): On behalf of the Hon. Don Harwin: In reply: As honourable members have heard, the Coal Mine Subsidence Compensation Bill 2017 provides for a significantly enhanced process for seeking mine subsidence compensation in New South Wales. There are a number of legislative improvements that will mean more support for property owners impacted by mine subsidence, a streamlined compensation process that is easier to navigate and a fairer compensation model for both home owners and the coal mining industry. Among the changes are these significant legislative reforms.

First, the bill delivers a model for compensation where underground coalmine operators will be directly liable for subsidence damage arising from their operations, therefore reducing the Government's uncapped liability. The original intent of the Mine Subsidence Compensation Act 1961—the 1961 Act—was to compensate damage arising from abandoned mines. This is no longer the case, with the legislative review finding that around 90 per cent of compensation claims relate to damage from active underground coalmines. With changes to extraction methods in the mining sector over the past few decades, we can now apportion liability to the mines causing the subsidence damage, as subsidence damage generally occurs within a few years of extraction when coal is extracted via longwall mining. Therefore, operators of active underground coalmines will now be made responsible for the damage they cause to homes and infrastructure and will be required to compensate property owners directly in accordance with independent assessments made by a panel of technical assessors.

By attributing liability to mine operators causing subsidence damage, those mine operators will be both financially and socially accountable for their own subsidence damage. This reform ultimately will align the mine subsidence compensation system with how other mining impacts are compensated, whereby the mine operator compensates property owners directly. This will create greater consistency in the impact mitigation model across the mining industry and harmonise the regulatory approach to subsidence impacts.

Secondly, adequate enforcement mechanisms will be in place to hold mining operators to account. A central tenet of these reforms is ensuring claimants are treated fairly. The bill provides for a number of legislative protections including approved procedures and set items eligible for compensation, which will protect the rights of property owners and ensure mine operators act appropriately throughout the claims process. The risk of conditions, suspension or cancellation of mining rights will also provide a strong incentive for mine operators to comply with the legislation and treat claimants fairly. This is achieved through the bill providing for a mine operator's record of compliance being a consideration when determining whether the mine operator is a fit and proper person under the Mining Act 1992.

The third key reform initiative is reducing the scope of the Coal Mine Subsidence Compensation Levy and fund to compensate claims arising from inactive mines. Again, the main purpose of the 1961 Act was always to compensate for subsidence damage originating from historic legacy coalmines where liability could not be apportioned back to the original mine operator. However, this is not the reality today. With the legislative changes to the compensation system, the fund will now be used to better protect the community from subsidence damage from inactive mines, returning the legislation back to its original intent. In turn, the levy will be reduced resulting in cost savings to the majority of coalmines in New South Wales. The Government will be the payer of last resort and be able to make payments from the fund to claimants should mine operators fail to meet their obligations. Government will also have the ability to recoup the money from the mine operators in case of non-compliance.

The fourth legislative reform is the improved and streamlined development regulation role that Subsidence Advisory NSW has in mine subsidence districts. Risk-based development regulation will ensure future subsidence damage is mitigated in high-risk areas, while streamlining development approval processes in low-risk areas. This will reduce costs to property owners, assist local government to reduce development assessment time frames, and provide certainty to collieries that future liability is being mitigated proactively.

The fifth legislative reform I refer to in this speech in reply is the repositioning of the Mine Subsidence Board as a strategic advisory service tasked with providing advocacy and support to local communities affected by mine subsidence. By strengthening its claims management role, Subsidence Advisory NSW will be better able to work closely with claimants to facilitate timely assessment of claims and ensure the system delivers fast and fair compensation. The final reform I draw attention to is the creation of a new dispute resolution pathway that will provide an alternative to existing litigation options. Every claimant will have the right to a low-cost independent review of their disputed claim by the Secretary of the Department of Finance, Services and Innovation.

The secretary can delegate this determination function to an independent expert or panel. This is paramount in ensuring property owners have an avenue for appeal without having to resort to expensive court

proceedings as is currently the case. I thank the honourable members for their contributions, including the Hon. Peter Primrose, Mr Jeremy Buckingham and the Hon. Paul Green. This bill will ensure that the mine subsidence compensation framework is fairer, more timely, more sustainable and more efficiently administered. I commend the bill to the House.

The PRESIDENT: 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. I have amendments from The Greens on sheet C2017-061A.

Mr JEREMY BUCKINGHAM (21:20): By leave: I move The Greens amendments Nos 1 to 3 on sheet C2017-061A in globo.

No. 1 Compensation for environmental damage

Page 4, clause 7 (1). Insert after line 22:

- (e) compensation for any environmental damage to land that arises from subsidence, unless the subsidence is due to operations carried on by the owner of the land or an affiliate of the owner.

No. 2 Compensation for environmental damage

Page 4, clause 7 (4). Insert after line 40:

environmental damage to land includes:

- (a) damage to rivers, creeks and other waterways that run through the land, and
- (b) damage to trees or other vegetation on the land.

No. 3 Compensation for environmental damage

Page 4, clause 7. Insert after line 40:

- (5) For the avoidance of doubt, nothing in this Act prevents proceedings being brought for a prosecution of a proprietor of a coal mine under any other law in relation to environmental damage to land that arises from subsidence.

These amendments deal with attributable compensation for environmental damage. Currently, the existing Mines Subsidence Compensation Scheme and the new scheme proposed under these changes allow payment for certain types of damage only, which does not include environmental damage. The Greens' amendments would allow private landholders, councils or other public entities to claim compensation for damage to the environment. It is vital that the true cost of mining is reflected in our laws; often it is the environment that faces the greatest cost. As mentioned previously, longwall mining is listed as a key threatening process in the Threatened Species Act. Longwall mining has caused incredible damage around the State.

In the Waratah Rivulet, places around the Central Coast and in Helensburgh we have seen quantifiable and considerable economic and environmental damage done by longwall mining, especially to our water catchments. Some of that damage, such as the rock bars that were destroyed in the Waratah Rivulet, cost millions of dollars to fix, have incredible impacts on water quality and quantity, and cause those effects over a long time. This legislation should make provision—these amendments do make provision—for compensation attributable to environmental damage

According to the NSW Scientific Committee impacts of subsidence can include: cracking of valley floors in creek lines with subsequent effects on surface and groundwater hydrology; decreased stability of slopes and escarpments; contamination of groundwater by acid drainage; deterioration of water quality due to a reduction in dissolved oxygen; increases in salinity, iron oxide and manganese; and increases in electrical conductivity among other things. Honourable members would be aware of the impacts that BHP Billiton have caused in the drinking water catchment, also known as the Sydney Catchment Area [SCA] of this great city, with an increase of iron oxide and cracking of the escarpment attributable to the subsidence. That has had significant impacts on the water quality flowing into the drinking water storages of southern Sydney.

We know that subsidence has had disastrous impacts on water catchments. For more examples, as I said, Peabody Energy's longwall mining under the Waratah Rivulet and Glencore Xstrata's failed subsidence repair job in the Sugarloaf Conservation Area of the Lower Hunter with claims that the company had been mining under the conservation area for more than 18 months without meeting its approval conditions. Glencore made an abysmal attempt to fix that situation. It simply pumped hundreds or thousands of tons of concrete into the creek and into the ground, which did nothing except cause more damage. Compensation should have been payable to the State

in that case. Who will bear the cost of dealing with that in the long term? BHP Billiton's Illawarra coal longwall mining in the Lake Cordeaux area of Sydney's water catchment caused dead and dying vegetation, dried out creek beds, gaping cracks, water contamination and, of course, the subsidence itself.

Amendments No 1 and No 2 make provision for compensation attributable to environmental damage. Amendment No 3 makes it clear that if compensation claims are made by landholders for environmental damage it does not prevent proceedings being brought for the prosecution of a proprietor of a coalmine under any other law, such as the Environmental Planning and Assessment Act. It is important that we look beyond private landholders and impacts to the value of property, chattel and the rest. We must look at the impact that mining has and will continue to have on our key ecological assets. I hope that the case I have put has the ear of Government and others, and they can find it in themselves to support what I think are very reasonable amendments.

The Hon. PETER PRIMROSE (21:26): I request that these amendments be put seriatim. The Opposition, for the reasons outlined by the mover, supports amendments 1 and 2 but does not support amendment number 3, which can only be referred to as the "two bites of the cherry" provision.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I propose to put the amendments seriatim.

Mr SCOT MacDONALD (21:26): My comments refer to all three amendments. While respecting the intent of the amendments, the Government will not support them. They are out of the scope of the current legislation. It is not proposed to expand the legislative framework to include environmental matters. These are dealt with appropriately under the Environmental Planning and Assessment Act under conditions on development consents for mine operations.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that The Greens amendment No. 1 on sheet C2017-061A be agreed to.

Amendment negated.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that The Greens amendment No. 2 on sheet C2017-061A be agreed to.

Amendment negated.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that The Greens amendment No. 3 on sheet C2017-061A be agreed to.

Amendment negated.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Amendment No 4 is withdrawn so we will move on to amendment No 5.

Mr JEREMY BUCKINGHAM (21:28): I move The Greens amendment Nos 5 on sheet C2017-061A.

No. 5 **Limitation on claims arising out of actions to prevent or mitigate damage**

Page 5, clause 10 (1) (b), lines 28 and 29. Omit all words on those lines.

This amendment deals with limitations on claims arising out of actions to prevent or mitigate damage. This amendment seeks to clear up a mistake made by this House in 2014 in the Mines Subsidence Compensation Bill 2014 when an amendment was made to prevent claimants undertaking preventative or mitigating works from claiming for expenses if the works were undertaken before the subsidence had commenced. This is clearly a bad amendment as it leaves open the very real possibility that essential infrastructure such as gas pipelines, electricity networks and infrastructure for roads will be put at risk of serious failure from subsidence because works have not been undertaken to prevent this occurring in view of predicted subsidence impacts.

For the benefit of the House, the history of this change is that Jemena Gas Networks NSW Ltd, the owner of gas pipelines between Moomba and Sydney, was made aware that coalmining would take place under certain areas of its pipeline. Expert consultants predicted that the planned coalmining would cause subsidence that would damage the pipeline unless preventive or mitigating works were carried out. Reasonably and consequently, Jemena caused these works to be carried out, excavating the pipeline and decoupling it from the soil, and carrying out associated filling. When Jemena claimed compensation for the works, the Mine Subsidence Board refused to pay the claim as the subsidence had not occurred before the expense of the works was incurred. The High Court agreed with Jemena that a claim could be made under this scheme even before the subsidence had commenced, so long as it was reasonably anticipated that the subsidence would commence.

The High Court reasoned that the board's interpretation of the law would mean that an owner faced with slow subsidence would have to claim compensation for preventive and mitigating works, but an owner faced with simultaneous subsidence and damage would not. As a result, as so often happens under this Government, the law

was changed to suit the coalmines at the expense of the public interest. Also, as so often happened when the Hon. Steve Whan was the shadow Minister, Labor supported the Government. I hope that under the new shadow Minister, Labor will see the light and support this amendment, because without this amendment there will continue to be significant uncertainty for infrastructure owners and home owners.

No-one in this House would tolerate the Roads and Maritime Services [RMS] or a local council failing to do preventive works if they reasonably anticipated a road or road infrastructure was in danger of failing. But without this amendment, that is what this Government is asking them to do. We are simply suggesting that if preventive work is done and subsidence occurs then compensation can be claimed, but if the preventive work is done and there is no subsidence then compensation cannot be claimed. This is a serious issue for gas pipelines and other kinds of infrastructure around the State. It is a reasonable amendment. It is a legacy issue from 2014. I hope that the Parliamentary Secretary was following my argument and has a cogent argument as to why this amendment is not reasonable. I believe it is incumbent upon the Government to explain why this amendment is not a responsible way of dealing with people who are seeking to protect vital pieces of infrastructure, be it electricity, gas, road or sewer infrastructure, when subsidence is foreseen. I commend the amendment to the House.

Mr SCOT MacDONALD (21:32): Besides the outrageous mispronunciation of Jemena by Mr Jeremy Buckingham, the Government will not support The Greens amendment No. 5 on sheet C2017-061A. Removing the limitations in clause 10, as proposed, is likely to result in speculative claims and increased processing costs, as well as potential litigation costs for all parties. There is nothing preventing mitigation or preventive works from occurring before subsidence commences outside the claims process, whether instigated by the owners of the improvements or the miners. In fact, the legislative change itself encourages mitigative and preventive works by making the miners accountable for their subsidence impacts. There is therefore a strong commercial incentive for miners to prevent or mitigate subsidence impacts before any damage is caused. It is also a usual and standard requirement of modern development consents that subsidence impacts are prevented or mitigated.

Mr JEREMY BUCKINGHAM (21:33): The contribution of the Parliamentary Secretary referred to the actions of the miners and suggested that the miners might have to undertake mitigation or preventive works as part of their development consent. That is the way that the Environmental Planning and Assessment Act works, but the Parliamentary Secretary did not deal with the fact that if some of the operators, be they government agencies or from the private sector, reasonably anticipated impacts and undertook those works, they should be compensated if subsidence occurs. I do not understand why the Government will not accept the reasoning that those operators should be able to seek compensation for works undertaken before the subsidence actually occurred. I ask the Parliamentary Secretary to respond.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that The Greens amendment No. 5 on sheet C2017-061A be agreed to.

Amendment negated.

Mr JEREMY BUCKINGHAM (21:35): By leave: I move: The Greens amendments Nos 6 and 7 on sheet C2017-061A in globo:

No. 6 Public consultation before approving procedures etc

Page 7, clause 14 (4) and (5), lines 30 to 36. Omit all words on those lines. Insert instead:

- (4) Before the Chief Executive approves, amends or replaces the approved procedures, the Chief Executive is to make the following publicly available for a period of at least 4 weeks, as the case requires:
 - (a) the proposed approved procedures,
 - (b) the proposed amendment,
 - (c) the proposed replacement approved procedures.
- (5) The Chief Executive may extend the period of public consultation.
- (6) During the period of public consultation, any person may make a written submission to the Chief Executive on the proposed procedures, amendment or replacement procedures. The Chief Executive may (but need not) make publicly available submissions made under this section (or a summary of or report on any such submissions).
- (7) The Chief Executive is, before approving, amending or replacing the approved procedures, to consider any submissions duly made under this section.
- (8) Subsections (4)–(7) do not apply to an amendment of the approved procedures that, in the opinion of the Chief Executive, is minor or trivial in nature.

No. 7 Disallowance of approved procedures

Page 7, clause 14. Insert after line 43:

- (7) Sections 40 and 41 of the *Interpretation Act 1987* apply to approved procedures in the same way as those sections apply to a statutory rule.

These amendments deal with community consultation regarding procedures for the determination of claims under section 14. These procedures are key to the functioning of the new compensation scheme. These procedures will be used by Subsidence Advisory NSW to decide whether businesses and households will get compensation for damages caused by subsidence. But there are two important things missing regarding these procedures. The first is a guarantee that there will be public consultation before the procedures are approved and amended. The only stakeholders who are guaranteed to be consulted under this bill are coalmine owners. We have had assurances from the Minister's office that they will publicly consult, but if they intend to consult anyway then why not put the requirement for consultation in the Act and make sure it happens?

The second issue is that these procedures are not a disallowable instrument. These amendments seek to rectify both those issues. We are being asked to support legislation when we have no idea about the details of the most important part of the legislation. We are therefore handing over the power to the new chief executive of Subsidence Advisory NSW to determine those details and change them at a whim without much oversight. Clearly, these procedures should be disallowable so that this House can hold the Government to account if necessary. I commend the amendments to the House.

Mr SCOT MacDONALD (21:37): The Government does not support The Greens amendments Nos 6 and 7. Clause 14 (4) (b) already requires Subsidence Advisory NSW to provide reasonable notice of any amendment of the approved procedures. This means notice to the public at large, as well as to the miners. Procedures are, by their very nature, designed to ensure claimants are treated fairly. The majority of the obligations are imposed on the miners if a need is identified to improve the procedures. A full week of public consultation may significantly delay the making of that improvement and be detrimental to the claimant's interest.

The approved procedures will be publicly available and open to public scrutiny and submissions on their effectiveness. In regard to amendment No. 7, it is unclear what is proposed in order to make approved procedures disallowable or what public benefit can be gained by that. To the extent that it is proposed that approved procedures be the subject of regulations, this is inappropriate due to the level of detail that the approved procedures are required to address in order to ensure a workable, clear, fair and equitable claims management process. There also needs to be a degree of flexibility, which would not be possible through a regulation.

The Hon. PETER PRIMROSE (21:38): The Opposition has listened carefully to the arguments put by the Parliamentary Secretary. As a consequence, we will support proposed amendments Nos 6 and 7, as moved by The Greens.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that The Greens amendments Nos 6 and 7 on sheet C2017-061A be agreed to.

Amendments negated.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that the bill as read 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 without 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.

Motion agreed to.

TRANSPORT LEGISLATION AMENDMENT (AUTOMATED VEHICLE TRIALS AND INNOVATION) 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. Sarah Mitchell, on behalf of the Hon. Niall Blair.

The Hon. SARAH MITCHELL: I move:

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

Motion agreed to.

The Hon. SARAH MITCHELL: I move:

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

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. SARAH MITCHELL: I move:

That this House do now adjourn.

WAGE RATES

The Hon. ADAM SEARLE (21:42): In New South Wales there have been repeated cases of ongoing, widespread and blatant wage theft—the practice of underpayment and even non-payment of wages and other employment benefits to staff. A majority of these vulnerable workers are young and have recently entered the workforce, but not exclusively so. Media reports have exposed a roll call of major household brands such as 7-Eleven, Domino's, Pizza Hut, Caltex and United Petroleum routinely underpaying and cheating workers on a systematic scale. It is clear that these activities were a fundamental part of the business model. At 7-Eleven the voluntary repayments alone have reached over \$110 million, an average of nearly \$40,000 for each of the workers who were underpaid.

In Wollongong, a Facebook campaign created by student Ashleigh Mounser identified systematic underpayment of 67 young workers by around 50 businesses in a three square kilometre radius. Many young people were being exploited, with some being paid close to only half of what they should legally be earning. Others routinely worked as many as 20 hours a week unpaid as part of a so-called work trial that could last days or weeks. Examples included requiring up to a one-month unpaid trial with no guarantee of shifts, paying as little as \$8 per hour, requiring young people to work 10 hours with no break, and employers taking 50 per cent tax from those working off the books.

As a result of these revelations, I held roundtable discussions on the Central Coast in March and at the University of Wollongong in late February with students who had been underpaid, representatives of the university, the Illawarra Chamber of Commerce, the South Coast Labour Council and local members of Parliament. Addressing the New South Wales Industrial Relations Society in May, I said that a new law—a wage theft law for New South Wales—was needed to address serious or systemic underpayment and non-payment of wages and other entitlements. My comments were widely reported at the time.

I do not think we should criminalise accidental or inadvertent breaches or situations where an employer has simply applied one industrial instrument to a worker instead of another or paid according to the wrong pay level or classification. But where there is widespread non-compliance with minimum conditions, where that continues even when the matter has been pointed out clearly to the operator, whether by a regulator, union or an individual worker, then there is an argument for much more sweeping measures that act as a real deterrent.

Looking at court decisions it is clear that current penalties are not tough enough. Fair Work Ombudsman Natalie James gave evidence to a Senate committee in April this year that a minority of employers flouted the law and risked existing fines because they were not severe enough to act as a deterrent. Federal and State inspectorates are not resourced to extensively or proactively audit businesses that are stealing wages, superannuation and workers compensation premiums. That is why at this year's Australian Labor Party Annual Conference New South Wales Labor Leader Luke Foley unveiled a comprehensive package to address wage theft and exploitation.

Central to the package is a new wage theft law to criminalise deliberate failure to pay wages and entitlements providing appropriately tough criminal penalties against companies, the possibility of up to 14 years

jail for individuals, and prosecutions able to be brought by law enforcement agencies, affected persons and unions. It includes a range of other measures such as new laws to hold head franchisors accountable for the actions of franchisees and widened powers for New South Wales workplace inspectors to proactively undertake wage audits to ensure compliance with the requirement to pay workers compensation insurance and to recover unpaid wages and superannuation.

The package also includes a licensing scheme for labour hire companies and new laws to protect Sunday penalty rates under State awards and agreements. On Monday in Wollongong, Labor announced the balance of its package. It is clear that our new laws will not apply to genuine mistakes. Employers who do the right thing will benefit because they will not be competing with undercutting cheats. For example, Mani Rosete, the proprietor of San Churro, complies with the law and does not want to be competing with wage cheats. These laws will only go after the minority whose business model is based on exploitation. Vulnerable workers are being cheated out of a staggering amount of wages by unscrupulous bosses and it has to stop. The Liberal-Nationals governments both in Macquarie Street and in Canberra have not acted, but Labor will.

Interestingly, while Government members in the Legislative Assembly half-heartedly attacked Labor's package by way of interjections last week, their concern was that the New South Wales Parliament did not have the power to enact these measures. There was no attempt to debate the merits of our policy. That is very revealing. For the assistance of members opposite, our package does not seek to intrude into the areas regulated by the Fair Work Act. The criminal law of the State is and always has been a matter for the State Parliament. The Fair Work Act itself includes a number of areas where a range of important matters are expressly left to State parliaments to deal with. Our package dealing with wage theft and other matters outlined at the State conference and on Monday in Wollongong are built on these firm foundations.

ELECTRICITY PRICES

The Hon. ROBERT BROWN (21:47): I inform the House of the seething outrage across New South Wales at the abysmal state of our electricity generation capabilities and the effect that has on domestic and commercial power prices. Two Liberal Party premiers have promised the world in return for divesting the State of its electricity generation assets, including the strategically important distribution system. In November 2012 the then Treasurer Mike Baird said:

We desperately need to get on with the infrastructure, we hope that this transaction delivers that. What we can guarantee is that taxpayers will get proper value for money.

They had the entire State fooled by their plan. Even ABC Fact Check on 25 March 2015 dismissed the claim that electricity prices would increase from privatisation as "spin" by Leader of the Opposition Luke Foley. How wrong that has turned out to be. Unfortunately, for people across New South Wales the reality has played out quite differently. Leading up to the shock announcement that electricity companies would increase their prices by up to 20 per cent from 1 July this year, the average family has been forced to suffer a poor service that costs them more. This is not the value for money we were promised. People are not going to be too happy if their power bills jump by 20 per cent or 30 per cent just so the Government can fund WestConnex and railways or gold plate whatever it likes.

Since the demise of our electricity generator load capacity, we have all been caught in a never-ending spiral of declining supply that converts to demand pricing and increased costs for householders. It does not matter whether it happens in South Australia or Victoria, we in New South Wales cop the consequences. These repeated increases, matched with inaction on building new coal-fired power station generation capacity over the years, are exacerbating this problem. By summer 2018, 70,000 new houses will join the electricity grid, and last summer we had the Minister for Energy and Utilities scurrying around begging people to turn off appliances and air conditioners so that we did not have rolling blackouts across the State. Now we are relegated to the status of a Third World country. People in New South Wales are not happy. During the poles and wires debate, former Premier Mike Baird famously said:

What is the number one thing that every state government should be doing at the moment? It is infrastructure, infrastructure, infrastructure.

That is true, but when it comes to electricity generation "infrastructure, infrastructure, infrastructure" is not what we have been given—the very thing that the State now needs desperately. We have some of the most expensive electricity in the world, and I fear that is because our State electricity policy is essentially being made on the run. My colleague the Hon. Robert Borsak has moved to establish a select committee to get to the bottom of the electricity policy vacuum in this State. We need to keep the lights on first and foremost by maintaining our baseload power generation capabilities. Wind farms and solar generation will not do it. New South Wales desperately needs two coal-fired power stations of probably 1,200 megawatts in the Hunter region, yet this Government is hamstrung by inaction and seems incapable of fixing the problem.

The problem exists now, not in 10 or 20 years time. Mark my words, there will be blackouts next summer, like in the summer past. There is a simple solution to this problem—unfortunately, it is too late—but the Government seems oblivious to the urgency of the matter. The Minister rabbits on about the Commonwealth Government, but the Commonwealth Government is not going to fix our problems—unless, of course, it gives us \$2 billion or \$3 billion to fast-track a couple of generators. In the corridors of levels eight and nine, I have no doubt that Ministers, members of Parliament and staffers are beginning to whisper, "Summer is coming. What can we do?" The answer—unfortunately, too late—is to build a couple of new high-efficiency, low-emission, or HELE, generators and then beg forgiveness from the State's consumers for failing to act six years ago.

PILLIGA SAVING OUR SPECIES PROJECT

Mr SCOT MacDONALD (21:51): Last week I visited the site of the Pilliga Saving our Species project, which is in the early stages. The aim is Reintroduction of Locally Extinct Mammals [RoLEM], and the site is south of Narrabri in the Pilliga State Conservation Area. The project is a partnership between the Australian Wildlife Conservancy [AWC] and the New South Wales Government through the National Parks and Wildlife Service. Its goal is to re-establish species that have been lost to New South Wales. The species that will be reintroduced in the Pilliga are the greater bilby, the bridled nail-tail wallaby, the brush-tailed bettong, the Western barred bandicoot, the Western quoll, the plains rat, and possibly the northern hairy-nosed wombat. The AWC staff told me they hope their work will also support the Pilliga mouse population.

This project represents a very different approach to conservation and species protection. Its aim is to reverse species extinction in this State by building wildlife refuges. These species may be lost to New South Wales but are still found in other parts of Australia. The strategy is to build an enclosure free of the devastating predators that largely caused their extinction here, that is, the cat and the fox. The Pilliga fenced-off refuge will cover 5,822 hectares. Across the three RoLEM sites—the other two sites are in the Mallee Cliffs National Park and the Sturt National Park—a total of 17,000 hectares will be fenced off. All up, the RoLEM program is targeting 13 species for reintroduction to New South Wales.

I very much enjoyed my visit to the Pilliga. Most of the Pilliga is heavily forested and has low variable rainfall. It is a tough environment with ephemeral water systems, but the landscape carries that unique Australian semi-arid beauty. I was shown where the fence will be built and where an operational base will be established. A number of planning and regulatory processes must still be worked through. I commend the local National Parks and Wildlife Service staff for their collaboration. This is new ground for those teams as well. Everyone hopes that work on the fence can commence in less than 12 months.

Narrabri Shire Council is excited; I spoke to Mayor Cathy Redding and they are anticipating benefits from eco-tourism. The member for Barwon, Kevin Humphries, has been a consistent supporter. The Australian Wildlife Conservancy staff told me about their plans to develop facilities and interpretative centres for the public to visit, to learn about and to appreciate the RoLEM work and the biodiversity of the Pilliga. With the new air link to Sydney, they hope to increase visitation from domestic and international travellers. I admire Narrabri council's efforts to build a diversified economy on top of its strong agricultural foundations. Utes down the main street of Narrabri have resource company names on them, and utes off farms, and now Land Cruisers, have "Australian Wildlife Conservancy" plastered on their doors.

This is the second AWC operation I have visited. I called into Scotia on the New South Wales-South Australian border a few years ago. It was one of the original fenced refuges. I witnessed what is possible when cats and foxes are removed. Previously extinct mammals, including the bilby, numbats, the bridled nail-tail wallaby, and bettongs were thriving in the 8,000 hectare enclosure, and vegetation was returning to something like its original condition. These are expensive and intensive undertakings that require a great deal of maintenance, ecological field work and ongoing research to make them work. However, given our pest pressure and the killing ability of feral cats and foxes, there does not seem to be any realistic alternative. We will never replace the State's extensive national park reserve system, but these wildlife enclosures and the reintroduction concept delivered through partners such as AWC, Bush Heritage, and the University of New South Wales have an important function.

I appreciate that Environment Minister Gabrielle Upton has taken a close interest in the project, the concept of which was shaped in 2012 under Minister Robyn Parker. The Pilliga Saving our Species program was developed and funded with an allocation of \$100 million over the next few years. It is exciting to be on the verge of seeing it come to fruition. I look forward to calling into the Pilliga Reintroduction of Locally Extinct Mammal project when it is open and operational. The New South Wales Liberal-Nationals Government should be proud of that project. It is innovative and it draws on the best of the National Parks and Wildlife Service and the non-government conservation partners. It will be tightly managed and monitored. It must be environmentally effective and be value for the taxpayer, and we are on the way to achieving that. I thank the Office of Environment and Heritage, the Australian Wildlife Conservancy, and Narrabri Shire Council for their assistance with my visit.

DEFAMATION LAW

The Hon. SHAOQUETT MOSELMANE (21:56): I draw the attention of the House to an issue of public interest relating to our State legislation and the justice system and, in particular, the cost of defamation action. This is a problem that New South Wales Chief Justice Tom Bathurst, AC, emphasised in an interview with Fairfax Media just over a month ago. There is a worrying financial cost to defamation trials that outweighs the tangible benefits of defending an individual's reputation. That is particularly true in the face of the modern 24-hour news cycle and the preference of some journalists to provide supposedly honest opinions rather than facts.

I agree with the Chief Justice, who said that at present it is no exaggeration to say that our New South Wales court system is dealing with a "rising tide of defamation cases involving social media posts, emails and websites", involving parties that are not well-resourced financially or legally. The ultimate cost of the lawyers, the damages paid out, and the time and effort involved can be crippling. That is before we get to the laws themselves, which many leading defamation law experts and judges agree are often unnecessarily complex. Complex laws require legal minds that demand sky-high fees. Admittedly, a number of great lawyers do assist by taking cases on a speculative basis. But the cost to the other side if a case goes haywire could mean those involved losing their home and the kitchen sink, or even be bankrupted.

The costs for many are so prohibitive that they must shut up and wear the smear, or they could have to wear the accusation and the shame of loss and bankruptcy if their legal team does match the defendant's. The cost of launching a defamation action are so prohibitive that ordinary people cannot hope to take their cause of action to court and certainly cannot to see it to the very end. This is an opinion expressed and confirmed by media law expert Associate Professor David Rolph from the University of Sydney. That is not the only issue worth considering. Perhaps the most infuriating aspect of this defamation law issue relates to tax. Media organisations, which are often the defendants in defamation actions, get a financial tax benefit even if they lose costly legal proceedings. They get a tax deduction for their legal expenses.

The Australian Taxation Office interpretative decision 2002/666 states that no tax deduction is available to an individual plaintiff because there is no clear connection between the defamation action and the plaintiff's assessable income-earning activity. In interpretative decision 2001/549, the Australian Taxation Office distinguished that one can deduct these costs only if a plaintiff brings the proceedings to protect his or her reputation from defamatory statements made by a colleague connecting work duties to a legal activity. That is a narrow, legalistic distinction indeed. The problem that the average plaintiff faces is whether to defend his or her reputation through costly litigation that is often not tied to a job or business, or whether to let potentially defamatory words stay in the public arena which will hurt that person over time.

In contrast, most media companies have the benefit of being able to argue that there is a clear connection. They can comfortably say that any activities undertaken to defend against defamation action are closely connected to a media organisation's assessable income-earning activities. This is especially the case when our media environment involves so many opinions from so-called thought leaders or so-called media personalities. They often say outrageous things without giving consideration to the hurt that they cause. This highlights the injustice I spoke about earlier. Defendant companies not only have the benefit of deep pockets; when they smear someone they get a quantifiable financial benefit from our tax law. Defamation law serves an important public purpose. People should have a right to protect their reputation from the assertions of others. But how can we hope to see these kinds of causes of actions tested if active financial forces make it so difficult? It is not right and it needs to be fixed.

COAL-FIRED POWER STATIONS

Mr JEREMY BUCKINGHAM (22:00): On 1, 2 and 3 August the Federal member for Melbourne, Adam Bandt, and I undertook a tour of New South Wales coal-fired power stations which was called the "Beyond Coal Just Transitions Tour". It was an informative and powerful tour. The first day we spent at Mount Piper touring Energy Australia's facility and two recently upgraded 600 megawatt steam turbine alternators that have been powering New South Wales for more than 30 years. We met with Energy Australia at the facility and learnt a great deal. We then went on to meet with unions and Lithgow City Council. This Government is asleep at the wheel.

In 2010 the Mount Piper power station was set for a major upgrade but it will not go ahead because the cost of developing or refurbishing coal-fired power stations is far less than baseload solar power. No-one is investing in new coal. In 2010, there was approval for a new power station at Mount Piper. The Wallerawang power station has been closed and the Mount Piper, Bayswater, Liddell, Eraring and Vales Point power stations are not far behind. We heard from the mayor of Lithgow that there is no plan for a transition in Lithgow. Hundreds of jobs have been lost at Wallerawang power station and no foreseeable plans are in place if Mount Piper closes.

Recently, 4nature Inc. successfully challenged an approval for the Springvale colliery. Other matters such as the function of the mine and whether it hits a seam that is full of water or is of poor quality could lead to the closure of that power station and the loss of jobs, and there are no transition plans.

We visited Muswellbrook and held a forum with coalminers, power station workers and local government representatives. Everyone said that the power stations would close and that they wanted a just transition. On the tour we did not meet anyone who said to us, "Get out of town; you are going to turn off the lights." Everyone we met in Lithgow, Lake Macquarie or Muswellbrook said, "We need a transition plan." The coal-fired power stations built by the Wran Government in the 1980s, funded by the State and built by the Electricity Commission of New South Wales have served this State well. They provided a surplus of electricity that led to the development of and attracted to this State all kinds of heavy industries. We need to do the same thing again.

I commend the Labor Party for leading the transition away from this free market approach to one where we look at State-based corporations, which may be in partnership with the private sector, to build the renewables that are going to come. Origin Energy, EnergyAustralia and AGL have said they need a signal that the Government is going with renewables, no subsidies, and they will build 2,000 megawatts of solar photovoltaic energy, solar thermal energy, pumped hydroelectric energy and wind energy to power our economy. The communities of Muswellbrook, Lithgow and Lake Macquarie are going to the wall. We need a transition plan. It is The Greens' plan to set up Renew Australia, a Federal agency, with a billion dollars in funding to oversee that transition.

I agree with the Hon. Robert Brown that the lights are about to go out in New South Wales. We are repeating the mistakes of the past. It is 1980 once again. When power stations hit 40 degrees Celsius they lose 10 per cent of their capacity. The four 720 megawatt turbo-alternators at Eraring, Australia's largest power station, are being ramped up. Today Adam Bandt called for the re-regulation of the energy market. The energy market is failing. There is a role for the Australian Energy Regulator and The Greens are saying, "Give the States to the end of the year to re-regulate and cap prices." Electricity is a public good; it is not a toy thing for corporations to get rid of. It is the responsibility of the Government to keep the lights on—similar to its responsibility for our water and sewerage systems and hospital and defence services.

CROWN LAND OCCUPATION

The Hon. SCOTT FARLOW (22:05): Tonight I speak about the tent city in Martin Place and some of the elements behind this demonstration that are utilising and manipulating the vulnerable in our community. Let us be clear from the outset, Family and Community Services staff have been on site more than 46 times now. They have assisted 73 people into permanent accommodation and every genuine, eligible person has been offered accommodation and the support they need. The Government is working to deliver more social housing than ever before. Communities Plus is slated to deliver 23,500 new and redeveloped social and affordable housing dwellings. What we are seeing in Martin Place is not just a burgeoning mass of the homeless; it is a manipulation and protest, led by an effective ringleader who has been honing his protest for 50 years.

Let us take a look at some of the sentiments that lie behind the tent city in Martin Place. Some examples of the scribble etched on the wall are: "Rob in Hoods—If you can't have it Steel It" and "Human need not corporate greed". Straight out of the playbook of the global Occupy movement. The self-declared mayor of Martin Place, Lanz Priestley, a person members of The Greens would invite in this place as a gallery guest, is someone who is unashamedly a leader in the Occupy Sydney movement. He has set up squats in New Zealand, London and Brazil and since 1991 he has been setting up camps in Sydney. He has now perfected his craft to the pinnacle of his work in the middle of Martin Place. This man is not destitute; he is a professional protester. He is a person who has given up his job and chosen to live on the street and to rabble rouse. In fact, he is so successful at it that he got on a plane to Melbourne last week in an effort to export his model throughout Australia.

We are now seeing plans for the Martin Place tent city to be rolled out as if it is some franchise model across Australia. Who knows? The next stop could be global. Let us take a look at his Facebook profile where he states that he is "a messenger at Occupy Together, liberator at Anonymous, fomentor at revolution, former spanner thrower at activism, and studied truth at Anonymous". But his profile picture states it best when he describes himself as a "shit stirrer". This is the man that the Lord Mayor, Clover Moore, has sat down to negotiate with about a camp in the middle of the city, which the Lord Mayor herself has deemed a "growing crisis". Surprise, surprise, when Clover's supposed deal falls through and she has egg on her face. Mr Priestley said before the Lord Mayor announced she had brokered a deal to resolve the crisis:

Six weeks and there is a complete change of policy, I think personally that Clover is an extremely astute sniffer of the wind.

I agree with Mr Priestley about that. The community is tired of the City of Sydney's inaction on this issue. The council has indicated that it could use the powers, but then it added a list of demands. It has used those powers before, but this time Clover wants to have a bob each way: "Agree to our demands and we will do it. Open up

Sirius and we will do it. We will continue to sit on our hands." Those who sit on this side of the House are not going to cop that, and I hope those opposite will share that sentiment. There are genuine people in Martin Place and all across our city and State who are homeless and in need of help. Family and Community Services is there to help every one of them with accommodation and the provision of the support that they need. The solution is not sleeping in a tent in the cold in Martin Place. But there are those in Martin Place who are manipulating this to further the ends of anarchism and the Occupy movement. It is because of those people that this Government has to take action. I agree with one sign in Martin Place: "If you think somebody should do something about a problem, remember you are somebody." The somebodies in this place are going to do something about this problem.

The DEPUTY PRESIDENT (Dr Mehreen Faruqi): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 22:10 until Wednesday 9 August 2017 at 11:00.